

SERVICE DATE – SEPTEMBER 18, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1344X

COLORADO PACIFIC RIO GRANDE RAILROAD LLC—ABANDONMENT
EXEMPTION—IN RIO GRANDE COUNTY, COLO.

MOTION FOR PROTECTIVE ORDER

Decided: September 18, 2025

Colorado Pacific Rio Grande Railroad LLC (CXRG) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 26.55-mile segment of its Alamosa Subdivision between milepost 272.75, near Monte Vista, Colo., and milepost 299.3, near Derrick, Colo., both in Rio Grande County, Colo. (the Line). Notice of the exemption was served and published in the Federal Register on August 19, 2025 (90 Fed. Reg. 40,460), and the notice indicated that the exemption would become effective on September 18, 2025, unless stayed by the Board or unless a formal expression of intent to file an offer of financial assistance (OFA) was filed by August 29, 2025.

On August 29, 2025, Hayduk International, LLC (Hayduk), filed a notice of intent to file an OFA to purchase the Line, which included documents that Hayduk designated as confidential, and, on September 5, 2025, filed a motion requesting that the Board issue a protective order to facilitate the disclosure of information related to its confidential filings. On September 8, 2025, CXRG filed a letter stating, among other things, that it does not object to Hayduk’s motion for protective order, provided that Michael J. Hayduk, who filed the notice of intent and the motion on Hayduk’s behalf, is authorized under the Board’s rules to file formal pleadings with the agency.¹

Good cause exists to grant the motion for protective order. The motion conforms with the Board’s rules at 49 C.F.R. § 1104.14 governing protective orders to maintain the confidentiality of materials submitted to the Board. Issuance of the protective order will ensure that confidential information will be used solely for this proceeding and not for other purposes.

¹ By decision served September 8, 2025, Hayduk was directed to, among other things, file separate verifications for the notice of intent and the motion for protective order in accordance with 49 C.F.R. § 1104.4(b)(3). Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X, slip op. at 2 (STB served Sept. 8, 2025). Hayduk filed the verifications with the Board on September 10, 2025.

Accordingly, the motion for protective order will be granted, and the protective order and undertakings, as modified² in the Appendix to this decision, will be adopted.

It is ordered:

1. The motion for a protective order is granted, and the protective order and undertakings in the Appendix to this decision are adopted.
2. Materials designated as confidential or highly confidential will be kept under seal by the Board and not placed in the public docket or otherwise disclosed to the public, unless the appropriate attached undertaking is executed and the terms of the protective order are followed, or unless otherwise ordered by the Board.
3. This decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.

² Paragraph 1(f) in the filed protective order was renumbered as paragraph 2, and the following paragraphs were renumbered according. The service date of this decision was added to the undertakings.

APPENDIX

PROTECTIVE ORDER

1. Any party producing information, data, documents, or other material (hereinafter collectively referred to as “material”) to another party to this proceeding, or submitting material in pleadings, that the party in good faith believes reflects proprietary or confidential information, may designate and stamp such material as “CONFIDENTIAL,” and such material must be treated as confidential. Such material, any copies, and any data or notes derived therefrom:
 - a. Shall be used solely for the purpose of this proceeding and any judicial review proceeding arising therefrom, and not for any other business, commercial, or competitive purpose or use in any other judicial or administrative proceeding.
 - b. May be disclosed only to employees, counsel, or agents of the party requesting such material who have a need to know, handle, or review the material for purposes of this proceeding and any judicial review proceeding arising therefrom, and only where such employee, counsel, or agent has been given and has read a copy of this Protective Order, agrees to be bound by its terms, and executes the attached Undertaking for Confidential Material prior to receiving access to such materials, and provides a copy of the executed Undertaking to counsel for the party providing the “CONFIDENTIAL” material.
 - c. Must be destroyed by the requesting party, its employees, counsel, and agents, at the completion of this proceeding and any judicial review proceeding arising therefrom. However, counsel and consultants for a party are permitted to retain file copies of all pleadings which they were authorized to review under this Protective Order provided, however, that any such retained documents that are subject to this Protective Order remain subject to this Protective Order until destroyed.
 - d. If contained in any pleading filed with the Board, shall, in order to be kept confidential, be filed only in pleadings submitted in a package clearly marked on the outside “Confidential Materials Subject to Protective Order.” See 49 C.F.R. § 1104.14.
 - e. If any party wishes to challenge such designation, the party may bring such matter to the attention of the Board.
2. Any party producing material to another party to this proceeding, or submitting material in pleadings may in good faith designate and stamp particular material, such as material containing shipper-specific rate or cost data, or other competitively sensitive material, including any future plans for the line and right of way, solicitation of potential customers, appraisals and related valuation data, as “HIGHLY CONFIDENTIAL.”

