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February 8, 2008

Re: Canadian National Railway Company and Grand Trunk Corporation
--Control-- EJ&E West Company
STB Finance Docket No. 35087

Honorable Anne K. Quinlan, Esquire
Acting Secretary
Surface Transportation Board
Office of the Secretary
395 E Street, S.W.
Washington, DC 20423-0001

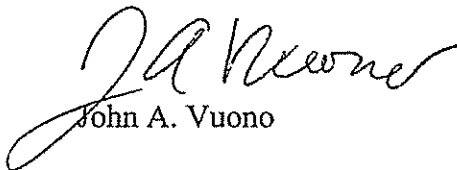
BY E-FILING

Dear Ms. Quinlan:

Enclosed for filing in the above-referenced docket, please find Elgin, Joliet & Eastern Railway Company and EJ&E West Company's Reply to the Motion to Compel of Arcelormittal Companies.

Sincerely yours,

VUONO & GRAY, LLC


John A. Vuono

CW/60259

Enclosure

cc: All parties of record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35087

CANADIAN NATIONAL RAILWAY COMPANY

AND GRAND TRUNK CORPORATION

-- CONTROL -- EJ&E WEST COMPANY

**REPLY OF ELGIN, JOLIET & EASTERN RAILWAY COMPANY
AND EJ&E WEST COMPANY TO MOTION TO COMPEL OF
ARCELORMITTAL COMPANIES**

Elgin, Joliet & Eastern Railway Company and EJ&E West Company (jointly “EJ&E”), non-parties to this proceeding,¹ hereby respond on an expedited basis to the motion to compel discovery responses filed by ArcelorMittal companies (“Mittal”)² on January 31, 2008 (“Motion”).

For the reasons discussed below, the motion should be denied. Far from requiring expedited responses, Mittal has no need for the discovery materials it has sought from

¹ EJ&E is filing this response without waiving its non-party status, which is addressed below. EJ&E understands that Will County is today filing a notice of withdrawal of its motion to compel against EJ&E. As this withdrawal illustrates, EJ&E has been willing, notwithstanding and without waiving its non-party status, to provide information informally in response to reasonable discovery requests. Indeed, EJ&E is currently working with other parties on informal productions of information. Moreover, EJ&E has worked with Applicants to help them provide agreed responses to other discovery requests.

² The motion is filed by seven related corporations that are subsidiaries of ArcelorMittal.

EJ&E.³ It has already filed its evidence and argument, and it has no need for or right to further discovery. In addition, the bulk of the information sought from EJ&E relates generally to Applicants' future operations and planning post-transaction, not EJ&E, and has already been produced. Mittal has sought that same information from Applicants, received substantive responses, and accepted them without the need to move to compel anything further. Finally, even if ArcelorMittal had a legitimate need for information from EJ&E (which it does not), it has failed to follow the appropriate subpoena procedures applicable to a non-party such as EJ&E.

I. THERE IS NO NEED OR BASIS FOR MITTAL'S DISCOVERY AGAINST EJ&E.

A. Mittal Has No Legitimate Need For The Discovery It Seeks

Mittal has already filed its comments in opposition to the Application (ARCM-2, served Jan. 28, 2008) and therefore has no remaining legitimate need for the extensive discovery it has sought against EJ&E. Mittal never forthrightly addresses this obvious problem with its motion. Instead, it hints at the possibility it may modify or supplement its original comments (such information will impact . . . previously filed comments"), or that it may make another filing on March 13 in response to the January 28 comments ("such information will impact . . . imminent submissions"), or that it may use the discovery it seeks for the environmental review process. (Motion at 9.) None of these

³ Mittal did not expedite its own discovery requests, which it served 72 days after the filing of the Application and 45 days after the Board's order formally initiating this proceeding.

three possibilities is a legitimate or adequate basis for the burdensome and unnecessary discovery sought against EJ&E.⁴

First, it would be an abuse of the Board's process and contrary to Decision No. 2 (served by the Board in this proceeding on November 26, 2008) for Mittal to use the Board's provision for responses on March 13, 2008, as a vehicle to modify or supplement Mittal's prior comments. Likewise, it would be an abuse of the Board's processes for Mittal to seek discovery for that purpose.

