

PUBLIC VERSION

SURFACE TRANSPORTATION BOARD

DOCKET NO. AB—1344X

**COLORADO PACIFIC RIO GRANDE RAILROAD LLC—ABANDONMENT
EXEMPTION—IN RIO GRANDE COUNTY, COLO.**

**REPLY TO MOTION TO SANCTION RONALD M. JOHNSON, ESQ.
AND CONCERNED CITIZENS**

I. Introduction

Hayduk International LLC and Matthew J. Hayduk (the “Hayduks”) filed a Joint Reply to the Supplemental Comments of the Concerned Citizens of San Luis Valley and Motion to Sanction the Concerned Citizens and their counsel, Ronald M. Johnson Esq., for violation of the Protective Order by naming the three shippers alleged by the Hayduks to desire freight service. The Hayduks ask for extreme, punitive remedies, whose intent is to silence the Concerned Citizens and their Counsel, who have, without contradiction, demonstrated that their Offer of Financial Assistance (“OFA”) is not bona fide. As shown in this Reply, the Hayduks’ Motion for Sanctions is without merit and should be denied. The Hayduks do not explain how the names of shippers, without more, are “confidential and proprietary” information or how the Hayduks would be harmed by their public disclosure. In any event, Exhibit Nos. 11, 15 and 16 do not disclose the names of any shippers. There are no shippers. The Hayduks’ Motion continues to

mislead the Board on the supposed need for rail service on the Line Segment that is the subject of the OFA (hereinafter the "Line").¹

The Hayduks only submitted one verified statement in support of their OFA from a potential shipper, [REDACTED] (Confidential Exhibit T to OFA) ("[REDACTED] VS"). In preparing this Reply, Counsel was informed by [REDACTED] that his verified statement is actually a fake and his signature a forgery. This fakery is explained in Part III.A.1 of this Reply and another indication that the OFA is a sham.²

II. Hayduks Concede the Three Exhibits to the Public Version of the Supplemental Comments of Concerned Citizens Do Not Disclose Confidential Information

The Hayduks never contend that the heavily redacted Public Version of the Supplemental Comments violated the Protective Order.³ The Hayduks further admit that the Exhibits to the Supplemental Comments "do not *per se* contain 'Confidential or Highly Confidential Material.'" Motion, Para. 4, page 3. They state as follows:

3. On p.3 of the Concerned Citizens Supplemental Comments, the following misrepresentation appears:

"None of the Exhibits to these Supplemental Comments contain Confidential or Highly Confidential Material."

¹ The Concerned Citizens are filing a Public and Confidential Version of this Reply because it is necessary to refer to the three shippers allegedly named by the Hayduks to refute their allegations that the Protective Order was violated. The name of Mr. [REDACTED] is redacted out of an abundance of caution, even though Counsel subsequently learned of him independent from the OFA Confidential Exhibit T.

² Counsel regrets interjecting a new issue or complicate this proceeding that is already full of issues. However, as Counsel interprets the Board's Canon of Ethics, a practitioner should disclose possible "fraud or deception" in materials submitted to the Board. 49 CFR § 1103.32. *See also* 49 CFR § 1103.31. A fake VS with a forged signature would seem to fall in that category. However, the Hayduks have failed to show that Counsel disclosed a shipper's name in Exhibit No. 11 whether or not the [REDACTED] VS is a fake as explained in Part III.A.2.

³ Counsel for Concerned Citizens only shared the Public Version with members of Concerned Citizens.

4. Technically, the above statement is truthful. That is to say, the Exhibits, do not *per se* contain Confidential or Highly Confidential Material.” Motion, Para. 3 & 4 (emphasis added).

Based on this admission alone, the Motion for Sanctions should be denied.

Concerned Citizens filed a heavily redacted Public Version in order to comply with the Protective Order. Given those substantial redactions, we do not believe that the identity of shippers can somehow be deduced from Exhibit Nos. 11, 15 and 16. The Hayduks can only concoct this argument because they have seen the Confidential Version of the Supplemental Comments.

III. Exhibit Nos. 11, 15 and 16 Do Not Disclose Any Shipper Names

The Hayduks’ Motion claims “Hayduk filed, under seal, the Names of three shippers contained in Exhibits 11, 15 and 16 that indicated that they have an interest in utilizing the Line Segment at Issue for freight rail purposes.” Motion, Para. 6. As explained next, this is false. In addition, these Exhibits cannot disclose confidential information because all are in the public domain, newspaper articles or public websites.

A. Exhibit No. 11—Website of [REDACTED] Company, Inc.

The [REDACTED] VS was submitted as evidence of shipper support in confidential Exhibit T to the OFA. The Hayduks claim that Exhibit No. 11 discloses the name of this potential one-time shipper of the B30-7 locomotive. Exhibit No. 11 does not name the supposed shipper. In addition, Exhibit No. 11 cannot name a shipper because the [REDACTED] VS apparently is a fake with a forged signature according to Mr. [REDACTED].

1. [REDACTED] VS Is A Fake with a Forged Signature

Mr. [REDACTED] called Counsel for Concerned Citizens on January 3, 2026 to inquire why the website of his company, [REDACTED], [REDACTED], was mentioned in their filings in this proceeding.⁴ Counsel explained that it was because the Hayduks had submitted a verified statement purportedly by him as evidence that he desired rail service from the Hayduks over the Line to ship his locomotive to California. Mr. [REDACTED] responded that he never signed or authorized a verified statement. Counsel for Concerned Citizens then provided a copy of the signed verified statement to Mr. [REDACTED].⁵ In a January 19, 2026 e-mail to Counsel, attached as Exhibit No. 18, Mr. [REDACTED] confirmed that the signature is not his and is a forgery. He also explained that at one time he was considering a draft verified statement prepared by Matthew Hayduk. However, he later decided on a different disposition of the locomotive and not to support the OFA. He has reached an agreement to lease the locomotive to CXRG and “we have no need to immediately move any equipment off this rail line.” Therefore, he never finalized, approved, or signed a VS in this proceeding. Moreover, he contradicts the content of the [REDACTED] VS attributed to him.

Thus, Exhibit No. 11 could not possibly disclose the name of the shipper of the B30-7 locomotive because the Hayduks’ claim that [REDACTED] is that shipper is untrue.

2. Exhibit No. 11 Does Not Disclose [REDACTED] As A Potential Shipper

This may be moot since the [REDACTED] VS appears fake, but Exhibit No. 11 does not disclose the name of the claimed shipper of the B30-7 locomotive. The Hayduks argue that “since subparagraph C [of the Redacted Supplemental Comments] is about a B30-7 Locomotive, the

⁴ Counsel does not know Mr. [REDACTED] and had never spoken with him before this call.

