

SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
December 19, 2025
Part of
Public Record

DOCKET NO. AB—1344X**COLORADO PACIFIC RIO GRANDE RAILROAD LLC—ABANDONMENT
EXEMPTION—IN RIO GRANDE COUNTY, COLO.**
-----**REPLY TO MOTION TO STRIKE CERTAIN REFERENCES IN COMMENTS OF
CONCERNED CITIZENS OF SAN LUIS VALLEY AND MOTION TO FILE LIMITED
SUR-REPLY AND SUR-REPLY TO REPLY IN OPPOSITION TO MOTION TO
INTERVENE**

Hayduk International LLC and Matthew J. Hayduk (the “Hayduks”) filed a Reply in Opposition to the Motion to Intervene of the Concerned Citizens of San Luis Valley. There are three different parts to their Reply, only one of which actually relates to the Motion to Intervene. First, they request that the Motion to Intervene be rejected for failure to comply with Board regulations, in particular 49 CFR § 1152.25(a). *See* Para. 22-26. Second, they challenge some of the statements and argument in the Concerned Citizens Comments in Opposition to the Offer of Financial Assistance (“OFA”). *See* Para. 27. Third, their Reply includes a “motion to strike” references in the Comments to certain individuals and organizations. *See* Para. 28, 30.B. The Reply does not ask that the Comments or Supplemental Comments of Concerned Citizens be rejected.

Concerned Citizens in Part I below reply to the Hayduks’ motion to strike certain references in their Comments.¹ Concerned Citizens seek permission in Part II to file a limited

¹ The Hayduks cannot avoid the Concerned Citizens’ right under Board procedures to reply to their motion to strike by tucking that motion at the end of their Reply to Concerned Citizens’ Motion to Intervene. The Concerned Citizens’ Reply to the Motion to Strike is not a reply to a reply or sur-reply.

Sur-Reply to that Part of the Hayduks' Reply asking that the Motion to Intervene be denied for failure to comply with Board regulations.

I. Reply to Motion to Strike

49 CFR § 1104.8 provides that the Board “may order that any redundant, irrelevant, impertinent, or scandalous matter be stricken from any document.” Relying on Section 1104.8, the Hayduks move to strike references in Concerned Citizens' Comments to: “Any comments or references to any person or entity which, on November 26, 2025, was NOT a ‘Party of Record,’ that had NOT sought to participate, or to file comments, including but limited to the following: Mr. Don Shank, DRGHF, Mr. James Riffin, the Railroad Equipment Restoration Association, and the East Broad Top Preservation Association.” Hayduk Reply at Para. 28.

The Hayduks have the burden to provide “concrete support” for exactly which references are objectionable within the meaning of Section 1104.8 and why.² They do not do so. Moreover, nothing in Section 1104.8 precludes references to individuals and organizations in pleadings merely because they are not parties to or participants in a Board proceeding. Not surprising, the Hayduks cite no authority for such an extreme interpretation of Section 1104.8. We next examine each of the specific individuals or organizations to which they argue any reference should be stricken.³

A. Don Shank and His Denver & Rio Grande Railway Historical Foundation (“D&RGHF”)

References to Don Shank and the D&RGHF are obviously relevant and material because the

² *Edwin Kessler—Petition for Injunctive Relief*, Finance Docket No. 35206, slip op. at 3 (served June 12, 2009) (Board refuses to strike references to James Riffin under 49 CFR § 1104.8).

³ The Hayduks refer to numerous individuals, organizations and companies in their OFA and Exhibits thereto, who are neither parties nor participants in this proceeding.

Hayduks themselves repeatedly refer to Mr. Shank and his D&RGHF throughout the Hayduk OFA, e.g., at Para. 12-14, and Reply to Colorado Pacific Rio Grande Railroad LLC's Motion to Hold Proceeding in Abeyance and Withdrawal Request (hereinafter "Hayduk Reply to CXRG"). They refer to Mr. Shank and the D&RGHF for four reasons:

- to support their argument that overhead traffic from the D&RGHF is a potential source of freight traffic for the Line they seek to force purchase with the OFA, OFA at Para. 26-27;
- to support their stranded segment argument, the stranded segment being the D&RGHF, OFA at Para. 24-25, 99-100, 120.A; Hayduk Reply to CXRG at Para. 17;
- Hayduks will reconnect the D&RGHF to the interstate rail network by reinstalling the highway crossing in Del Norte, Hayduk Reply to CXRG at Para. 62-65;
- to support shipper interest in transporting a dead locomotive parked on D&RGHF track in South Fork, Hayduk Reply to CXRG at Para. 17.

Matthew Hayduk even attaches a letter from Michael Hayduk to Mr. Shank, as President of the D&RGHF, as Exhibit Q to the OFA. Concerned Citizens necessarily must refer to Mr. Shank and the D&RGHF when responding to the above arguments by the Hayduks.

Reference to Mr. Shank and the D&RGHF is also relevant because the D&RGHF is a prime example of misuse of the OFA process to acquire a line segment where there is no possibility of rail freight service. This is a concern that the Concerned Citizens have with the Hayduk OFA as explained in their Comments and Supplemental Comments.

