

6387084

When recorded, mail to: James R. Smith, National Filter Media Corporation, P.O. Box 10156, Salt Lake City, UT 84110.

AFFIDAVIT OF ABANDONMENT

STATE OF UTAH :
: SS:
COUNTY OF SALT LAKE :

6387084
06/19/96 2:59 PM 19-00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
JOHN F BATES
REC BY:E FROGGET ,DEPUTY - WI

THE UNDERSIGNED, JOHN F. BATES, being first duly sworn, upon oath deposes and says:

1. My name is John F. Bates, and my office address is 150 South 600 East Street, Suite 5D, Salt Lake City, Utah.

2. I am an attorney at law, duly licensed and authorized to practice law in the State of Utah, Utah Bar Number 0242.

3. I have been retained by National Filter Media Corporation in connection with the right-of-way allegedly belonging to the Bamberger Railroad Company for spur track and other transportation purposes, which encumbers the real property belonging to the said Corporation located in the County of Salt Lake, State of Utah, which is more particularly described as follows, to wit:

Beginning 35.0 feet North from the southeast corner of Lot 6, Block 137, Plat "A", Salt Lake City Survey, and running thence West 309.54 feet; thence North 328.0 feet; thence East 309.54 feet; thence South 328 feet to the point of beginning.

4. The encumbering right-of-way is more particularly described as follows, to wit:

Beginning at a point 292.54 feet West from the Southeast corner of Lot 7, Block 137, Plat "A", Salt Lake City Survey, and running thence West 17 feet; thence North across 6th North Street 594 feet; thence West 20.46 feet to the West line of Lot 2, Block 152, Plat "A", Salt Lake City Survey; thence North 198 feet to the Northwest corner of said Lot 2; thence East 37.46 feet; thence South 792 feet to the point of beginning.

5. I have examined the records of the State of Utah, and have determined that there is only one entity with the

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name "Bamberger Railroad Company", which name is a "dba" for Alva W. Rawdon, an individual, and which name was filed with and approved by the State of Utah on March 21, 1996.

6. I have communicated with Mr. Rawdon, and have received his written disclaimer of any interest in the aforesaid right-of-way. A copy of that letter is attached hereto as Exhibit "1" and made a part hereof.

7. The records of the State of Utah indicate two other possible entities, which could have had an interest in the said right-of-way, namely, Bamberger Railroad Right of Way, Inc., with Harold Calder as the registered agent, and Bamberger Railroad, a "dba" for William Arnsted.

8. The records of the State of Utah indicate that the Bamberger Railroad Right of Way, Inc. was a Utah corporation, which was involuntarily dissolved in 1979.

9. Regardless of the involuntary dissolution, I have attempted to contact Harold Calder at the address indicated on the records of the State of Utah, but the letter was returned by the U.S. Post Office indicating that there is no such address.

10. Following the return of the aforesaid letter, I attempted to locate Mr. Calder in the telephone book, but there is no listing for any such individual.

11. The records of the State of Utah indicate that the name "Bamberger Railroad" was registered as a "dba" for William Arnsted, but that the registration expired in 1990 and was not renewed.

12. Regardless of the expiration of the registration, I have attempted to contact Mr. Arnsted at the address listed by the State of Utah, but the letter was returned by the U.S. Post Office marked "Returned to sender".

13. Following the return of the aforesaid letter, I attempted to locate Mr. Arnsted in the telephone book, but there is no listing for any such individual.

14. I was advised that the Union Pacific Railroad Company had acquired the assets of the old Bamberger Railroad Company, and I have communicated with representatives of Union Pacific Railroad Company concerning the right-of-way described above.

