

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

309532

FD 36839

**CUMBERLAND & KNOX RAILROAD, LLC —
MODIFIED RAIL CERTIFICATE**

**ENTERED
Office of Proceedings
May 2, 2025
Part of
Public Record**

**CUMBERLAND & KNOX RAILROAD, LLC
MOTION FOR PROTECTIVE ORDER**

 GRANTED	DECISION ID NO.: <u>52601</u>
	DECIDED DATE: <u>6/24/2025</u>
	SERVED DATE: <u>6/27/2025</u>
	APPROVED: <u></u>
	Acting Director
Office of Proceedings	☐

Bradon J. Smith
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Chicago, Illinois 60606
(312) 252-1516

**Attorney for Cumberland & Knox
Railroad, LLC**

Dated: May 2, 2025

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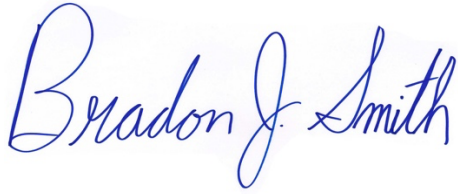
Pursuant to 49 C.F.R. § 1104.14(b), Cumberland & Knox Railroad, LLC (“C&K”) hereby requests that the Board issue a Protective Order allowing C&K to file under seal a confidential version of its modified certificate notice and the underlying lease and operation agreement in the captioned matter.

The notice and the agreement contain commercially sensitive and confidential information of which public release could cause competitive or other injury to C&K. Public disclosure of this sensitive information is not necessary for disposition of C&K’s notice.

C&K thus requests that the Board accept the un-redacted notice (with confidential information denoted by {braces}) and agreement for filing under seal and adopt the proposed Protective Order contained in the appendix hereto to govern access to each. This approach is consistent with that taken by the Board in prior, similar circumstances. *See e.g., The Cincinnati Railway Company — Modified Rail Certificate*, FD 36491 (STB served Mar. 30, 2021).

WHEREFORE, C&K respectfully requests that the Board adopt the Protective Order contained in the appendix to this motion.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bradon J. Smith". The signature is fluid and cursive, with the first name "Bradon" being the most prominent part.

Bradon J. Smith
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(312) 252-1500

**Attorney for the Cumberland & Knox Railroad,
LLC**

Dated: May 2, 2025

APPENDIX

PROTECTIVE ORDER

1. For the purposes of this Protective Order, “Confidential Information” means the un-redacted Notice and supporting materials filed May 2, 2025 in FD 36839 and identified either directly or by designation in {braces}.

2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to Cumberland & Knox Railroad, LLC (“C&K”) of the attached Undertaking. Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial or other competitive purpose.

3. Confidential Information shall not be disclosed in any way or to any person without the written consent of C&K or an order of the Board, and then solely for use in connection with this and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms by executing the attached Undertaking prior to receiving access to this information.

4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on C&K at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom.

5. If the Board retains the Confidential Information, it shall, in order to keep it confidential, treat the information in accordance with the procedure set forth at 49 CFR § 1104.14.

6. If any person intends to use Confidential Information at hearings or otherwise in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, the party shall submit any filings or documents setting forth or revealing such Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at any hearing during discussion of such Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Confidential Information in accordance with the Protective Order.

7. All parties must file simultaneously a public version of any confidential submission filed with the Board. The confidential version may be served on other parties in electronic format only.

8. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

UNDERTAKING

I, _____, have read the Protective Order governing the filing of Confidential Information by the Cumberland & Knox Railroad, LLC (“C&K”) and understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in FD 36839 or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this order and has executed an Undertaking in the form hereof. At the conclusion of this proceeding (including any proceeding on administrative review, judicial review or remand), I will promptly destroy any documents containing or reflecting Confidential Information, other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that C&K shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: _____

Signature: _____

Position: _____

Affiliation: _____