⁵ Providing a copy of his own VS to [REDACTED] does not violate the protective order because it was supposedly his statement. In addition, it was necessary to provide him a copy to establish that it is a fake and that his signature is a forgery. Fake information and forged signatures are not “confidential or proprietary.”

redacted shipper must be the shipper identified in Concerned Citizens' Exhibit 11." Motion at Para. 9.C (emphasis added). Contrary to Hayduks' argument, Exhibit No. 11 does not name the "redacted shipper." Exhibit No. 11 only discusses [REDACTED]. The "redacted shipper" in the Public Version of the Comments is not [REDACTED]; it is [REDACTED] as shown by the Confidential Version of the Supplemental Comments. *See* Comments at 4. The Hayduks never identified [REDACTED] as the shipper. There is no mention of [REDACTED], a need to ship the B30-7 locomotive, or the Hayduk OFA in Exhibit No. 11.

Thus, nothing in Exhibit No. 11 names a shipper or violates the Protective Order.

B. Exhibit No. 15—Page from Web Site of [REDACTED]

Exhibit No. 15 does not violate the Protective Order because it does not identify [REDACTED] as a shipper, [REDACTED] is not in fact a shipper, and Counsel for Concerned Citizens was already aware of the potential for [REDACTED].

Exhibit No. 15 is a single page from the public website of [REDACTED]. This page provides some basic background on [REDACTED]. [REDACTED]

[REDACTED] The Hayduks name [REDACTED] as a potential shipper [REDACTED]

[REDACTED] The Hayduks argue that the redacted language in Subparagraph B of the Public Supplemental Comments must refer to [REDACTED], since [REDACTED] is the only company mentioned in Exhibit No. 15. Since Exhibit No. 15 inferentially names a shipper, [REDACTED], its inclusion in Concerned Citizens' public filings violates the Protective Order. In addition, according to the Hayduks, Counsel for the Concerned Citizens could not know that [REDACTED] was a potential shipper if not

granted access to confidential information after executing the Protective Order. These arguments are without merit.

First, as explained in the Confidential Version of the Supplemental Comments, Exhibit No. 15 could not identify a shipper because Hayduks' own "evidence" shows that [REDACTED] is not a shipper and does not desire rail service [REDACTED].

See Supp. Comments (Confidential Version) at 6. [REDACTED]

[REDACTED] See OFA Confidential Exhibit T.

We do not have the text of Hayduk's e-mail to [REDACTED], but given the subject line for the e-mail exchange, "Re: Verified Statement-STB," the Hayduks were apparently seeking, unsuccessfully, a VS of support from [REDACTED] for their OFA. The Hayduks never refuted the Concerned Citizens Supplemental Comments that [REDACTED] declined their request and is not a potential shipper.

Second, Exhibit No. 15 makes no reference to the possibility [REDACTED]. In addition, there is no mention of Exhibit No. 15 in the redacted language of the Public Version of the Supplemental Comments. Subparagraph B is entirely redacted including the paragraph heading. Exhibit No. 15 is simply general, public information about [REDACTED]. So, Exhibit No. 15, again, does not disclose any confidential information.

Third, that there could, in theory, be the potential [REDACTED], of which Counsel for Concerned Citizens was aware long before the Hayduks submitted their OFA. For example, in 2013, James Riffin and Eric Strohmeier filed a Notice of Exemption ("NOE") for trackage rights over seven miles of the Denver & Rio Grande Railway Historical Foundation ("D&RGHF") to service a coal transload facility they would build on the D&RGHF. See *James Riffin and Eric Strohmeier—Acquisition*

and Operation Exemption—In Rio Grande and Mineral Counties, CO, Docket No. 35705

(served January 11, 2013). Under the Riffin/Strohmeyer proposal, trucks carrying coal from a coal mine in southwestern Colorado to a cement plant in Pueblo would instead deliver the coal midway to a future transload facility on the D&RGHF about seven miles north of South Fork. As described in the Amended NOE, Riffin/Strohmeyer would transload the coal into railcars at this location. *See* Appendix-January 5, 2013 Verified Statement of James Riffin, Finance Docket No. 35705 (filed Jan. 8, 2013). Excerpts from the Riffin VS are attached for convenience as Exhibit No. 19 to this Reply. Riffin/Strohmeyer would then, using their trackage rights on the D&RGHF, move the coal by rail back to South Fork to interchange with the predecessor to CXRG, the San Luis and Rio Grande Railroad (“SLRG”). Riffin/Strohmeyer explained that they would locate the coal transload facility on the D&RGHF because the coal transload location on the Line at Hanna, CO (then operated by the SLRG) was unsatisfactory. The SLRG would transport the coal cars to Walsenburg for interchange with the Union Pacific Railroad for delivery to the cement plant in Pueblo. The Riffin/Strohmeyer trackage rights NOE generated significant opposition from area local governments and residents. In a decision served January 11, 2013, the Board rejected the Riffin/Strohmeyer NOE. And that was the end of that coal transload proposal.⁶

If this sounds familiar, the Hayduks’ proposal [REDACTED]

[REDACTED] is just a recycling of the Riffin/Strohmeyer coal transload proposal from 12 years

⁶Riffin and Strohmeyer appealed the Board order rejecting their NOE in *Eric Strohmeyer v. Surface Transportation Board*, No. 13-1064 (DC Circuit) (Riffin intervened). The Court of Appeals summarily denied their Petition for Review without oral argument in an unpublished per curiam judgment (filed December 30, 2013) and denied per curiam their subsequent Petition for Rehearing (filed March 25, 2014). Because they are unpublished, these Court orders are attached hereto in Exhibit No. 20.

ago, except that the transload facility would be located somewhere on the Line rather than on the D&RGHF. *See* Confidential VS of Matthew Hayduk at Para. 5-7 (Confidential Exhibit No. A).⁷ The Hayduks appear to be taking a page from the Riffin/Strohmeyer playbook. Moreover, it is public knowledge that [REDACTED]

[REDACTED]⁸ Thus, there is nothing unique or confidential about [REDACTED] as a potential shipper, of which Counsel for Concerned Citizens was already aware from public information long before being given access to the Hayduks supposedly “confidential” information.⁹

C. Exhibit No. 16—Newspaper Article About The Village at Wolf Creek

Exhibit No. 16 is a newspaper article describing the current status of a real estate development planned for The Village at Wolf Creek. The Hayduks’ Motion claims that this newspaper article allows the inference that The Village at Wolf Creek and Wolf Creek Ski Resort are “shippers” in violation of the Protective Order.¹⁰ Again, this is false. The Village at Wolf Creek and Wolf Creek Ski Resort are never identified in this article as potential shippers for the Hayduks.

⁷ The Hayduks filed two Exhibit A’s. There is an Exhibit A to the OFA and a Confidential Exhibit A to the Errata Corrected Reply to Colorado Pacific Rio Grande Railroad LLC’s Motion to Hold in Abeyance; and Withdrawal Request (filed Nov. 28, 2025). The Confidential Hayduk VS is in the Confidential Exhibit A.

