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November 21, 2025

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Office of Chief Counsel
November 21, 2025
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Public Record

VIA E-FILE

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

Re: *Seven County Infrastructure Coalition – Rail Construction & Operation Exemption –
In Utah, Carbon, Duchesne, And Uintah Counties, Utah*, STB Docket No. FD 36284

Dear Ms. Brown:

I have attached for e-filing Eagle County, Colorado's and the Center for Biological Diversity's Joint Motion to Extend Time for Reply in the above-referenced proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Nathaniel H. Hunt

Nathaniel H. Hunt

Attachment

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36284

**SEVEN COUNTY INFRASTRUCTURE COALITION –
RAIL CONSTRUCTION & OPERATION EXEMPTION –
IN UTAH, CARBON, DUCHESNE, AND UINTAH COUNTIES, UTAH**

JOINT MOTION TO EXTEND TIME FOR REPLY

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Dated: November 21, 2025

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36284

**SEVEN COUNTY INFRASTRUCTURE COALITION –
RAIL CONSTRUCTION & OPERATION EXEMPTION –
IN UTAH, CARBON, DUCHESNE, AND UINTAH COUNTIES, UTAH**

JOINT MOTION TO EXTEND TIME FOR REPLY

Eagle County, Colorado (Eagle County) and Center for Biological Diversity (the Center) submit this Joint Motion to Extend Time for Reply in response to the Seven County Infrastructure Coalition’s (Coalition) Motion to Reaffirm Exemption Decision (Motion to Reaffirm) filed on November 13, 2025. Eagle County and the Center respectfully request that the Board extend the reply deadline by 40 days until and through January 12, 2026. Counsel for the Eagle County and the Center have conferred with counsel for the Coalition, who does not oppose the proposed extension of time.

Good cause exists to grant Eagle County’s and the Center’s request for more time to reply to the Coalition’s broad and far-reaching requests to affirm the Board’s Uinta Basin Railway (Railway) approval, which drew the D.C. Circuit Court of Appeals’ review and rebuke and further ruling by the U.S. Supreme Court. The Board’s general 20-day reply period for motions does not afford sufficient time to address the myriad of legal arguments and substantive issues the Coalition raises, or the introduction of new evidence, all of which warrant more time for a reply. This request aligns with Board precedent and accounts for the upcoming holiday

period, and it allows Eagle County and the Center to coordinate their responses to avoid duplicative briefing.

BACKGROUND

These proceedings stem from the Coalition’s petition for exemption to construct the Railway, an 88-mile rail line in Utah’s Uinta Basin. In December 2021, the Board granted the Coalition’s petition for exemption, which incorporated the Board’s approval of the Final Environmental Impact Statement prepared for the Railway. *Seven County Infrastructure Coalition—Rail Construction & Operation Exemption—In Utah, Carbon, Duchesne, and Uintah Counties, Utah*, FD 36284 (STB served Dec. 15, 2021) (Railway Approval).

Eagle County and the Center sought review of the Railway Approval in the D.C. Circuit. In August 2023, the D.C. Circuit held that the Railway Approval contained numerous violations of the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the Interstate Commerce Commission Termination Act (ICCTA). *Eagle Cnty. v. STB*, 82 F.4th 1152, 1196 (D.C. Cir. 2023). The Supreme Court accepted the Coalition’s petition for certiorari based on the single question: “whether NEPA required the Board to study the environmental impacts of oil wells and refineries that lie outside the Board’s regulatory authority.” *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 193 (2025) (Sotomayor, J., concurring) (emphasis added). In May 2025, the Supreme Court reversed this one part of the D.C. Circuit’s decision. *Id.* On October 17, 2025, upon the Coalition’s request, the D.C. Circuit remanded the Railway Approval to the Board without vacatur.

Before the Board took any action on remand, such as ordering additional briefing or setting a briefing schedule, the Coalition filed the Motion to Reaffirm. The Motion to Reaffirm does not request a procedural schedule but instead dives into substantive issues and lengthy legal

argument. This includes urging the Board to reaffirm its previous conclusion that the Rail Transportation Policies support granting an exemption, Motion to Reaffirm at 19–33, which the D.C. Circuit held “failed at every juncture,” *Eagle County*, 82 F.4th at 1192, and to ignore the “numerous” violations of NEPA and the ESA identified by the D.C. Circuit that were not part of the Supreme Court’s review or decision, Motion to Reaffirm at 3–5, 11–19; *Eagle County*, 82 F.4th at 1188, 1196; *Seven County*, 168 U.S. at 194. Moreover, the Coalition now introduces new facts that have not been vetted by the Board or any other party, including assertions that contradict the Board’s own environmental analysis, such as the expected routing of downline trains and the types of commodities shipped. *See id.* at 15, 32.