In any event, Mittal cannot show that it was prejudiced through a lack of discovery against EJ&E. As discussed in Part I.B., below, it sought largely redundant discovery against Applicants and received and accepted its responses to that discovery in time for use in its January 28, 2008 filing. In addition, Mittal cannot claim prejudice because its failure to obtain the discovery it requested from EJ&E in time to use it in Mittal's January 28 filing – the only one it was entitled to make – was due substantially to Mittal's own failure to serve its discovery earlier. Mittal served the discovery requests to EJ&E by mail on January 10, 2008, more than six weeks after the Board's Decision No. 2 accepting the Application and allowing discovery to begin. Decision No. 2 at 13. EJ&E timely responded on January 24, 2008. Mittal filed its comments on January 28, without even purporting to reserve a right to supplement its comments with the fruits of any later discovery responses. It was only after filing its comments that Mittal sought to compel additional discovery from EJ&E.

⁴ Notably, Mittal never seriously addresses the numerous objections to its burdensome discovery incorporated by EJ&E by reference to Applicant's response to Mittal's discovery requests. It merely argues (in footnote 15) that its requests are "largely specific to EJ&E" and that all objections are irrelevant. To the contrary, as discussed below, Mittal's requests to EJ&E largely mirror those to CN. Accordingly, the objections CN raised and which were not challenged by Mittal in general are equally applicable to Mittal's discovery against EJ&E. Mittal's failure to address these objections is yet another reason for denying Mittal's requests.

Second, Mittal cannot seriously maintain that it has a need for extensive discovery against EJ&E for purposes of a valid reply on March 13, 2008. It served its discovery without knowing what the January 28 comments would say, neither Applicants nor EJ&E filed such January 28 comments, and Mittal has identified no other filings as to which it has a basis for responding or a need for discovery from EJ&E. Indeed, EJ&E is unaware of any other opening comment that even mentions Mittal.

Finally, as discussed in the joint reply of EJ&E and Applicants to the motion to compel of the Village of Frankfort, which is also being filed today, and which is hereby incorporated by reference, discovery for purposes of environmental analysis is not appropriate.

B. The Discovery Mittal Seeks Is Redundant and Unnecessary.

Mittal served parallel, virtually identical discovery requests on Applicants and on EJ&E. The astonishing degree of overlap can be seen from the attached Exhibits A and B, which compares the interrogatories and document requests propounded to EJ&E and Applicants. These Exhibits show that 21 of 28 document requests, and 22 of 27 interrogatories served on EJ&E are absolutely identical to those served on CN. In addition, 6 more document requests and 5 more interrogatories are substantively identical – leaving only one unique document request and one unique interrogatory for EJ&E, neither of which justifies requiring EJ&E to develop responses.⁵ Moreover, as can

⁵ The unique document request (#27) is a blunderbuss request about future environmental impacts. In EJ&E's reply to Frankfort's motion to compel, which EJ&E is filing jointly with Applicants today, EJ&E addresses at length the reasons that such discovery is impermissible. The unique interrogatory (#25) is a catchall that asks about future service levels and operation of Gary Railway. Most if not all of this same information was encompassed in more specific questions and requests served on both EJ&E and Applicants. Because the commercial and

be readily seen from a review of the 27 overlapping document requests and 26 overlapping interrogatories, they focus predominantly on matters related to future plans and possible actions by Applicants, or post-transaction plans and actions with respect to the EJ&E lines that Applicants are seeking to acquire.⁶ As such, those requests were appropriately directed to Applicants (if anyone) rather than EJ&E.

Applicants responded to these requests, providing Mittal with the critical information it sought. In fact, Mittal did not move to compel any further responses from Applicants, and the deadline for such a motion has long passed (*see* 49 C.F.R. § 1114.31(a)). Having received these responses from the party in the best position to respond (indeed, in many cases, the only one in a position to respond), EJ&E should not be required to bear the burden of seeking responses to Mittal's redundant requests.