15. On September 28, 1995, I wrote to the Union Pacific Railroad Company at its Salt Lake City, Utah, offices inquiring about any claim that company might have to the aforesaid right-of-way.
16. Under the date of October 5, 1995, I received a letter from Morris O. Haggerty, Assistant General Attorney for the Union Pacific Railroad Company, indicating that my inquiry had been referred to Mr. Garry Malmberg in Union Pacific's Omaha, Nebraska office, who is the party responsible for real estate matters for Union Pacific in the State of Utah.
17. By letter dated November 29, 1995, I provided Mr. Malmberg with additional information requested by him, including a precise description of the right-of-way in question, photos of the real property, and a copy of the plat showing the property impacted by the right-of-way.
18. Again, on January 16, 1996, I provided Mr. Malmberg with a copy of the deed in which the right-of-way is called out as an encumbrance of the lands of my client, to assist Mr. Malmberg, who had advised me by telephone on January 15, 1995, that he had been unable to locate anything in the files of Union Pacific concerning the right-of-way in question.
19. On January 22, 1996, Mr. Malmberg called me to advise that Union Pacific did not acquire the right-of-way in question when it acquired the assets of Bamberger Railroad Company and that Union Pacific made no claim to any interest in the right-of-way in question.
20. By letter dated January 29, 1996, I requested that Mr. Malmberg send me a letter confirming that Union Pacific does not claim any interest in the right-of-way in question, but Mr. Malmberg has not responded as of the date of this affidavit.
21. From a physical inspection of the lands involved, it is apparent that the right-of-way is not currently in use, nor has it been used, maintained, or visited by any party representing Bamberger Railroad Company or any successor in interest since at least 1963, the year in which my client acquired the lands encumbered by the said right-of-way.
22. An inspection of the plat confirms the physical inspection conclusion that the right-of-way in question has been abandoned as an active and useful land interest, has become an isolated piece of an old and otherwise unused right-

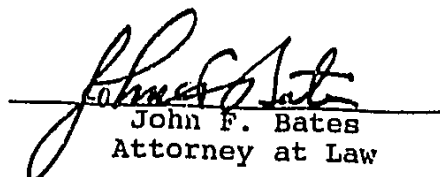
of-way, and that it does not have any relationship to any other right-of-way or easement of access which is discernable or has been used in the recent memory of my client or my client's immediate neighbors.

23. Based on my understanding of the law of abandonment, which I have recently researched, it is my legal conclusion that the right-of-way in question has been abandoned by the former owner thereof, and that it no longer represents a legally enforceable encumbrance upon the lands of my client.

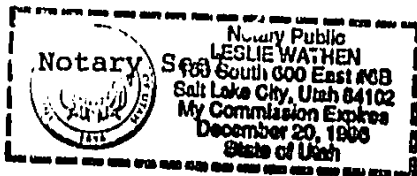
24. This Affidavit is intended to support the Notice of Abandonment and Intent to Deny Future Access, which is being filed for record by my client with the intent to provide notice to the public at large and to any third party, who or which might assert any claim to the aforesaid right-of-way, of my client's intent to disclaim and deny any further right to use all or any part of the said right-of-way, either directly or indirectly, by the Bamberger Railroad Company or any person or entity claiming by, through, or under it, and to restrict the use of the said lands to those uses which have been or might hereafter be specifically authorized by National Filter Media Corporation.

Further Affiant sayeth not.

DATED this 4th day of June, 1996.


John F. Bates
Attorney at Law

4th SUBSCRIBED AND SWORN to before me by the Affiant this day of June, 1996.




Notary Public

BAMBERGER RAILROAD COMPANY

788 SOUTH 600 EAST
CENTERVILLE, UT 84014
(801) 298-7986

May 2, 1996

John F. Bates
Attorney At Law
150 South 600 East
Suite 5D
Salt Lake City, UT 84102

Re: Bamberger Railroad Company rights-of-way in the
northern part of Salt Lake City, Utah.

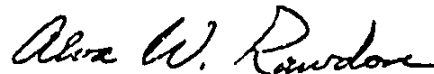
Dear Mr. Bates,

In reply to your letter of April 29, 1996, asking of my interest in the rights-of-way of the former Bamberger Railroad Company, I make the following statement:

I claim no interest nor have I ever claimed any interest in any rights-of-way of the former Bamberger Railroad Company, which operated in Utah from 1891 to 1959.

I further state that as Alva W. Rawdon dba Bamberger Railroad Company, I have had no dealings with the former Bamberger Railroad Company, any of its officers, owners, or persons who have had any interest in this company, or any companies or persons who have had business dealings with this company.

Sincerely,



Alva W. Rawdon dba
Bamberger Railroad Company

Exhibit "1"

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