

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34960

THE CHICAGO, LAKE SHORE AND SOUTH BEND
RAILWAY COMPANY
-- ACQUISITION AND OPERATION EXEMPTION --
NORFOLK SOUTHERN RAILWAY COMPANY

PETITION TO REVOKE AND STAY EXEMPTION

MOTION OF
THE CHICAGO, LAKE SHORE AND SOUTH BEND RAILWAY COMPANY
FOR A PROTECTIVE ORDER PURSUANT TO 49 CFR 1104.14

ENTERED
Office of Proceedings

DEC 4-2006

Part of
Public Record

Respectfully submitted,

John D. Heffner
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1920 N Street, N.W.
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(202) 263-4180

Filed: December 4, 2006

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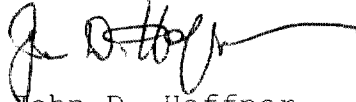
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COMES NOW, The Chicago, Lake Shore And South Bend Railway Company ("CLSSB") pursuant to 49 CFR 1104.14 and requests that the Board issue a protective order allowing CLSSB to make available to the Board under seal certain confidential documents and information in connection with the above-captioned acquisition and operation exemption proceeding. Such confidential documents include proprietary email and written correspondence between CLSSB and Norfolk Southern Railway Company in connection with the sale of the subject rail line as well as correspondence with officials of the City of South Bend, IN, seeking to discourage the University of Notre Dame from using CLSSB's proposed rail service. Accordingly, CLSSB requests that the Board adopt the protective order contained in the appendix hereto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

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APPENDIX

PROTECTIVE ORDER

1. For purposes of this Protective Order, "Confidential Information" means the data and documents furnished by CLSSB (CLSSB) in connection with 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 CLSSB 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 CLSSB 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 CLSSB 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 Confidential Information, it shall, in order to keep it confidential, treat the information in accordance with the procedure 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. 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 The Chicago, Lake Shore & South Bend Railway Company (CLSSB) in STB Finance No. 34960, 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 Finance No. 34960 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 CLSSB 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: _____

CERTIFICATE OF SERVICE

I, John D. Heffner, certify that a copy of the Motion for Protective Order Pursuant to 49 CFR 1104.14, was served on December 4, 2006 by hand-deliver and first-class mail to the following:

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