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DECIDED DATE: 7/25/2025
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APPROVED: [Signature]
Acting Director

Office of
Proceedings



BEFORE THE
SURFACE TRANSPORTATION BOARD

309771

ENTERED
Office of Proceedings
July 14, 2025
Part of
Public Record

FD 36866

OPSEU PENSION PLAN TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL HOLDINGS, LLC
-- CONTROL EXEMPTION --
CENTRAL WASHINGTON RAILROAD COMPANY, LLC

**MOTION FOR PROTECTIVE ORDER OF OPSEU PENSION
PLAN TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL HOLDINGS, LLC**

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**ATTORNEY FOR OPSEU PENSION PLAN
TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL
HOLDINGS, LLC**

Dated: July 14, 2025

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SURFACE TRANSPORTATION BOARD

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Pursuant to 49 C.F.R. § 1104.14(b), OPSEU Pension Plan Trust Fund (“OPTrust”), Jaguar Transport Holdings, LLC (“JTH”), and Jaguar Rail Holdings, LLC (“JRH,” and collectively with OPTrust and JTH, “Jaguar”) hereby request that the Board issue a Protective Order sealing and prohibiting disclosure of certain materials relevant to the subject verified notice of exemption.

Jaguar have filed in this docket a notice of exemption under 49 C.F.R. § 1180.2(d)(2) to authorize their acquisition of control of Central Washington Railroad Company, LLC (“CWAR”). Jaguar have concurrently filed an un-redacted, highly confidential copy of the Stock Purchase Agreement (the “Agreement”) under seal subject to this request for a Protective Order.

Certain information contained in the Agreement is proprietary and commercially-sensitive. The attached, proposed Protective Order would allow Jaguar to file the un-redacted Agreement with the Board, and, upon appropriate request, to make that document available to outside counsel for interested parties, subject to

execution of an undertaking. The proposed Protective Order is consistent with other Board-issued protective orders. Accordingly, Jaguar, pursuant to 49 C.F.R. § 1104.14(b), hereby move for the Board to enter a protective order (in the form set forth in the attached) in this proceeding, including the forms of confidentiality undertakings that are appended to it.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

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APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, “Confidential Documents” means documents and other tangible materials containing or reflecting Confidential Information.

2. For purposes of this Protective Order, “Confidential Information” refers to any materials that any interested party may hereafter so designate in this Proceeding, including but not limited to traffic data, the identification of shippers and receivers in conjunction with shipper-specific or other traffic data, the confidential financial and cost data, and other confidential or proprietary business or personal information.

3. For purposes of this Protective Order, “Confidential Documents” means documents and other tangible materials containing or reflecting Confidential Information.

4. For purposes of this Protective Order, “Highly Confidential Documents” means documents and other tangible materials containing or reflecting Highly Confidential Information including, but not limited to, un-redacted versions of the Stock Purchase Agreement tendered to the Board in this Proceeding (the “Agreement”).

5. For purposes of this Protective Order, “Highly Confidential Information” refers to any materials as the submitting party designates, in good faith, as Highly Confidential Information, such as shipper-specific cost or rate data, or other competitively or commercially- sensitive information, submitted under seal on July 14, 2025, in FD 36866, and any other materials that any interested party may hereafter so designate in this Proceeding.

6. For purposes of this Protective Order, “Proceeding” means the proceeding filed under the verified notice of exemption in *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC – Control Exemption – Central Washington Railroad Company, LLC*, FD 36866, pending before the Surface Transportation Board (“Board”), any judicial review arising from said Proceeding, and/or from any related proceedings before the Board.

7. All parties to this Proceeding agree the Agreement is Highly Confidential Information, and the Agreements, any and all copies of thereof, and any and all documents incorporating information copied or otherwise derived therefrom, shall be designated and stamped as “HIGHLY CONFIDENTIAL,” and shall be handled as provided in this Protective Order.

