

SERVICE DATE – APRIL 15, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1344X

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

Digest:¹ The Board grants Colorado Pacific Rio Grande Railroad LLC’s request to withdraw a verified notice of exemption to abandon a rail line in Colorado and resolves the remaining outstanding requests for relief.

Decided: April 15, 2026

In this proceeding, Colorado Pacific Rio Grande Railroad LLC (CXRG) filed a verified notice of exemption to abandon a segment of rail line in Colorado. Before the exemption became effective, a potential offeror filed a notice of intent to file an offer of financial assistance (OFA) to purchase the line and was presumed preliminarily financially responsible. CXRG now seeks to withdraw its verified notice, and the Board has received a number of filings, including a motion for sanctions and an allegation of forgery. For the reasons discussed below, the Board will grant CXRG’s request to withdraw and will resolve the remaining outstanding requests for relief.

BACKGROUND²

CXRG filed its 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, which CXRG identifies as being located 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

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² While attempting to avoid references to confidential or highly confidential information in Board decisions, the Board reserves the right to rely upon and reference such information in decisions when necessary. See Canadian Nat’l Ry.—Control—Iowa N. Ry., FD 36744, slip op. at 1 n.3 (STB served Jan. 14, 2025). The Board determined that it could not discuss the issues in this decision without disclosing certain information marked as “confidential.”

on September 18, 2025, unless stayed by the Board or unless a formal expression of intent to file an 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. On September 18, 2025, a decision was served granting Hayduk's late-filed petition to toll the deadline to file an OFA. See Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X (STB served September 18, 2025). In a separate decision that same date, a motion for protective order was granted. Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo. (Protective Ord.), AB 1344X (STB served Sept. 18, 2025). A subsequent decision established October 2, 2025, as the deadline for Hayduk to file its OFA, and October 12, 2025, as the effective date of the exemption. See Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X (STB served Sept. 25, 2025). Thereafter, because of a lapse in the Board's appropriations, a decision was served indicating that the exemption would not become effective and any filing or Board deadline on or after October 1, 2025, would be postponed until further Board order. See Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X (STB served Oct. 1, 2025).

On November 13, 2025,³ CXRG filed a request to withdraw its verified notice of exemption. CXRG states that it has become aware of local opposition to abandonment of the Line. (CXRG Mot. to Withdraw 1, Nov. 13, 2025). In addition, according to CXRG, other issues arose during the OFA process that have complicated the ability to accurately estimate the value of the Line for purposes of conveying the Line to a potential railroad purchaser. (*Id.*) Such issues, CXRG states, include past transactions regarding the property underlying the railroad right-of-way, some of which were not fully known to CXRG when it acquired the Line in 2023. (*Id.*) While CXRG states it remains doubtful it will receive a viable request for service on the Line, it has decided to retain ownership of the Line and reevaluate its plans for the Line, which could eventually include reinstating common carrier freight service. (*Id.*)

On November 17, 2025, Hayduk filed a motion to substitute its corporate affiliate, Matthew J. Hayduk, in his individual capacity, as the offeror in this proceeding. On the same day, Matthew J. Hayduk filed an OFA to purchase the Line.⁴

CXRG replied to the OFA on November 20, 2025, arguing that the OFA is moot given the pending request to withdraw the verified notice of exemption. (CXRG Reply 1-3, Nov. 20, 2025.) CXRG notes that the OFA is completely silent on the request to withdraw and makes no attempt to argue that withdrawal of the verified notice of exemption would be inappropriate or

³ All filings submitted during the 2025 federal government shutdown are considered filed on November 13, 2025. Materials Due to Be Submitted During the Fed. Gov't Shutdown, EP 751, slip op. at 1 (STB served Nov. 13, 2025).

⁴ Matthew J. Hayduk supplemented the OFA on November 21, 2025. On March 2, 2026, Hayduk and Matthew J. Hayduk jointly filed a motion for leave to supplement the OFA with "new shipper evidence."

contrary to Board precedent. (*Id.* at 3.)⁵ Furthermore, CXRG argues that even if the Board were to consider the OFA, it should be rejected because it is “fatally flawed.” (*Id.* at 4-8.)