Material that is so designated may be disclosed only to outside counsel or outside consultants of the party requesting such materials who have a need to know, handle, or review the materials for purposes of this proceeding and any judicial review proceeding arising therefrom, provided that such outside counsel or outside consultants have been given and have read a copy of this Protective Order, agree to be bound by its terms, execute the attached Undertaking for Highly Confidential Material prior to receiving access to such materials, and provide a copy of the executed Undertaking to counsel for the party providing the “HIGHLY CONFIDENTIAL” material. Material designated as “HIGHLY CONFIDENTIAL” and produced under this provision shall be subject to all of the other provisions of this Protective Order, including without limitation Paragraphs 1(a), (c), (d), and (e).

3. In the event that a party produces material, which should have been designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” and inadvertently fails to designate the material as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” the producing party may notify the other party in writing within 5 days of discovery of its inadvertent failure to make the confidentiality designation. The party who received the material without the confidentiality designation will return the non-designated portion (including any and all copies) or destroy it, as directed by the producing party, or take such other steps as the parties agree to in writing. The producing party will promptly furnish the receiving party with properly designated material.
4. In the event that a party inadvertently produces material that is protected by the attorney-client privilege, work product doctrine, or any other privilege, the producing party may make a written request within a reasonable time after the producing party discovers the inadvertent disclosure that the other party returns the inadvertently produced privileged document. The party who received the inadvertently produced document will either return the document to the producing party or destroy the document immediately upon receipt of the written request, as directed by the producing party. By returning or destroying the document, the receiving party is not conceding that the document is privileged and is not waiving its right to later challenge the substantive privilege claim, provided that it may not challenge the privilege claim by arguing that the inadvertent production waived the privilege.
5. If any party intends to use “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material at hearings in this proceeding, or in any judicial review proceeding arising therefrom, the party so intending shall submit any proposed exhibits or documents setting forth or revealing such “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” to the Board, or the court, as appropriate, with a written request that the Board or the court: (a) restrict attendance at the hearings during discussion of such “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material; and

- (b) restrict access to the portion of the record or briefs reflecting discussion of such “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material in accordance with the terms of this Protective Order.
6. If any party intends to use “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material in the course of any deposition in this proceeding, the party so intending shall so advise counsel for the party producing the materials, counsel for the deponent, and all other counsel attending the deposition, and all portions of the deposition at which any such “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material is used shall be restricted to persons who may review the material under this Protective Order. All portions of deposition transcripts and/or exhibits that consist of or disclose “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material shall be kept under seal and treated as “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL” material in accordance with the terms of this Protective Order.
 7. To the extent that “CONFIDENTIAL” material is produced by a party in this or any related proceedings, and is held and used by the receiving person in compliance with the terms of this Protective Order, such production, disclosure, and use of the material and of the data that the material contains will be deemed essential for the disposition of this and any related proceedings and will not be deemed a violation of 49 U.S.C. § 11904 or any other relevant provision of the ICC Termination Act of 1995.
 8. Except for this proceeding, the parties agree that if a party is required by law or order of a governmental or judicial body to release “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” material produced by the other party or copies or notes thereof as to which it obtained access pursuant to this Protective Order, the party so required shall notify the producing party in writing within 3 working days of the determination that the “CONFIDENTIAL” material, “HIGHLY CONFIDENTIAL” material, or copies or notes are to be released, or within 3 working days prior to such release, whichever is soonest, to permit the producing party the opportunity to contest the release.
 9. Each party has a right to view its own data, information and documentation (i.e., information originally generated or compiled by or for that party), even if that data, information and documentation has been designated as “HIGHLY CONFIDENTIAL” by a producing party, without securing prior permission from the

