

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
December 23, 2025
Part of
Public Record

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
DECEMBER 3, 2025 MOTION TO FILE A SUR-REPLY**

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Reply to CXRG Sur-Reply

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Date: December 23, 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 OFA Offeror, both of which respectfully, pursuant to the 49 C.F.R. §1104.13, Reply to Colorado Pacific Rio Grande Railroad LLC’s (“CXRG”) December 3, 2025 filed Motion to Sur-Reply to Hayduk’s Reply to CXRG’s Motion to Withdraw its Abandonment Exemption.

2. Sur-Replies are prohibited by 49 C.F.R. §1104.13(c).

3. In City of Philadelphia – Petition for Declaratory Order, Docket No. FD 36768, Served September 24, 2025, slip op. at 4, the STB stated “that §1104.13(c) will be more strictly enforced going forward to promote the orderly and efficient administration of cases.” Just before this STB statement, the STB also stated that “the Board had often accepted such filings in the past.” Typically to provide for a “more complete record.”

4. In support of CXRG’s Motion to Sur-Reply, CXRG alleged, at p. 1, that:

- (A) it could not have anticipated the ... arguments in the Joint Reply” [by Hayduk to CXRG’s withdrawal request];
- (B) “to provide clarity to the Board,” at p. 2; and
- (C) “by rebutting numerous blatantly false factual allegations” at p. 2.

RESPONSE TO CXRG’S JUSTIFICATIONS FOR FILING A SUR-REPLY

5. Could not anticipate Hayduk’s arguments.

Response: Counsel for CXRG is aware or should have been aware of CADC Case Nos. 24-1385 and 25-1141 (consolidated), wherein the Petitioner in that case has argued that the filing of a Notice of Intent (“NOI”) to File an Offer of Financial Assistance (“OFA”), per the 2017 revision to 49 CFR §1152.27 OFA regulations, creates new rights which prevent the withdrawal of an abandonment exemption once a NOI to file an OFA has been filed.

6. However, Counsel for CXRG and Hayduk was unaware of what the STB would argue in its Reply Brief, which the STB filed on December 19, 2025.

7. Hayduk argues that the STB’s December 19, 2025 arguments regarding withdrawal requests, is germane to this proceeding, and should become a part of the record in this proceeding.

8. To include the STB’s December 19, 2025 arguments in CADC Case Nos. 24-1385 and 25-1141 in this proceeding, the following need to occur:

A. CXRG’s Motion to Sur-Reply needs to be granted;

B. Hayduk needs and requests leave to put the STB’s December 19, 2025 Reply Brief into the record in this proceeding;

C. Both CXRG and Hayduk need to be granted leave to file a reply to this “new evidence.” [HOWEVER, The filing date for both replies needs to be the same; No sur-replies to what is filed, to be permitted.]

9. Hayduk supports CXRG’s Motion to Sur-Reply, subject to the following conditions:

A. The conditions in ¶8 above, are approved by the STB.

B. Hayduk is also granted leave to reply to the remaining CXRG “justifications.”

(see ¶¶11-19)

10. In support of this novel response, Hayduk notes that permitting CXRG and Hayduk to address CXRG's Withdrawal Request in light of the STB's December 19, 2025 Reply Brief:

- a. Will create a more complete record in this proceeding;
- b. Will NOT (significantly, if at all) delay this proceeding, since the Concerned Citizens of the San Luis Valley have filed multiple seemingly never ending irrelevant pleadings, which have already delayed this proceeding, and which are likely to delay this proceeding beyond what small delay will result due to CXRG and Hayduk addressing CXRG's Withdrawal Request in light of the STB's December 19, 2025 Reply Brief.

RESPONSE TO CXRG'S REMAINING JUSTIFICATIONS

11. To provide clarity to the Board.

Response: Hayduk argues that granting Hayduk's foregoing request, will provide the STB with the 'clarity' that CXRG seeks.

12. Numerous false statements.

Response: No false statements were referenced in CXRG's Motion to Sur-Reply, nor in CXRG's Sur-Reply. Three alleged false statements were addressed in Jason Jones' Appended Verified Statement. Hayduk responds to those statements below.

13. Hayduk's alleged false statement: "CXRG has no interest in developing freight transportation on this segment of the tracks."

CXRG's Response: "CXRG would respond to any reasonable request for freight rail service on this section of the tracks, but CXRG has never received such a request."

Hayduk's Response: First any request for service to a common carrier is "reasonable" but CXRG appears to qualify that a request for service must be reasonable without explaining what a reasonable request actually is. Second, "Developing" freight traffic is NOT the

same as “responding” to a request for rail freight service. “Developing,” in Hayduk’s opinion, connotes the carrier or in this case offeror GOING TO potential rail freight shippers, OFFERING rail freight service as well as an integrated end to end logistical solution, as opposed to passively sitting in one’s office waiting for a potential rail shipper to walk in the door seeking rail service. Specifically in Hayduk’s OFA and subsequent filings it is clearly obviously that Hayduk has an ongoing relationship with shippers and is developing tailored services to meet their needs. This includes the task of providing transloading options and infrastructure (See proposed transloads exhibits from Hayduk). End to end logistics earn business for a rail freight operator and “if you build it they will come”. As demonstrated, when a potential shipper indicated that they might not resume a prior service on the line Hayduk followed up multiple times, and the shipper identified a NEW destination market the shipper was considering using rail service to reach. The constant contact with this shipper has them thinking about rail freight as an option. This process occurred over multiple months during the OFA process and the market for freight rail is dynamic and will continue to change however active engagement is the key to EARNING new business.