By decision served November 21, 2025, Hayduk/Matthew J. Hayduk was directed to respond to CXRG’s request to withdraw, CXRG was directed to respond to the motion to substitute, and all OFA deadlines were tolled pending further Board order. Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X, slip op. at 2 (STB served Nov. 21, 2025).

On November 26, 2025, as corrected on November 28, 2025, Hayduk and Matthew J. Hayduk (collectively, Hayduks) filed a joint reply to CXRG’s request to withdraw. According to Hayduks, granting CXRG’s withdrawal request would prejudice Hayduks’ OFA rights, which they claim vested upon filing the notice of intent to file an OFA. (Hayduks Reply 17-18, Nov. 28, 2025.) Hayduks argue that throughout the OFA process, from initial filing of a notice of intent to accepting terms and conditions, the offeror is the only party who can withdraw from the process. (*Id.* at 13.) Hayduks note that offerors expend significant resources during the OFA process and allowing the railroad to withdraw at any stage adversely affects the offeror and undermines the integrity of the OFA process. (*Id.* at 13-14.) Moreover, Hayduks contend that denying the withdrawal request would be in the public interest because they are more likely than CXRG to ensure that rail service on the Line continues. (*Id.* at 14-17.) Hayduks further allege that CXRG unlawfully granted the Colorado Department of Transportation permission to remove a grade crossing on the Line in Del Norte, Colo., at or near MP 282.8, which severed an adjoining rail line owned by the Denver and Rio Grande Railway Historical Foundation (DRGRHF)⁶ from the interstate rail network, thereby creating a stranded segment. (*Id.* at 14-15.) Hayduks represent that, if they are authorized to acquire the Line through the OFA process, they will arrange to have the crossing restored. (*Id.* at 15.)⁷

CXRG filed a reply to the motion to substitute on November 26, 2025, arguing that the motion should be denied because none of the conditions for substitution contained in 49 C.F.R. § 1152.27(i) have been satisfied.

Also on November 26, 2025, the Concerned Citizens of San Luis Valley (Concerned Citizens) filed a motion to intervene in this proceeding, along with comments in opposition to the OFA and in support of CXRG’s request to withdraw.⁸ Concerned Citizens supplemented its

⁵ CXRG further argues that, should the Board not grant CXRG’s request to withdraw before the 20-day reply period ends, the Board should hold the proceeding in abeyance. (CXRG Reply 3-4, Nov. 20, 2025.) Because this decision addresses CXRG’s request to withdraw, CXRG’s request for abeyance is moot.

⁶ The DRGRHF line connects with the Line at MP 299.3, in Derrick, Colo.

⁷ CXRG filed, on December 3, 2025, a motion for permission to file a surreply to Hayduks’ joint reply to the withdrawal request along with a surreply, to which Hayduks replied on December 23, 2025.

⁸ On November 28, 2025, the Rio Grande County Board of County Commissioners filed a letter stating that it had voted to rescind its letter of support, which was filed with the OFA.

comments on December 10, 2025 (hereinafter, Supplemental Comments). Hayduks filed a joint reply in opposition to Concerned Citizens' motion on December 16, 2025, which includes a request that the Board strike from Concerned Citizens' filing material Hayduks claim is irrelevant, immaterial, and scandalous. (Hayduks Reply 9, Dec. 16, 2025.) On December 19, 2025, Concerned Citizens filed a reply to Hayduks' request to strike and motion seeking leave to file a surreply to Hayduks' reply in opposition to the motion to intervene along with a surreply.

On December 31, 2025, Hayduks filed a reply to Concerned Citizens' Supplemental Comments and a motion for sanctions. According to Hayduks, three exhibits to the Supplemental Comments divulged confidential information in violation of the protective order in this proceeding. (Hayduks Mot. for Sanctions 3, Dec. 31, 2025.) Specifically, Hayduks argue that Exhibits 11, 15, and 16 to the Supplemental Comments contained the confidential names of three potential shippers, which were included with the OFA and with Hayduks' November 28, 2025 reply, in violation of the protective order in the proceeding. (*Id.* at 3-4.) Hayduks therefore request that the Board strike those three exhibits from the public record and impose various additional sanctions on Concerned Citizens and Concerned Citizens' counsel. (*Id.* at 4-5.)

