

SERVICE DATE – JUNE 27, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 659X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN ALLEGANY
COUNTY, MD

MOTION FOR PROTECTIVE ORDER

Decided: June 26, 2006

On June 14, 2006, WMS LLC (WMS) filed a request to substitute for WMS as its corporate affiliate James Riffin (Mr. Riffin) as the prospective purchaser of the line at issue in this Offer of Financial Assistance (OFA) proceeding in the above-captioned abandonment exemption.¹ On the same date, WMS and Mr. Riffin also filed a motion for protective order, pursuant to 49 CFR 1104.14, to allow WMS and Mr. Riffin to file under seal certain confidential documents and information in connection with this OFA proceeding.² Such confidential documents may include information regarding the financial holdings of WMS's member and principal investor, Mr. Riffin, as well as other confidential commercial information.

The motion conforms with the Board's rules at 49 CFR 1104.14 governing requests for protective orders to maintain confidentiality of materials submitted to the Board. Accordingly, the motion for protective order will be granted, subject to the Protective Order and Undertaking contained in the Appendix to this decision. Issuance of the protective order will ensure that confidential information will be used solely for this proceeding and not for other purposes.

It is ordered:

1. WMS's and Mr. Riffin's motion for protective order is granted, and the Protective Order and Undertaking contained in the Appendix to this decision are adopted.

2. WMS's and Mr. Riffin's confidential information will be kept under seal by the Board and not placed in the public docket or otherwise disclosed to the public, unless the attached Undertaking is executed and the terms of the Protective Order are followed, or unless otherwise ordered by the Board.

¹ The merits of this request will be addressed in a later decision.

² A proposed Protective Order and Undertaking were included with the motion, along with the confidential material.

3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, “confidential information” means the financial data and all other documents furnished to the Board by WMS LLC (WMS) and James Riffin (Mr. Riffin) in connection with the Offer of Financial Assistance and Petition to Substitute Purchaser in the above-captioned matter.

2. Confidential information shall be provided to any employee, agent, counsel, or consultant of any party to this proceeding only pursuant to this Protective Order and only upon execution and delivery to WMS and Mr. Riffin, 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 WMS and Mr. 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 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 WMS and Mr. Riffin at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes later.

5. If the Board retains the confidential information, it shall, in order to keep it confidential, treat the information in accordance with the procedures set forth at 49 CFR 1104.14.

6. If any party intends to use 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 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 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. A party must file simultaneously a public version of any confidential submission it files with the Board.

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

CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order governing the filing of confidential information by WMS LLC (WMS) and James Riffin (Mr. Riffin) in STB Docket No. AB-55 (Sub-No. 659X), 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 preservation of evidence and argument in STB Docket No. AB-55 (Sub-No. 659X) 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.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that WMS and Mr. 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 remedies available at law or equity.

Signed: _____

Position: _____

Affiliation: _____

Dated: _____