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Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Appeal of decision served May 20, 2020,
Docket No. AB-1272X, *Central Texas & Colorado River Railway, LLC*
-- *Abandonment Exemption -- in McCulloch, San Saba, Mills, and Lampasas*
Counties, TX

Dear Ms. Brown:

This is the appeal of the Brady Line Shipper Group (Shipper Group) of a decision of Office of Proceedings Director Allison C. Davis (Director's Decision) in the above proceeding, served May 20, 2020. The Appeal is governed by 49 C.F.R. § 1011.6(b). Such an appeal will be granted only in exceptional circumstances to correct a clear error of judgement or to prevent manifest injustice. Both of those grounds warrant a grant of this Appeal.

The Director's Decision holds the proceeding in abeyance for an additional 60 days, to July 20, 2020. The proceeding already had been in abeyance for 6 ½ months, since November 5, 2019. The Director's Decision was issued over the opposition of the Shipper Group, whose members are being significantly harmed by an embargo of rail service over the rail line that has been in effect for nearly a year, since July 25, 2019.

The Director's Decision was purportedly justified on the ground that the Applicant is in active negotiations with a prospective purchaser of the rail line, and is reevaluating the line's traffic prospects. Those are the same grounds purporting to justify prior abeyance decisions on November 5, 2019 and February 14, 2020.

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The Director overlooked decisions that clearly hold that a continuing embargo of rail service cannot be justified on the ground that an applicant for abandonment is attempting to sell the rail line. *See Louisiana Railcar, Inc. v. Missouri Pacific R. Co.*, 5 ICC 2d 542, viz (at 547):

...we do not agree with MP that this effort to arrange for another carrier to provide rail service fulfills its responsibilities under the Act to provide transportation in the meantime. . . (T)he mere search for a substitute rail operator offers no solace to LRC, nor does it meet MP's common carrier obligation.

It should go without saying that a continuing embargo of rail service cannot be justified on the ground that an applicant for abandonment is reevaluating the line's traffic prospects.

Where, as here, an embargo is wrongfully prolonged as a result of a decision that holds a proceeding in abeyance without adequate legal support, the decision reflects both a clear error of judgement and manifest injustice.

WHEREFORE, the Shipper Group respectfully appeals the Director's Decision to the Board.

Respectfully submitted,

/s/ Thomas F. McFarland

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Attorney for Brady Line Shipper Group

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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2020, I served the foregoing Appeal of Director's
Decision Served May 20, 2020 by email on the following:

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