Concerned Citizens replied to the motion for sanctions on January 20, 2026. Concerned Citizens note that the public version of the Supplemental Comments was heavily redacted to comply with the protective order and contend that Exhibits 11, 15, and 16 do not disclose confidential information. (Concerned Citizens Reply 3, Jan. 20, 2026.) According to Concerned Citizens, in any event, those exhibits could not disclose confidential information because all are in the public domain, newspaper articles, or public websites. (*Id.*) In addition, Concerned Citizens allege that the signature on a verified statement included with the OFA was forged. (*Id.* at 3-4.) According to Concerned Citizens, its counsel was in communication with the individual (hereinafter, the Individual) who purportedly signed the verified statement, and the Individual indicated that he never signed or authorized the verified statement. (*Id.* at 4.) Furthermore, Concerned Citizens state that its counsel provided a copy of the verified statement to the Individual, and in an email response, the Individual stated that the signature was not his and was a forgery. (*Id.*; see also id., Ex. 18.)⁹

By decision served January 28, 2026, Hayduks were directed to respond to the forgery allegation by January 30, 2026. Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X, slip op. at 2 (STB served Jan. 28, 2026).

Hayduks timely filed a joint reply in response to the January 28 decision, in which they question the circumstances surrounding the interactions between Concerned Citizens' counsel and the Individual and the veracity of documentation included in Concerned Citizens' reply. (See Hayduks Reply 11-3, Jan. 30, 2026.) According to Hayduks, the preponderance of the evidence fails to support the allegation that there was a forgery or misrepresentation. (See id. at 3.)

⁹ CXRG filed a letter on February 4, 2026, to clarify one aspect of Concerned Citizens' January 20, 2026 reply to the motion for sanctions. CXRG represents that, in November 2025, the Individual agreed to lease a locomotive to CXRG, but the agreement has not been finalized because the locomotive is currently mechanically inoperable. (CXRG Letter 1, Feb. 4, 2026.)

On February 4, 2026, Concerned Citizens replied to Hayduks’ response to the forgery allegation, arguing that neither the joint reply nor Matthew J. Hayduk’s verified statement squarely addresses the central issue: whether the signature on the verified statement included with the OFA was a forgery. (Concerned Citizens Reply 1, Feb. 4, 2026.) Among other things, Concerned Citizens defends the authenticity of the email from the Individual and contends that the authenticity of the email is a separate issue from whether the allegations contained therein are true. (*Id.* at 5.) Concerned Citizens state that an allegation of forgery was made to its counsel, and Concerned Citizens then brought that allegation to the Board’s attention. (*See id.* at 5-6.)

On March 5, 2026, DRGRHF filed a comment arguing, among other things, that CXRG’s verified notice of exemption should be rejected because authorizing abandonment of the Line would create a stranded segment by isolating the DRGRHF line from the interstate rail network. (*See* DRGRHF Comment 2-3, Mar. 5, 2026.) DRGRHF also requests an extension of time to respond to Hayduks’ March 2, 2026 motion for leave to supplement the OFA. (*See id.* at 6-7.)¹⁰ CXRG filed a letter on March 20, 2026, in reply to DRGRHF’s comment, in which, among other things, CXRG disputes DRGRHF’s argument that the verified notice of exemption should be rejected. (*See* CXRG Letter 2, Mar. 20, 2026.).¹¹

On March 23, 2026, Concerned Citizens filed a reply stating that it opposes Hayduks’ motion for leave to supplement the OFA. (Concerned Citizens Reply 2-4, Mar. 23, 2026.) Concerned Citizens also states that it does not oppose DRGRHF’s participation in this proceeding but argues that certain statements in DRGRHF’s comment are incorrect. (*Id.* at 4-8.)

