

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 36099

INDIANA HARBOR BELT RAILROAD COMPANY—
TRACKAGE RIGHTS—CONSOLIDATED RAIL
CORPORATION, CSX TRANSPORTATION, INC.,
AND NORFOLK SOUTHERN RAILWAY COMPANY

242616
242619
242623
242626

ENTERED
Office of Proceedings
February 13, 2017
Part of
Public Record

STB FINANCE DOCKET NO. 36100

CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS—
CONSOLIDATED RAIL CORPORATION AND NORFOLK SOUTHERN
RAILWAY COMPANY

STB FINANCE DOCKET NO. 36101

NORFOLK SOUTHERN RAILWAY COMPANY—TRACKAGE RIGHTS—
CONSOLIDATED RAIL CORPORATION AND CSX TRANSPORTATION, INC.

STB FINANCE DOCKET NO. 36102

CONSOLIDATED RAIL CORPORATION—TRACKAGE RIGHTS—
CSX TRANSPORTATION, INC., AND NORFOLK SOUTHERN
RAILWAY COMPANY

VERIFIED NOTICES OF EXEMPTION

MOTION FOR PROTECTIVE ORDER

Pursuant to 49 C.F.R. § 1104.14(b), The Indiana Harbor Belt Railroad Company,
Consolidated Rail Corporation, CSX Transportation, Inc., and Norfolk Southern Railway
Company (collectively, “The Parties”) hereby request that the Surface Transportation Board

(“Board” or “STB”) issue a protective order allowing them to file under seal the unredacted Trackage Rights Agreement (“Agreement”) that is the subject of the above-captioned dockets.

Concurrently, The Parties are filing Verified Notices of Exemption pursuant to 49 C.F.R. § 1180.2(d)(7) for acquisition of the trackage rights covered by the Agreement. The Parties are submitting a redacted version of the Agreement with their filing and an unredacted version is being filed under seal.

The unredacted Agreement contains commercially sensitive and confidential compensation information, the public release of which would cause competitive or other injury to The Parties. Public disclosure of the unredacted Agreement is not necessary for the consideration or disposition of The Parties’ Notices of Exemption.

The proposed protective order complies with Board rules and is modeled after protective orders the Board has issued in past adjudications. *See, e.g., CSX Transportation, Inc.—Trackage Rights Exemption—Grand Trunk Western Railroad Co.*, STB Docket No. 36046 (served October 6, 2016); *Union Pacific Railroad Co.—Trackage Rights Exemption—BNSF Railway Co.*, STB Docket No. 36035 (served June 19, 2016).

For the reasons set forth above, The Parties respectfully request that the Board grant this motion and adopt the protective order attached hereto.

Respectfully submitted,

Handwritten signature of Joel Cornfeld in black ink, with a horizontal line underneath.

Joel Cornfeld
Indiana Harbor Belt Railroad Company
2721 161st Street
Hammond, IN 46323-1099

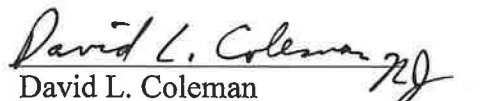
*Counsel for Indiana Harbor Belt Railroad
Company*


Robert M. Jenkins III
Mayer Brown LLP
1999 K Street, NW
Washington, D.C. 20006-1101

Counsel for Consolidated Rail Corporation


Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Counsel for CSX Transportation, Inc.


David L. Coleman
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

Counsel for Norfolk Southern Railway Company

Dated: February 13, 2017

APPENDIX
PROTECTIVE ORDER

1. For purposes of this Protective Order Confidential Information means the unredacted Trackage Rights Agreement between The Indiana Harbor Belt Railroad Company, Consolidated Rail Corporation, CSX Transportation, Inc., and Norfolk Southern Railway Company (collectively, "The Parties") filed under seal on February 13, 2017, in Docket Nos. FD 36099, 36100, 36101, and 36102.
2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to The Parties of the attached Undertaking. Confidential Information shall be used solely for the purpose of these and any related Surface Transportation Board ("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 The Parties or an order of the Board, and then solely for use in connection with these 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 The Parties, at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom.
5. If any party 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.
6. 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.
7. 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.

Exhibit A

UNDERTAKING-CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order governing the production and use of Confidential Information in STB Docket Nos. FD 36099, 36100, 36101, and 36102, understand the same, and agree to be bound by its terms. I agree not to use or to permit the use of any Confidential Information obtained pursuant to that Protective Order, or to use or to permit the use of any methodologies or 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 STB Docket Nos. FD 36099, 36100, 36101, and 36102, or any judicial review proceedings in connection therewith. I further agree not to disclose any Confidential Information, methodologies, techniques, or data obtained pursuant to the Protective Order to any person who is not also bound by the terms of the 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 The Parties or other parties producing Confidential Information 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.

Signed: _____

Name: _____

Affiliation: _____

Dated: _____