14. Hayduk’s alleged false statement: Removing the Del Norte Grade Crossing created a ‘stranded segment,’ namely, the DRGHF Line.

Hayduk’s Response: Removing the grade crossing disconnected the DRGHF’s Line from the National Rail System. The STB has held disconnecting a line from the National Rail System, without authority, constitutes unauthorized ‘abandonment,’ unlawfully creates a ‘stranded segment.’

15. There is a distinction between removing one's own rails, thereby isolating a portion of one's own line; and removing one's rails, which results in an adjoining line being disconnected from the National Rail System. The former is permitted. The latter is not.

16. CXRG's false statement: In Jason's Verified Statement, he states that CXRG's Abandonment Exemption "required some corrections in order to comply with the Board's regulations."

Hayduk's Response: CXRG changed the beginning MP of its Abandonment Exemption by 1/4 of a mile, choosing to seek abandonment for 1/4 mile LESS of its Line. That change had NOTHING TO DO with any STB regulation. Further, Hayduk affirmatively states this change had no material impact on the decision to make an OFA, or the business model to return rail freight service to South Fork and the customers in area.

17. CXRG's false statement: CXRG made an effort to inform the DRGHF about the removal of the Del Norte Grade Crossing, PRIOR to the removal of the Grade Crossing and in fact informed the DRGHF about the Grade Crossing removal PRIOR to the actual removal.

Hayduk's Response: It is Hayduk's understanding that the DRGHF FIRST became aware of the actual removal of the Grade Crossing several weeks AFTER the grade crossing was removed, when someone (not Hayduk) sent the DRGHF photographs of the removed Grade Crossing, circa August 1, 2025. When the DRGHF elects to file its comments, if they choose to do so, everyone will know when the DRGHF first became aware of the removal of the Grade Crossing.

18. Alleged False Statement: Hayduk asserted that the Grade Crossing removal "was somehow unlawful or nefarious, or that it violated the Board's rules by occurring after CXRG sought abandonment authority, are all overblown and wrong."

Hayduk's Response: Creating a stranded segment is unlawful. It is not simply a violation of STB "policy" however "Nefarious" = wicked. Hayduk never said, nor implied, that the Grade Crossing removal was 'wicked.' Hayduk only said that the removal created an unlawful stranded segment. The removal did occur, and CXRG has never disputed that it occurred AFTER the CXRG "sought" abandonment authority, on July 1, 2025. The STB merely delayed the effective date of the Abandonment Exemption, which effective date determines the earliest the Abandonment Exemption can become effective. The "effective date" does not, nor can it, alter when CXRG first sought abandonment authority.

19. WHY CXRG sought abandonment authority is immaterial. CXRG's 'belief' that there is no "prospect ... for the foreseeable future," that anyone will request freight rail service utilizing the Rail Segment at Issue, is a sufficient reason to seek abandonment authority.

Hayduk's Response: Hayduk has a different belief. Hayduk believes that there IS a very real prospect that a shipper or shippers will seek rail freight service utilizing the Rail Segment at Issue. And based on Hayduk's belief, Hayduk has offered to assume ownership of the Rail Segment at Issue; and thusly, relieve CXRG of its obviously UNWANTED common carrier obligations associated with the Rail Segment.

RELIEF REQUESTED

20. For the foregoing reasons, Hayduk prays that the STB:

- A. Grant CXRG's Motion to Sur-Reply;
- B. Grant Hayduk leave to put the STB's December 19, 2025 Reply Brief in CAD/C Case Nos. 24-1385 and 25-1141 into the record in this proceeding;
- C. Grant both CXRG and Hayduk leave to file a reply to this "new evidence;"
- D. Order the filing date for both CXRG and Hayduk replies be the same date;

- E. Order no sur-replies to what is filed by CXRG and Hayduk, will be permitted;
- F. Grant Hayduk leave to reply (¶¶11-19 supra) to the remaining CXRG “justifications;”
- G. And for such other and further relief as would be appropriate.

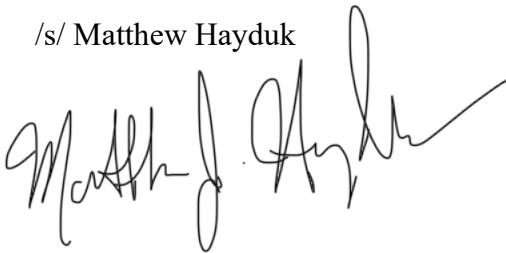
VERIFICATIONS

I, Matthew J. Hayduk, declare and verify under penalty of perjury that this Reply to Colorado Pacific Rio Grande Railroad LLC’s December 3, 2025 filed Motion to Sur-Reply 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 Colorado Pacific Rio Grande Railroad LLC’s December 3, 2025 filed Motion to Sur-Reply 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: December 23, 2025

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2025, I served the foregoing document, Reply to Colorado Pacific Rio Grande Railroad LLC's December 3, 2025 filed Motion to Sur-Reply 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

A handwritten signature in black ink, appearing to read 'M. Hayduk', with a long, sweeping horizontal line extending from the end of the signature.

MICHAEL J. HAYDUK