DISCUSSION AND CONCLUSIONS

CXRG’s Request to Withdraw. Generally, the Board will grant a railroad’s request to withdraw a filing seeking an abandonment. *See, e.g., Cent. Tex. & Colo. River R.R.—Discontinuance Exemption—in McCulloch, San Saba, Mills, & Lampasas Cntys., Tex.*, AB 1272X, slip op. at 3 (STB served Nov. 20, 2020); *V & S Ry.—Discontinuance Exemption—in Pueblo, Crowley, Kiowa, & Otero Cntys., Colo.*, AB 603 (Sub-No. 4X), slip op. at 2 (STB served May 6, 2016). In *Almono, LP—Abandonment Exemption—in Allegheny County, Pa.*, AB 842X (STB served Jan. 28, 2004), the Board granted a railroad’s request to withdraw its filing seeking abandonment authority over the objection of the potential OFA offeror. The Board explained that, because carriers are not compelled to abandon lines, the Board normally grants a carrier’s motion to withdraw. *Almono*, AB 842X, slip op. at 1-2. The Board has also permitted withdrawal after a potential offeror has filed a notice of intent to file an OFA or requested information from the railroad to formulate an offer. *See, e.g., Norfolk S. Ry.—Aban. Exemption—in City of Balt., Md.*, AB 290 (Sub-No. 412X) (granting withdrawal after offeror filed a notice of intent and was presumed preliminarily financially responsible), *pet. for review*

¹⁰ DRGRHF also takes issue with the fact that the entirety of Hayduks’ January 30 reply to the forgery allegation and Hayduks’ March 2 motion to supplement the OFA were marked as “confidential” and “highly confidential,” respectively. (*See id.* at 6.)

¹¹ In the Letter, CXRG also argues Hayduks’ March 2 motion for leave to supplement the OFA should be denied. (*See* CXRG Letter 1-2, Mar. 20, 2026.)

denied, Riffin v. STB, No. 24-1385, 2026 WL 913273 (D.C. Cir. Apr. 3, 2026); Norfolk S. Ry.—Aban. Exemption—in Orange Cnty, N.Y., AB 290 (Sub-No. 283X) (STB served Sept. 15, 2008) (granting withdrawal despite notice of intent to file an OFA and request for information); Norfolk S. Ry.—Aban. Exemption—in Bergen Cnty., N.J., AB 290 (Sub-No. 288X) (STB served May 14, 2008) (granting withdrawal and finding the notice of intent to file an OFA and motion to compel the production of valuation information moot); Cin., New Orleans & Tex. Pac. Ry.—Aban. Exemption—in Scott Cnty., Tenn., AB 290 (Sub-No. 279X) (STB served Apr. 24, 2007) (granting withdrawal and finding that the notice of intent to file an OFA is moot); Bessemer & Lake Erie R.R.—Aban. Exemption—in Armstrong & Butler Cntys., Pa., AB 88 (Sub-No. 8X) (STB served Feb. 26, 1997) (granting withdrawal despite the submission of a notice of intent to file an OFA and the OFA due date already having been tolled by the Board to allow for the production of valuation material). However, the agency has discretion to deny withdrawal requests in appropriate circumstances. See Cent. Tex. & Colo. River R.R., AB 1272X, slip op. at 3; Trinidad Ry.—Aban. Exemption—in Las Animas Cnty., Colo. (Trinidad), 5 S.T.B. 1113, 1115-1118 (2001) (recognizing that while the Board normally grants carrier requests to withdraw abandonment proceedings, the agency has the ability to address particular circumstances, such as where withdrawal would be “highly adverse” to the OFA scheme).

Here, the Board will grant CXRG’s request to withdraw its notice of exemption to abandon the Line. Although the OFA process has begun, it is at an early stage. Hayduk filed a notice of intent to file an OFA and was presumed to be preliminarily financially responsible. Although Matthew J. Hayduk received certain financial information for purposes of preparing an OFA, (see 49 C.F.R. § 1152.27(c)(1)(ii)), and has since filed an OFA,¹² no determination has been made that either Hayduk or Matthew J. Hayduk is a financially responsible entity, and no OFA negotiations with CXRG have been instituted pursuant to 49 C.F.R. § 1152.27(e)(2). Indeed, the Board’s regulations at 49 C.F.R. § 1152.27(c)(1)(ii) specifically provide that the presumption of preliminary financial responsibility “does not create a presumption that the party will be financially responsible for an offer.” This case is unlike Trinidad, where the Board denied a carrier’s request to withdraw its notice when the OFA process was at an advanced stage and where there were serious concerns about the integrity of the OFA process. See Trinidad, 5 S.T.B. at 1117-18. There, the Board had already found the offeror financially responsible and had set a deadline for the parties to request that the Board establish the terms and conditions of an OFA purchase. Id. at 1114. Notably, in Trinidad, where there were unique circumstances involving the carrier reneging on certain representations to the Board, the Board also seriously

