

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 35816

CHAI TRUST COMPANY, LLC, EGI FUND (14-16)
INVESTORS, L.L.C., AND EGI-IPH INVESTORS, L.L.C.
-- CONTROL EXEMPTION --
IOWA PACIFIC HOLDINGS, LLC
AND PERMIAN BASIN RAILWAYS, INC.

MOTION FOR PROTECTIVE ORDER OF
CHAI TRUST COMPANY, LLC, EGI FUND (14-16) INVESTORS, L.L.C.,
AND EGI-IPH INVESTORS, L.L.C.

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EGI FUND (14-16) INVESTORS, L.L.C.,
AND EGI-IPH INVESTORS, L.L.C.

Dated: April 7, 2014

 GRANTED	DECISION ID NO.: <u>43746</u>
	DECIDED DATE: <u>4/21/14</u>
	SERVICE DATE: <u>4/23/14</u>
	APPROVED: <u>Pachel Campbell</u> Director
Office of Proceedings	☐

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AND EGI-IPH INVESTORS, L.L.C.**

Pursuant to 49 C.F.R. § 1104.14(b), Chai Trust Company, LLC, EGI-Fund (14-16) Investors, L.L.C., and EGI-IPH Investors, L.L.C. (collectively, "Chai-EGI") hereby request that the Board issue a protective order allowing Chai-EGI to file under seal a draft Unit Purchase and Investment Agreement between EGI-IPH Investors, L.L.C. ("EGI-IPH Investors") and Iowa Pacific Holdings, LLC ("IPH") which, when finalized, will govern the transaction that is the subject of the above-docketed proceeding.

Chai-EGI is filing concurrently herewith a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) for Chai-EGI's acquisition of control of IPH and Permian Basin Railways, Inc. (collectively, "Permian Basin"), and the various railroad common carriers currently under the control of Permian Basin. Chai-EGI has included under seal a draft (confidential) version of the Unit Purchase and Investment Agreement between EGI-IPH Investors and IPH as Exhibit B to its notice of exemption pursuant to 49 C.F.R. § 1180.6(a)(7)(ii), subject to this request for a protective order. The draft Unit Purchase and

Investment Agreement is the subject of extensive private negotiations, and it contains commercially sensitive and confidential terms and information the public release of which could cause competitive or other injury to Chai-EGI and/or Permian Basin. Public disclosure of the draft agreement also is not necessary for the consideration or disposition of the subject acquisition of control notice of exemption.

Chai-EGI thus requests that the Board accept the draft Unit Purchase and Investment Agreement for filing under seal, and that it adopt the proposed protective order contained in the appendix hereto to govern access to the agreement. This approach is consistent with that previously taken by the Board in similar circumstances. See, e.g., Iowa Pacific Holdings, LLC and Permian Basin Railways – Control Exemption – Cape Rail, Inc. and Massachusetts Coastal Railroad, LLC, STB Docket No. FD 35684 (STB served Oct. 26, 2014); Michael Williams – Control Exemption – St. Maries River Railroad, Inc., STB Docket No. FD 35365 (STB served Apr. 28, 2010); and Genesee & Wyoming, Inc. – Control Exemption – Columbus and Greenville Railway Company, et al., STB Docket No. FD 35139 (STB served May 13, 2008).

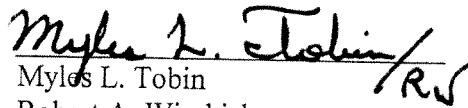
WHEREFORE, Chai-EGI respectfully requests that the Board adopt the protective order contained in the appendix hereto.

Respectfully submitted,

John D. Heffner
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Washington, DC 20036
(202) 742-8607

**ATTORNEYS FOR IOWA PACIFIC
HOLDINGS, LLC AND PERMIAN
BASIN RAILWAYS, INC.**

Dated: April 7, 2014

Handwritten signature of Myles L. Tobin in black ink, with a stylized 'RV' or similar mark to the right.

Myles L. Tobin
Robert A. Wimbish
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Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR
CHAI TRUST COMPANY, LLC,
EGI FUND (14-16) INVESTORS, L.L.C.,
AND EGI-IPH INVESTORS, L.L.C.**

APPENDIX

PROTECTIVE ORDER

1. For the purposes of this Protective Order, “Confidential Information” means the draft Unit Purchase and Investment Agreement between EGI-IPH Investors, L.L.C. (“EGI-IPH Investors”) and Iowa Pacific Holdings, LLC filed under seal on April 7, 2014 in STB Docket No. FD 35816.
2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to EGI-IPH Investors 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 EGI-IPH Investors 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 EGI-IPH Investors, 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 C.F.R. § 1104.14.
6. 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.
7. Any party that files with the Board a document containing Confidential Information must simultaneously file with the Board a public version of that document.
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 production and use of Confidential Information of EGI-IPH Investors, L.L.C. ("EGI-IPH Investors") in STB Docket No. FD 35816, 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 STB Docket No. FD 35816 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 EGI-IPH Investors 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: _____