B. Railroad Equipment Restoration Association

The Concerned Citizens refer to the Railroad Equipment Restoration Association because it provides some insight into the substitute offeror, Matthew Hayduk, and his background and possible intentions in using the OFA process to acquire the Line. *See* Comments at 7-8. As

explained in our Comments, the Hayduks have provided virtually no information on Matthew Hayduk.

Doing their own research, the Concerned Citizens discovered that Matthew Hayduk has been significantly involved in the preservation of historical railroads, equipment and facilities through, among other ways, the Railroad Equipment Restoration Association, a non-profit of which Matthew Hayduk was a principal. Given a lack of transparency in the Hayduk OFA and that the Hayduks have failed to provide any evidence of a need for continued rail freight service on the Line, Matthew Hayduk's involvement in railroad historical preservation is relevant to his intentions for the Line. Incidentally, the Hayduks do not deny Matthew Hayduk's involvement in the Railroad Equipment Restoration Association and railroad historical preservation.

C. The East Broad Top Railroad Preservation Association

We do not believe that our Comments mentioned the The East Broad Top Railroad Preservation Association. Our Comments do mention the East Broad Top Railroad. This reference is relevant and material for the same reasons as the reference to the Railroad Equipment Restoration Association. This is because one of the main activities of the Railroad Equipment Restoration Association (and its principal, Matthew Hayduk) was the restoration of the East Broad Top Railroad, a tourist railroad. Comments at 7-8 and Exhibit No. 8. The reference to the East Broad Top is also relevant to explain why Matthew Hayduck lists a PO Box in Rockhill Furnace, PA as his address on pleadings. Rockhill Furnace is the home of the East Broad Top.

D. James Riffin

There are two kinds of references to James Riffin in the Comments. First, the Comments cite Board precedent where Riffin was a party. *See, e.g.*, Comments at 2 n.3 citing *James Riffin-*

Petition for Declaratory Order, STB Finance Docket No. 35245 (served Sept. 15, 2009). This is not surprising because Riffin has been active in the use or attempted use of the OFA process over the years. There is no basis to strike Concerned Citizens' citation of Board precedent just because Riffin's name is in the caption or he was a party.

Second, the Comments posit the possibility that Riffin is involved in some fashion with the Hayduk OFA. *See* Comments at 10. This reference is relevant to our concern with the lack of transparency behind the Hayduks and their OFA including their true intentions for the Line and who else may be involved behind the scenes in this OFA. For example, as explained in the Concerned Citizens' Comments, the Hayduks plan to flip the Line to an as yet non-existent Colorado non-profit corporation. We know nothing about this corporation, its investors, officers, shareholders, or its relationship to Matthew Hayduk as the Substitute Offeror/Corporate Affiliate of Hayduk International LLC. Riffin has admitted that he has worked through others behind the scenes.⁴ Is this such a case? The involvement of any secret partners or interests is material to the identity of the Offeror and the credibility of the OFA. The Hayduks could simply deny that Riffin is involved in any way with their OFA. They don't. Is that because they can't?

In sum, the Hayduks fail to show any basis to strike references to certain individuals and organizations named in the Comments.

II. Motion to File Sur-Reply and Sur-Reply to Argument That Concerned Citizens' Motion to Intervene Failed to Comply with Board's Regulations

The Hayduks argue that the Motion to Intervene should be rejected for several reasons including failure to comply with the requirements of 49 CFR § 1152.25(a), *see* Reply at Para. 24, and time limits, *see* Reply at Para. 25. Concerned Citizens are aware that replies to replies are

⁴ *James Riffin-Petition for Declaratory Order*, STB Finance Docket No. 35245 (served Sept. 15, 2009).

generally disfavored. They seek leave to address an argument that misunderstands the position of the Concerned Citizens in this proceeding.

In that regard, Concerned Citizens simply note that the requirements cited by the Hayduks, with which Concerned Citizens supposedly failed to comply, apply to “protests” of an abandonment and to a “protestant.” The Concerned Citizens have not filed a protest to the proposed abandonment of the Line by Colorado Pacific Rio Grande Railroad LLC and are not a “protestant” within the meaning of Section 1152.25(a). Rather, as explained in their Motion to Intervene, the Concerned Citizens are opposed to the Hayduks’ OFA. As also explained there, the Concerned Citizens support the CXRG’s Motion to Withdraw its NOE. We do not want Hayduks’ procedural arguments, which wrongly assume we are a protestant, to engender any confusion as to the position of the Concerned Citizens in this proceeding.

Conclusion

The Hayduk’s Motion to Strike certain references in the Comments of the Concerned Citizens and request that the Motion to Intervene be denied are without merit.

Respectfully submitted,

/s/Ronald M. Johnson

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Dated: December 19, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of December, 2025, a copy of the Concerned Citizens of San Luis Valley Reply to Motion to Strike and Motion to File Limited Sur-Reply and Sur-Reply to Reply In Opposition to Motion to Intervene were served on all parties of record in Docket No. AB -1344X electronically and by first class mail.

/s/Ronald M. Johson

Ronald M. Johnson
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