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ENTERED
Office of Proceedings
March 21, 2023
Part of
Public Record

March 21, 2023

By E-Filing

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

Re: Docket No. FD 36398, *Brookhaven Rail LLC – Constr. & Op. Exemption – Suffolk County, New York*; Docket No. FD 36399; *Application for a Land-Use Exemption Under 49 U.S.C. § 10909*; Docket No. FD 35141, *U S Rail Corp. – Constr. & Op. Exemption – Brookhaven Rail Terminal*; Docket No. FD 35819, *Brookhaven Rail Terminal & Brookhaven Rail, LLC – Pet. for Decl. Order*; Docket No. FD 36376, *Spectrum R.R. Holdings, LLC – Operation Exemption – R.R. Line in the Town of Brookhaven, NY*; Docket No. FD 36384, *Sills Road Realty LLC – Acquisition Exemption – R.R. Line in the Town of Brookhaven, NY*; Docket No. FD 36385, *Spectrum R.R. Holdings, LLC – Acquisition & Op. Exemption – Line of Sills Road Realty LLC, in the Town of Brookhaven*

Dear Ms. Brown:

This letter is filed on behalf of Brookhaven Rail LLC (“Brookhaven Rail”) in response to the March 7, 2023 letter reply filed by counsel for Citizens Campaign for the Environment (“CCE”) to the Reply of Brookhaven Rail to CCE’s Petition for Partial Reconsideration (“Petition”). CCE’s counsel’s letter is clearly an unauthorized “reply to reply” under 49 CFR §1104.13(c), which CCE simply is using as a vehicle to try to reargue evidence already in the records of the captioned proceedings, make new unfounded allegations, and to improperly reargue and expand on the flawed legal arguments in CCE’s Petition. There exists no good cause whatsoever to accept its filing.

CCE also mocks the Board’s rules on petitions for reconsideration. Those rules impose a firm 20-page limit on such petitions and replies. Counsel’s selection of a seven-page, single space

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letter for CCE's unauthorized reply to reply masks the fact that from a word count standpoint it is nearly as long as CCE's Petition.

Sincerely,



Thomas W. Wilcox

Attorney for Brookhaven Rail LLC

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of March, 2023, a copy of the foregoing Letter was served by email on all parties on the official Service Lists for Dockets No. FD 36398, Docket No. FD 36399, Docket No. FD 35141, Docket No. FD 35819, Docket No. FD 36384, Docket No. FD 36376, and Docket No. FD 36385.

/ss/ Thomas W. Wilcox