⁸ *See, e.g.*, Exhibit No. 21, [REDACTED]
[REDACTED]. This Exhibit is a page from the [REDACTED]

⁹ Counsel for Concerned Citizens at the time assisted local governments and others in preparation of their protest to the NOE. Comments of City of Creede, et al., Finance Docket No. 35705 (filed Jan. 4, 2013). Just like the Hayduks, Riffin/Strohmeyer never identified a shipper for this imaginary [REDACTED] business.

¹⁰ This Reply’s mention of The Village at Wolf Creek and the Wolf Creek Ski Resort also does not violate the Protective Order, because the Hayduks’ voluntarily disclosed their names in their Motion for Sanctions, which is not marked “confidential.” Motion at 4.

It is public knowledge that real estate developers have been seeking to build a resort called The Village at Wolf Creek for many years. Indeed, the Hayduks themselves attached information from the public website maintained by these developers as to the history and status of this project in their Confidential Exhibit A, which Exhibit was marked confidential even though the article was already in the public domain.

The discussion of the potential for rail shippers is found in the Confidential VS Statement of Matthew Hayduk (Confidential Exhibit A). [REDACTED]

[REDACTED] But, he does not name any potential shippers or receivers of freight on the Line driven by this stalled real estate development. [REDACTED]

[REDACTED] Who are these “parties” who desire rail service? What communications? The Hayduks still never say.

The point here is Exhibit No. 16 cannot disclose the names of shippers when the Hayduks never named any potential shippers in connection with The Village at Wolf Creek. There is nothing to disclose. Exhibit No. 16 is a newspaper article that makes no mention of any potential shippers or [REDACTED].

The Hayduks’ claim that Exhibit No. 16 also violated the Protective Order by mentioning the Wolf Creek Ski Resort, because the “Wolf Creek ski resort & the Village at Wolf Creek development, are one of Hayduk’s potential shippers” Motion at Para. 9.A (emphasis added). This is yet more careless advocacy by the Hayduks. The Wolf Creek Ski Resort is a long existing, family owned and operated ski resort, which is not affiliated with The Village at

Wolf Creek. The owners of Wolf Creek Ski Resort are actually opposed to the megadevelopment planned by The Village at Wolf Creek. *See Colorado Sun*, Jason Blevins, “Skiing’s lone wolf: Davey Pitcher’s family-owned Wolf Creek stands out in an increasingly corporate industry” (Feb. 2, 2025) (attached as Exhibit No. 22). The Hayduks never before their Motion for Sanctions named the Wolf Creek Ski Resort as a potential shipper. Thus, Exhibit No. 16 does not violate the Protective Order.

Conclusion

The Comments and Supplemental Comments of the Concerned Citizens conclusively demonstrate that the Hayduks have no shippers and their OFA is a sham and an abuse of the Board’s OFA process. Unable to address Concerned Citizens’ arguments and evidence on the merits, the Hayduks are reduced to filing a Motion for Sanctions to deflect attention from the numerous unanswered shortcomings and problems with their OFA. If anyone deserves sanctions in this proceeding, it is the Hayduks for filing a sham OFA supported by a fake verified statement with a forged signature. The Board should deny the Motion for Sanctions and the relief sought therein and reject the OFA for the reasons identified in the Comments and Supplemental Comments of the Concerned Citizens.

Respectfully submitted,

/s/Ronald M. Johnson

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January 20, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of January, 2026, a copy of the Public Version of the Reply of Concerned Citizens of San Luis Valley and Ronald M. Johnson to Motion to Sanction Ronald M. Johnson, Esq. and Concerned Citizens of San Luis Valley was served on all parties of record in Docket No. AB -1344X electronically and by first class mail.

/s/Ronald M. Johnson

Ronald M. Johnson
Counsel for Concerned Citizens of San Luis Valley

**INDEX OF EXHIBITS TO REPLY TO
MOTION TO SANCTION RONALD M.
JOHNSON, ESQ. AND CONCERNED CITIZENS
OF SAN LUIS VALLEY**

<u>Exhibit No.</u>	<u>Exhibit</u>
18	[REDACTED] [CONFIDENTIAL]
19	Excerpts From Appendix--James Riffin Amended Verified Statement in Finance Docket No. 35705 (filed Jan. 8, 2013)
20	Orders of DC Circuit Dismissing Appeal and Petition for Rehearing of Strohmeyer/Riffin in <i>Eric Strohmeyer v. STB</i> , No. 13-1064
21	[REDACTED] [CONFIDENTIAL]
22	<i>The Colorado Sun</i> , Jason Blevins, "Skiing's lone wolf: Davey Pitcher's family-owned Wolf Creek stands out in an increasingly corporate industry" (Feb. 2, 2025)

Docket No. AB-1344X

EXHIBIT 18

[CONFIDENTIAL]

Docket No. AB-1344X

EXHIBIT 19

Excerpts from Appendix—January 5, 2013 Verified Statement
of James Riffin in Finance Docket No. 35705 (filed Jan. 8, 2013)

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.



Finance Docket No 35705

JAMES RIFFIN AND ERIC STROHMEYER – ACQUISITION AND OPERATION
EXEMPTION – IN RIO GRANDE AND MINERAL COUNTIES, CO

AMENDED
VERIFIED NOTICE OF EXEMPTION

APPENDIX – JANUARY 5, 2013 VERIFIED STATEMENT OF JAMES RIFFIN

1 My name is James Riffin I am over the age of 21 I am competent and authorized to make this Verified Statement.

2. This Verified Statement contains more information than is required by 49 CFR 1150.33 I hope that this additional information will assist the Board and interested persons in understanding what the Applicants propose to do, and the legal basis for the terms and conditions contained in our Notice of Exemption.

3 Operator: James Riffin ("Riffin") and Eric Strohmeyer ("Strohmeyer"), collectively, the Parties, jointly, in their individual capacities, will be the Operator (singular) on the Subject Trackage. They will jointly and severally have common carrier rights and obligations At some date in the future, they plan to create a limited liability company, to which they plan to assign their operating rights on the Subject Trackage Prior to the assignment of their operating rights to the putative limited liability company, the limited liability company will seek authority from the Surface Transportation Board to acquire their rights, and to operate the Subject Trackage. No common carrier rights or obligations will be assigned to any entity that has not obtained authority to acquire and operate the Subject Trackage

