

PUBLIC VERSION

ENTERED
Office of Chief Counsel
February 4, 2026
Part of Public Record

SURFACE TRANSPORTATION BOARD

DOCKET NO. AB—1344X**COLORADO PACIFIC RIO GRANDE RAILROAD LLC—ABANDONMENT
EXEMPTION—IN RIO GRANDE COUNTY, COLO.**

**REPLY OF CONCERNED CITIZENS OF SAN LUIS VALLEY
TO JOINT REPLY TO BOARD'S JANUARY 28, 2026 ORDER****I. Introduction**

The Board by order dated January 28, 2026 (the “Order”) directed Hayduk International LLC and Matthew J. Hayduk, would-be substitute offeror, (hereinafter the “Hayduks”) to “respond” to the allegations reported by Counsel for Concerned Citizens of San Luis Valley (“Concerned Citizens”) that the signature on the Verified Statement [REDACTED] was forged [REDACTED] VS”). The Hayduks responded with their Joint Reply and supporting Verified Statement of Matthew J. Hayduk and Exhibits (“Hayduk VS”). The Hayduks labelled their Joint Reply and Hayduk VS “confidential,” even though they do not contain any confidential or proprietary information.

Neither the Hayduks’ Joint Reply nor the Hayduk VS squarely address the central issue of the Board’s Order, whether the signature on the [REDACTED] VS is a forgery. The Hayduks’ Joint Reply solely attacks the authenticity [REDACTED] e-mail (“[REDACTED] E-Mail”) (Exhibit No. 18) containing the forgery and other allegations. In essence, their argument is, since the E-Mail is not authentic, the Hayduks do not need to respond to the forgery allegations contained therein. Their attack on the authenticity of the [REDACTED] E-Mail is without merit. They never straight

forwardly deny that [REDACTED] signature on his Verified Statement was forged. Nor do they expressly state that [REDACTED] approved and authorized the Verified Statement that was submitted with their Offer of Financial Assistance in Exhibit [REDACTED]. They do admit that an [REDACTED]

[REDACTED] For this reason alone, the [REDACTED] Verified Statement should be withdrawn or rejected since it no longer [REDACTED].¹

II. Concerned Citizens Should Be Permitted This Limited Reply

The Board asked the Hayduks to “respond” to the forgery allegation. The Hayduks style their response to the Board’s Order as a “Reply.” The Hayduks “Reply” is not a traditional reply and the rule against replies to replies should not apply. Even if it did, their Joint Reply goes beyond the forgery issue to make new arguments. Concerned Citizens should be allowed this limited reply to the many falsehoods and misrepresentations by the Hayduks attacking the integrity of Concerned Citizens and their Counsel and correct the record on these points.² Rather ironic given the context. The Hayduks are trying to flip the script from whether the [REDACTED] VS is authentic to whether the [REDACTED] E-Mail is authentic.

III. [REDACTED] E-Mail Is Authentic

In their effort to discredit the [REDACTED] E-mail as unauthentic, the Hayduks make numerous false, misleading and unsupported arguments. Concerned Citizens take up these arguments in the order they appear in the Joint Hayduk Reply. Concerned Citizens do not address every

¹ The [REDACTED] VS is the only verified statement submitted by the Hayduks from a supposed shipper.

² The Hayduks’ misrepresentations of the Concerned Citizens’ Reply to Motion for Sanctions and attributing representations to Counsel and Concerned Citizens that were never made violate the Board’s Canon of Ethics, 49 C.F.R. §1103.27(b).

argument of the Hayduks. We focus on those that cast aspersions on the Concerned Citizens and their Counsel.

The Hayduks argue that:

Counsel represents that Mr. [REDACTED] was simply casually browsing the Board website one evening and read a particular filing in this matter that contained his company name and picked up the phone in bewilderment to ask counsel for CCSLV why. Jt. Reply at 2, Para. 3 (emphasis added).

