

**VanNess
Feldman**
ATTORNEYS AT LAW

SEP 13 2004
RECEIVED

211977
A PROFESSIONAL CORPORATION
1050 Thomas Jefferson Street N.W.
Washington, D.C. 20007-3877
(202) 298-1800 Telephone
(202) 338-2416 Facsimile
www.vnf.com

Seattle, Washington
(206) 623-9372

Kathrine L. Henry
(202) 298-1824
klh@vnf.com

September 13, 2004

ENTERED
Office of Proceedings

SEP 13 2004

Part of
Public Record

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: STB Docket No. 42084
CF Industries, Inc. v. Kaneb Pipe Line Partners, L.P. and
Kaneb Pipe Line Operating Partnership, L.P.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding is an original and ten copies of Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. Motion for Protective Order and proposed Protective Order.

A diskette containing the text of the proposed Protective Order in Word format is also enclosed.

Please acknowledge receipt of the enclosed by stamping and returning to our Paralegal the enclosed duplicates of this filing.

Sincerely,

Kathrine L. Henry
Kathrine L. Henry

Enclosures

ENTERED
Office of Proceedings

SEP 13 2004

Part of
Public Record

CF INDUSTRIES, INC.,
Complainant,

v.

KANEB PIPE LINE PARTNERS, L.P.,

and

**KANEB PIPE LINE OPERATING
PARTNERSHIP, L.P.,
Defendants.**

Docket No. 42084

MOTION FOR PROTECTIVE ORDER

Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. (collectively, “Kaneb”) hereby request that the Surface Transportation Board (“Board”) enter a protective order for this proceeding in the form provided in the Appendix to this motion.

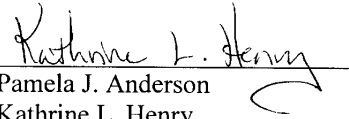
The proposed order will facilitate the Board's resolution of this proceeding by protecting the confidentiality of materials reflecting the terms of contracts, financial information, and other confidential and proprietary information in the event that such materials are produced and/or included in evidentiary filings in this proceeding. Specifically, the proposed protective order is necessary to protect commercially sensitive data contained in the Asset Purchase and Sale Agreement between Kaneb and Koch Pipeline Company, L.P. and Koch Fertilizer Storage and Terminal Company that, pursuant to its terms, prohibits the parties from disclosing such data except on a confidential basis.

The proposed protective order is modeled on similar orders that have been entered in other Board proceedings. It is designed to allow parties to protect from disclosure, information which a party has determined in good faith should be kept confidential.

Accordingly, Kaneb requests that a protective order be entered in the form provided in the Appendix hereto, including the forms of undertaking that accompany it. In light of the fact that Kaneb is filing today, Kaneb requests that the Board act

expeditiously to approve this protective order.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathrine L. Henry", is written over a horizontal line.

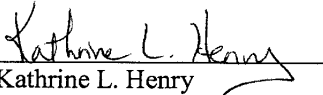
Pamela J. Anderson
Kathrine L. Henry
Julia Scarpino Wood
Van Ness Feldman, P.C.
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007-3877

ATTORNEYS FOR KANEB PIPE
LINE PARTNERS, L.P. AND
KANEB PIPE LINE OPERATING
PARTNERSHIP, L.P.

CERTIFICATE OF SERVICE

Pursuant to Rule 1104.12 of the Surface Transportation Board's Rule on Service of Pleadings and Papers, I hereby certify that I have this day served a copy of the foregoing document by hand delivery on all parties of record in this proceeding, Docket No. 42084.

Dated at Washington, D.C., this 13th day of September 2004.


Kathrine L. Henry

Mitchell F. Hertz
Jeffrey J. Williamson
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Suite 1200
Washington, D.C. 20005

Counsel for CF Industries, Inc.

PROTECTIVE ORDER

1. Any party producing material in discovery to another party to this proceeding, or submitting material in pleadings or evidence, that the party believes in good faith reveals proprietary or confidential information, may designate and stamp such material as "CONFIDENTIAL," and such material must be treated as confidential. Such material, any copies thereof, and any data or notes derived therefrom may be disclosed only to employees, counsel, or agents of the party receiving such material who have a need to know, handle, or review the material for purposes of this proceeding and any judicial review proceeding arising therefrom, and only where such employee, counsel, or agent has been given and has read a copy of this Protective Order, agrees to be bound by its terms, and executes the attached Undertaking for Confidential Material prior to receiving access to such materials.

2. Each Undertaking for Confidential material executed by a person authorized to receive access to Confidential material shall be kept for the duration of this proceeding and any related court litigation or judicial appeals by the party with which such person is affiliated or associated, and a copy of each such Undertaking shall be served upon counsel of record for each party no later than 10 days after such Undertaking is executed.

3. Confidential material shall be used by a receiving party solely for the purpose of this proceeding and any judicial review proceeding arising therefrom, and not for any other business, commercial, or competitive purpose.