4. How the Parties came to decide to acquire the Subject Trackage. Mr Strohmeyer follows all proceedings before the Board, and frequently contacts parties involved in proceedings that interest him. Some years ago, he noted the City of Creede's efforts to cause the adverse abandon of that portion of the Denver & Rio Grande Railroad Historical Foundation's ("DRGRHF") Line that is within the City Limits of Creede, CO. He found the proceeding to be interesting, and had telephone conversations with Donald Shank, the President of the DRGRHF, and with Tom McFarland, the DRGRHF's railroad attorney (whom Strohmeyer has known and spoken with for a number of years). Later, Strohmeyer noted the proceeding involving Mr Shank and the City of Monte Vista. During the course of a telephone conversation with Mr. Shank, Mr. Shank said: "Wait a moment. A coal truck is driving by." To which Strohmeyer replied: "Tell me about the coal truck." Strohmeyer then asked many questions regarding the truck-borne coal traffic that was moving on Highway 160. After doing a considerable amount of research, Strohmeyer ascertained that 120,000 tons of coal per year were being trucked from a coal mine 100 miles west of South Fork, CO, to a cement plant in Pueblo, CO, some 150 miles east of South Fork. Strohmeyer ascertained that the cement plant was rail served, had the capability of unloading rail coal cars, had the ability to accommodate about 50 open hopper cars, and had attempted to obtain coal rail service. It used rail to ship cement to the central part of the United States. Strohmeyer further learned that the coal mine trucked coal to New Mexico, where it was transloaded onto BNSF rail cars, then railed to Texas and other locations. The coal mine had attempted to truck its coal to the New Mexico rail site, then rail the coal to Pueblo, CO. Due to the number of miles involved, it was less expensive to truck the coal from the mine to Pueblo than to truck it to New Mexico, then rail it to Pueblo.

5. Strohmeyer learned how much it cost to truck the coal from the mine to the cement plant. He then calculated that it could be railed for less. He learned that all of the silver mining claims around Creede had been bought by a large mining company, which was assaying the rock to determine how much gold and silver remained. (A lot More than what has been removed.) He looked at the assays. He studied the mining company. He learned that the mining company intended to begin mining and processing ore, and intended to construct a large ore-processing plant. He learned that after ore was removed, the spent ore was mixed with cement, then put back into the mine shafts. The nearest cement plant was in Pueblo, CO. He realized that some day in the near future, coal could be railed to Pueblo, and cement could be carried on the back-

haul. He determined that unit trains could haul coal for less than it cost to truck the coal.

6 During September, 2012, he drove to Colorado, where he looked at the cement plant, surveyed the SLRG and DRGRHG lines, and looked for potential truck-to-rail sites. He looked at the SLRG's Hanna transload site. He concluded that site was unsuited for a coal transload site. It was bisected by Hanna Lane. The loading ramp could only accommodate one hopper car. Only 8 hopper cars could be loaded, before they would have to be switched out. The track was a stub-ended spur track. (It had been a passing track, but the eastern switch had been removed.) Farms and dwellings were nearby. (Adjacent property owners would likely complain about the noise and coal dust coming from a coal truck-to-rail transload site at Hanna.) He surveyed the DRGRHF line. About three miles north of South Fork, was a good transload site. Unfortunately, the bridge serving the site was more than 100 years old, and was weight restricted. Another good site was just south of the trestle bridge at MP 306.38. This site was served by a recently-built bridge that had no weight restrictions. There were no farms nearby. Very few dwellings were nearby. The DRGRHF right-of-way was 200 feet wide, more than enough room for a transload site. Much of the rail from South Fork to MP 306.38 was 90 lb rail. He knew 70 lb rail can handle 286,000 lb rail cars and locomotives. (During the summer of 2012, he observed 70 lb rail being actively used by Norfolk Southern, in Hazelton, PA.) He contacted Donald Shunk, President of the DRGRHF. He began negotiating a trackage agreement. That trackage agreement has now been executed.

TRAFFIC

7. Coal: The coal mine ships 120,000 tons of coal per year to the cement plant. It is more energy efficient to ship coal via rail. Transloading the coal to rail cars in South Fork, would remove 10,000 trucks per year from Highway 160, a two-lane State highway that passes through numerous cities before it reaches Walsenburg, CO, where it intersects I-25. The cement plant is off of I-25, a few miles south of Pueblo. Coal would continue to be trucked from the mine to South Fork. At South Fork, the coal trucks would turn north, drive 6 miles, then use the new bridge to drive from Highway 149 over the Rio Grande, to the DRGRHF's right-of-way. This would reduce the truck haul from 250 miles to 100 miles. Truck traffic through all of the cities on Highway 160, from South Fork to Walsenburg, would be reduced by 10,000 trucks per year.

A significant reduction in truck traffic. A significant reduction in truck emissions. A significant energy savings.

8. Unit coal trains of about 40 cars each, would travel between South Fork and Pueblo, three times per month / 10 months per year. (12,000 tons per month / 120,000 tons per year) The Applicants would crew the train for the first seven miles. A SLRG crew would crew the train between South Fork and Walsenburg. A UP crew would crew the train between Walsenburg and the Cement plant. A different crew would unload the train at the cement plant. After unloading, the train would return to South Fork, using a UP crew, a SLRG crew and Applicants' crew.

9. **Track charts:** Applicants have a complete set of track charts between Creede and Pueblo, CO. From these track charts Applicants have ascertained the grades and elevations of the lines. Between Pueblo and Walsenburg, the elevation rises about 1,000 feet. Maximum grade is 1%. Between Walsenburg and La Veta Pass, the elevation rises from 6,000 feet to 9,242 feet, a change of 3,240 feet. Maximum grade: 3%. From La Veta to Alamosa, the elevation drops 1,700 feet to 7,546 feet. Maximum grade: 2.5%. From Alamosa to South Fork, the line rises 642 feet to 8,188 feet. Maximum grade: 1%. From South Fork to MP 306.38, the maximum grade is 1%.

10. **Cement:** Sometime in the next few years, mining around Creede will re-commence. The mining company that owns the claims, back-fills mine shafts with spent ore and cement. Applicants propose to back-haul cement from the Pueblo cement plant to the mines in Creede. (Applicants will carry the cement from South Fork to MP 306. The DRGRHF will carry the cement the rest of the way to Creede. Or it can be transloaded to trucks at MP 306.)

11. **Lumber:** There is a lumber company in Creede that used to get rail-car-loads of lumber. Applicants intend to solicit that lumber traffic.

12. **Mining equipment:** The mining company plans to build a \$150 million ore processing plant in Creede. This mining equipment is large, and heavy. Applicants intend to solicit this mining equipment traffic, and the traffic associated with the material and supplies the mining operation will consume.

13. Notes: **Coal traffic:** The coal traffic Applicants have identified, did not exist when the City of Creede was prosecuting its adverse abandonment application. The cement plant was recently built. It opened in 2008. The coal mine is owned by the cement plant. **Mining equipment:** Getting mining equipment through Creede, on trucks, will be a challenge, since Highway 149 makes two sharp, 90-degree turns in the middle of Creede. Had the southern 2,000 feet of the DRGRHF line that is within the city limits of Creede not been abandoned, mining equipment could have been railed to the end of the line, in Creede, then transloaded onto trucks, then driven straight thru Creede (no turns) to the mine portal. Creede may want to consider putting tracks back on the southern portion of the former right-of-way, to eliminate this heavy, oversize-load truck traffic from having to travel through the center of Creede's business district.

