



Issue Date: 26 February 2020

CASE NO.: 2019-FRS-00097

In the Matter of:

TIMOTHY MARSHALL,
Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY,
Respondent.

**ORDER APPROVING SETTLEMENT AGREEMENT, CANCELING HEARING, and
DISMISSING CASE**

On February 21, 2020 the parties in the above-captioned matter submitted a settlement agreement for review. Upon review of the settlement agreement, I find that its terms are fair, adequate, and reasonable, and do not contravene the public interest.

However, the settlement appears to be a global settlement purporting to dispose of claims in addition to the claim brought under the Federal Rail Safety Act (FRSA). My authority to approve the settlement agreement is limited to matters that are before me – that is, to approve the settlement agreement only insofar as it resolves Mr. Marshall’s complaint under the STAA. My approval should not be construed as approving the resolution of any claims brought under any other federal statute or under state law. This reservation is not intended to address the effectiveness of the settlement with respect to other claims, and the parties are not precluded from raising the settlement agreement in the course of other proceedings, if any arise.

The parties have agreed that the settlement agreement should be confidential, and have requested that it be treated in this agency in accordance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (1988) (FOIA). FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under the Freedom of Information Act. Consistent with their request, however, the parties will be provided a pre-disclosure notification giving them the opportunity to challenge any such potential disclosure. In the event the Agreement is disclosed pursuant to FOIA, such

disclosure is not a violation of the agreement and will not result in a violation of the agreement.

Accordingly, with the reservations noted above and limiting my approval to the complaints brought under the STAA, IT IS ORDERED:

1. The hearing scheduled to commence on March 24, 2020 is CANCELED;
2. The settlement agreement between the parties is APPROVED; and
3. This matter is DISMISSED WITH PREJUDICE.

SO ORDERED.

PAUL C. JOHNSON, JR.
District Chief Administrative Law Judge

PCJ/ksw
Newport News, Virginia