

312321

BEFORE THE SURFACE TRANSPORTATION BOARD

ENTERED

STB Docket No. FD 36883

Office of Chief Counsel

September 14, 2026

Part of

Public Record

SUNRISE INDUSTRIAL RAIL, LLC

—LEASE AND CHANGE IN OPERATOR EXEMPTION—

RAILROAD LINES OF BROOKHAVEN LOGISTICS CENTER, LLC, IN
SUFFOLK COUNTY, N.Y.

Motion for Protective Order

 GRANTED Office of Chief Counsel	DECISION ID NO.: <u>53272</u>
	DECIDED DATE: <u>10/02/2026</u>
	SERVED DATE: <u>10/02/2026</u>
	APPROVED: <u><i>Andre Lam</i></u> Chief Counsel
	☐ _____

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LLC*

Dated: September 14, 2026

Under 49 C.F.R. § 1104.14(b), Brookhaven Logistics Center, LLC (BLC) respectfully requests that the Board issue the proposed protective order attached as Appendix 1 for this proceeding. The proposed order's conditions are consistent with those the Board has issued in other proceedings.¹

BLC seeks a protective order to keep confidential certain records and information it submits to the Board with its request for a *State of Maine* determination that it is filing simultaneously in this proceeding. With that request, BLC is submitting a lease agreement between BLC and Sunrise Industrial Rail, LLC (Sunrise) containing competitively sensitive provisions, including nonpublic pricing terms.

For these reasons, BLC respectfully requests that the Board issue the attached protective order.

Respectfully submitted,

/s/ Jason D. Tutrone
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¹ See, e.g., *Canadian Nat'l Ry.—Control—Iowa N. Ry.*, FD 36744 (STB served Feb. 8, 2024); *Mexico Transportes, S.A.B. de C.V.—Acquisition of Control Exemption—CG Ry.*, FD 36701 (STB served Jan. 5, 2024).

APPENDIX 1

Protective Order

1. For purposes of this Protective Order:
 - (a) “Confidential Material” means information, data, documents, or other material (collectively, “Material”) subject to a confidentiality agreement or containing proprietary or confidential information.
 - (b) “Designated Material” means Material designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” under paragraphs 2 or 3 of this Protective Order and any Confidential Material in or derived from such Materials.
 - (c) “Proceeding” means the proceeding before the Surface Transportation Board (“Board”) in STB Docket No. FD 36883, any related Board proceedings, and any judicial review proceedings arising from them.
2. If a party determines in good faith that Material it submits or produces in filings or otherwise in this Proceeding is Confidential Material, it may designate and stamp that Material “CONFIDENTIAL.”
3. If a party determines in good faith that Material it submits or produces in filings or otherwise in this Proceeding is Confidential Material containing competitively sensitive information, or is subject to or contains content subject to a confidentiality agreement prohibiting disclosure to anyone other than outside counsel or consultants who need to access the material, the party may designate and stamp that Confidential Material “HIGHLY CONFIDENTIAL.”
4. No person or entity that receives Material designated “CONFIDENTIAL” may disclose it, directly or indirectly, to anyone except an employee, counsel, or agent of a party to this Proceeding, or an employee of such counsel, consultant, or agent, who needs to know, handle, or review the Material for this Proceeding or any judicial review proceeding arising from it and who, before gaining access, has been given this Protective Order, has agreed to its provisions by signing the undertaking at Exhibit A, and has provided a signed copy to the disclosing party. Upon request, each party that discloses or receives Confidential Material shall provide a copy of its undertaking to the party that originally designated the Material “CONFIDENTIAL.”
5. No person or entity that receives Material designated “HIGHLY CONFIDENTIAL” may disclose it, directly or indirectly, to any employee of a party to this Proceeding, or to anyone except outside counsel or an outside consultant of a party to this Proceeding, or an employee of such outside counsel or outside consultant, who needs to know, handle, or review the Material for this Proceeding

and who, before gaining access, has received this Protective Order, agreed to its provisions by signing the undertaking at Exhibit B, and provided a signed copy to the disclosing party. Upon request, each party that discloses or receives such Material shall provide a copy of its undertaking to the party that originally designated the Material “HIGHLY CONFIDENTIAL.”

6. Any party to this Proceeding may challenge another party’s designation of Material as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” by filing a motion with the Board or with an administrative law judge or other officer the Board has authorized to adjudicate such challenges.

7. No person or entity receiving Designated Material may use it for any purpose, including any business, commercial, or competitive purpose, other than this Proceeding or judicial review proceedings arising from it.

8. Any party that receives Designated Material, and its employees, counsel, and agents, shall destroy that Designated Material and any notes or documents reflecting it at the earlier of: (1) when the receiving party withdraws from this Proceeding, or (2) when this Proceeding concludes, including any petitions for reconsideration, appeals, or remands. However, a party’s counsel and consultants may retain file copies of all pleadings they were authorized to review under this Protective Order.

9. No party may include Designated Material in any document physically submitted to the Board unless the document is submitted under seal, in a package clearly marked on the outside as “Confidential Materials Subject to Protective Order.” *See* 49 C.F.R. § 1104.14. No party may include Designated Material in any document filed electronically with the Board unless identified as “Confidential” on the Board’s electronic submission form. The Board shall keep all documents submitted under this paragraph confidential and shall not place them in the public docket in this Proceeding except by order of the Board or an administrative law judge or other officer exercising authority the Board has lawfully delegated.

