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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB – 1344 X

COLORADO PACIFIC RIO GRANDE RAILROAD LLC –
ABANDONMENT EXEMPTION – IN RIO GRANDE COUNTY, COLORADO

REPLY TO
COLORADO PACIFIC RIO GRANDE RAILROAD LLC’S MOTION TO HOLD
PROCEEDING IN ABEYANCE; AND WITHDRAWAL REQUEST

HAYDUK INTERNATIONAL, LLC & MATTHEW J. HAYDUK
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Joint Reply

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Date: November 26, 2025

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1. NOW COMES Hayduk International, LLC, (“Hayduk”), by its managing member, Michael J. Hayduk, and Matthew J. Hayduk, Hayduk’s corporate affiliate and substitute Offeror, both of which respectfully, pursuant to the Surface Transportation Board’s (“STB”) November 21, 2025 Order in this proceeding, Reply to the Colorado Pacific Rio Grande Railroad LLC’s (“CXRG”) Withdrawal Request; and both of which, pursuant to 49 C.F.R. §1104.13, reply to CXRG’s November 20, 2025 filed request to again hold this proceeding in abeyance, and in support hereof states:

BACKGROUND INFORMATION

2. On July 1, 2025, Colorado Pacific Rio Grande Railroad LLC, a Class III carrier, filed an Abandonment Exemption to abandon approximately 26.8 miles of its Line, commonly known as the Creede Branch, between Mile Post (“MP”) 272.5, in Monte Vista, CO, and MP 299.3, in South Fork, CO.

3. On July 7, 2045, CXRG filed an Errata to correct “two minor, inadvertent errors;”

4. On July 15, 2025 CXRG filed a “Motion to Hold Proceeding in Abeyance”

“pending CXRG’s filing of a corrected Verified Notice of Exemption that will address certain inadvertent minor errors discovered after it was filed. The errors relate to the milepost of one end of the segment of track to be abandoned. Specifically, in several

places the Notice and its exhibits reference Milepost 272.5 when the correct Milepost is 272.75. ... The corrected Notice will correct those errors and certain corresponding errors, such as the overall distance of the track subject to the Notice.”

5. On July 22, 2025, CXRG filed:

“an updated version of the Verified Notice of Exemption filed on July 1, 2025. This version corrects several instances where milepost 272.5 was inadvertently inserted instead of 272.75, and where the segment length stated 26.8 miles instead of 26.55. Pursuant to a request by Surface Transportation Board staff, it also clarifies that Colorado Pacific Rio Grande Railroad LLC intends to remove the track within its right-of-way upon the abandonment being consummated, but that the bridges and culverts along this segment will be left in place.”

6. On July 30, 2025, CXRG certified

“that the newspaper notice included as Attachment 1 to this Certification was published in the Rio Grande Valley Courier, a newspaper of general circulation in Rio Grande County Colorado, and the notice includes the information required by 49 C.F.R. §1105.12.”

7. In a Decision Served August 19, 2025, the Surface Transportation Board gave notice of CXRG’s Abandonment Exemption; granted, then lifted, CXRG’s Abeyance Motion; stated, in footnote 1, that “July 30, 2025, will be considered the filing date of the verified notice”; then held that “formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) ... must be filed by August 29, 2025.”

8. On August 29, 2025, Hayduk International, LLC, by its Managing Member, Michael J. Hayduk, filed a Notice of Intent to File an OFA to purchase the Line.

9. On September 15, 2025, Hayduk late-filed a petition to toll the deadline to file an OFA until ten days “after receipt of the land information requested by Hayduk.”

10. In a Decision Served September 18, 2025, the STB tolled the deadline to file an OFA until ten days after Hayduk received the land information.

11. On September 22, 2025, Hayduk gave the STB notice that Hayduk had received the land information.

12. In a Decision Served September 25, 2025, the STB ordered that “Hayduk’s OFA will be due by October 2, 2025.”

13. In a case specific Decision Served October 1, 2025, the STB ordered that “any relevant filing or Board deadlines on or after October 1, 2025, are postponed, until further order of the Board.”

