

Sills Road Realty LLC
c/o Ruskin Moscou Faltischek, P.C.
1425 RXR Plaza
Uniondale, NY 11556

ENTERED
Office of Chief Counsel
November 20, 2025
Part of
Public Record

November 20, 2025

Via Electronic Filing

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20423-0001

Re: *U S Rail Corporation—Construction and Operation Exemption—Brookhaven Rail Terminal, FD 35141*

Sills Road Realty LLC Motion for Clarification or Dismissal of Filing Directive

Dear Chief of Case Administration:

Sills Road Realty LLC (“SRR”) files this Motion for Clarification or Dismissal in response to the Surface Transportation Board’s (“STB”) Corrected Decision served in the above-referenced proceeding on September 22, 2025.¹

The Corrected Decision directs SRR to file either an application or a petition for exemption for after-the-fact authority to acquire the rail line on Parcel A – a rail line that it no longer owns, and to which it has no legal interest or claim – by November 21, 2025. However, SRR respectfully submits that four material factors discussed below—which may not have been fully considered—functionally moot the underlying purpose of the remedial filing, hence the present motion.

Prior Voluntary Withdrawal and Termination. SRR and its affiliates, through regulatory counsel who has since agreed to withdraw from these proceedings, moved on October 22, 2021 to withdraw (to the extent necessary) all filings in each of the FD 36376, FD 36384, FD 36385, FD 36398, and FD 36399 proceedings. (A copy of that motion is attached). SRR understands that its withdrawal effectively terminated all pending SRR and Spectrum-initiated proceedings before the STB, as did the STB’s June

¹ This motion also involves the following, additional proceedings referenced in footnote 1 of the STB’s September 22nd Corrected Decision: *Brookhaven Rail Terminal & Brookhaven Rail, LLC—Petition for Declaratory Order*, FD 35819; *Spectrum RR Holdings, LLC—Operation Exemption—Railroad Line in the Town of Brookhaven, N.Y.*, FD 36376; *Sills Road Realty LLC—Acquisition Exemption—Railroad Line in the Town of Brookhaven, N.Y.*, FD 36384; *Spectrum RR Holdings, LLC—Acquisition & Operation Exemption—Line of Sills Road Realty, LLC, in the Town of Brookhaven, N.Y.*, FD 36385; *Brookhaven Rail LLC—Construction & Operation Exemption—in Suffolk County, N.Y.*, FD 36398; and *Brookhaven Rail LLC—Petition for Exemption From Requirements of 49 U.S.C. § 10909*, FD 36399.

16, 2020 decision in FD 36384 and FD 36385 rejecting outright of the notices of exemption filed in those proceedings.

- **Cessation of Property Interest.** SRR has had no ownership interest in the land comprising the Brookhaven Terminal or the rail line located thereon since May 2022. SRR sold off the first portion of its land at the Brookhaven Terminal in September 2021, and the balance of the land was sold to Brookhaven Logistics Center, an entity owned and controlled by NorthPoint Development LLC, in May 2022.
- **Entity Dissolution.** SRR and all of its affiliates, including, but not limited to, Brookhaven Terminal Operations LLC and Brookhaven Rail Freight Services LLC, are all out of business, conduct no commercial operations, and are either dissolved or are currently in the process of being legally dissolved.
- **Regulatory Status Quo.** Since neither SRR nor Brookhaven Rail LLC has any current or future interest in the rail line, the regulatory issue of acquisition authority has been functionally resolved by the transfer of the Line to subsequent owners. Additionally, the current parties with interests in the rail line, namely Sunrise Industrial Rail, LLC and its corporate parent, OmniTRAX Holdings Combined, Inc., have each successfully invoked the STB's class exemption procedures (in FD 36883 and FD 36882, respectively) to accomplish a change in the railroad common carrier service provider on Line. Under such circumstances, SRR submits that the STB could, if it so chose, dispense with the formality of the after-the-fact remedial authorization that unnecessarily would demand the commitment of SRR's resources (if not dissolved in the interim) and those of the STB, as well. *See Colorado Pacific Rio Grande Railroad, LLC—Petition for Exemption—Acquisition and Operation of Line of Railroad in Costilla County, Colorado, FD 36694* (STB served Sep. 18, 2023).

SRR submits that the Board's requirement for SRR to cure a historical regulatory gap is moot, given the permanent cessation of SRR's commercial interests, the full divestiture of the asset, and the past or pending dissolution of the entities involved. It is our understanding that the current owners and operators of the Brookhaven Terminal, who are represented by experienced STB counsel, are in the best position and have full authority to address the concerns raised by the STB going forward and to make any further applications or submissions required by the STB.

Sincerely,

SILLS ROAD REALTY LLC

By: 
Andrew Kaufman, Authorized Person

Enclosure

cc: All parties of record

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH
(312) 252-1504
rwimbish@fletcher-sippel.com

October 22, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: FD 36376, *Spectrum RR Holdings, LLC – Operation Exemption – Railroad Line in the Town of Brookhaven, NY*

FD 36384, *Sills Road Realty LLC – Acquisition Exemption – Railroad Line in the Town of Brookhaven, N.Y.*

FD 36385, *Spectrum RR Holdings, LLC – Acquisition and Operation Exemption – Line of Sills Road Realty LLC, In the Town of Brookhaven, N.Y.*

FD 36398, *Brookhaven Rail LLC – Construction and Operation Exemption – In Suffolk County, N.Y.*

FD 36399, *Brookhaven Rail LLC – Petition for Exemption from Requirements of 49 U.S.C. § 10909*

Dear Ms. Brown,

As part of settlements with various parties intended to resolve longstanding disputes and litigation surrounding Brookhaven Terminal and the proposed development of "Parcel D," the Sills Parties¹ and Spectrum RR Holdings, LLC ("Spectrum"), as applicable, hereby move to withdraw with prejudice all of their past filings tendered in each of the above-referenced proceedings, which extends to the specific objections that the Sills Parties previously have raised in the FD 36398 and FD 36399 proceedings. Although likely unnecessary (and moot), given the status of the FD 36376, FD 36384, and 36385 proceedings, Sills Road and Spectrum have filed this motion to withdraw in each of those cases as well.

¹ Sills Road Realty LLC ("Sills Road"), Brookhaven Terminal Operations LLC, and Brookhaven Rail Freight Services LLC (collectively, the "Sills Parties").

FLETCHER & SIPPEL LLC

Ms. Cynthia T. Brown
October 22, 2021
Page 2

The Sills Parties and Spectrum are making this request pursuant to a confidential agreement with NorthPoint Development LLC, and they reserve all of their rights thereunder and pursuant to related settlement agreements.

Please advise the undersigned if the Board requires any additional information in connection with the foregoing request.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Attorney for Sills Road Realty LLC, Brookhaven Terminal
Operations LLC, Brookhaven Rail Freight Services LLC,
and Spectrum RR Holdings, LLC

cc: All parties of record