Mittal's motion, which seeks production by EJ&E of an extensive quantity of detailed local operations information only highlights the fact that Mittal has either already received responses to its requests from Applicants or should already know itself the information it claims to be seeking.⁷ It states that the daily operations at each of its Chicago area facilities depend on the continuation of smooth, efficient, and locally

operational workings of Gary Railway were largely defined by the Applicants and EJ&E by agreement, Applicants provided essentially the same substantive answers and materials to Mittal in response to these various questions about Gary Railway as EJ&E would have, had it also responded.

⁶ *See, e.g.*, Mittal Interrogatories 1-16, 18, 25, and 28 and Document Requests 1-7, 9-12, 14, and 16-19, which all related to changes to the EJ&E lines that would be acquired by Applicants.

⁷ Notably, Mittal cites no authority for its evident premise that Applicants had a duty to address in the Application a wide range of issues concerning any particular shipper presently included in the "local operations" of the railroad being acquired (Motion p. 4). An application is not required to have such a narrow focus, and applications in past control proceedings have not done so. Moreover, many of the subjects on which Mittal seeks information are ones that there is ample time for Applicants (and EJ&E to the extent pertinent) to address during the period prior to approval and closing of the Transaction.

tailored rail service. Motion at 3. It also asserts that, in addition to transportation contracts, published rates and tariffs, and other written agreements governing freight rates and service, Mittal and EJ&E have established a course of dealing governing vital elements of the rail transportation services provided at these facilities, including car ordering and car supply; intraplant switching and classification; storage of empty and loaded cars; and communications. Motion at 3-4.

Thus, Mittal acknowledges that it already has extensive familiarity with current EJ&E operations and service parameters. Notwithstanding this extensive “course of dealing” between Mittal and EJ&E, Mittal claims that it became necessary to serve discovery on EJ&E as well as Applicants because “only the EJ&E has full and complete knowledge of the numerous agreements and day-to-day operation arrangements with Mittal” and “only EJ&E is in a position to fully and effectively inform Mittal as to any and all likely changes to those agreements and operations in the event the Board approves the CN transaction.” As noted above, however, EJ&E cannot authoritatively address changes that Applicants intend to make regarding their operation of the assets they are seeking to acquire. Those plans are best addressed by Applicants, who have already done so in their responses to Mittal’s discovery requests to the extent reasonably possible. Furthermore, Mittal’s own transportation officials should be thoroughly familiar with current EJ&E commercial and operating arrangements utilized to provide rail service to or from Mittal’s relevant facilities. Mittal’s own transportation officials are therefore in a better position than EJ&E to evaluate their own operational requirements in light of the information obtained from the Applicants in order to evaluate the impact, if any, that

Applicants' proposed transaction will have on Mittal's rail transportation service and alternatives.

Moreover, Mittal seeks information from EJ&E based on hypothetical concerns and unwarranted assumptions for which there is no factual basis. Both Gary Railroad and CN will operate as common carrier railroads subject to STB regulation and the statutory requirement to provide common carrier rail service upon reasonable request or in accordance with the contractual obligations to which they will be bound as successors. To the extent that Gary Railroad's operations are less extensive than those of the former EJ&E, and are focused primarily on the rail facilities and service provided with respect to facilities within the Gary Works, Mittal will become an even more important customer for Gary Railroad. As a result, Mittal should expect to receive greater attention, not less. Furthermore, under the arrangements proposed by Applicants with respect to interchange services to be provided in connection with Gary Railroad, there is simply no rational basis for Mittal's assumption that CN or Gary Railroad would sub-optimize competitive rail service or revenue opportunities to their own detriment or to the detriment of Mittal's Chicago operations.

II. EJ&E IS NOT A PARTY TO THE APPLICATION PROCEEDING, AND IS THEREFORE NOT SUBJECT TO DISCOVERY ABSENT A SUBPOENA

Mittal claims that EJ&E is a "party" subject to discovery with respect to the Application proceeding, but its argument relies almost entirely on a red herring and is wholly without merit.

Mittal and EJ&E agree that the Board's regulations define a "party" as follows:

Party means a complainant, defendant, applicant, respondent, protestant, intervener, or petitioner in any proceeding, or other persons permitted or directed by the Board to participate in a proceeding....

