



Issue Date: 23 April 2014

CASE NO.: 2013-FRS-00061

In the Matter of:

ERIC SPURGEON,
Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This claim arises under the whistleblower protection provisions of the Federal Rail Safety Act (“the Act”), 49 U.S.C. § 20109. The parties have settled. I will find that the proposed settlement is generally proper, and I will approve it. But I will address two issues: confidentiality and the settlement of matters beyond the scope of the Act.

First, the Agreement contains a provision limiting Complainant’s disclosure of certain items. This Office, however, does not treat settlement agreements or the orders approving them confidentially. Our case files are generally public and subject to disclosure under the Freedom of Information Act. Respondent claims that the confidential business information FOIA exemption applies. *See* 29 C.F.R. § 70.26(b). The Department of Labor will follow appropriate pre-disclosure notification procedures to address that assertion.¹ Beyond that, nothing about the parties’ characterization of their Agreement changes the public nature of files at this Office.

Second, some language in the Agreement purports to settle claims beyond the scope of the Act. I limit my review to the Federal Rail Safety Act claim only; anything beyond that exceeds this

¹ *See Seater v. Southern California Edison Co.*, 1995-ERA-13 (ARB March 27, 1997) (“If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.”)

Office's jurisdiction.

That said, I find the proposed settlement agreement is proper and reasonable as to the claim under the Federal Rail Safety Act. The proposed settlement therefore is APPROVED, and the parties are ORDERED to comply with its terms.

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge