

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
December 16, 2025
Part of
Public Record

Docket No. AB – 1344 X

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

REPLY IN OPPOSITION TO
CONCERNED CITIZENS OF SAN LUIS VALLEY’S MOTION TO INTERVENE

HAYDUK INTERNATIONAL, LLC & MATTHEW J. HAYDUK
102 ANSLEY COURT
GREER, SOUTH CAROLINA 29650

Joint Reply in Opposition

MICHAEL J. HAYDUK & MATTHEW J. HAYDUK
(864) 607-8163 & (864) 561-5769
MasterSergeantHayduk@gmail.com & matthew.hayduk@gmail.com
Managing Member & Individual Capacity

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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 49 C.F.R. §1104.13, Jointly Reply in Opposition to the November 26, 2025 filed Motion to Intervene (“Motion”) of Concerned Citizens of San Luis Valley (herein “CCSLV”) and in opposition state:

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”

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

15. On October 23, 2025, CXRG submitted a Withdrawal Request, 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 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 which Reply included CXRG’s second Abeyance request.

18. On November 21, 2025, the STB:

(A) granted CXRG’s November 20, 2025 second abeyance request;

(B) Ordered CXRG to reply to Hayduk’s Motion to Substitute; and

(C) Ordered Hayduk to reply to CXRG’s Withdrawal Request; both Replies to be filed by November 26, 2025.

19. On November 26, 2025:

(A) CXRG filed its Reply to Hayduk’s Motion to Substitute OFA Purchaser;

(B) Hayduk filed its Reply to CXRG’s Withdrawal Request; and

(C) CCSLV filed their Motion to Intervene.

20. On November 28, 2025 Hayduk filed an Errata Corrected copy of its Reply to CXRG's Withdrawal Request.

21. On December 3, 2025, CXRG filed a Motion to Sur Reply to Hayduk's Reply to CXRG's Withdrawal Request, along with a copy of CXRG's proposed Sur Reply.

ARGUMENT IN OPPOSITION

22. A Petition to Intervene is only permitted in a 49 C.F.R. §1112 Modified Procedures proceeding, per 49 C.F.R. §1112.4.

23. Participation in a 49 C.F.R. §1152 Abandonment Proceeding is governed by 49 C.F.R. §1152.25(a), Public Participation wherein Sub-paragraph (a)(1) addresses Protests and Comments.

24. 49 C.F.R. §1152.25(a)(1) states:

“Protests must contain the following information:

(i) Protestant's name, address and business.

(ii) A statement describing protestant's interest in the proceeding including:

(A) A description of protestant's use of the line;

(B) If protestant does not use the line, information concerning the group or public interest it represents;

(iii) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service (this information must be supported by affidavits of persons with personal knowledge of the fact(s))

25. 49 C.F.R. §1152.25 (c) and (d) state in relevant part:

“(c) Filing and service of written comments, protests, along with evidence and

argument, and replies. (1) Written comments and protests ... **shall be filed** with the Board ... **within 45 days of the filing with the Board** of an abandonment or discontinuance application.”

(Bold added)

“(d) Time limits. (1) Pleadings, requests or other papers or documents (including any comments or protests ...) required or permitted to be filed under this part must be received for filing ... within the time limits, if any, for such filing.”

FAILURE TO COMPLY WITH THE RULES

26. The CCSLVs’ Motion failed to comply with applicable rules:

- A. The Motion does not provide any Protestant’s address.
- B. The Motion does not provide business¹ information for several persons.
- C. The Motion advances multiple speculative comments NONE of which are “supported by affidavits of persons with personal knowledge of the fact(s).”
- D. The motion was filed more than 100 days AFTER the “45 day limit” (in a much longer Application proceeding).

THE MOTION / COMMENTS CONTAIN MULTIPLE MISREPRESENTATIONS

27. The Motion/Comments, contains multiple misrepresentations:

- A. On p. 1 of the Motion, the CCSLV misrepresent that they “have property ... on the Line”

Response: CXRG has NOT indicated that non-CXRG persons “have property... on the Line ...”, by License or otherwise. Satellite imagery DOES NOT depict ANY Non-CXRG “Property” “on the Line.”

¹ CCSLV Motion to Intervene Ex. 1 - There is a reference to a business associated with Mr. Gosar but it is unclear what relationship that person has to the business entity (shareholder, owner, employee, manager etc).

B. On p. 2 of the Motion, the CCSLV misrepresent that “allowing participation by Concerned Citizens will not:”

a. “delay this proceeding”

Response: 49 C.F.R. §1104.13 grants all parties 20 days to reply to any pleading. Since Concerned Citizens Motion is a ‘pleading,’ filing it automatically extended this proceeding by up to 21 days², which does in fact “delay this proceeding.”

b. “expand the issues”

Response: The Motion attempts to ‘expand the issues’ rather substantially: It demands, Comments pp. 4-8, far more information about an OFA Purchaser, than the rules require; It asks, Comments pp. 2, 8, that the STB require, for the first time,, that the abandoning carrier consent to an proposed substitution of Purchaser; It demands, Comments p. 12, that all shipper information be filed in the public record, as opposed to being filed under seal; It demands, Comments p.15, that the STB consider the prohibition against stranded segments, to be a (waivable) STB policy, as opposed to being a statute-based prohibition; It demands, Comments p. 15, footnote 9, that the carrier of a potential stranded segment, be required to object to the potential stranded segment, in order for a stranded segment to become illegal; It argues, Comments at 16, that in this proceeding, causing the DRGHF to become a stranded segment, “support[s] an exception to the stranded segment policy.” Protestants completely fail to address how their arbitrary “exception” request, made by a third party is consistent with a “strong federal policy in favor of retaining rail property in the national rail network...” See 49 U.S.C. §§ 10904, 10907 and 16 U.S.C. §1247(d).” *Jie Ao and Xin Zhou*, FD 35539, slip op. at 7, Served June 6, 2012.

² CCSLV exacerbated this situation when they filed another pleading on December 10, 2025

C. On pp. 2, 8 of the “Comments” appended to the Motion, Protestants misrepresent that the Carrier seeking abandonment authority must be in “agreement” with a proposed OFA Substitute of Purchaser Petition.

Response: The Concerned Citizens misread / misconstrue, 49 C.F.R. §1152.27(i), when they attempt to interject into 1152.27(i) a requirement that the “agreement” mentioned in 1152.27(i) must be between the Carrier and the Substitute Purchaser, as opposed to between the Original Purchaser and the proposed Substitute Purchaser. Protestants cite no authority for this far-fetched construction.

D. On p. 15 of the “Comments” appended to the Motion, Protestants misrepresent that “Hayduk is wrong that creation of a stranded segment is illegal;” misrepresent that creating a stranded segment is “contrary to Board policy as expressed in Board precedents.”

Response: 49 C.F.R. §10903 prohibits abandonment or discontinuance of service without prior STB authority. Creating a stranded segment disconnects the stranded segment from the National Rail System, resulting in an unauthorized abandonment or at a minimum discontinuance of service on the stranded segment. Abandonment or discontinuance of service without prior authority is illegal, it is not just a ‘Board policy.’ (“Board policies’ are set out in 49 C.F.R. §10101.)

E. On pp 11-12 of the “Comments” appended to the Motion, Protestants misrepresent that “The OFA Does Not Show the ‘Concrete and Specific’ Evidence of Shipper Support.”

Response: The evidence of ‘Shipper Support’ was filed under seal and CCSLV made no attempt to sign undertakings at any point prior to filing the motion to review this information. The statement implies that there is not any information contained in the Confidential OFA.

**THE COMMENTS CONTAIN IRRELEVANT, IMMATERIAL, SCANDALOUS
MATERIAL**

28. The Comments contain irrelevant, immaterial, scandalous material, which, per 49 C.F.R. §1104.8, Hayduk asks the STB to strike, specifically: Any comments or references to any person or entity which, on November 26, 2025, was NOT a ‘Party of Record,’ that had NOT sought to participate, or to file comments, including but not limited to the following: Mr. Don Shank, DRGHF, Mr. James Riffin, the Railroad Equipment Restoration Association, and The East Broad Top Preservation Association.

CONCLUSION

29. The motion to intervene should be denied and Hayduk’s motion to strike granted.

RELIEF REQUESTED

30. WHEREFORE, for the foregoing reasons, Hayduk respectfully requests that the STB:

A. Deny the Motion to Intervene;

B. Strike comments or references to irrelevant, immaterial entities and ‘evidence’ as noted specifically in ¶28 supra;

C. And for such other and further relief as would be appropriate.

VERIFICATION

I, Matthew J. Hayduk, declare and verify under penalty of perjury that this Joint Reply in Opposition to the Concerned Citizens of San Luis Valley Motion to Intervene is true and correct to the best of my personal knowledge, information and belief.

CORPORATE VERIFICATION

I, Michael J. Hayduk, declare and verify under penalty of perjury that this Joint Reply in Opposition to the Concerned Citizens of San Luis Valley Motion to Intervene 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 Joint Reply in Opposition to the Concerned Citizens of San Luis Valley Motion to Intervene as an authorized corporate officer of Hayduk International, LLC.

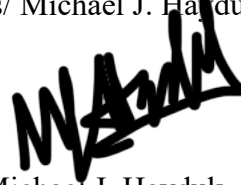
Respectfully; jointly submitted,

/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: December 16, 2025

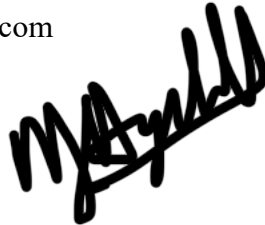
CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2025, I served the foregoing document, Joint Reply in Opposition to the Concerned Citizens of San Luis Valley Motion to Intervene on Parties of Record:

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

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

Mr. Ronald Johnson, Esq.
EMAIL ONLY: rmjohnson@rmjohnsonlaw.com



MICHAEL J. HAYDUK