

BEFORE THE
SURFACE TRANSPORTATION BOARD

237013
ENTERED
Office of Proceedings
November 10, 2014
Part of
Public Record

FINANCE DOCKET NO. 35141

U S RAIL CORPORATION—CONSTRUCTION AND OPERATION EXEMPTION—
BROOKHAVEN RAIL TERMINAL

**MOTION FOR LEAVE TO FILE
BROOKHAVEN RAIL TERMINAL AND BROOKHAVEN RAIL, LLC REPLY TO
TOWN OF BROOKHAVEN'S REPLY
TO RESPONDENTS' RESPONSE TO BOARD DIRECTIVE TO FILE PROOF OF
COMPLIANCE WITH SPECIFIED ENVIRONMENTAL CONDITIONS**

Brookhaven Rail Terminal (“BRT”) and Brookhaven Rail, LLC, a Class III rail carrier (“Brookhaven Rail”)(collectively, “Respondents”) move the Surface Transportation Board (“Board”) for leave to file a reply to *Town of Brookhaven’s Reply To Brookhaven Rail Terminal and Brookhaven Rail, LLC September 29, 2014 Response* (filed October 20, 2014) (“Town Reply”).¹ *See*, 49 C.F.R. § 1104.13(c). Leave for Respondents to file a reply should be granted as the Board’s deliberations would be facilitated and administrative economy promoted by the Board having Respondents’ position on three issues directly related to the Response: (1) the Town Reply concedes Respondents’ compliance with Environmental Conditions Nos. 1 and 3; (2) the Town Reply’s contentions concerning BRT’s Spill Prevention Control and Countermeasure Plan are inaccurate and premature, at best; and (3) the Town Reply’s position that “used oil” is a “solid waste” as defined in the Stipulation of Settlement is plainly erroneous. Additionally, Respondents’ Reply addresses new developments arising since the filing of the Response that will be of import to the Board’s deliberations on the Response.

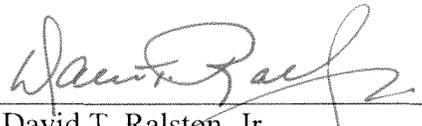
¹ The Town Reply responded to Respondents’ *Response of Brookhaven Rail Terminal and Brookhaven Rail, LLC, To Board Directive To File Proof Of Compliance With Specified Environmental Conditions* (filed September 29, 2014)(“Response”).

Respondents' reply is filed contemporaneously with this motion. This motion is timely brought, as filed within 20 days of the pleading to which it relates. 49 C.F.R. § 1104.13(a).

WHEREFORE, Respondents respectfully move for leave to file a reply to *Town of Brookhaven's Reply To Brookhaven Rail Terminal and Brookhaven Rail, LLC September 29, 2014 Response*.

Respectfully submitted,

Brookhaven Rail Terminal and Brookhaven Rail, LLC

By: 
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Counsel for Brookhaven Rail Terminal and Brookhaven Rail, LLC

Dated: November 10, 2014

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2014, I caused to be served (1) the foregoing Motion for Leave to File Brookhaven Rail Terminal and Brookhaven Rail, LLC Reply to Town of Brookhaven's Reply to Respondents' Response to Board Directive to File Proof of Compliance with Specified Environmental Conditions, and (2) the accompanying Brookhaven Rail Terminal and Brookhaven Rail, LLC Reply to Town of Brookhaven's Reply to Respondents' Response to Board Directive to File Proof of Compliance with Specified Environmental Conditions, by first-class mail, postage prepaid, upon the following Parties of Record in this proceeding:

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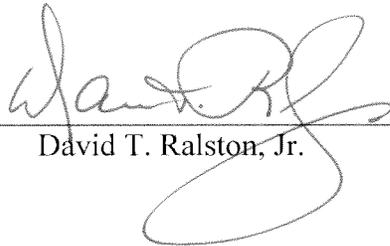
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