8. Information and documents designated or stamped as “CONFIDENTIAL” may not be disclosed in any way, directly or indirectly, to any person or entity except to an employee, counsel, consultant, or agent of a party to this Proceeding or an employee of such counsel, counsel, consultant, or agent, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing the attached Confidential Undertaking attached to this Protective Order. Confidential Information shall only be provided pursuant to this Protective Order, and only upon the execution and delivery of the

attached Confidential Undertaking to counsel for Jaguar Transport Holdings, LLC in this Proceeding. Confidential Information shall be used solely for the purpose of preparation and presentation of evidence and argument in FD 36866 and related Board proceedings, or judicial review proceedings arising therefrom, and not for any other business, commercial, or other competitive purpose.

9. Highly Confidential Information shall not be disclosed in any way, directly or indirectly, to any employee of a party to this Proceeding, or to any other person or entity except to outside legal counsel, or retained outside consultant, who, before receiving any access to the Highly Confidential Information, has been given and has read a copy of this Protective Order, and has agreed to be bound by its terms by signing the Highly Confidential Undertaking attached to this Protective Order.

10. Any copies or notes or Confidential Documents or Highly Confidential Documents incorporating Confidential and/or Highly Confidential Information (other than file copies retained by outside counsel for a party to this Proceeding) must be destroyed, and notice of such destruction must be served on counsel for Jaguar Transport Holdings, LLC in this Proceeding at the earlier occurrence of (a) such time as the party receiving Confidential and/or Highly Confidential Information withdraws from this Proceeding or (b) the completion of this and any related Board proceedings, or any proceeding or judicial review arising therefrom, including any petitions for reconsideration, appeals, or remands.

11. Any party to this Proceeding may challenge the designation by any other party of information or documents as “CONFIDENTIAL” or as “HIGHLY CONFIDENTIAL” by filing a motion with the Board or with an administrative law judge or other office whom authority has been lawfully delegated by the Board to adjudicate such challenges.

12. If any party intends to use Confidential and/or Highly 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 and/or Highly 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 (a) restrict attendance at any hearing during discussion of such Confidential and/or Highly Confidential Information, and (b) restrict access to the portion of the record or briefs reflecting discussion of such Confidential and/or Highly Confidential Information in accordance with this Protective Order.

13. No party may include Confidential Information and/or Highly Confidential Information in any pleading, brief, discovery request or response, or other document submitted to the Board, unless the pleading or other document is submitted under seal, in a package clearly marked on the outside, as applicable, as “Confidential Materials Subject to Protective Order” or “Highly Confidential Materials Subject to Protective Order.” All pleadings and other documents so submitted shall be kept confidential by the Board and shall not be placed in the public docket in this Proceeding except by order of the Board.

14. No party may include Confidential Information and/or Highly Confidential Information in any pleading, brief, discovery request or response, or other document submitted to any forum other than the Board in this Proceeding unless (a) the pleading or other document is submitted under seal in accordance with this Protective Order, which requires the pleading or other document to be kept confidential by the other forum and not to be placed in the public docket in the Proceeding, or (b) the pleading or other document is submitted under seal, in a package clearly marked on the outside, as applicable, as “Confidential Materials subject to Protective Order” or “Highly Confidential Materials Subject to Protective Order,” and accompanied by a motion to the other forum requesting a protective order requiring that the pleading or other document be kept confidential and not to be placed in the public docket in that forum’s proceedings, and requesting that if the motion is not granted by that forum, that the pleading or other document be returned to the filing party.

15. No party may present or otherwise use Confidential and/or Highly Confidential Information at a Board hearing in this Proceeding, unless that party has previously submitted, under seal, all proposed materials or exhibits containing or reflecting Confidential and/or Highly Confidential Information to the Board, and has accompanied such submission with a written request that the Board (a) restrict attendance at the hearing during any discussion of Confidential and/or Highly Confidential Information and (b) restrict access to any portion of the record, pleadings, or other briefs reflecting discussion of Confidential and/or Highly Confidential Information in accordance with this Protective Order.

