

Before the
Surface Transportation Board
Finance Docket No. 35873

237477
ENTERED
Office of Proceedings
January 14, 2015
Part of
Public Record

NORFOLK SOUTHERN RY. CO.
- ACQUISITION AND OPERATION APPLICATION -
CERTAIN LINES OF THE DELAWARE AND HUDSON RY.

MOTION FOR A PROTECTIVE ORDER PURSUANT TO 49 CFR 1104.14

Comes now James Riffin ("Riffin"), pursuant to 49 CFR 1104.14, who herewith requests that the Board issue a protective order allowing Riffin to make available to the Board, under seal, certain highly confidential documents and information in connection with the Acquisition and Operation Application in the above captioned case. Such highly confidential documents include marketing and operational information, which Riffin does not want published in the public docket. Accordingly, Riffin requests that the Board adopt the protective order contained in the appendix hereto.

An electronic version of the public version is being e-filed with the STB. The highly confidential portion is being sent to the STB via overnight delivery service.

Respectfully submitted,

/s/ James Riffin
James Riffin

Filed: January 14, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 2015, a copy of the foregoing Motion for Protective Order, was served by first class mail, postage prepaid, or by e-mail, upon the Parties of Record noted below.

/s/ James Riffin
James Riffin

First class mail:

Samuel J. Nasca / SMART: Gordon P. MacDougall 1025 Connecticut Ave NW
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U.S. Clay Producers Assoc:	Vincent P. Szeligo:	vszeligo@wsmoslaw.com

APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, “Highly Confidential Information” means the data and documents appended to this Protective Order and furnished to the Board by James Riffin (“Riffin”) in connection with Norfolk Southern’s Application, in the above-captioned matter, STB Finance Docket No. 35873.

2. Highly Confidential information shall be provided to Outside Counsel of any party to this proceeding only pursuant to this Protective Order and only upon execution and prior delivery to Riffin of the attached Undertaking. Highly 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 any other purpose. Highly Confidential Information shall not be provided or disclosed to any person or entity who is not Outside Counsel to a party to this proceeding.

3. Highly Confidential Information shall not be disclosed in any way or to any person without the prior written consent of Riffin, or an order of the Board, 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 and has executed the attached Undertaking prior to receiving access to this information.

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

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

6. If any party intends to use Highly Confidential Information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, the party shall submit any documents setting forth or revealing such 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 (i) restrict attendance at the hearing during discussion of such Highly Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Highly Confidential Information in accordance with the Protective Order.

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.

UNDERTAKING

HIGHLY CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order governing the filing of Highly Confidential Information by James Riffin (“Riffin”) in STB Finance Docket No. 35873, 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 the 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 preservation of evidence and argument in STB Finance Docket No. 35873, 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 Protective Order and has executed an Undertaking in the form hereof.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that Riffin 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 Undertaking, but shall be in addition to all other remedies available at law or equity.

Signed: _____ Address: _____

Position: _____

Affiliation: _____ Telephone: _____

Dated: _____

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35873

**NORFOLK SOUTHERN RY. CO.
- ACQUISITION AND OPERATION APPLICATION -
CERTAIN LINES OF THE DELAWARE AND HUDSON RY.**

REDACTED VERSION OF HIGHLY CONFIDENTIAL INFORMATION

Market and operational information – REDACTED.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 2015, a copy of the foregoing Redacted version of market and operational information, was served by first class mail, postage prepaid, or by e-mail, upon the Parties of Record noted below.

/s/ James Riffin
James Riffin

First class mail:

Samuel J. Nasca / SMART: Gordon P. MacDougall 1025 Connecticut Ave NW
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E-mail:

Brotherhood of MOW Employees:	Richard Edelman:	REdelman@odsawalaw.com
Brotherhood of Locomotive		
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HIGHLY CONFIDENTIAL INFORMATION