¹² Hayduks urge the Board to determine that, effectively, CXRG’s withdrawal request was filed after the OFA. (See Hayduks Reply 8-9, Nov. 28, 2025.) According to Hayduks, because of the 2025 federal government shutdown, they needed to obtain an updated scrap metal price, which precluded filing the OFA before the withdrawal request. (Id.) Hayduks note that by the time CXRG filed the withdrawal request, the OFA and the work to produce the OFA were already complete. (Id. at 14.) The OFA will not be treated as filed before the withdrawal request. CXRG’s withdrawal request is dated October 23, 2025, and is considered to have been filed November 13, 2025. See Materials Due to Be Submitted, EP 751, slip op. at 1. The OFA was not filed until November 17, 2025.

“doubt[ed] the [carrier’s] true intentions” to provide rail service on the line.¹³ No such concerns are present in this case.

Hayduks’ argument that filing a notice of intent to file an OFA vested them with a right to continue with the OFA process is also without merit. The D.C. Circuit recently rejected a similar argument and held that the Board had authority to grant a carrier’s motion to withdraw after an offeror filed a notice of intent to file an OFA and was presumed preliminarily financially responsible. See Riffin, 2026 WL 913273, at *2-3. The court explained that neither the statute establishing the OFA process, 49 U.S.C. § 10904, nor the Board’s regulations at 49 C.F.R. § 1152.27(a)-(d) required a carrier to continue pursuing the abandonment process at this early stage. See id. at *2. Indeed, nothing in 49 U.S.C. § 10904 prohibits a railroad from seeking to withdraw its request for abandonment authority before the Board issues a decision setting terms and conditions for the sale. See 49 U.S.C. § 10904(f)(2) (noting that the Board’s decision is binding on both parties, except that the offeror may withdraw his offer within 10 days of the Board’s decision); see also Ry. Labor Execs.’ Ass’n v. Staten Island R.R., 792 F.2d 7, 12 n.6 (2d Cir. 1986).

Further, the requirement that a potential offeror make an initial showing of preliminary financial responsibility as part of a notice of intent was meant as a safeguard for railroads seeking to abandon and for the Board’s processes. It did not establish for potential offerors a new right to continue with the OFA process and would not, standing alone, preclude a carrier from moving to withdraw its notice at that early stage in the process.¹⁴ As the Board has explained, the requirement that a potential offeror make an initial showing of preliminary financial responsibility before a carrier is required to provide valuation information was adopted because the prior approach (which required carriers to provide this information to any interested party upon request) was “vulnerable to abuse” and “led to significant delay in the past.” See Offers of Fin. Assistance, EP 729, slip op. at 5 (STB served June 29, 2017). The Board stated that the addition of this requirement did “not impose on a railroad any burden it would not already have under the rules as they currently exist[ed]” but rather “would give the Board a basis on which to relieve railroads of their legal obligations to provide valuation information to potential offerors in certain cases.” See id.

When a request to withdraw a notice is received at a late stage of the OFA process, which is not the case here, the agency considers whether withdrawal would be in the public interest. See Conrail Aban., AB 167 (Sub-No. 493N), slip op. at 3, 6 (ICC served Feb. 11, 1988). Even

¹³ In Trinidad, the Board had allowed another carrier to acquire the subject line during the pendency of the OFA process based on the acquiring carrier’s “specific acknowledgment that the line remained subject to [the OFA] process.” Trinidad, 5 S.T.B. at 1117. The Board explained that it would be “highly adverse to the OFA process” to allow the acquiring carrier to renege on its commitment. Id. at 1117-18.