14. In a general Decision Served on November 13, 2025, in EP 751, the STB ordered:

A. “[A]ny material due to be submitted to the Board during the Federal government shutdown period ... will now be due no later than **November 20, 2025**” (Bold added)

B. “Filings ...that were submitted during the shutdown will be considered filed on **November 13, 2025**” (Bold added)

15. On October 23, 2025, CXRG submitted a Withdrawal Request that did not contain a motion to hold the proceedings in abeyance or a request for expedited consideration prior to November 20, which per the STB’s November 13, 2025 decision in EP 751, was “considered filed on November 13, 2025.”

16. On November 17, 2025, three days BEFORE the November 20, 2025 deadline for filing its Offer of Financial Assistance (“OFA”), Hayduk and Matthew J. Hayduk, filed an OFA to purchase the Line Segment at issue in this Abandonment proceeding.

17. On November 20, 2025, CXRG filed a Reply to Offer of Financial Assistance. In its Reply (“R”), CXRG:

A. Asked the STB to hold this proceeding in abeyance (for a second time), R 3,4, 8;

Response: Addressed below.

B Argued that the OFA was fatally flawed due to:

a. Hayduk raising, as a preliminary issue, the fact that abandonment of the Line Segment at issue in this proceeding, would create an illegal ‘stranded segment,’ R 4,5;

Response: Addressed in Hayduk’s OFA why this issue was raised¹.

b. Hayduk noting, that the new owner of a B30-7 locomotive, which has been stored serviceable on the adjacent Denver and Rio Grande Historical Foundation’s (“DRGHF”) line of railroad (the potential ‘stranded segment’ noted above), has made it known that the new owner of the locomotive desires to move the locomotive to a location that would require the locomotive to be moved over the Line Segment at issue in this proceeding, to be tendered to Union Pacific Railroad, for further movement to another State; R 6.

Response: Hayduk has been advised the new locomotive owner’s contract mechanic spent November 18-21, 2025, preparing the locomotive for movement including preparing for stenciling of new reporting marks, UMLER tags and airbrake work which would strongly suggest that the new owner intends to request the locomotive be moved in the very near future. Advising the STB of this imminent request for rail service, supported by a verified statement certainly would NOT render Hayduk’s OFA “fatally flawed.”

c. Hayduk relying on a previous statement of Thomas Wilcox, counsel for CXRG, which previous statement indicated that the OFA Escrow funds required to be deposited in a financial institution, could be conveyed to Mr.

¹ OFA ¶21 “Hayduk is concerned that unless proactively addressed, at some time in the future a **third party** may **seek to interfere with or undo the transfer** of the Line under the OFA process. See *Buffalo Crushed v. STB*, et al, No. 98-1505 (D.C. Cir. 1999)” (Bold added)

Wilcox, to be deposited in Mr. Wilcox's 'trust account,' which is in a 'financial institution;" R 7.

Response: Hayduk timely made an attempt to convey to Mr. Wilcox the required Escrow funds. Mr. Wilcox replied that he no longer would accept the tendered Escrow funds. Hayduk immediately put the Escrowed funds in a newly created escrow account at a reputable financial institution. Although not required, Hayduk also engaged a two party escrow company. Once again, not a "fatal defect."

d. Hayduk's confidential shipper information "falls far short of providing any '[e]vidence of a demonstrable commercial need for service.' " R 7.

Response: 49 C.F.R. 1152.27(c)(1)(iv)(E) states: "Demonstrate that there is a continued need for rail service on the line ..." This statement is followed by four examples, which do not indicate how MUCH evidence is required. Hayduk argues that a request for service to move the locomotive is 'significant,' since there is a Verified Statement in Hayduk's OFA, attesting to the fact that RAIL movement of the locomotive is the ONLY FEASIBLE way the locomotive can move. Hayduk further argues that the Rio Grande County Commissioners' Letter DOES indicate that there is "community support for continued rail service." The Letter makes it clear that abandonment of the Line Segment at issue, is NOT desired. (Effectively the commissioners take two positions: oppose the abandonment while simultaneously supporting freight rail service from ANYONE.) Hayduk's efforts to ascertain whether there is a desire for rail service, is addressed below. See Exhibit ("Ex") A. Ultimately, the fact that abandonment of the Line Segment at issue would create an illegal stranded segment, is determinative. Abandonment of the Line Segment at issue is NOT an option unless, the DRGHF also files seeking abandonment of its line of railroad.

