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ENTERED
Office of Proceedings
September 13, 2019

Part of
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September 13, 2019

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

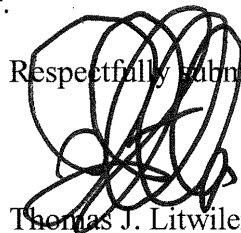
Re: **Docket No. FD 36345**
First State Infrastructure Managers (International) Limited,
Global Diversified Infrastructure Fund (North America) LP,
and Mitsubishi UFJ Financial Group, Inc. – Acquisition of
Control Exemption – SteelRiver Transport Ventures LLC
and Patriot Rail Company LLC

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Motion for Protective Order of First State Infrastructure Managers (International) Limited, Global Diversified Infrastructure Fund (North America) LP, and Mitsubishi UFJ Financial Group, Inc. Pursuant to 49 C.F.R. § 1180.2(d)(2), dated September 13, 2019.**

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,



Thomas J. Litwiler
Attorney for First State Infrastructure Managers
(International) Limited, Global Diversified
Infrastructure Fund (North America) LP and
Mitsubishi UFJ Financial Group, Inc.

TJL:tl

Attachment

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36345

FIRST STATE INFRASTRUCTURE MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE FUND (NORTH AMERICA) LP
AND MITSUBISHI UFJ FINANCIAL GROUP, INC.
-- ACQUISITION OF CONTROL EXEMPTION --
STEELRIVER TRANSPORT VENTURES LLC
AND PATRIOT RAIL COMPANY LLC

**MOTION FOR PROTECTIVE ORDER OF
FIRST STATE INFRASTRUCTURE MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE FUND (NORTH AMERICA) LP
AND MITSUBISHI UFJ FINANCIAL GROUP, INC.**

Thomas J. Litwiler
Robert A. Wimbish
Audrey L. Brodrick
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**ATTORNEYS FOR
FIRST STATE INFRASTRUCTURE
MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE
FUND (NORTH AMERICA) LP AND
MITSUBISHI UFJ FINANCIAL GROUP, INC.**

Dated: September 13, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36345

FIRST STATE INFRASTRUCTURE MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE FUND (NORTH AMERICA) LP
AND MITSUBISHI UFJ FINANCIAL GROUP, INC.
-- ACQUISITION OF CONTROL EXEMPTION --
STEELRIVER TRANSPORT VENTURES LLC
AND PATRIOT RAIL COMPANY LLC

**MOTION FOR PROTECTIVE ORDER OF
FIRST STATE INFRASTRUCTURE MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE FUND (NORTH AMERICA) LP
AND MITSUBISHI UFJ FINANCIAL GROUP, INC.**

Pursuant to 49 C.F.R. § 1104.14(b), First State Infrastructure Managers (International) Limited (“FSIM”) and Global Diversified Infrastructure Fund (North America) LP (“GDIF-US”), together with Mitsubishi UFJ Financial Group, Inc. as the ultimate parent entity of FSIM (“MUFG” and, collectively with FSIM and GDIF-US, “First State”), hereby request that the Board issue a Protective Order allowing First State to file under seal an unredacted copy of a Purchase and Sale Agreement dated as of August 24, 2019 (“PSA”) which is related to and bears upon the control transaction that is the subject of this proceeding.

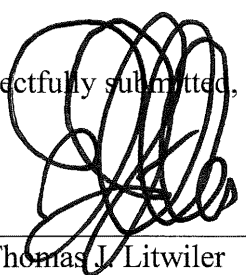
First State is concurrently filing a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) for First State to acquire control of Steel River Transport Ventures LLC (“SRTV”) and its indirect subsidiary Patriot Rail Company LLC (“Patriot”), both non-carriers which indirectly control 14 Class III rail carriers. First State has attached a redacted version of the aforementioned PSA as Exhibit 2 to its notice of exemption pursuant to 49 C.F.R.

§ 1180.6(a)(7)(ii), and has filed concurrently herewith an unredacted copy of that document under seal subject to this request for a Protective Order.

The information redacted from the public version of the PSA is highly confidential and commercially sensitive. The proposed protective order will enable First State to file the unredacted agreement with the Board, and upon appropriate request, to make that document available to outside counsel for interested parties, subject to execution of the appropriate undertaking. The proposed protective order is consistent with other protective orders previously issued by the Board. Accordingly, First State, pursuant to 49 C.F.R. § 1104.14(b), hereby moves for the Board to enter a protective order (in the form set forth in the appendix hereto) in this proceeding, including the forms of confidentiality undertakings that are appended to it.

