

JAMES B. DOUGHERTY

ATTORNEY AT LAW

221387

January 25, 2008

Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E St. SW  
Washington D.C. 20423

By E-Filing

Re: Finance Docket No. 35081, Canadian Pacific Railway Company, et al -  
Control - Dakota Minnesota & Eastern Railroad Corporation, et al

Dear Secretary Williams:

The Sierra Club intends to participate as a party in the above-referenced proceeding. Please consider me counsel of record for the Sierra Club and add my name to your service list.

James B. Dougherty, Esq.  
709 3<sup>rd</sup> St. SW  
Washington, D.C. 20024

In accordance with the Board's order of September 21, 2007, I am enclosing copies of Exhibit A, Undertaking- Confidential Material, and Exhibit B, Undertaking - Highly Confidential Material, signed by me. Copies of these executed agreements are being mailed this day to counsel for the Applicants.

The Sierra Club would prefer to provide and receive service copies by email. I can be reached at [jimdoughertySTB@aol.com](mailto:jimdoughertySTB@aol.com).

Sincerely,

  
James B. Dougherty

cc: service list

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709 3<sup>rd</sup> ST. SW, WASHINGTON, D.C. 20024; PHONE: (202)488-1140

FAX: (202)484-1789; E-MAIL: [JIMDOUGHERTY@AOL.COM](mailto:JIMDOUGHERTY@AOL.COM)

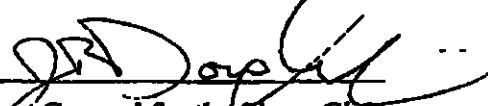
RECYCLED PAPER (100% PC)

**Exhibit A**

**UNDERTAKING – CONFIDENTIAL MATERIAL**

I, James B. Dougherty, have read the Protective Order served on September 21, 2007, governing the production and use of Confidential Information and Confidential Documents concerning STB Finance Docket No. 35081, 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 STB Finance Docket No. 35081, any related proceedings before the Surface Transportation Board (Board), and/or any judicial review proceedings in connection with STB Finance Docket No. 35081 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 this proceeding (including any proceeding on 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 a sufficient remedy for breach of this Undertaking and that Applicants or 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 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: 

Affiliation: Counsel for the Sierra Club

Dated: January 25, 2008

**Exhibit B**

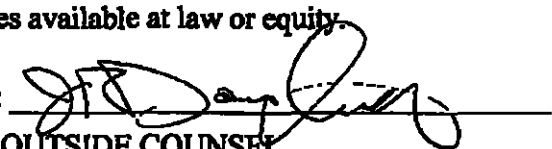
**UNDERTAKING – HIGHLY CONFIDENTIAL MATERIAL**

I, James B. Dougherty, am outside counsel for the Sierra Club, for whom I am acting in this proceeding. I have read the Protective Order served on September 21, 2007, governing the production and use of Confidential Information and Confidential Documents concerning STB Finance Docket No. 35081, 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 STB Finance Docket No. 35081, any related proceedings before the Surface Transportation Board (Board), or any judicial review proceedings in connection with STB Finance Docket No. 35081 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 Highly Confidential 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 ensure 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 of 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 Applicants or 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 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: \_\_\_\_\_

  
OUTSIDE COUNSEL

Dated: January 25, 2008

Service List - page 1

Hynes, Terence M.  
Sidley Austin Llp  
1501 K Street Nw  
Washington, DC 20005

Bannister, T. Scott  
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Cedar Rapids, IA 52401

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Service List - page 2

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U S Department Of  
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**Service List - page 3**

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**Von Salzen, Eric  
Hogan & Hartson  
555 Thirteenth Street N W  
Washington, DC 20004-1109**

**Stroge, Steven D  
North Dakota Grain Dealers Association  
118 Broadway  
606 Black Building  
Fargo, ND 58102**