INTERCHANGE

14 The Applicants propose to interchange on DRGRHF's right-of-way, in South Fork. Some years ago, the SLRG sold all of its right-of-way in Derrick, to a developer, retaining only a 30-foot right-of-way. Consequently, there is little room to interchange on SLRG's tracks.

15. As noted above in ¶ 8, the line from Creede to Alamosa, drops in elevation, the maximum grade being 1%. At Alamosa, the line rises in elevation, until it tops the La Veta pass. The maximum grade from Alamosa to the top of the La Veta pass, is 2.5%. The maximum grade from the top of the La Veta pass to Walsenburg, is 3%. Consequently, it takes little power to move a loaded coal train from MP 306 to Alamosa. (It is all downhill.) It takes a significant amount of power to pull a loaded coal train up the mountain from Alamosa to the top of the La Veta pass. It then takes a significant amount of dynamic braking to control a loaded coal train as it descends from the top of the La Veta pass to Walsenburg. From Walsenburg, the line continues to drop, the grade being 1/4% to 1%.

16 Donald Shank owns a functional B-30-7 locomotive. It is stored in South Fork. It was in service by the SLRG until it was stored in South Fork. The Applicants intend to lease that locomotive from Donald Shank, and to use that locomotive on the subject trackage.

17. The B-30-7 has the ability to control the descent of a loaded coal train from MP 306 to Alamosa. It has the ability to pull an empty 40-car hopper train from Alamosa to MP 306. (The controlling grade is only 1%. The sharpest curve is only 5 degrees.) The Applicants will propose to the SLRG, that the SLRG crew Applicants' B-30 from South Fork to Alamosa. At Alamosa, the SLRG can add power, and crew its power (and continue to use the B-30.)

18. The most efficient plan would be: Use the B-30-7 to pull a loaded coal train from MP 306 to South Fork. (It is a down-hill run.) Applicants' crew would de-board the B-30 at South Fork. SLRG's crew would drive a vehicle from Alamosa to South Fork. Park the vehicle, then board the B-30. Use Applicants' B-30 to pull the train to Alamosa. At Alamosa, the SLRG would add power, to pull the loaded coal train over the La Veta pass. UP would crew SLRG's power, then pull the coal train to Pueblo, and return the empty coal train to Walsenburg. SLRG would crew its power at Walsenburg, for the return trip to Alamosa. At Alamosa, SLRG would de-couple its power, then crew Applicants' B-30, using the B-30 to pull the empty coal train back to South Fork. At South Fork, SLRG's crew would use its parked vehicle to return to Alamosa. Applicants' crew would board the B-30 at South Fork, then pull the empty train back to MP 306.

19. Very efficient. Even operating over excepted track, no crew would run out of hours. There would be no need to exchange locomotives at South Fork, which would eliminate the need for a long passing track. Because the operation is so efficient, it can be performed for less than the cost to truck coal from South Fork to Pueblo.

20. The SLRG has informed Riffin that it has sufficient power at Alamosa, to add sufficient power at Alamosa, to pull a loaded 40-car coal train over La Veta pass.

TRANSLOAD AT HANNA VS. ON SUBJECT TRACKAGE

21. If one were to attempt to load and build a 40-car coal train at Hanna, the operating crew would likely run out of operating hours, due to the constraints of the Hanna site, and due to the fact that there are 20 miles of excepted track¹ between Monte Vista and Hanna (2 operating hours

¹ Speed limits excepted and Class I track 10 mph. Class II track 25 mph

out, 2 operating hours back). 10 miles of excepted track between Hanna and Derrick [the nearest location of a passing track, needed to put an SLRG locomotive on the pulling end of the train on the way from Hanna to Alamosa (one operating hour out and one operating hour back) and another 17 miles of Class II track between Monte Vista and Alamosa (where SLRG crews would come from; 45 minutes out and 45 minutes back.) Total time, without switching the Hanna site, without switching the Derrick passing track, and without prepping the locomotive in Alamosa 7.5 hours. Since the Derrick SLRG passing track is only about 500 feet long, it would take several switching moves to put a locomotive on the opposite end of a 40-car coal train. And since the Hanna transload site can only accommodate 8 cars at a time, it would take 5 switching moves at a minimum, to load 40 coal cars. Plus the actual time to load the coal cars, one car at a time (the loading ramp can only accommodate one car at a time.)

22. Loading the coal train on the Subject Track would be far easier. The B-30 would always be there. The crew would be based nearby. There is plenty of room. No houses or farms are nearby.

23. The ideal location for a transload facility would be along / at the end of, Mineral County Road 430H. The nearest house is a mile or so away. The drawback to this ideal site, is the bridge that carries Mineral County Road 430 over the Rio Grande River was built more than 100 years ago, and is weight restricted. To use this site, the County Road 430 bridge would have to be rebuilt, or strengthened. Since this bridge is the only means by which fire trucks can access the adjacent forest lands, the replacement of this bridge may be already planned.

24. Another good transload site is at MP 306, just south of the railroad trestle bridge that carries the line over the Rio Grande river. Mineral County Road 430A (Forrest Road) is served via a new bridge over the Rio Grande, which bridge is not weight-restricted. (It was built to carry fire trucks.) This site is not quite as ideal, since it requires trucking the coal an additional mile or two (almost insignificant), and since there are a few summer cabins about 1/2 mile away. However, the fact that it is served via a new, non-weight-restricted bridge, weighs heavily in its favor, at least in the near term.

Docket No. AB-1344X

EXHIBIT 20

Orders of DC Circuit Dismissing Appeal and Petition for Rehearing of
Strohmeyer/Riffin in *Eric Strohmeyer v. STB*, No. 13-1064

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-1064**September Term, 2013****STB-FD35705****Filed On: December 30, 2013**

Eric Strohmeyer,

Petitioner

v.

Surface Transportation Board and United
States of America,

Respondents

James Riffin, et al.,
Intervenors

**PETITION FOR REVIEW OF AN ORDER OF THE
SURFACE TRANSPORTATION BOARD**

BEFORE: Henderson, Brown, and Srinivasan, Circuit Judges

J U D G M E N T

This petition for review of an order of the Surface Transportation Board was considered on the briefs and appendix filed by the parties, and respondents' letter submitted under Federal Rule of Appellate Procedure 28(j). See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the petition for review of the decision of the Surface Transportation Board dated January 11, 2013 be denied. The Board's determinations whether a transaction qualifies for exemption "epitomize the types of decisions that are most appropriately entrusted to the expertise of an agency." Central & Southern Motor Freight Tariff Ass'n v. United States, 757 F.2d 301, 321-22 (D.C. Cir. 1985) (per curiam). And here, petitioner and supporting intervenor have not demonstrated that the decision rejecting their Notice of Exemption is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, under the standard of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). See Central & Southern Motor Freight, 757 F.2d at 321. In particular, in light of the applicants'

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-1064**September Term, 2013**

proposal to limit their common carrier obligations to exclude the transport of toxic inhalation hazard commodities, the Board reasonably concluded the transaction needed to be thoroughly examined in a full certificate proceeding, rather than under the streamlined procedures for a class exemption. See Riffin v. STB, 733 F.3d 340 (D.C. Cir. 2013); Class Exemption for the Acquisition & Operation of Rail Lines Under 49 U.S.C. 10901, 1 I.C.C.2d 810, 811, 816-17 (Dec. 19, 1985), review denied sub nom. III. Commerce Comm'n v. ICC, 817 F.2d 145 (D.C. Cir. 1987).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-1064

September Term, 2013

STB-FD35705

Filed On: March 25, 2014

Eric Strohmeyer,

Petitioner

v.