producing party. If a party (the “filing party”) files and serves upon the other party (the “reviewing party”) a pleading or evidence containing “HIGHLY CONFIDENTIAL” material of the filing party, the filing party shall also contemporaneously provide to outside counsel for the reviewing party a list of the “HIGHLY CONFIDENTIAL” information of the filing party contained in the pleading that must be redacted from the “HIGHLY CONFIDENTIAL” version prior to review by the in-house personnel of the reviewing party.

10. Nothing in this Protective Order restricts the right of any party to disclose voluntarily any “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” material originated by that party if such material does not contain or reflect any “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” material originated by any other party.
11. Any party filing with the Board a “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” pleading in this proceeding should simultaneously file a public version of the pleading.

UNDERTAKING

CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order served on September 18, 2025, governing the production of confidential documents in STB Docket No. AB 1344X, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purposes other than the preparation and presentation of evidence and argument in STB Docket No. AB 1344X or any judicial review proceeding arising therefrom. I further agree not to disclose any data or information obtained under this Protective Order to any person who has not executed an Undertaking in the form hereof. At the conclusion of this proceeding and any judicial review proceeding arising therefrom, I will promptly destroy any copies of such designated documents obtained or made by me or by any outside counsel or outside consultants working with me, provided, however, that counsel and consultants may retain copies of pleadings which they were authorized to review under the Protective Order.

I understand and agree that monetary damages would not be a sufficient remedy for breach of this Undertaking and that parties producing confidential documents shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such a remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: _____

UNDERTAKING**HIGHLY CONFIDENTIAL MATERIAL**

I, _____, have read the Protective Order served on September 18, 2025, governing the production of highly confidential documents in STB Docket No. AB 1344X, understand the same and agree to be bound by its terms. I further agree not to disclose any data, information, or material designated “HIGHLY CONFIDENTIAL” to any person or entity who: (i) is not eligible for access to “HIGHLY CONFIDENTIAL” material under the terms of the Protective Order, or (ii) has not executed an Undertaking for Highly Confidential Material in the form hereof. I also understand and agree, as a condition precedent to my receiving, reviewing, or using copies of any documents designated “HIGHLY CONFIDENTIAL,” that I will limit my use of those documents and the information they contain to this proceeding and any judicial review proceeding arising therefrom; that I will take all necessary steps to assure that said documents and information will be kept on a confidential basis by any outside counsel or outside consultants working with me; that under no circumstances will I permit access to said documents or information by personnel of my client, its subsidiaries, affiliates, or owners; and that at the conclusion of this proceeding and any judicial review proceeding arising therefrom, I will promptly destroy any copies of such designated documents obtained or made by me or by any outside counsel or outside consultants working with me, provided, however, that outside counsel and consultants may retain file copies of pleadings filed with the Board. I further understand that I must destroy all notes or other documents containing such “HIGHLY CONFIDENTIAL” information in compliance with the terms of the Protective Order. Under no circumstances will I permit access to documents designated “HIGHLY CONFIDENTIAL” by, or disclose any information contained therein to, any persons or entities for which I am not acting in this proceeding.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that parties producing highly confidential documents shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

OUTSIDE [COUNSEL] [CONSULTANT]

Dated: _____