

January 25, 2021

Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, D.C. 20423



**Re: Docket No. 36471, Rio Grande Pacific Corporation – Continuance In Control
Exemption – Colorado, Midland & Pacific Railway Company**

Dear Ms. Brown:

On behalf of Colorado Trout Unlimited, and our Collegiate Peaks Chapter, Chapter 509 (Pueblo), and Eagle Valley Chapter, we are writing to express our opposition to the Lease and Operation Exemption requested by Rio Grande Pacific Railroad (RGP) for its subsidiary, Colorado Midland and Pacific Corp. (CMP). We believe that the proposed transaction is neither “routine” nor “noncontroversial” and, therefore, does not qualify for an exemption.

Trout Unlimited and our more than 12,000 members statewide work to conserve, protect, and restore trout fisheries and their watersheds. Our Collegiate Peaks, Pueblo, and Eagle Valley Chapters represent anglers and members in communities that stand directly to be impacted by this proposal. The Arkansas River and Eagle River have been major areas of focus in our collective conservation efforts, and those of our many nonprofit and agency partners.

Since operations ceased on the subject rail line some 24 years ago, a Superfund cleanup and other recovery efforts have restored water quality in the upper Arkansas River, helping its fishery to earn a Gold Medal designation over 102 miles of the river – the largest such reach in Colorado. Additionally, the new Browns Canyon National Monument was designated adjacent to the river in 2015 to protect the area’s unique natural resources. The river has grown in popularity as both a fishing and rafting destination – indeed, it has become the most popular whitewater rafting in the western United States. Similarly, mine reclamation and water quality treatment efforts in the Eagle River watershed have elevated the quality of its fisheries, where portions of the river now approach Gold Medal criteria. Angling and rafting have emerged as increasingly important activities and tourism draws for the Eagle valley. These changes in both valleys have produced major benefits to local economies. In short – the environmental and community setting for this rail line has changed dramatically in the years while it has been out of operation, with a growing emphasis on natural attributes and outdoor recreation.

Much of the tracks in question run along the banks of the Arkansas and Eagle Rivers, and those tracks have a significant history of derailments – one of the factors that contributed to its closure some 24 years ago. This makes all-too-real the possibility of a derailment that could release large quantities of hazardous materials into the Arkansas River, jeopardizing its Gold Medal fishery and undercutting the values that led to the Browns Canyon National Monument’s establishment, or into the Eagle River undercutting its years of water quality improvement. We find ludicrous RGP/CMP’s suggestion that it is “noncontroversial” to have common carrier freight operations that are expected to transport heavy crude oil, coal, and/or hazardous chemicals in such close proximity to these sensitive natural resources.

Trout Unlimited: America’s Leading Coldwater Fisheries Conservation Organization
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Moreover, the application includes false or misleading information in the request for an exemption. Most egregiously, the application states that there will be no change in service over the Tennessee Pass line. The Tennessee Pass line has been dormant for 24 years; therefore, any service on the line will be a significant change of service.

Also, the application claims that revenues from operating the rail line would not exceed \$5 million per year, a limit beyond which the railway would be subject to additional regulation. Public reporting on the project has cited estimated rehabilitation costs for the line at \$278 million or more; adding to that capital expense the costs of annual operations, pursuing this project on the basis of under a \$5 million annual revenue figure strains credulity. It seems far more likely that projected revenues have been underestimated to avoid appropriate scrutiny and regulation.

The proposed reopening of this rail line, transporting hazardous materials in close proximity to sensitive and highly-valued natural resources, and after 24 years of dormancy, is neither routine nor noncontroversial. We urge the Surface Transportation Board to reject the requested exemption.

Sincerely,

David Nickum	Rick Helmick	Steve Wolfe	Nick Noesen
Executive Director	Vice President	President	President
Colorado TU	Collegiate Peaks Chapter	Chapter 509 (Pueblo)	Eagle Valley Chapter

CC: Parties of Record