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SERVICE DATE – APRIL 28, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35365

MICHAEL WILLIAMS–CONTROL EXEMPTION–
ST. MARIES RIVER RAILROAD, INC.

MOTION FOR PROTECTIVE ORDER

Decided: April 26, 2010

By motion filed April 12, 2010, Michael Williams (applicant) seeks a protective order under 49 C.F.R. § 1104.14(b) to protect the confidential and commercially sensitive terms of the unredacted Stock Purchase Agreement (Agreement), submitted under seal, between applicant and Potlatch Land & Lumber, LLC (PL&L). Applicant concurrently filed a notice of exemption under 49 C.F.R. § 1180.2(d)(2) to acquire control of St. Maries River Railroad, Inc. (STMA) through the purchase of STMA’s stock from PL&L, as described in the Agreement.¹

Good cause exists to grant the motion for protective order. Applicant submits that a protective order is necessary because the Agreement contains commercially sensitive and confidential information that could cause competitive or other harm to applicant or PL&L if it were made public.

The motion conforms with the Board’s rules at 49 C.F.R. § 1104.14 governing protective orders to maintain the confidentiality of materials submitted to the Board. Issuance of the protective order will ensure that confidential information will be used solely for this proceeding and not for other purposes. Accordingly, the motion for protective order will be granted, and the Agreement shall be subject to the Protective Order and Undertaking contained in the Appendix to this decision.²

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The motion for protective order is granted, and the Protective Order and Undertaking in the Appendix to this decision are adopted.

¹ STMA is a wholly owned subsidiary of PL&L.

² A proposed protective order and undertaking were included with the motion.

2. The unredacted Agreement submitted in Docket No. FD 35365 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.

3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

APPENDIX

PROTECTIVE ORDER

1. For the purposes of this Protective Order, “Confidential Information” means the unredacted Stock Purchase Agreement between Michael Williams (applicant) and Potlatch Land & Lumber, LLC filed under seal in Docket No. FD 35365.

2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to applicant 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 written consent of applicant or an order of the Board, except to outside counsel or consultants of parties to these proceedings, solely for use in connection with this and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such outside counsel or consultant 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 applicant 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 C.F.R. § 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 proceedings 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. Any party must file simultaneously a public version of any confidential submission it files with the Board.

8. All parties must comply with all 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 served on April 28, 2010, governing the filing of Confidential Information by Michael Williams (applicant) in Docket No. FD 35365, understand the same, and agree to be bound by its terms. I agree not to use or to 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 Docket No. FD 35365 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 who has not 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 applicant shall be entitled to specific performance and injunctive 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: _____

Signature: _____

Position: _____

Affiliation: _____