10. No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to any forum other than the Board in this Proceeding unless (1) the document is submitted under seal under a protective order requiring the tribunal to keep it confidential and exclude it from the public docket, or (2) the document is submitted in a sealed package clearly marked “Confidential Materials Subject to Request for Protective Order” (or submitted electronically in an equivalent manner) and accompanied by a motion requesting a protective order to keep the document confidential and exclude it from the public docket, and requesting that if the tribunal denies the motion, it return the document to the filing party.

11. No party may present or use any Designated Material at a Board hearing in this Proceeding, or in any judicial review proceeding arising from it, unless that party has first submitted under seal all proposed exhibits and other documents containing or reflecting such Designated Material to the Board, an administrative law judge, or another officer the Board has authorized, together with a written request that the Board, administrative law judge, or other officer (a) restrict hearing attendance during any discussion of such Designated Material, and (b) restrict access to any portion of the record or briefs reflecting such discussion under this Protective Order.

12. If any party intends to use Designated Material during a deposition in this Proceeding, that party shall notify counsel for the producing party, counsel for the deponent, and all other attending counsel. Only persons authorized to review that material under this Protective Order may attend any portion of the deposition where Designated Material is used or discussed. All deposition transcript portions or exhibits that contain, refer to, or disclose Designated Material shall be filed under seal and handled according to their designation under this Protective Order.

13. To the extent a party produces Materials reflecting Confidential Information in this Proceeding and the receiving person holds and uses them in compliance with this Protective Order, producing, disclosing, holding, and using those materials and the data they contain are deemed essential to disposing of this and any related proceedings and will not violate 49 U.S.C. § 11904 or any other relevant provision of the ICC Termination Act of 1995.

14. Any party that files a document containing Confidential Material with the Board must simultaneously file a public version that redacts any “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” material. But no party need prepare a “CONFIDENTIAL” or public version of “HIGHLY CONFIDENTIAL” or “CONFIDENTIAL” exhibits filed in and primarily useful in their native electronic format, such as Microsoft Excel spreadsheets used to perform calculations, nor need any party prepare “CONFIDENTIAL” or public versions of materials submitted solely as workpapers.

15. All parties must comply with this Protective Order unless the Board or an authorized administrative law judge or other officer finds good cause to suspend any of its provisions.

16. Nothing in this Protective Order restricts any party’s right to voluntarily disclose Confidential Material it originated, so long as that material does not contain or reflect Confidential Material another party originated.

EXHIBIT A

Undertaking—Confidential Material

I, _____, have read the Protective Order served on _____, 2026, governing the production and use of Confidential Material in STB Docket No. FD 36883 (the Proceeding), understand it, and agree to its terms. I will not use or allow others to use any Confidential Material obtained under that Protective Order, or any methodologies, techniques, or information learned from receiving such data, documents, or information, for any purpose other than preparing and presenting evidence and argument in the Proceeding or any related judicial review proceedings. I will disclose Confidential Material, documents, methodologies, techniques, or data obtained under the Protective Order only to persons bound by the Order who have signed Undertakings in this form. At the conclusion of the Proceeding (including any administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated “CONFIDENTIAL,” other than file copies kept by counsel and outside consultants of pleadings and other documents they were authorized to review under the Protective Order.

I understand and agree that money damages would not sufficiently remedy a breach of this Undertaking and that parties producing Confidential Material may obtain specific performance, injunctive relief, or other equitable remedies for any breach. I further waive any requirement to secure or post a bond for such a remedy. These remedies supplement and do not replace all other remedies available at law or in equity.

Signed: _____

Name: _____

Affiliation: _____

Dated: _____

EXHIBIT B
Undertaking—Highly Confidential Material

I, _____ am outside [counsel][consultant] for _____, for whom I am acting in this proceeding. I have read the Protective Order served on _____, 2026, governing the production and use of Highly Confidential Material in STB Docket No. FD 36883 (the Proceeding), understand it, and agree to its terms. I will not use or allow others to use any Highly Confidential Material obtained under that Protective Order, or any methodologies, techniques, or information learned from receiving such documents, data, or information, for any purpose other than preparing and presenting evidence and argument in the Proceeding or any related judicial review proceedings. I will disclose Highly Confidential Material, methodologies, techniques, or data obtained under the Protective Order only to persons bound by the Order who have signed undertakings in this form.

I also understand and agree, as a condition of receiving, reviewing, or using any information or documents designated “HIGHLY CONFIDENTIAL,” that I will take all necessary steps to ensure any outside counsel or consultants working with me keep that information and those documents confidential; that I will not under any circumstances allow my client’s employees, or the employees of its subsidiaries, affiliates, or owners, to access those materials or information; and that at the conclusion of the Proceeding (including any administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting information designated “HIGHLY CONFIDENTIAL,” other than file copies kept by outside counsel and consultants of pleadings and other documents they were authorized to review under the Protective Order.

I understand and agree that money damages would not sufficiently remedy a breach of this Undertaking and that parties producing Highly Confidential Material may obtain specific performance, injunctive relief, or other equitable remedies for any breach. I further waive any requirement to secure or post a bond for such a remedy. These remedies supplement and do not replace all other remedies available at law or in equity.

Signed: _____

OUTSIDE [COUNSEL] [CONSULTANT]

Name: _____

Affiliated Party: _____

Dated: _____

Certificate of Service

I certify that I have this September 14, 2026, served copies of this document upon all parties of record in this proceeding, by email.

/s/ Jason D. Tutrone