Surface Transportation Board and United
States of America,

Respondents

James Riffin, et al.,

Intervenors

BEFORE: Henderson, Brown, and Srinivasan, Circuit Judges

ORDER

Upon consideration of the petition for rehearing, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Jennifer M. Clark

Deputy Clerk

Docket No. AB-1344X

EXHIBIT 21

[CONFIDENTIAL]

Docket No. AB-1344X

EXHIBIT 22

The Colorado Sun, Jason Blevins, “Skiing’s lone wolf: Davey Pitcher’s family- owned Wolf Creek stands out in an increasingly corporate industry” (Feb. 2, 2025)

NEWS: OUTDOORS

Skiing's lone wolf: Davey Pitcher's family-owned Wolf Creek stands out in an increasingly corporate industry

The labor drama plaguing today's profit-driven ski resorts isn't a problem at Wolf Creek Ski Area, where fun, affordable prices and a DIY spirit are paramount



Jason Blevins

3:17 AM MST on Feb 2, 2025



CEO and owner of Wolf Creek Ski Area Davey Pitcher skis through fresh powder

Story first appeared in:



WOLF CREEK SKI AREA

“I think I’m going to drive for this stretch,” says Davey Pitcher, wedging in next to the operator in the one-man cab of a snowcat that shuttles skiers into the powdery glades of Horseshoe Bowl.

Both sides of the 1990s-era LMC 3700 cat’s tracks are hanging over cliffs as Pitcher, the 62-year-old boss and owner whose father took over the bankrupt Wolf Creek Ski Area in 1976, pilots the machine across a narrow spit of snow below Alberta Peak.

“Well that was fun,” he says minutes later, clicking into his telemark skis and slipping into the powdery forest of beetle-ravaged Engelmann spruce.

Fun is a fundamental priority at Wolf Creek, still family-owned and thriving in the shadow of pass-peddling giants. In an increasingly business-y ski resort industry — with headlines trumpeting **labor strikes**, share prices, **pass sales**, \$3 billion funds, **\$105 million acquisitions**, record-high traffic and **all-time revenues** — the Pitcher family has kept a nearly 50-year focus on keeping skiing fun.

“There’s something about the **g-force**, the sensation of movement through the forest or a trail, that is intrinsically pretty darn rewarding in itself. It doesn’t have to be where you’re at the top of the heap,” says Pitcher, swinging his Völkl skis from a high-speed chairlift he installed himself. “And there’s a reward from simply seeing people find that sensation. And we’ve really embraced that here. With all of the rules and all of the stress that our society has kind of propagated, when you come to recreate, you want to be left alone as much as you can be. That’s the essence of our long view on skiing.”



Davey Pitcher grins after driving the snowcat through a narrow section on Alberta Peak. (Anna Stonehouse, Special to The

Good prices lead to good vibes

Wolf Creek has been hosting skiers for 85 years. Half of those years have been helmed by the Pitchers, who are not followers.

Wolf Creek sells season passes but not the kind that work anywhere else, rebuffing a trend that has reshaped the resort industry with season passes that allow access to dozens of ski areas. (One exception: Wolf Creek pass holders can ski at Discovery Ski Area in western Montana, which is owned by Pitcher's older brother Peter.) Wolf Creek a few years ago left the Colorado Ski Country trade group, which Pitcher says "is not a trade group that deals with all walks of life."

Wolf Creek pricing does not follow any of the resort industry's top trends that swirl around the selling of season passes and lift tickets before the snow falls, savaging skiers who dare to walk up to the window and buy a day ticket.

The ticket window at Wolf Creek is a bustling scene.

A peak-season day ticket at Wolf Creek is \$100. ...

discounts for buying early. Skiers 80 and older ski free. Season passes are \$1,300. A couple dozen days a year the ski area **offers \$68 tickets** as a “local appreciation” promotion.

“I believe that’s a fair price,” Pitcher says. “One of the other mantras my father had was that it is public land and that it’s, you know, meant to be for the use and enjoyment of the public. And to create an exclusionist pricing pushes out people that may not have the financial ability of paying some of these big prices, that just doesn’t sit right. We still make money. We still can afford to do new upgrades and infrastructure and pay everyone.”

Last year Pitcher spent \$300,000 to remove beetle-kill on the north side of his ski area. Next summer he’s got another \$1 million set aside for glading.

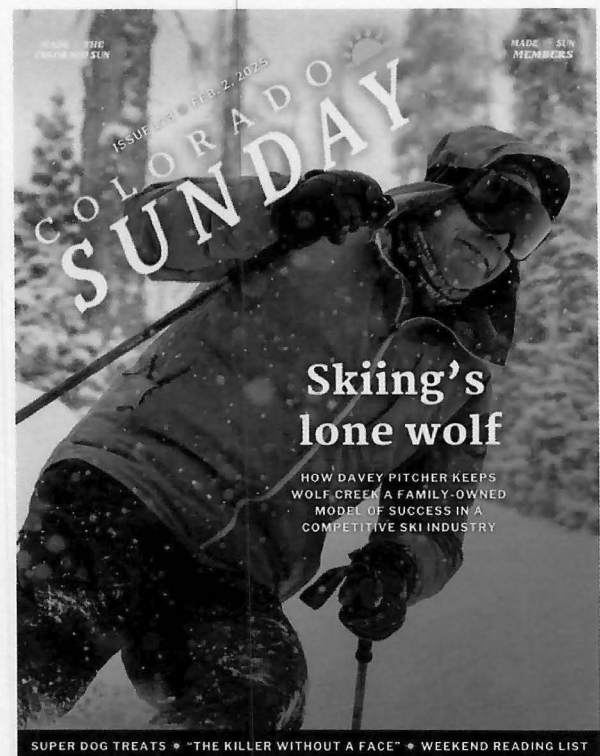
He won’t need to spike ticket prices to pay for it. The timber work is all part of the long-term plan at Wolf Creek.

“There’s no real reason to ask for more than you think is fair,” he says.

Before the pandemic Wolf Creek was attracting about 200,000 visits a year. That’s bumped to 260,000 since 2021 and has not waned.

Pricing is only one chapter in the Pitcher-published Wolf Creek playbook, which ignores just about every new-school rule in a consolidating industry dominated by a shrinking group of owners controlling a growing group of ski hills.