Respectfully submitted,

By: _____


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FIRST STATE INFRASTRUCTURE
MANAGERS (INTERNATIONAL) LIMITED,
GLOBAL DIVERSIFIED INFRASTRUCTURE
FUND (NORTH AMERICA) LP AND
MITSUBISHI UFJ FINANCIAL GROUP, INC.**

Dated: September 13, 2019

APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order:
 - (a) “Confidential Documents” means documents and other tangible materials containing or reflecting Confidential Information.
 - (b) “Confidential Information” means traffic data (including but not limited to waybills, abstracts, study movement sheets, and any documents or computer tapes containing data derived from waybills, abstracts, study movement sheets, or other databases, and cost work papers), the identification of shippers and receivers in conjunction with shipper-specific or other traffic data, the confidential terms of contracts with shippers, or carriers, confidential financial and cost data, purchase and sale agreements, and other confidential or proprietary business or personal information.
 - (c) “Designated Material” means any documents designated or stamped as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” in accordance with Paragraph 2 or 3 of this Protective Order, and any Confidential Information contained in such materials.
 - (d) “Proceedings” means those before the Surface Transportation Board (“Board”) concerning the notice of exemption filed in FD 36345 and any related proceedings before the Board, and any judicial review proceedings arising from these proceedings or from any related proceedings before the Board.
2. If any party to these Proceedings determines that any part of a document it submits, discovery request it propounds, or a discovery response it produces, or a transcript of a deposition or hearing in which it participates, or of a pleading or other paper to be submitted, filed or served in these Proceedings contains Confidential Information or consists of Confidential Documents, then that party may designate and stamp such Confidential Information and Confidential Documents as “CONFIDENTIAL.” Any information or documents designated or stamped as “CONFIDENTIAL” shall be handled as provided for hereinafter.
3. If any party to these Proceedings determines that any part of a document it submits, discovery request it propounds, or a discovery response it produces, or a transcript of a deposition or hearing in which it participates, or of a pleading or other paper to be submitted, filed or served in these Proceedings contains shipper-specific rate or cost data, details from purchase and sales agreements, other transactional agreements or records, or other competitively sensitive or proprietary information, then that party may designate and stamp such Confidential Information as “HIGHLY CONFIDENTIAL” Any information or documents so designated or stamped shall be handled as provided hereinafter.
4. Information and documents designated or stamped as “CONFIDENTIAL” may not be disclosed in any way, directly or indirectly, or to any person or entity except to an employee, counsel, consultant, or agent of a party to these Proceedings, or an employee

of such counsel, consultant, or agent, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit A to this Order.

5. Information and documents designated or stamped as “HIGHLY CONFIDENTIAL” may not be disclosed in any way, directly or indirectly, to any employee of a party to these Proceedings, or to any other person or entity except to an outside counsel or outside consultant to a party to these Proceedings, or to an employee of such outside counsel or outside consultant, who, before receiving access to such information or documents, has been given and has read a copy of this Protective Order and has agreed to be bound by its terms by signing a confidentiality undertaking substantially in the form set forth at Exhibit B to this Order.
6. Any party to these Proceedings may challenge the designation by any other party of information or documents as “CONFIDENTIAL” or as “HIGHLY CONFIDENTIAL” by filing a motion with the Board.
7. Designated Material may not be used for any purposes, including without limitation any business, commercial or competitive purposes, other than the preparation and presentation of evidence and argument in the notice of exemption filed in FD 36345 and any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with FD 36345 and/or with any related proceedings.
8. Any party who receives Designated Material in discovery shall destroy such materials and any notes or documents reflecting such materials (other than file copies of pleadings or other documents filed with the Board and retained by outside counsel for a party to these Proceedings) at the earlier of: (1) such time as the party receiving the materials withdraws from these Proceedings, or (2) the completion of these Proceedings including any petitions for reconsideration, appeals, or remands.
9. No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to the Board, unless the pleading or other document is submitted under seal, in a package clearly marked on the outside as “Confidential Materials Subject to Protective Order.” See 49 CFR 1104.14. All pleadings and other documents so submitted shall be kept confidential by the Board and shall not be placed in the public docket in these Proceedings except by order of the Board.
10. No party may include Designated Material in any pleading, brief, discovery request or response, or other document submitted to any forum other than this Board in these Proceedings unless (1) the pleading or other document is submitted under seal in accordance with a protective order that requires the pleading or other document to be kept confidential by that tribunal and not be placed in the public docket in the proceeding, or (2) the pleading or other document is submitted in a sealed package clearly marked, “Confidential Materials Subject to Request for Protective Order,” and is accompanied by a motion to that tribunal requesting issuance of a protective order that would require the pleading or other document be kept confidential and not be placed in the public docket in

the proceeding, and requesting that if the motion for protective order is not issued by that tribunal, the pleading or other document be returned to the filing party.