49 C.F.R. § 1101.2(d). Both Mittal and EJ&E also agree that the relevant discovery regulations are applicable only to “parties,” as defined above. *See* 49 C.F.R. §§ 1114.26 (written interrogatories to parties), 1114.27 (request for admission), and 1114.30 (production of documents). By contrast, an entity which is not a party to a Board proceeding is not required to respond to discovery requests in that proceeding, unless a subpoena is issued by the Board.⁸ No such subpoena was sought by Mittal in this case.

The bulk of Mittal’s argument is not directed at showing that EJ&E is a party to the Application proceeding, but that EJ&E is a party with respect to the notice of exemption it filed in the separate docket (STB Finance Docket No. 35087 (Sub-No. 1)). Whether or not that might be true, however, is beside the point, because Mittal’s discovery requests, which notably (and unlike its motion to compel) were not even filed in that sub-docket, were not directed at that Notice of Exemption. In fact, the Notice of Exemption in question was simply a procedural step required to trigger the application of a “class exemption” that was previously established in the Board’s rules by a prior proceeding (49 C.F.R. § 1180.2(d)(3)). The Notice of Exemption is normally not even followed by further proceedings; it makes such proceedings unnecessary, and takes effect automatically after 30 days unless stayed by the Board (49 C.F.R. § 1180.4(g)), which the Board did not do here.⁹ In this case, the notice of exemption permits EJ&E to move rail

⁸ *See also* 49 U.S.C. § 721(c) (subpoena for witnesses and records).

⁹ In another pending motion to compel discovery responses by EJ&E in this proceeding, the Village of Frankfort makes a more limited argument that EJ&E is a party subject to discovery

assets to EJ&E West Company, which process is not a subject of Mittal's discovery requests.¹⁰

Mittal tries to make much of the fact that the Notice of Exemption is related to the Application proceeding. Motion at 8. But the fact that they may be related does not mean they are not separate. If they constituted a single proceeding, they would not require separate finance docket sub-numbers. Further, the fact that all related notices were bound together for convenience sake (each requiring its own filing fee, and with its own cover page, signature page, and verification) in no way merges them into a single proceeding.

Focusing on the relevant proceeding – which is the Application proceeding itself (STB Finance Docket No. 35087) – it is evident that EJ&E is not a party. It is clear from the cover of the Application that EJ&E did not join CN as an Applicant. EJ&E also is not listed as a party or even as a non-party of record on the Board's service lists for the application proceeding, and even EJ&E's outside counsel, who is listed in his own capacity, is listed as a non-party. *See* Decision No. 4 (served Jan. 18, 2008); Decision No. 5 (served Jan. 25, 2008).

Leaving aside Mittal's several irrelevant arguments concerning Sub-Docket No. 1, its other arguments are focused solely on the Board's protective order and clearly are unavailing. Mittal relies on the assertion that the Board "enacted" a protective order in response to a "petition" filed on October 3, 2007, in which Applicants and EJ&E were

solely by virtue of having filed the Notice of Exemption cited by Mittal. Frankfort Motion to Compel EJ&E at 5. That argument should be rejected for the reasons set forth in this Reply.

¹⁰ In an effort to shoehorn this notice of exemption into the definition of proceeding under 49 C.F.R. § 1101.2(d), which does not include notices, Mittal erroneously refers to the "notice" of exemption as if it were a "petition" for exemption. Motion at 7-8.

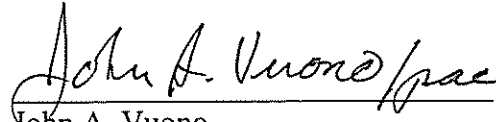
identified as “petitioners” (Motion at 7). However, that petition merely sought the issuance of a protective order (a task delegated to the Secretary), and the resulting order did not initiate this proceeding in which Mittal seeks discovery. *See* Decision No. 1 (served Oct. 22, 2007). Nor did that procedural petition make either of the “petitioners” for that order parties in the Application proceeding, which was not even initiated until CN later filed its Application.