CXRG'S FIRST ABEYANCE REQUEST

18. On July 15, 2025, two weeks AFTER CXRG filed its Abandonment Exemption, CXRG filed its first Request to hold this proceeding in Abeyance. The STB granted the request, resulting in this proceeding being delayed a critical two weeks. But for that two-weeks in abeyance, Hayduk's OFA would have been filed two weeks BEFORE the Government Shutdown, FIVE WEEKS BEFORE CXRG submitted its Withdrawal Request.

19. Had that initial abeyance request NOT been granted, this proceeding would have concluded.

20. Instead, this proceeding is long-past the 120-day limit for an Abandonment Exemption.

21. Hayduk's OFA was due on October 2, 2025. But for the Government Shutdown, Hayduk's OFA would have concluded BEFORE CXRG got around to submitting its Withdrawal Request.

CXRG'S SECOND ABEYANCE REQUEST

22. CXRG's second request for an abeyance is untimely.

23. CXRG seeking an abeyance, concealed in a reply only AFTER the filing of an OFA is in bad faith.

24. CXRG had notice of the STB's order setting a new deadline for the filing of an OFA in this matter and certainly was aware that an OFA could be filed at any time (including during the government shutdown).

25. CXRG anticipated relief to be granted "**as expected consistent with [STB] precedent**"

R4. An expectation or assumption is not grounds for failure to timely request affirmative relief.

26. CXRG had five days after the STB reopened to file for relief. When the STB did not immediately grant the withdraw request CXRG failed to seek an abeyance in a separate pleading to correct the (potential) oversight and stop the OFA process.

27. CXRG's failure to timely seek relief waived its right to stop the OFA process.

ANALYSIS OF RELATIVE TIME OF FILING

28. Timeline:

(A) Hayduk's OFA was due on October 2, 2025, and would have been filed on October 2, 2025;

(B) Hayduk's post-Government Shutdown due date was re-scheduled to November 20, 2025, which re-scheduled due date was NOT made known to Hayduk until November 13, 2025;

(C) Hayduk had to obtain an UPDATED scrap metal quote, due to Hayduk's original scrap metal quote being dated more than 30 days prior to the filing of Hayduk's OFA;

(D) CXRG's Withdrawal Request was submitted THREE WEEKS AFTER Hayduk's October 2, 2025 OFA due date;

(E) Hayduk's OFA was submitted THREE DAYS BEFORE the re-scheduled OFA Due Date;

(F) Hayduk ARGUES: For the purpose of determining whether CXRG's Withdrawal Request was filed before, or after, Hayduk's OFA was filed, the STB should determine that effectively, CXRG's Withdrawal Request was filed AFTER Hayduk filed its OFA, particularly in light of the fact that, due to the Government Shutdown, Hayduk was precluded from filing its OFA before CXRG filed its Withdrawal Request because filing an OFA with a scrap metal price more than 30 days old, would have been a 'fatal defect.'

WITHDRAWAL REQUEST

29. The STB's November 13, 2025 Decision in EP 751, stated that all filings submitted during the Government Shutdown, would be "considered filed on November 13, 2025."

30. 49 C.F.R. §1104.13 states that replies to pleadings are due within 20 days after a pleading is filed.

31. CXRG's Withdrawal Request was 'considered filed' on November 13, 2025. Hayduk has, per 49 C.F.R. §1104.13, until December 3, 2025, to file its Reply to CXRG's Withdrawal Request.

32. The fact that Hayduk has, to date, NOT filed a reply to CXRG's Withdraw Request, is totally immaterial, since Hayduk has the right to a full 20 days to file a reply.

33. Because the STB (Hayduk argues, improvidently), granted CXRG's SECOND abeyance request, PRIOR TO Hayduk being afforded his 49 C.F.R. §1104.13 right to file a reply to CXRG's SECOND abeyance request, and PRIOR TO the STB granting CXRG's second abeyance request, this OFA proceeding would have concluded prior to the earliest date the STB could have lawfully rendered a decision on CXRG's Withdrawal Request [December 4, 2025].

34. Had the STB NOT granted CXRG's Second Abeyance Request, per 49 C.F.R. §1152.27(e)(2), the STB would have been required to determine whether "a financially responsible person (Hayduk) has offered assistance." Having made such a determination, the STB would have been required to "issue a decision postponing the effective date of the authorization for abandonment"

35. The STB's 'Financially responsible person' decision would have been due 5 days after Hayduk filed its OFA, namely, by Monday, November 24, 2025.

