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SERVICE DATE – LATE RELEASE JUNE 3, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35925

MICHAEL WILLIAMS—CONTINUANCE IN CONTROL EXEMPTION—BOOT HILL &  
WESTERN RAILWAY HOLDING CO., INC.

MOTION FOR PROTECTIVE ORDER

Decided: June 3, 2015

By motion filed April 24, 2015, Michael Williams (Williams) seeks a protective order under 49 C.F.R. § 1104.14 to protect the confidential and commercially sensitive information contained in the unredacted Agreement for Sale of Certain Assets, Rights and Obligations of Boot Hill & Western Railway Co., LC (Agreement), which Williams submitted under seal in this proceeding. Included with the motion are a proposed protective order and an undertaking. Williams submits that a protective order is necessary because the agreement contains confidential and commercially sensitive information that could harm the parties if those terms were made public.

Good cause exists to grant the motion for protective order. Issuance of the protective order will ensure that confidential information will be used solely for this proceeding and not for other purposes. Further, 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. Accordingly, the motion for protective order will be granted, and the protective order and undertaking are adopted for this proceeding, as modified in the appendix to this decision.

It is ordered:

1. The motion for a protective order is granted, and the protective order and undertaking in the appendix to this decision are adopted.
2. The unredacted agreement 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 purposes of this Protective Order, Confidential Information means the unredacted purchase agreement between Michael Williams (Williams) and Boot Hill & Western Railway Co., LC filed under seal on April 27, 2015, in Docket No. FD 35925.

2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to Williams 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 Williams 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 the information.

4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on Williams 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 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 file simultaneously a public version of any confidential submission it files with the Board. The Confidential Version may be served on other parties in electronic format only.

8. 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 Michael Williams (Williams) in Docket No. FD 35925, 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 purposes other than the preparation and presentation of evidence and argument in Docket No. FD 35925 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 Protective Order and 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 Williams 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: \_\_\_\_\_