Pitcher, an avid airplane, helicopter and **canopy_pilot**, doesn’t measure success by growth. He’s not aiming to impress investors. He’s never pondered the acquisition of another ski area. He says the best model for the industry is individually owned ski areas run by people “who are making the most out



This story first appeared in **Colorado Sunday**, a premium magazine newsletter for members.

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“There is really an idea here that we don’t really have to grow as long as we can continue to operate as we always have,” he says. “You know, my father told me 35 years ago, he said if you start thinking you’re competing with another ski area, you’re really just competing against yourself. If you look at what you got and what you don’t have, and make the most of it, then you can be independent, sustainable and create a good vibe.”



Wolf Creek Ski Area has been hosting skiers for 85 years this season. (Anna Stonehouse, Special to The Colorado Sun)

Keeping the ski pioneer’s vision alive

Spend a day skiing with Pitcher and you are going to hear a lot about his dad, **Kingsbury Pitcher**. Everyone called him “Pitch.” He grew up in Silverton, chasing his granddad, Otto Mears, the railroad-tracking, road-building entrepreneur known as the “Pathfinder of the San Juans.”

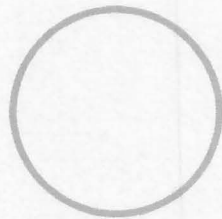
Back in the early 1970s, Pitch consulted for a Texas investment group that owned Wolf Creek. Those investors — including a bunch of football players such as Chicago Bears linebacker Dick Butkus, as well as Dallas Cowboys Danny White and Ed “Too Tall” Jones — installed the first chairlift at Wolf Creek, which up to then had moved skiers on surface lifts.

“They all bought into this dream that to run a ski area, you turn the lift on, you make money, turn the lift off and go play golf,” Pitcher says. “That is a dream.”

But they failed to recognize that you need three things to run a remote ski area atop the snowiest pass in Colorado, Pitcher says. First you need big machines to clear snow out of the parking lot. Then you need a solid fleet of snowcats to groom snow. And third, he says, “you need really good lift staff who know how to work on old, funky lifts.

“But they, they had a terrible time, because whenever they got to their holidays, they either had too much snow and they couldn’t park the cars, or they got everybody on the lift, and their lift broke for two hours and they’d have to evacuate. And so it had a terrible reputation back then,” Pitcher says.

Pitch, who was a minority owner of Wolf Creek with the Texas group, by the mid-’70s had decades of experience running and developing ski areas. He helped design and build Snowmass in the 1960s. He developed Ski Apache in New Mexico. He worked with Chet Huntley to build Big Sky up in Montana. He owned Ski Santa Fe in New Mexico for more than 20 years. By the mid-1980s, he sold the Santa Fe ski hill and bought all of Wolf Creek from the Texas investors and turned it into his family’s legacy operation. Pitch died in late 2017 at the age of 98. He skied into his 90s.



Vith all of the rules and all of the stress that our society has kind of propagated, when you come create, you want to be left alone as much as you can be.

— Davey Pitcher, on his view of skiing

Valley before moving to Aspen, where he worked more than 30 years at Aspen Skiing Co., 17 of them as CEO.

Kaplan remembers a young Davey Pitcher dashing around Taos, typically leaving the resort boundary to plunder forbidden powder while dodging irked ski patrollers.

“Kingsbury was a ski pioneer. One of the last of his generation. And Davey is carrying on that ski pioneer attitude and way of doing things, with his fierce independence and self-sufficiency,” says Kaplan, who retired from Aspen Skiing in 2023.

“In the old days, ski area operators weren’t just in the ski business. They built roads. Cleared snow. They ran construction projects and a fabrication shop. Great skiing isn’t easy, so the fact Davey has stayed his course and persevered to keep that pioneer’s vision alive and well, is really cool and inspiring.”

Pitcher — like his great-grandfather, his dad, his five siblings, his wife, son and daughter — is a born-and-bred DIYer. There are 10 chairlifts at Wolf Creek, and Pitcher’s own Wolf Creek crew installed all of them. His lift team clocks about 11,000 hours a season working on the lifts.

Most recently, Pitcher and his team designed and installed the Tumbler between September and February last winter. It’s a four-person lift — the second-hand towers and sheaves came from the Northstar ski area in California — with new Doppelmayr chairs that services terrain for first-time skiers.

Pitcher said he built the four-tower Tumbler and the new beginner terrain to ease the learning process for a growing number of new skiers who are trying resort skiing without taking a lesson.

Used to be that most every new skier at a ski area came out of ski school, where they had learned the basics of resort skiing. But fewer skiers are entering the sport through ski school. That poses a challenge for not just resort operators, whose snowy mountains mingle experts, intermediates and never-evers, but an entire industry that needs newcomers to replace aging customers.

“Now there’s no way to help those first-timers learn the ropes, you know,” Pitcher says.

Last winter he spent \$50,000 to pay ski instructors to staff the Tumbler terrain all day.

“So we always have someone there and that’s our kind of attempt to work on educating the incoming novice skier that falls through the cracks by not buying a lesson,” he says.

“When you think about the industry ... the people that are testing the waters and deciding if they’re going to join the sport, we have got to do everything we can to bring them into the sport. So we see this added cost (of ski instructors staffing beginner terrain) as really investing in the future. Because if they have a good experience, they’ll maybe decide to buy a lesson.”

But even if they don’t take a lesson, Pitcher says, “they move into the rest of the ski area with some level of confidence and competence.”

Kaplan says Aspen Skiing Co. kicked around a similar idea, maybe dedicating the entire Buttermilk ski hill as a learner’s paradise. He remembers Ernie Blake, the founder of Taos, chasing down first-time skiers on his mountain and forcing them into lessons.

“Lots of people have talked about doing something like that. The fact Davey has actually done that is incredible,” Kaplan says.



Davey Pitcher hikes on a ridge above the avalanche mitigation devices he built to help keep the high-elevation resort safer

Homemade avalanche mitigation system

Pitcher has a deep stable of mechanics who keep a fleet of new and old lifts and snowcats humming. He's even designed and developed his own remote-controlled avalanche mitigation system, not unlike the French-made Gazex exploders he installed more than 20 years ago in his alpine bowls. (His was the first ski area in Colorado to install remote avalanche control systems, similar to those that the Colorado Department of Transportation has now installed to mitigate some 278 of the 522 avalanche paths above the state's highways, **including along U.S. 160 over Wolf Creek pass.**)

After a recent short hike up Alberta Peak, Pitcher pauses to show off his homemade avalanche mitigation system.

The gizmo has two pipes — one delivering compressed oxygen and the other propane — that spurt quick clouds of the mixed gases above hanging snowfields. A wireless connection puffs the gases and sparks an explosion.

"It's pretty fun to sit at your laptop and press a button and boom!" Pitcher says. "We've tested it in up to 40 mile-an-hour upslope winds and it works pretty well."