36. CXRG indicated in its November 20, 2025 filed Reply to OFA, at 6, that “CXRG has no interest at this time in entering into a commercial agreement to sell its line of railroad to Matthew Hayduk or any other party,” pursuant to 49 C.F.R. §1152.27(f)(2).

37. Given that CXRG has already stated that it would not “enter into a purchase agreement which will result in continued rail service;” it is clear “the carrier and a financially responsible person fail to agree on the amount or terms of subsidy or purchase,” 49 C.F.R. §1152.27(g)(1), Hayduk would have filed a Petition to Set Terms and Conditions. CXRG would have had, per 49 C.F.R. §1152.27(g)(1), five days to file its reply (Due by Monday, December 1, 2025). The STB would have had to set terms and conditions by December 26, 2025. By December 31, 2025, this proceeding would have concluded.

THE WITHDRAWAL REQUEST MUST BE DENIED

38. CXRG (Hayduk argues erroneously) argued in its November 20, 2025 Reply to OFA at 4:

“the short timelines for actions ... could potentially result in the parties and the Board wasting time and effort if the Board, **as expected consistent with its precedent**, grants CXRG’s request” (to withdraw its abandonment exemption). (Bold added)

39. In CXRG’s October 23, 2025 Withdrawal Request, CXRG cited three cases² in support of its Withdraw Request.

40. In CXRG’s November 20, 2025 Reply to OFA at 2-3, CXRG cited the same three cases it cited in CXRG’s Withdrawal Request, plus two additional cases³.

² *Norfolk Southern Railway Co. – Abandonment Exemption – In Bergen County, NJ*, Docket No. AB 290 (Sub. No. 288X), Served May 14, 2008). (“**Bergen Cty**”)
Almono LP – Abandonment Exemption – In Allegheny Cty PA, Docket No. AB-842X, Served Jan. 28, 2004. (“**Almomo**”)

Reading Blue Mountain and Northern RR Co., Docket No. AB-996X, Served Feb. 5, 2008. (“**Reading Blue Mtn**”).

³ *Wisconsin Central Ltd. – Abandonment Exemption – In Lake County, Ill*, Docket No. AB-303 (Sub. No. 46X), served September 22, 2017. (“**Wisc. Central**”).

41. All five cases cited by CXRG, are distinguishable from this proceeding.

42. Analysis of CXRG's cited cases:

<u>Case</u>	<u>Holding</u>
Bergen Cty:	Withdrawal filed 5 weeks before OFA due. No OFA rights obtained. No opposition.
Almono:	Withdrawal filed 5 days after Petition to toll for ¶ (a) info. filed. Withdrawal filed 2 days before OFA due. Almono sought exemption from OFA. OFA offeror failed to show why withdrawal request should be denied.
Reading Blue Mtn:	Withdrawal filed 3 months before OFA due.
Wisc. Central:	No opposition, No OFA notice, No Action for two years, No consummation of abandonment authority.
Maine Central:	Denying Withdrawal would not result in Offeror getting relief requested. No OFA due date set.

43. This proceeding:

Withdrawal submitted three weeks AFTER OFA due date. (Original due date)

Withdrawal denial would result in Hayduk getting relief desired.

No OFA exemption sought by CXRG⁴

Hayduk, prior to Withdrawal, obtained OFA - related rights:

8-29-25: Hayduk filed Notice of Intent to File OFA, with financial info.

9-9-25: Hayduk Presumed to be financially responsible.

10-02-25: OFA Due⁵

10-05-25: Escrow deposited⁶

10-07-25: STB 'financial responsibility' decision due

10-08-25: Date could have / would have filed Set Terms and Conditions

10-23-25: Withdrawal submitted

11-20-25: Reply to OFA (Included Motion to Hold in Abeyance)

44. In the Maine Central proceeding, at slip op. 5, in footnote 11, the STB stated:

Maine Central RR Co. – Abandonment Exemption – In Androscoggin Cty, ME, Docket No. AB-83 (Sub. No. 16X), Served September 15, 2000. (“Maine Central”).

⁴ CXRG DID seek an exemption from trail use and railbanking provisions.

⁵ Effective date OFA filed, since OFA would have been filed on 10-2-25, except for the government shutdown.

⁶ Effective date Escrow Agreement created, since Escrow Agreement was created 3 days after Hayduk's OFA was filed (due to Wilcox unexpectedly rescinding agreement to act as escrow agent).