4. Confidential material that is not the receiving party's own data, information, or documents must be destroyed by the receiving party, its employees, counsel, and agents at the completion of this proceeding and any judicial review proceeding arising therefrom, except that:

(1) outside counsel (but not outside consultants) for each party are permitted to retain file copies of all pleadings and evidence filed with the Board and file copies of all work product; and (2) in-house counsel for each party are permitted to retain file copies of all pleadings and evidence which they received during the course of this proceeding.

5. Confidential material, if contained in any pleading or evidence filed with the Board, shall, in order to be kept confidential, be filed only in pleadings or evidence submitted in a package clearly marked on the outside "Confidential Materials Subject to Protective Order." See 49 CFR § 1104.14.

6. In the event that a party produces material which should have been designated as "CONFIDENTIAL" and inadvertently fails to stamp the material a "CONFIDENTIAL," the producing party may notify the other parties in writing within 10 days of discovery of its inadvertent failure to make the confidentiality designation. The parties who received the material without the confidentiality designation will return the non-designated portion or destroy it, as directed by the producing party, or take such other steps as the parties agree to in writing. The producing party will promptly furnish the receiving parties with properly designated material.

7. In the event that a party inadvertently produces material that is protected by the attorney-client privilege, work product doctrine, or any other privilege, the producing party may make a written request within a reasonable time after the producing party discovers the inadvertent disclosure that the other parties return the inadvertently produced privileged document. The parties who received the inadvertently produced document will either return the document to the producing party or destroy the document immediately upon receipt of the

written request, as directed by the producing party. By returning or destroying the document, the receiving party is not conceding that the document is privileged and is not waiving its right to later challenge the substantive privilege claim, provided that it may not challenge the privilege claim by arguing that the inadvertent production waived the privilege.

8. If any party intends to use Confidential material at hearings in this proceeding, or in any judicial review proceeding arising therefrom, the party so intending shall submit any proposed exhibits or other documents setting forth or revealing such Confidential material to any Administrative Law Judge, the Board, or the court, with a written request that the Administrative Law Judge, the Board, or the court: (a) restrict attendance at the hearings during discussion of such Confidential material; and (b) restrict access to the portion of the record or briefs reflecting discussion of such Confidential material in accordance with the terms of this Protective Order.

9. If any party intends to use Confidential material in the course of any deposition in this proceeding, the party so intending shall so advise counsel for the party producing the materials, counsel for the deponent, and all other counsel attending the deposition. Attendance at any portion of the deposition at which any such Confidential material is used shall be restricted to persons who may review the material under this Protective Order. All portions of deposition transcripts and/or exhibits that consist of or disclose Confidential material shall be kept under seal and treated as Confidential material in accordance with the terms of this Protective Order.

10. To the extent that material reflecting the terms of contracts, shipper-specific traffic data, other traffic data, or other proprietary information is produced or otherwise disclosed by a party in this or any related proceedings and is held and used by the receiving person in compliance with this Protective Order, such production, disclosure, and use of the material and

of the data that the material contains will be deemed essential for the disposition of this and any related proceedings and will not be deemed a violation of 49 U.S.C. § 11904.

11. Except for this proceeding, the parties agree that if a party is required by law or order of a governmental or judicial body to release Confidential material produced by the other party or copies or notes thereof as to which it obtained access pursuant to this Protective Order, the party so required shall notify the producing party in writing within 3 working days of the determination that the Confidential material, or copies or notes are to be released or within 3 working days prior to such release, whichever is soonest, to permit the producing party to contest the release.

12. All parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, or by an Administrative Law Judge in a decision from which no appeal is taken, warrants suspension of any of the provisions herein.

13. Information that is publicly available or obtained outside of this proceeding from a person with a right to disclose it shall not be subject to this Protective Order even if the same information is produced and designated as "CONFIDENTIAL" in this proceeding.

14. A "CONFIDENTIAL" designation may be removed by consent of a party who asserts the confidential, proprietary, or commercially sensitive interest, or, absent such consent, by appropriate decision of the Board, or of an Administrative Law Judge from which no appeal is taken, upon application of a party seeking to remove such designation.

15. Each party has a right to view its own data, information, and documentation (i.e., information originally generated or compiled by or for that party) without securing prior permission from the producing party.

UNDERTAKING
CONFIDENTIAL MATERIAL

I, _____, have read the Protective Order served on [DATE], governing the production of confidential documents in STB Docket No. 42084, understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any confidential data or information obtained pursuant to 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 purposes other than the preparation and presentation of evidence and argument in STB Docket No. 42084 or any judicial review proceeding arising therefrom. I further agree not to disclose any confidential data or information obtained under this Protective Order to any person who is not also bound by the terms of the Order and has not executed an Undertaking in the form hereof. At the conclusion of this proceeding and any judicial review proceeding arising therefrom, I will promptly destroy any copies of such designated documents obtained or made by me or by any outside counsel or outside consultants working with me, provided, however, that outside counsel (but not outside consultants) may retain file copies of its work product and of pleadings and evidence filed with the Board, and in-house counsel may retain file copies of all pleadings and evidence containing confidential material it received during the course of this proceeding. I further understand that a party may retain its own confidential material.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking and that a party which asserts the confidential interest shall be entitled to specific performance and injunctive or other equitable relief as

a remedy for any such breach. 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: _____