Pitcher's son Keith, who started working at Wolf Creek at age 5 and now wrangles lifts, spent the summer tweaking the design to work better in even stronger winds.

"My son has worked pretty hard to get all the electronics on it dialed in," Pitcher says. "We could get them working in up to 60-miles-per-hour wind. That's what I'm shooting for."

Pitcher's wife, Rosanne, runs marketing and sales. His daughter Erika helps with marketing and retail. The two are behind an insightful social media campaign this winter celebrating 85 years of skiing at Wolf Creek with a historical trove of old photos and **news clippings**. It's the only promotion the ski area has this winter.

"In the ski business, you can figure out a lot of different ways to spend money," Pitcher says. "We look at how we spend our money and look for ways to continue to do what we want improvement wise and to some degree, the pricing we have makes it so we don't have to advertise. We don't have to really rely on anything other than social media."

When it's time to set the annual budget and lift ticket prices, the Pitchers start with payroll. There are about 400 workers at Wolf Creek, although 120 of them are ski instructors and 80

“When we budget for capital improvements, we make sure we have the payroll to start the season on Nov. 1, even without any snow so we can carry our staff into January even if we have a true disaster year like we did in 1999 when we got only 13 inches until January first,” Pitcher says. “Good thing, too. This year we were the first in the nation to open” on Oct. 22.

Pitcher does not pay much attention to ski resort news. (Part of his “focus on yourself” approach.) But he did watch the ski patroller strike fiasco at Vail Resorts’ Park City Mountain Resort, which made international headlines, none of them good for the country’s largest ski resort operator.

“We spend \$350,000 a week on payroll in the winter. It’s our most important expense,” he says. “It makes no sense at all to not pay a livable wage. This is a service industry. There is a clear connection between your customers and your employees and you should protect that connection at all times.”



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Forest Service, Pitcher to sign ski area lease in Del Norte today

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wolfcreekski

#85funfacts - In the spring of 1982 Kingsbury Pitcher signed a 30-year lease. A stipulation was a new lodge with picnic facilities, more parking, a new beginner lift, as well as chair lift.

#85thanniversary #wolfcreekski
#wolfcreekskiarea #skiwolfcreek
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Davey Pitcher references a ski map below Alberta Peak to show areas of expert terrain expansion. (Anna Stonehouse, Spec Colorado Sun)

An expert terrain expansion plan that would grow Wolf Creek by 50%

While there are a few more projects on the books, Pitcher's biggest dream is **a roughly 750-acre expansion** into a steep forest outside his existing permit boundary. The push to offer more expert terrain in the so-called Matchless Pod on the southeastern corner of the 1,581-acre ski area was forged in **the ski area's 2012 Master Development Plan**. At first, Pitcher envisioned a low-capacity tram ferrying skiers over terrain with no roads and no cut runs. Then he switched over to a low-capacity chairlift.

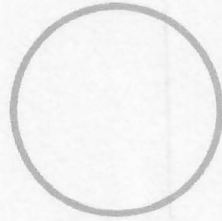
Now, he's thinking the best bet to baby-step into his bold expansion plan is to offer guided skiing for a few seasons, with expert skiers venturing into the new terrain under the watchful eye of guides.

He imagines a few thousand skiers a season spending an additional \$40 to \$60 to access the steep terrain, which will require hiking to reach the top of the slopes and then a good hour-plus of skinning to leave.

It's been a dozen years since Pitcher first floated the expert-terrain expansion. It's a bold

plan that would require adjusting Wolf Creek's Forest Service ski area permit boundary. Most expansions at ski areas are inside established boundaries.

But boundary adjustments do happen, especially when ski areas can show demand for additional terrain. Monarch ski area next winter will open a 377-acre expansion that expanded its permit boundary. The Forest Service studied Monarch's expansion into No Name Basin and found it would have no significant impact. The agency issued a similar decision in 2019 that expanded Aspen Mountain by 153 acres.



makes no sense at all to not pay a livable wage
This is a service industry. There is a clear
connection between your customers and your
employees and you should protect that connection
at all times.

— Davey Pitcher, on Wolf Creek's \$350,000 per week payroll

Those Monarch and Aspen expansions are the only two that sought Forest Service approval to grow beyond special-use permit boundaries. In the past 15 years, expansions at Steamboat, Keystone, Arapahoe Basin, Beaver Creek, Breckenridge, Copper Mountain, Crested Butte, Eldora, Loveland, Purgatory, Ski Cooper, Snowmass, Sunlight, Vail and Winter Park ski areas all have been inside permitted boundary lines.

It's important to note that the 40-year plan by the late Texas investor Red McCombs to build a massive village on Wolf Creek Pass does not involve the Pitcher family. Pitcher has long opposed the proposal to develop hundreds of homes in a resort village adjacent to his family's ski hill. He said he recently urged McCombs' family to pull out of the plan.

Pitcher calls the Forest Service permit expansion approval process “byzantine” but he understands the careful approach by federal land managers around his ski area.

The Rio Grande National Forest has slowed its National Environmental Policy Act review of the expansion plan to give officials time to hammer out a new winter travel management plan that would address the increasing use of snow machines atop Wolf Creek pass. For years Pitcher has struggled with motorized users from the pass coming into his ski area. **A new plan by the Forest Service** proposes limiting motorized access in areas around the pass and ski area.

“In a lot of ways, I’m fairly upset with the double standard that’s been going on with snowmobiles,” says Pitcher, an avid backcountry skier who says the newer go-anywhere Timbersled motorcycle snow machines leave “deep hard ruts that if you cross them on skis, they will take you down hard.”

“There’s all this scrutiny on ski areas and lynx and the impacts to threatened and endangered species, but snowmobile use is growing exponentially with all these new technologies and there’s no accountability,” he says. “So I agree with the Forest Service that this travel plan needs to be dealt with first.”

In the next couple years, Pitcher plans to overhaul his base area, with an expanded ski school, easier access from the parking lots and more outdoor seating around an outdoor grill on a spacious deck.

“People really like to sit outside at a ski area,” he says.

After a long overdue powder day, James Harman and his dad, Dale, are giddy. They are shedding powdery parkas at their rumbling van with Texas plates. This is the 14th year in a row the Fort Worth residents have vacationed at Wolf Creek. They have a bunch of family and friends lodged down the road in Pagosa Springs.

When Harman finished grad school five years ago, he came up to Wolf Creek and

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Go deeper into this story in this episode of The Daily Sun-Up podcast.



The Daily Sun

00:00 / 20:10

“That was a dream,” says the skier with a big Texas belt buckle. “We love it here. The snow is great and the prices are good, too, but really it’s about the atmosphere up here. It’s one of a kind. It’s a big mountain that feels small. A big mountain with a small-hill vibe.”

Dale says he dangled young James between his skis shortly after his son learned to walk.

He starts to share his favorite thing about Wolf Creek but stops short when he sees a reporter’s notebook.

“Wait a second, James,” he says. “We need to tell this man that this is the last place you would ever want to ski.”