“11. Thus, MDOT’s reliance on Conrail Abandonment of a Portion of the West 30th Street Secondary Track in New York, NY, Docket No. AB 167 (Sub-No. 493N) (ICC served Feb. 11, 1988), at 5-6, is misplaced. In that case, the ICC said that, where third parties have acquired rights or interests in the outcome of an abandonment request, the ICC (and now the STB) may deny a railroad’s request to withdraw a filing, if the agency finds it is in the public interest to do so. Here, MDOT’s rights under its contract with MEC would vest only when MEC consummates a grant of abandonment authority. Because denying MEC’s request to withdraw its notice of exemption would not and could not trigger consummation, we see no public interest in denying MEC’s withdrawal request.”

45. As noted in ¶42 summary analysis above, this case is distinctly different from ALL of the cases cited⁷ by CXRG.

46. Hayduk was unable to find any case wherein a withdrawal request was granted AFTER the due date for filing an OFA.

47. This is a matter of first impression for the board as ALL of the cases involving withdrawal requests were decided prior to the July 29, 2017 Final 49 C.F.R. §1152.27 rule in EP 729.

ARGUMENT

48. There are two distinct types of proceedings in the instant matter, a notice of exemption for abandonment and an offer of financial assistance. While the proceeding started as abandonment under §10903, it was automatically held in abeyance upon filing of the Notice of Intent by Hayduk. CXRG is unclear but appears to seek to withdraw the §10903 exemption which Hayduk argues procedurally it is unable to do at the present time.

49. The sub proceeding (or parallel proceeding) created is an offer of financial assistance under §10904. This is supported by the fact that if an OFA is consummated the NOE is dismissed as opposed to being revoked, voided or simply disappearing into thin air. 49 C.F.R.

⁷ Hayduk read a dozen more cases than those cited by CXRG. (All of the cases cited by CXRG plus all of the cases cited within the cases cited by CXRG.) In many of the cases, no opposition to the withdrawal request was filed.

§1152.27(f)(2) [*Agreement on financial assistance*] states:

“If the carrier and a person offering to purchase a line enter into a purchase agreement which will result in continued rail service, the Board will approve the transaction **and dismiss** the application for abandonment or discontinuance, or the petition for exemption or **notice of exemption.**” (Bold added)

50. The fact that the NOE must be DISMISSED clearly indicates that a separate and distinct §10903 abandonment proceeding has been held in abeyance during the OFA process.

51. CXRG’s filing seriously mischaracterizes the current status of the §10904 proceeding by stating the “Offer of Financial Assistance process ... was in its early stages.”

52. CXRG’s arguments for granting withdrawal of its underlying §10903 are based upon *Almono LP–Abandonment Exemption–In Allegheny County, PA*, Docket No. AB-842X (served Jan. 28, 2004) but are misplaced in the attempt to apply them to the current §10904 OFA portion of the instant proceeding. CXRG does not even make a distinction in their arguments.

53. Throughout the OFA process from initial filing of a Notice of Intent to Accepting Terms and Conditions, the logical conclusion is that the ONLY party that may withdrawal from the §10904 process is the offeror. Even if a carrier summarily rejects the OFA and refuses to negotiate at all, the Offeror can still request the board to set terms and conditions. If a carrier can summarily withdrawal the in abeyance §10903 proceeding at any time, they can abuse the OFA process to “test the market” and if they “don’t like what they see” just withdrawal. This is certainly not the intent of the revised OFA rules or Congress.

54. Allowing withdrawal at any stage post NOI adversely affects the offeror and undermines the integrity of the OFA process. An offeror expends significant resources during the entire OFA process. The costliest part of the process is the due diligence stage where an offeror may employ outside experts and produces analysis of the subject property at their own expense.

55. Hayduk collectively has invested hundreds of hours of time in preparing an OFA in this case that for the government shutdown would have been filed on Oct 2, 2025.

56. CXRG reached their initial internal decision to withdrawal approximately two weeks AFTER the OFA would have been filed and served the actual withdraw request the following week. The OFA, and the work to produce the OFA was already completed.