Mittal also notes that the term “proceedings” under the protective order is defined to include not only “the application in STB Finance Docket No. 35087,” but also specifically “any related proceedings before the Board,” and that the terms of the protective order extends to all such proceedings. Motion at 8. Far from supporting Mittal’s argument, however, this definition recognizes that the application proceeding in STB Finance Docket No. 35087 is a separate proceeding from the various sub-docket proceedings, even if related to them. Moreover, the fact that the same protective order covers all such separate proceedings does not help Mittal’s case. That says nothing about whether an entity that is not a party to a particular sub-docket proceeding may be subject to discovery in that sub-docket proceeding. Certainly the fact that EJ&E joined CN in seeking the protective order did not indicate that EJ&E thereby intended or expected to be subjected to discovery in every sub-docket to the proceeding. EJ&E had independent reasons to seek the Board’s protective order, related to exchanges of information with CN covered by paragraphs 2 and 3 of the protective order. *See* Decision No. 1 at 3-4.

Conclusion

For the foregoing reasons, EJ&E respectfully requests that the Board deny Mittal’s motion to compel.

Respectfully submitted,

A handwritten signature in black ink, reading "John A. Vuono / pae". The signature is written in a cursive style with a horizontal line underneath.

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Railway Company and EJ&E West
Company*

February 8, 2008

EXHIBIT A

COMPARISON OF DOCUMENT REQUESTS
SERVED ON APPLICANTS AND EJ&E¹

Document Requests to Applicants	Document Requests to EJ&E
1. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any analyses, projections, or forecasts regarding actual, anticipated, or potential changes to direct or indirect service on the EJ&E Line and/or the Gary Railroad in northwest Indiana/Chicago as a result of the CN Transaction.	1. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any analyses, projections, or forecasts regarding actual, anticipated, or potential changes to direct or indirect service on the EJ&E Line and/or the Gary Railroad in northwest Indiana/Chicago as a result of the CN Transaction.
2. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to the interchange or connection of the EJ&E Line and the Gary Railroad as a result of the CN Transaction.	2. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to the interchange or connection of the EJ&E Line and the Gary Railroad as a result of the CN Transaction.
3. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to actual, anticipated, or potential changes in direct or indirect service to any current EJ&E customers as a result of the CN Transaction.	3. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to actual, anticipated, or potential changes in direct or indirect service to any current EJ&E customers as a result of the CN Transaction.
4. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to actual, anticipated, or potential changes in Mittal's agreements or operating arrangements with the EJ&E as a result of the CN Transaction, including but not limited to: (1) demurrage; (2) charges on cars unloaded/reloaded within the same plan; (3) private car storage and/or fleet management; (4) car supply; and (5) specialized switching.	4. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to actual, anticipated, or potential changes in Mittal's agreements or operating arrangements with the EJ&E as a result of the CN Transaction, including but not limited to: (1) demurrage; (2) charges on cars unloaded/reloaded within the same plan; (3) private car storage and/or fleet management; (4) car supply; and (5) specialized switching.
5. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes in processes by which CN customers on the EJ&E Line and/or the Gary Railroad will order railcars from the other connecting Class I railroads.	5. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes in processes by which CN customers on the EJ&E Line and/or the Gary Railroad will order railcars from the other connecting Class I railroads.

¹ Differing requests are indicated by a highlighted background, with differences of language underlined and in bold. There are also slight differences in numbering between the two requests, so the numbering of the requests to EJ&E may not run sequentially or match the numbering of the requests to Applicants.