This is false. Counsel for Concerned Citizens represented no such thing. Note that the Hayduks do not cite any reference in the Concerned Citizens' Reply to Motion for Sanctions for this supposed representation. Counsel does not know how Mr. [REDACTED] discovered that his company was mentioned in a Concerned Citizens' filing.

The Hayduks next contend that:

CCSLV represents that Mr. [REDACTED] had no knowledge of the contents of the OFA, after Mr. [REDACTED] stated that he specifically had "got permission" from [REDACTED] to execute a verified statement concerning his locomotive, is highly unlikely. Jt. Reply at 2, Para. 4 (emphasis added).

The Hayduks' statement that Concerned Citizens represented that "Mr. [REDACTED] had no knowledge of the OFA" is false. Again, they do not cite to any reference in the Concerned Citizens' Reply where this supposed representation appears. Any such representation would be nonsensical because the [REDACTED] E-Mail shows that [REDACTED] was familiar with the OFA. The Hayduk VS (Exhibit A) detailing the e-mails and phone calls between Hayduk and [REDACTED] also show that [REDACTED] was familiar with the OFA.

The Hayduks then state that "It is highly suspect that counsel for CCSLV did not enter a copy of this new 'agreement' into the record in support of this supposed change in circumstances." Jt. Reply at 3, Para. 6. The "new agreement" is that mentioned in the [REDACTED] E-Mail where Mr. [REDACTED] states he has reached an agreement to lease his locomotive to [REDACTED]

and no movement of the locomotive is imminent. Counsel for Concerned Citizens did not enter an “agreement” into the record because Counsel did not know whether Mr. [REDACTED] and CXRG had finalized their arrangement for the B30-7 locomotive siting at South Fork and does not have a copy of any agreement that may have been reached. Counsel for Concerned Citizens is not involved in any dealings between Mr. [REDACTED] and CXRG. Counsel recently learned that CXRG filed a letter in this proceeding on February 2, 2026 confirming that CXRG and Mr. [REDACTED] have in fact reached the agreement described in the [REDACTED] E-Mail.

The Hayduks argue the [REDACTED] E-Mail to Counsel for Concerned Citizens is also “highly suspect as it shows no email address for sender/receiver . . . It in fact appears on its face to be a memorandum not an email.” Jt. Reply at 3, Para. 7. On its face it is clearly an email from Mr. [REDACTED] to Ronald M. Johnson, Counsel. The e-mail shows the date and time it was received by Counsel. It includes Mr. [REDACTED] name, company, and phone number. Counsel uses Microsoft Outlook to send and receive e-mails. Counsel does not know why, but when e-mails are printed out from Outlook, they do not always show the e-mail address of the sender and receiver. Counsel did not notice this until seeing the Hayduks’ Joint Reply. Counsel took a screen shot of the e-mail from [REDACTED] to Counsel as it appears in Counsel’s Outlook Inbox. This screen shot shows Mr. [REDACTED] e-mail address [REDACTED]. The screen shot is attached hereto as Exhibit No. 23. This is the same e-mail address for Mr. [REDACTED] shown in the e-mails between Matthew Hayduk and Mr. [REDACTED], included as exhibits to Hayduk’s Verified Statement (Exhibit A). So, a [REDACTED] e-mail to Counsel is “highly suspect,” but e-mails from Mr. [REDACTED] to Matthew Hayduk are authentic. Go figure. The E-mail to Counsel is of course authentic.

The Hayduks argue that “Counsel for CCSLV has admitted to yet another violation of the protective order by providing a confidential document to Mr. [REDACTED], who is not a CCSLV client and without Mr. [REDACTED] having signed an undertaking” Jt. Reply at 3, Para. 10. Again, what does this have to do with the question posed by the Board’s Order to the Hayduks? Counsel has already explained why he does not believe that providing Mr. [REDACTED] with a copy of his own supposed VS violated the Protective Order. *See* Reply to Motion for Sanctions at 4 n.5. The Hayduks admit that if the VS was “already known to Mr. [REDACTED] as his own work product,” providing him a copy would not violate the Protective Order. Jt. Reply at 3.Para.10. The Hayduk VS states that Matthew Hayduk provided several drafts of his VS to Mr. [REDACTED]. *See, e.g.,* Hayduk VS at Para. 7, 10 Thus, the [REDACTED] VS was known to Mr. [REDACTED] long before Counsel provided him a copy.