57. In *Conrail Abandonment of a Portion of the West 30th Street Secondary Track in New York, NY*, Docket No. AB 167 (Sub-No. 493N) (ICC served Feb. 11, 1988), the ICC said that, **where third parties have acquired rights or interests in the outcome of an abandonment request**, the ICC may deny a railroad's request to withdraw a filing if the agency finds it is in the public interest to do so. (Bold added)

THE PUBLIC INTEREST

58. Hayduk has acquired rights or interests in the instant proceeding by paying the filing fee and filing an OFA.

59. The primary "public interest" in this proceeding, is ensuring that rail service over the Line Segment at issue is not interrupted (or more specifically due to the grade crossing issue in the instant case is how and when is rail service going to be restored).

60. Prior to CXRG filing its Abandonment Exemption on July 1, 2025, CXRG unlawfully granted the Colorado Department of Transportation ("CDOT") permission to remove the two-track grade crossing in Del Norte, CO, at or near MP 282.8, some 16 miles from the beginning of the DRGHF's line of railroad at MP 299.3, in Derrick CO.

61. Sometime in July or August, pursuant to CXRG's permission to remove the Del Norte grade crossing, CDOT did in fact remove the Del Norte grade crossing at Oak Avenue/Colorado Route 112 and the road was subsequently paved.

62. Removal of the Del Norte grade crossing severed the Line Segment at issue, thereby creating an illegal ‘stranded segment,’ namely, the DRGHF’s line of railroad, beginning at MP 299.3.

63. Nothing in the record indicates that notice was given to DRGHF or that the line was embargoed prior to the crossing removal.

64. Hayduk argues CXRG’s unlawful removal of the Del Norte grade crossing is decidedly NOT in the public interest.

65. Hayduk has represented, in writing, that if Hayduk is granted authority to acquire the Line Segment at issue, Hayduk will arrange to have the Del Norte grade crossing restored, thereby restoring DRGHF’s connection to the National Rail System.

66. Hayduk argues his replacement of the Del Norte grade crossing is decidedly in the Public Interest, and consequently, it is in the Public Interest to DENY CXRG’s Withdraw Request because:

A. CXRG unlawfully gave CDOT permission to remove the Del Norte Grade Crossing.

B. CXRG has yet to acknowledge in this proceeding that the Del Norte Grade Crossing was removed AFTER CXRG filed its Abandonment Exemption, thereby:

a. Abusing the STB’s OFA procedures, by significantly altering, diminishing, the rail assets CXRG sought to abandon in its July 1, 2025 Abandonment Exemption;

b. Violating the *Railroad Ventures v. STB*, 299 F 3d 523, 552 (6th Cir. 2002), prohibition against diminishing, after an abandonment exemption has been filed, the rail assets a rail carrier seeks to abandon;

c. Violating the STB’s edict in *Kansas City Southern Railway Co. – Abandonment Exemption – Line in Warren County, MS*, AB 103 (Sub. No. 21X), Served February 22, 2008 (“Glass Road Bridge”). [After an OFA, had been filed, a railroad bridge that carried the line over a county road, was removed by local government officials, without the knowledge or consent of the rail carrier (Kansas City Southern). The STB held that the rail carrier was liable for the removal of the bridge.]

C. CXRG has NOT indicated to anyone, including the DRGHF and Rio Grande County, that CXRG ever intends to restore the Del Norte grade crossing.

CUSTODIAN OF THE LINE SEGMENT

67. The ultimate decision in this case is who is the best custodian of the line segment; CXRG (the existing carrier) or Hayduk International, LLC/Matthew J. Hayduk (OFA offeror).

68. Below is a table of pros and cons for each entity on key ownership matrixes:

<u>Activity</u>	<u>CXRG</u>	<u>Hayduk International, LLC/Matthew Hayduk</u>
Line Maintenance	None in four years	Will totally rehabilitate line
Remove Vegetation	None in four years	Will remove vegetation to rehabilitate line
Grade Crossing	Unlawful Removal	Replaced and Returned to Service
Solicitation of Customers	None in four years	Actively Seeking Traffic
Development of Business	None in four years	Preliminary Design on Transload ⁸
Rio Grande County	Not Responsive	Pro-Actively Engaged with County ⁹

CONCLUSION

69. Withdrawal at this stage of §10904 adversely prejudices Hayduk’s OFA rights that vested upon filing of the Notice of Intent and should therefore be denied.

⁸ See Ex A, Transload Presentation

⁹ See Ex A, Freight Rail Presentation

70. Alternatively, the withdrawal request could be held in abeyance until such time as the OFA process has reached a final and non-appealable conclusion and the only proceeding before the Board is the remaining §10903 abandonment exemption. At that time a briefing schedule for arguments from parties of record for conditions (such as restoring the grade crossing within a certain number of days) on granting the withdrawal should be published.