Document Requests to Applicants	Document Requests to EJ&E
6. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes in the current EJ&E rates, tariffs, publications, or other arrangements related to direct or indirect service by EJ&E as a result of the CN Transaction, including but not limited to service related to: (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and (5) Riverdale.	6. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes in the current EJ&E rates, tariffs, publications, or other arrangements related to direct or indirect service by EJ&E as a result of the CN Transaction, including but not limited to service related to: (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and (5) Riverdale.
7. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to the employees, staff, and/or management of the EJ&E and/or the Gary Railroad related to the Facilities as a result of the CN Transaction, including but not limited to the following categories: (1) operations; (2) commercial/marketing; (3) management; (4) organized/union labor.	7. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to the employees, staff, and/or management of the EJ&E and/or the Gary Railroad related to the Facilities as a result of the CN Transaction, including but not limited to the following categories: (1) operations; (2) commercial/marketing; (3) management; (4) organized/union labor.
8. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to current or potential trackage rights agreements related to the EJ&E Line and/or the Gary Railroad.	8. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to current or potential trackage rights agreements related to the EJ&E Line and/or the Gary Railroad.
9. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to current or potential trackage rights agreements related to the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction.	9. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to current or potential trackage rights agreements related to the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction.
10. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to EJ&E inbound and/or outbound rates, tariffs, arrangements, or agreements as a result of the CN Transaction.	10. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to any actual, planned, anticipated or possible changes to EJ&E inbound and/or outbound rates, tariffs, arrangements, or agreements as a result of the CN Transaction.

Document Requests to Applicants	Document Requests to EJ&E
11. Please produce any and all documents reflecting efforts or plans to attract business in, from or to EJ&E Line and/or the Gary Railroad and its surrounding rail-related infrastructure, including but not limited to: i. all communications with existing or potential Shippers; ii. all marketing or advertising efforts; iii. all communications between CN and officials of local and provincial governments and/or their agencies, the U.S. government and/or its agencies, chambers of commerce, any other private companies, and/or any other economic development agencies or entities regarding the present and future prospects of the EJ&E Line and/or the Gary Railroad.	11. Please produce any and all documents reflecting efforts or plans to attract business in, from or to EJ&E Line and/or the Gary Railroad and its surrounding rail-related infrastructure, including but not limited to: i. all communications with existing or potential Shippers; ii. all marketing or advertising efforts; iii. all communications between CN and officials of local and provincial governments and/or their agencies, the U.S. government and/or its agencies, chambers of commerce, any other private companies, and/or any other economic development agencies or entities regarding the present and future prospects of the EJ&E Line and/or the Gary Railroad.
12. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to CN's development plans and implementation schedule for the CN Transaction.	12. Please produce any and all documents consisting of, describing, identifying, discussing, or relating to CN's development plans and implementation schedule for the CN Transaction.
13. Please produce any and all contracts, agreements, or other documents contemplated or entered into between CN and former, current or prospective Shippers related to traffic on the EJ&E Line and/or the Gary Railroad.	13. Please produce any and all contracts, agreements, or other documents contemplated or entered into between CN <u>and/or the EJ&E</u> and former, current or prospective Shippers related to traffic on the EJ&E Line and/or the Gary Railroad.
14. Please produce any and all projections, analyses, forecasts, studies, or other materials regarding or relating to actual or potential CN capital improvements to the EJ&E Line, including but not limited to CN's announced plan to make \$100 million in improvements.	14. Please produce any and all projections, analyses, forecasts, studies, or other materials regarding or relating to actual or potential CN capital improvements to the EJ&E Line, including but not limited to CN's announced plan to make \$100 million in improvements.