¹⁴ Even in later stages of OFA proceedings once offerors are found to be financially responsible and OFA negotiations are instituted, it is within the agency’s discretion to decide whether to grant or deny a railroad’s request to withdraw abandonment authority. See Trinidad, 5 S.T.B. at 1117 & n.8 (citing Conrail Aban. of Portion of W. 30th St. Secondary Track in N.Y., N.Y., AB 167 (Sub-No. 493N), slip op. at 5-6 (ICC served Feb. 11, 1988)).

under such a standard, the public interest considerations Hayduks' raise would not militate in favor of denying CXRG's request to withdraw. The effect of granting CXRG's request and dismissing its notice of exemption is that CXRG's common carrier obligation to provide service on the Line upon reasonable request under 49 U.S.C. § 11101 remains in place, consistent with the underlying purpose of the OFA process—preserving rail lines and the common carrier obligation for continued rail service. See Kulmer v. STB, 236 F.3d 1255, 1257 (10th Cir. 2001). Nor, as noted, have concerns been raised about CXRG's intent or ability to provide rail service or otherwise about the integrity of the OFA process. And even if Hayduks are more interested in seeking and providing service over the Line, as they contend, (Hayduks Reply 16, Nov. 28, 2025), that is not sufficient reason to force the Line's sale over CXRG's objection where CXRG no longer seeks abandonment authority.¹⁵ Additionally, because the Line is not being abandoned, the adjoining DRGRHF line will not become stranded and will remain connected to the interstate rail network. Moreover, as to CXRG's alleged removal of the grade crossing, the Board has noted that a carrier may remove track on a line over which it has a common carrier obligation, as long as no shipper seeks service and the carrier is prepared to restore the track should a reasonable request for service be made. See BNSF Ry.—Pet. for Declaratory Ord., FD 35164 et al., slip op. at 5-6 (STB served May 7, 2010) (citing Kan. City S. Ry.—Aban. Exemption—Line in Warrant Cnty., Miss., AB 103 (Sub-No. 21X), slip op. at 9 (STB served Feb. 22, 2008)).¹⁶

For the foregoing reasons, the Board will grant CXRG's request to withdraw, and the verified notice will be dismissed. Because the verified notice will be dismissed, the Board will deny the OFA as moot¹⁷ and will deny as moot Hayduk's motion to substitute and Concerned Citizens' motion to intervene.¹⁸ The Board will also deny as moot Hayduks' request that the Board strike certain material in Concerned Citizens' motion to intervene and will deny as moot Concerned Citizens' motion for leave to file a surreply to Hayduks' reply in opposition to the motion to intervene. Additionally, CXRG's December 3, 2025 motion for permission to file a

¹⁵ Contrary to Hayduk's argument, the "ultimate decision in this case" is not "who is the best custodian of the line segment." (Hayduks Reply 16, Nov. 28, 2025.) Congress enacted 49 U.S.C. § 10904 to provide for the continuation of rail service for lines otherwise "to be abandoned," not as a means of replacing one willing rail carrier with another. The issue in this case is whether it is appropriate to permit CXRG to withdraw its notice of exemption under the facts and circumstances presented. It is, for the reasons given above.

¹⁶ If CXRG were to again seek abandonment authority for the Line, and an offeror sought to purchase the Line through the OFA process, removal of the crossing may be relevant to determining the value of the Line. See Colo. Wheat Admin. Comm. v. V & S Ry., NOR 42140, slip op. at 5 (STB served May 7, 2015).

¹⁷ Hayduks' November 17, 2025 and March 2, 2026 motions for leave to supplement the OFA will also be denied as moot. In addition, DRGRHF's request for an extension of time is denied as moot.

¹⁸ Although the Board is denying the motion to intervene as moot, the Board must discuss certain material from Concerned Citizens' filings to address the motion for sanctions and the allegation of forgery.

surreply will be denied, and CXRG's surreply and Hayduk's December 23, 2025 reply thereto will be rejected. See 49 C.F.R § 1104.13(c) ("A reply to a reply is not permitted.").