71. Ultimately, The STB must decide which entity, CXRG or Hayduk, is most likely to preserve rail service over the Line Segment at issue; and which entity, CXRG or Hayduk, is most likely to act in the Public Interest.

72. CXRG noted in its Reply to OFA, at 6, that this proceeding has in effect become “a quasi feeder line proceeding” that seem to concede the substandard service approach of CXRG to Hayduk.

73. Hayduk has provided evidence to the STB, demonstrating that Hayduk is highly motivated to restore freight rail service over the Line Segment at issue, has begun the process of seeking out, and persuading, potential shippers, to use the Line Segment at issue, as opposed to shipping their goods via motor carrier.

74. Hayduk has the present ability by direct ownership of locomotives, ballast cars and maintenance of way equipment to restore the Line Segment at issue, so that freight rail service will in fact begin to be provided. See Ex A for details.

75. Hayduk has also provided evidence to the STB, demonstrating the neglect and distain CXRG has for the Line Segment at issue.

76. CXRG has totally ignored the Line Segment at issue since acquiring the Line Segment three years ago. CXRG indicated they had no track reports to provide because they never

conducted a track walk. This alone indicates that CXRG had no intention of meeting its common carrier obligations upon taking ownership.

77. CXRG gave unlawful permission to CDOT to remove the grade crossing in Del Norte, without notice to DRGHF and without filing to embargo the line.

78. CXRG unlawfully created a stranded segment, and unlawfully severed the DRGHF's connection to the National Rail System.

RELIEF REQUESTED

79. Based on the STB's Rules and precedent, Hayduk prays that the STB:

- A. Find that OFA Financial Responsibility Determination rights vest at the filing of the Notice of Intent;
- B. Find that OFA Discovery rights vest once a party is determined to be Financially Responsible;
- C. Find that OFA filing rights vest once an offeror concludes discovery;
- D. Find that granting withdrawal would adversely effect Hayduk's statutorily vested OFA rights;
- E. Deny the Motion to Hold the Proceeding in Abeyance;
- F. Dismiss the Motion to withdrawal or in the alternative hold it in abeyance until the OFA process has concluded;
- G. And for such other relief as would be appropriate.

VERIFICATIONS

I, Matthew J. Hayduk, declare and verify under penalty of perjury that this Reply to CXRG's Motion to Hold Proceedings in Abeyance; and Withdrawal Request is true and correct to the best of my personal knowledge, information and belief.

I, Michael J. Hayduk, declare and verify under penalty of perjury that this Reply to CXRG's Motion to Hold Proceedings in Abeyance; and Withdrawal Request is true and correct to the best of my personal knowledge, information and belief. Further, I certify that I am qualified and authorized to file the Offer Financial Assistance as an authorized corporate officer of Hayduk International, LLC.

Respectfully; jointly submitted,

/s/ Matthew Hayduk



Matthew J. Hayduk
In his individual capacity
Corporate Affiliate

/s/ Michael J. Hayduk



Michael J. Hayduk
Managing Member
Hayduk International, LLC

Dated: Nov 26, 2025

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2025, I served the foregoing document, Reply to CXRG's Motion to Hold Proceedings in Abeyance; and Withdrawal Request on Parties of Record:

Mr. Thomas W. Wilcox, Esq.
EMAIL ONLY: tom@twilcoxlaw.com

Mr. Matthew J. Hayduk
EMAIL ONLY: matthew.hayduk@gmail.com

Courtesy Copy (public version only) to:
Mr. Ronald Johnson, Esq.¹⁰
rmjohnson@rmjohnsonlaw.com



MICHAEL J. HAYDUK

¹⁰ Mr. Johnson indicated by email to Matthew and Mr. Wilcox November 25, 2025 that he intended to "intervene" in this matter and stated on November 26, via email that he would be filing something today.

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EXHIBIT A

Verified Statement of Matthew J. Hayduk detailing:

Correspondence with Potential Shippers

Confidential Version of Freight Rail Proposal Presented to Rio Grande County Commissioners in
Closed Session on September 24, 2025

Commodity Specific Presentations

Owned Locomotives and Railroad Equipment

NOT FOR PUBLIC DISTRIBUTION

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