ARGUMENT

Pursuant to the Board’s regulations, a reply to any pleading must be filed within 20 days after the pleading is filed, unless otherwise provided. *See* 49 C.F.R. § 1104.13(a). However, the Board has discretion to extend the time for replies upon request and with good cause. *See id.* § 1104.7(b). Requests for extensions of time are due not less than 10 days before the due date of the filing pursuant to the Board’s regulations, *id.*, and therefore, Eagle County’s and the Center’s request for an extension is timely.

Good cause exists here. *First*, more time for a reply is warranted here where the Coalition’s Motion to Reaffirm seeks extensive relief and raises a number of issues of law and fact. The Motion to Reaffirm covers numerous substantive issues concerning both environmental review and the Board’s “transportation merits” decision, Motion to Reaffirm at 1–33, which were reversed by the D.C. Circuit. *Eagle County*, 82 F.4th at 1196. In addition, the Motion to Reaffirm includes new assertions and alleged facts that require more time to be understood and evaluated. Motion to Reaffirm at 15, 26–27, 32. Although the Board does not

have specific regulations or procedures for cases following remand from an appellate court, in the past it has often established a procedural schedule for addressing outstanding issues on remand. *See Western Fuels Ass’n v. BNSF Ry.*, NOR 42088 slip op. at 2 n.3 and 4 (STB served Feb. 1, 2011) (*Western Fuels I*). In the absence of a procedural order, the Board should afford the Eagle County and the Center additional time to respond to the Motion to Reaffirm, including briefing the impact and application of the rulings by the D.C. Circuit and U.S. Supreme Court, as well as the new factual issues raised by the Coalition.

The complexity and contentiousness of this case support granting a reasonable extension of time to respond to the Motion to Reaffirm so that the Board is fully briefed and informed of the issues raised by the Coalition. Indeed, in these proceedings the Board previously granted an extension to respond to the Coalition’s filings, long before the D.C. Circuit had ruled that the Railway raises serious environmental and transportation-related questions. *See Seven County Infrastructure Coalition—Rail Construction & Operation Exemption—In Utah, Carbon, Duchesne, and Uintah Counties, Utah*, FD 36284 (STB served June 17, 2020) (granting a 20-day extension to reply to the initial petition for exemption).

Second, Board precedent supports granting Eagle County and the Center additional time to enable the Board to make fully informed decisions on remand. Where a party files an unsolicited post-remand briefing, the Board has granted replying parties additional time to respond. *Western Fuels I*, slip op. at 3; *Wisc. Central, Ltd.—Petition for Declaratory Order—Interchange with Soo Line R.R. Co.*, FD 36397, slip op. at 5 (STB served Oct. 19, 2022). In past proceedings on remand from a circuit court decision, the Board has granted or provided for similar amounts of time to present or reply to initial filings. *See Western Fuels Ass’n v. BNSF Ry.*, NOR 42088, slip op. at 1–2 (STB served July 21, 2014) (*Western Fuels II*) (granting 60 days

from the service date of Board decision, and a total of 94 days after filing of the initial filing, to reply to comments filed on remand); *Western Fuels I*, slip op. at 2, 3 (granting 45 days from service date of Board decision, and a total of 116 days from the date of initial party filing, to reply); *Diana Del Grosso et al.—Petition for Declaratory Order*, FD 35652, slip op. at 1 (STB served Aug. 25, 2016) (establishing a briefing schedule providing for 60 days for submission of opening brief and 45 days for replies); *Wisconsin Central*, slip op. at 3, 5 (accepting a reply filed 47 days from the date of initial party filing, and issuing a procedural schedule providing other interested parties 60 days to file comments); *AEP Texas North Company v. BNSF Ry.*, NOR 41191 (Sub-No. 1), slip op. at 2 (STB served Jan. 21, 2011) (granting 28 days from the date of Board decision, and a total of 88 days after filing of initial motion, to reply to comments on remand). Eagle County and the Center’s request that the Board grant an extension to reply to the Motion to Reaffirm is in line with Board precedent and is reasonable as demonstrated by the Coalition’s consent to the extension.

Third, granting an extension will provide time for Eagle County and the Center to coordinate in drafting their responses and avoid duplicative briefing, while accounting for the multiple public holidays taking place in the coming weeks.

The proposed extension will not unduly delay this proceeding or prejudice the Coalition as demonstrated by its consent to the extension. Accordingly, Eagle County and the Center respectfully request that the Board extend the time for responding to the Motion to Reaffirm by 40 days to January 12, 2026.

Respectfully submitted on November 21, 2025.

/s/ Nathaniel H. Hunt

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CERTIFICATE OF SERVICE

I certify that on November 21, 2025, I caused to be served a copy of the foregoing Joint Motion for Extension of Time upon all parties of record in this proceeding by email.

/s/ Nathaniel H. Hunt
Nathaniel H. Hunt

Dated: November 21, 2025