16. No party may present or otherwise use Confidential and/or Highly Confidential Information at any deposition held in connection with this Proceeding without advising counsel for the party producing Confidential and/or Highly Confidential Information, counsel for the deponent, and all other counsel at the deposition. Attendance at any portion of the deposition at which Confidential and/or Highly Confidential Information is used or discussed shall be restricted to persons who may review it under the terms of this Protective Order. All portions of transcripts or exhibits which incorporate, refer to, or otherwise disclose Confidential and/or Highly Confidential Information shall be filed under seal and be otherwise handled as provided in this Protective Order.

17. To the extent that any materials reflecting Confidential and/or Highly Confidential Information are produced by a party to this Proceeding, and are held and/or used by the receiving person in compliance with this Protective Order, such production, disclosure, holding, and/or use of Confidential and/or Highly Confidential Information are deemed essential for the disposition of this and any related proceedings, and will not be deemed a violation of 49 U.S.C. § 11904, or any other relevant provision of the Interstate Commerce Commission Termination Act of 1995.

18. Nothing in this Protective Order shall restrict the right of any party to this Proceeding to disclose voluntarily any Confidential and/or Highly Confidential Information originated by that party, if such Highly Confidential Information does not incorporate or otherwise reflect any Highly Confidential Information originated by any other party to this Proceeding.

19. If the Board retains Confidential and/or Highly Confidential Information, it shall treat the Confidential and/or Highly Confidential Information in accordance with the procedures set forth at 49 C.F.R. § 1104.14.

20. All parties must file simultaneously a public version of any Confidential and/or Highly Confidential submission filed with the Board. The highly confidential version may be served on other parties in electronic format only.

21. All parties must comply with 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.

CONFIDENTIAL UNDERTAKING

I, _____, have read the Protective Order governing the filing of materials designated as “Confidential” in FD 36866, and any other materials that any interested party may hereafter so designate in this Proceeding (“Confidential Information”), understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents obtained pursuant to this Undertaking, or to use or permit the use of any methodologies or techniques disclosed or information learned as a result of receiving such Confidential Information or Confidential Documents, for any purpose other than the preparation and presentation of evidence and argument in connection with FD 36866, or any judicial review or proceeding taken or filed in connection therewith. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to this Protective Order to any person who is not also bound by the terms of this Protective Order and has not executed an Undertaking in the form hereof, and that at the conclusion of this proceeding (including any proceeding or administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as “CONFIDENTIAL,” 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 Confidential Undertaking and that OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC or other parties producing Confidential Information or Confidential Documents shall be entitled to specific performance and injunctive and/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 Confidential Undertaking but shall be in addition to all remedies available at law or equity.

Signature: _____

Position: _____

Dated: _____

HIGHLY CONFIDENTIAL UNDERTAKING

I, _____, am outside [counsel] [consultant] for _____, for whom I am acting in this Proceeding. I certify that I have read the Protective Order governing the filing of Highly Confidential Information tendered in this FD 36866 Proceeding by OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC (collectively, “Jaguar”), understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Highly Confidential Information or Highly Confidential Documents obtained under this Highly Confidential Undertaking, or to use or permit the use of any methodologies or techniques 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 36866, or any administrative or judicial review proceedings taken or filed in connection therewith. I further understand and agree not to disclose any information obtained under this Protective Order to any person who is not also bound by the terms of this Protective Order and has executed a Highly Confidential Undertaking in the form hereof.

I further understand and agree, as a condition precedent to receiving, viewing, or using copies of any information in this Proceeding, that I will take all necessary steps to ensure that Highly Confidential Information and Highly Confidential Documents will be kept on a highly confidential basis by any outside counsel or consultants working with me; that under no circumstances will I permit access to the Highly Confidential Information or Highly Confidential Documents by any employees, my client, or its subsidiaries, affiliates, or owners; and that at the conclusion of this Proceeding (including any administrative or judicial review or remand), I will destroy all documents containing or reflecting materials designated or stamped as “HIGHLY CONFIDENTIAL,” 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 Highly Confidential Undertaking, and that Jaguar or other parties producing Highly Confidential Information or Highly Confidential Documents shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and 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 Highly Confidential Undertaking but shall be in addition to all remedies available at law or in equity.

Signature: _____
Outside [Counsel] [Consultant]

Dated: _____