The Hayduks next argue that “No verified statement was entered into the record by CCSLV to substantiate any of these allegations.” Jt. Reply at 4, Para. 11. Therefore, the [REDACTED] E-Mail is not authentic and should be disregarded. These are two separate issues. The authenticity of the E-Mail is separate from whether the allegations contained therein are true. Counsel for Concerned Citizens has attested to the authenticity of the [REDACTED] E-Mail from personal knowledge. In Concerned Citizens’ Reply to Motion for Sanctions, signed by Counsel, Counsel discusses the phone calls he had with Mr. [REDACTED] and the E-Mail that [REDACTED] sent him. When a counsel signs a pleading, under the Board’s Rules of Practice, counsel is attesting that he “Has read the pleading, document or paper . . .” and “Believes that there is good ground for the document” 49 C.F.R. § 1104.4(a)(1), (3).

While Counsel can attest to the authenticity of the [REDACTED] E-Mail, Counsel cannot attest whether the allegations therein are true. Counsel has represented that an allegation of fraud and

forgery was made to him. Counsel's responsibility under the Board's Rules of Practice is to bring allegations of fraud to the Board's attention, which Counsel did. It is not Concerned Citizens responsibility to provide a verified statement from someone who is not a member of Concerned Citizens and who is not represented by their Counsel.

Finally, the Hayduks argue that there is not "a single shred of proof" that Mr. [REDACTED] is no longer a potential shipper for the Hayduks. Jt. Reply at 4, Para. 15. This is untrue. There is Mr. [REDACTED] statement in the [REDACTED] E-Mail and the February 2, 2026 letter from CXRG confirming their agreement. This Hayduk argument is also inconsistent with their admission that "[t]his new agreement conveniently removed [REDACTED] as a shipper to the benefit of both CXRG and CCSLV." Jt. Reply at 3, Para.5.³

Conclusion

The Hayduks' arguments that the [REDACTED] E-Mail is not authentic and inferences that Concerned Citizens and their Counsel are not to be trusted are without merit as explained in this Reply.

The forgery issue is important for the integrity of the Board's procedures. However resolved, one certainty that has come from this inquiry is that, based on the [REDACTED] E-Mail, as confirmed by the CXRG February 3, 2026 letter, and now admitted by the Hayduks, is that Mr. [REDACTED] is not a potential shipper for them and the facts set forth in his Verified Statement have changed. Thus, independent of the forgery issue, the [REDACTED] VS is no longer operative and should be withdrawn by the Hayduks or, if not, rejected by the Board.

³ The fact that Mr. [REDACTED] is no longer a potential shipper for the Hayduks, if he ever was, does not "benefit" Concerned Citizens. As explained in their Comments and Supplemental Comments, the one-time shipment of a locomotive does not satisfy the Board's OFA standards for showing shipper need for restored freight service.

Respectfully submitted,

/s/Ronald M. Johnson

Ronald M. Johnson
LAW OFFICES OF RONALD M. JOHNSON LLC
4909 Scarsdale Road
Bethesda, MD 20816
(301) 767-5105
rmjohnson@rmjohnsonlaw.com
Counsel for Concerned Citizens of San Luis Valley

Dated: February 4, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February, 2026, a copy of the Reply of Concerned Citizens of San Luis Valley (Public Version) to Joint Reply to Board's January 28, 2026 Order (Confidential) was served on all parties of record in Docket No. AB -1344X electronically and by first class mail.

/s/Ronald M. Johson

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

Docket No. AB-1344X

EXHIBIT 23

[CONFIDENTIAL]