11. No party may present or otherwise use any Designated Material at a Board hearing in these Proceedings, unless that party has previously submitted, under seal, all proposed exhibits and other documents containing or reflecting such Designated Material to the Board, and has accompanied such submission with a written request that the Board (a) restrict attendance at the hearing during any discussion of such Designated Material, and (b) restrict access to any portion of the record or briefs reflecting discussion of such Designated Material in accordance with this Protective Order.
12. If any party intends to use any Designated Material in the course of any deposition in these Proceedings, that party shall so advise counsel for the party producing the Designated Material, counsel for the deponent, and all other counsel attending the deposition. Attendance at any portion of the deposition at which any Designated Material is used or discussed shall be restricted to persons who may review that material under the terms of this Protective Order. All portions of deposition transcripts or exhibits that consist of, refer to, or otherwise disclose Designated Material shall be filed under seal and be otherwise handled as provided in Paragraph 9 of this Protective Order.
13. To the extent that materials reflecting Confidential Information are produced by a party to these Proceedings, and are held and/or used by the receiving person in compliance with Paragraphs 1, 2 or 3 above, such production, disclosure, holding, and use of the materials and of the data that the materials contain are deemed essential for the disposition of these and any related proceedings and will not be deemed a violation of 49 U.S.C. 11904 or of any other relevant provision of the ICC Termination Act of 1995.
14. Any party that files with the Board a document containing Confidential Information must simultaneously file with the Board a public version of that document.
15. All parties must comply with all of the provisions of this Protective Order unless the Board determines that good cause has been shown warranting suspension of any of the provisions herein.
16. Nothing in this Protective Order restricts the right of any party to disclose voluntarily any Confidential Information originated by that party, or to disclose voluntarily any Confidential Documents originated by that party, if such Confidential Information or Confidential Documents do not contain or reflect any Confidential Information originated by any other party.

EXHIBIT A
UNDERTAKING-CONFIDENTIAL
MATERIAL

I, _____, have read the Protective Order served on September __, 2019 governing the production and use of Confidential Information and Confidential Documents in FD 36345, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any Confidential Information or Confidential Documents 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 FD 36345, any related proceedings before the Surface Transportation Board, and/or any judicial review proceedings in connection with FD 36345 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed Undertakings in the form hereof, and that at the conclusion of these proceedings (including any proceeding or administrative review, judicial review, or remand), I will promptly destroy any documents containing or reflecting materials designated or stamped as "CONFIDENTIAL," 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 sufficient remedy for breach of this Undertaking and that parties producing confidential information or confidential documents 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.

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 September ___, 2019, governing the production and use of Confidential Information and Confidential Documents in FD 36345, 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 or Confidential Documents 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 FD 36345 and/or any related proceedings before the Surface Transportation Board, or any judicial review proceedings in connection with FD 36345 and/or with any related proceedings. I further agree not to disclose any Confidential Information, Confidential Documents, methodologies, techniques, or data obtained pursuant to the Protective Order except to persons who are also bound by the terms of the Order and who have executed undertakings in the form hereof.

I also understand and agree, as a condition precedent to my receiving, reviewing, or using copies of any information or documents designated or stamped as “HIGHLY CONFIDENTIAL” that I will take all necessary steps to assure that said information or documents be kept on a confidential basis by any outside counsel or outside consultants working with me, that under no circumstances will I permit access to said materials or information by employees or my client or its subsidiaries, affiliates, or owners, and that 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 information or documents designated or stamped as “HIGHLY CONFIDENTIAL” 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 other parties producing confidential information or confidential documents shall be entitled to specific performance and injunctive and/or other equitable relief as a remedy for 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.

OUTSIDE [COUNSEL] [CONSULTANT]

Dated: _____