Document Requests to Applicants	Document Requests to EJ&E
15. Please produce any and all contracts, funding agreements, or other similar documents related to the EJ&E Line and/or the Gary Railroad that were contemplated or entered into between CN and/or EJ&E, and local or state governments, the Canadian government and/or its agencies, the United States government and/or its agencies, chambers of commerce, other private companies and/or any other economic development agencies or entities.	
16. Please produce any and all contracts, agreements, correspondence, or other documents contemplated or entered into between CN and/or the EJ&E, and former, current or prospective Shippers related to the EJ&E Line and/or the Gary Railroad.	15. Please produce any and all contracts, agreements, correspondence, or other documents contemplated or entered into between CN and/or the EJ&E, and former, current or prospective Shippers related to the EJ&E Line and/or the Gary Railroad.
17. Please produce any and all documents related to the existing Chicago-area interchange arrangements or agreements between CN and other railroads (including but not limited to the Canadian Pacific Railway, Burlington Northern Santa Fe Railway, CSX Transportation, Norfolk Southern Railway Company, Union Pacific Railroad, and the Indiana Harbor Belt Railroad), including but not limited to any and all documents related to any planned, anticipated, or potential changes to those existing interchange arrangements or agreements.	
18. Please produce any and all documents related to any planned, anticipated, or foreseeable expansion or capital improvement of yard, repair or related facilities presently on, near or related to the EJ&E Line and/or the Gary Railroad.	16. Please produce any and all documents related to any planned, anticipated, or foreseeable expansion or capital improvement of yard, repair or related facilities presently on, near or related to the EJ&E Line and/or the Gary Railroad.
19. Please produce any and all documents related to any planned, anticipated, or foreseeable relocation of yard, repair or related facilities from the Chicago area to the EJ&E Line.	17. Please produce any and all documents related to any planned, anticipated, or foreseeable relocation of yard, repair or related facilities from the Chicago area to the EJ&E Line <u>and/or the Gary Railroad.</u>
20. Please produce any and all documents related to any discussed, planned, anticipated, or potential mergers, acquisitions, or other transactions that relate to or may affect traffic or traffic flows on the EJ&E Line and/or the Gary Railroad.	18. Please produce any and all documents related to any discussed, planned, anticipated, or potential mergers, acquisitions, or other transactions that relate to or may affect traffic or traffic flows on the EJ&E Line and/or the Gary Railroad.

Document Requests to Applicants	Document Requests to EJ&E
21. Please produce any and all projections, business plans, or other documents relating to existing traffic, future traffic and/or future traffic growth on the EJ&E Line and/or the Gary Railroad.	19. Please produce any and all projections, business plans, or other documents relating to existing traffic, future traffic and/or future traffic growth on the EJ&E Line and/or the Gary Railroad.
22. Please produce any and all manuals, plans, or other documents relating to current, planned, or potential operating plans for the EJ&E Line and/or the Gary Railroad, <u>including all documents and data used to draft and prepare the Operating Plan.</u>	20. Please produce any and all manuals, plans, or other documents relating to current, planned, or potential operating plans for the EJ&E Line and/or the Gary Railroad.
23. Please produce any and all documents relating to options or alternatives CN considered instead of and/or in addition to purchasing and/or improving the EJ&E Line and related facilities, including but not limited to improvements to CN's current lines, facilities, or structures in the downtown Chicago area or elsewhere.	
24. Please produce any and all documents related to New Carlisle, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.	21. Please produce any and all documents related to New Carlisle, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.
25. Please produce any and all documents related to Gary Plate, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.	22. Please produce any and all documents related to Gary Plate, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.
26. Please produce any and all documents related to Hennepin, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.	23. Please produce any and all documents related to Hennepin, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.
27. Please produce any and all documents related to Indiana Harbor, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic, <u>including but not limited service or operations over the canal bridge at Indiana Harbor.</u>	24. Please produce any and all documents related to Indiana Harbor, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.

Document Requests to Applicants	Document Requests to EJ&E
28. Please produce any and all documents related to Riverdale, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.	25. Please produce any and all documents related to Riverdale, including but not limited to documents related to: (1) business plans or projections; (2) direct or indirect service; (3) tariffs; (4) trackage rights; (5) car supply; (6) inbound and/or outbound routings; and (7) traffic.
29. Please produce any and all documents prepared by CN, or on behalf of CN , analyzing, discussing, planning, or otherwise relating to the CN Transaction.	26. Please produce any and all documents prepared by EJ&E, or on behalf of EJ&E , analyzing, discussing, planning, or otherwise relating to the CN Transaction.
30. Please produce any and all documents related to discussions, consultations, or settlement discussions with or between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company related to the CN Transaction, including but not limited to any contracts, agreements, or settlements reached during or as a result of such meetings, discussions, or consultations.	28. Please produce any and all documents related to discussions, or consultations with or between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company related to the CN Transaction, including but not limited to any contracts, agreements, or settlements reached during or as a result of such meetings, discussions, or consultations.
	27. Please produce any and all documents related to environmental reviews, reports, analyses, investigations, or other studies pertaining to anticipated or potential environmental impacts to the EJ&E Line and/or the Gary Railroad and their environs as a direct or indirect consequence of the CN Transaction.