Motion for Sanctions. The Board finds that Exhibits 11, 15, and 16 to the public version of Concerned Citizens' Supplemental Comments disclosed confidential information in violation of the protective order in this proceeding. The OFA states that "[s]hippers and potential shippers have demonstrated a need and desire for rail service on the line," citing to Exhibit T, which was marked as "confidential."¹⁹ (OFA 21, Nov. 17, 2025; see also id., Ex. T.) In addition, Hayduks, in their joint reply to CXRG's request to withdraw, include an Exhibit A, also marked as "confidential," which includes a verified statement signed by Matthew J. Hayduk detailing apparent correspondence with potential shippers. (Hayduks Reply, Ex. A, Nov. 28, 2025.) Exhibits 11, 15, and 16 to Concerned Citizens Supplemental Comments disclose the identities of potential shippers, which had been marked as "confidential."

Accordingly, because of the violation of the protective order, the Board will grant in part Hayduks' motion for sanctions and will strike Concerned Citizens' Supplemental Comments from the record. While the Board will deny Hayduks' requests for additional sanctions, the Board takes seriously the proper handling of materials designated as confidential and expects Concerned Citizens and its counsel to comply with protective orders in the future.²⁰

Alleged Forgery. The allegation that the Individual's signature was forged on a verified statement filed with the OFA does not affect the outcome of this decision because CXRG's verified notice is being dismissed and the OFA will be denied as moot. Nevertheless, the allegation raises serious concerns. Hayduks' reply to the allegation neither expressly denies that the signature was forged nor states that the signature was authentic.²¹ Based on the record before

¹⁹ Paragraph 2 of the protective order adopted in this proceeding provides that "competitively sensitive material," such as "future plans for the line and . . . solicitation of potential customers" may be designated as highly confidential information. Protective Ord., AB 1344X, App. ¶ 2.

²⁰ Concerned Citizens' March 23, 2026 reply also disclosed information that Hayduks marked as "highly confidential" in the March 2, 2026 motion. Concerned Citizens argue that Hayduks are abusing the protective order and that nothing in Hayduks' reply qualifies as confidential or highly confidential. (See Concerned Citizens Reply 2, Mar. 23, 2026.) The Board notes that if Concerned Citizens disagreed with any of the "confidential" or "highly confidential" designations in this proceeding, the proper mechanism would have been to bring such a matter to the Board's attention, which was not done. See Protective Ord., AB 1344X, App. ¶ 1(e). Because highly confidential information was disclosed in violation of the protective order, Concerned Citizens' March 23 reply will be struck from the record. However, although the Board is denying as moot Hayduks' March 2 motion, the Board observes that Hayduks' redactions were excessive, as it is unclear why the entirety of that filing needed to be shielded from public view.

²¹ The Board finds that Hayduks' reply, the entirety of which was marked "confidential," was excessively redacted. If the Board were not dismissing the verified notice of exemption in this proceeding, it would require Hayduks to file a new public version of the reply, redacting

the Board, the Board is unable to determine at this time whether the signature on the verified statement is authentic or forged. The Board's Office of Public Assistance, Governmental Affairs, and Compliance will be contacting the relevant parties and persons to further inquire into the circumstances raised in the filings. The Board may consider further action in a separate docket, as warranted.

It is ordered:

1. CXRG's request to withdraw its verified notice of exemption is granted, and the verified notice is dismissed.
2. The OFA is denied as moot.
3. Hayduks' November 17, 2025 and March 2, 2026 motions for leave to supplement the OFA are denied as moot.
4. DRGRHF's request for an extension of time is denied as moot.
5. Hayduk's motion to substitute is denied as moot.
6. Concerned Citizens' motion to intervene is denied as moot.
7. Hayduks' request to strike certain material in Concerned Citizens' motion to intervene is denied as moot.
8. Concerned Citizens' motion for leave to file a surreply to Hayduks' reply in opposition to the motion to intervene is denied as moot.
9. CXRG's December 3, 2025 motion for permission to file a surreply is denied. CXRG's surreply and Hayduk's December 23, 2025 reply thereto are rejected.
10. Hayduks' motion for sanctions is granted in part and denied in part, and Concerned Citizens' Supplemental Comments are struck from the record, as discussed above
11. Concerned Citizens' March 23, 2026 reply is struck from the record, as discussed above.
12. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

only those portions that qualify as confidential or highly confidential under the terms of the protective order.