EXHIBIT B

COMPARISON OF INTERROGATORIES
SERVED ON APPLICANTS AND EJ&E²

Interrogatories to Applicants	Interrogatories to EJ&E
1. Please describe any actual, planned, anticipated or possible changes to the employees, staff, and/or management of the EJ&E Line and/or the Gary Railroad in relation to the Facilities, including but not limited to the following categories: (1) operations; (2) commercial/marketing; (3) management; (4) organized/union labor.	1. Please describe any actual, planned, anticipated or possible changes to the employees, staff, and/or management of the EJ&E Line and/or the Gary Railroad in relation to the Facilities, including but not limited to the following categories: (1) operations; (2) commercial/marketing; (3) management; (4) organized/union labor.
2. Please describe any and all actual, planned, anticipated, or possible changes to inbound and outbound service (including direct and indirect service), or intraplant service or operations on the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction, including but not limited to changes related to (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and (5) Riverdale.	2. Please describe any and all actual, planned, anticipated, or possible changes to inbound, outbound service (including direct and indirect service), or intraplant service or operations on the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction, including but not limited to changes related to (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and (5) Riverdale.
3. Please describe the manner in which the EJ&E Line and the Gary Railroad will interchange as a result of the CN Transaction, including but not limited to descriptions of any actual, anticipated, planned, or potential changes in operations or direct or indirect service at Gary Plate.	3. Please describe the manner in which the EJ&E Line and the Gary Railroad will interchange as a result of the CN Transaction, including but not limited to descriptions of any actual, anticipated, planned, or potential changes in operations or direct or indirect service at Gary Plate.
4. Please describe CN's planned or anticipated treatment of rate quotations or rate authorities related to the EJ&E Line, including but not limited to quotations or publications of rates related to the Gary Plate or Indiana Harbor.	4. Please describe, to the extent known, CN's planned or anticipated treatment of rate quotations or rate authorities related to the EJ&E Line, including but not limited to quotations or publications of rates related to the Gary Plate or Indiana Harbor.

² Differing requests are indicated by a highlighted background, with differences of language underlined and in bold. There are also slight differences in numbering between the two requests, so the numbering of the requests to EJ&E may not run sequentially or match the numbering of the requests to Applicants.

Interrogatories to Applicants	Interrogatories to EJ&E
5. Please describe any and all new or increased traffic CN expects or anticipates over the EJ&E Line following full implementation of the CN Transaction, including (i) descriptions of how many trains and/or carloads per day of future traffic would be attributable to traffic moving over the EJ&E Line, and (ii) future traffic counts by each EJ&E Line segment, including carloads, tonnage, commodity and/or major business group, and other indicators of traffic flow.	5. Please describe any and all new or increased traffic EJ&E expects or anticipates over the EJ&E Line following full implementation of the CN Transaction, including (i) descriptions of how many trains and/or carloads per day of future traffic would be attributable to traffic moving over the EJ&E Line, and (ii) future traffic counts by each EJ&E Line segment, including carloads, tonnage, commodity and/or major business group, and other indicators of traffic flow.
6. Please describe any actual, anticipated, planned, or potential changes to any and all interchange points related to the EJ&E Line as a result of the CN Transaction.	6. Please describe any actual, anticipated, planned, or potential changes to any and all interchange points related to the EJ&E Line as a result of the CN Transaction.
7. Please describe any actual, anticipated, planned, or potential changes in direct or indirect service to any current customer of the EJ&E, including but not limited to a description of whether any such changes will be addressed or conditioned in agreements related to the CN Transaction.	7. Please describe any actual, anticipated, planned, or potential changes in direct or indirect service to any current customer of the EJ&E, including but not limited to a description of whether any such changes will be addressed or conditioned in agreements related to the CN Transaction.
8. Please describe whether any of the current rates, tariffs, authorities, agreements, or other arrangements between Mittal and EJ&E will change as a result of the CN Transaction, including but not limited to agreements for (1) demurrage; (2) charges for cars unloaded and reloaded within the same plant; (3) private car storage and/or fleet management; and (4) specialized switching.	8. Please describe whether any of the current rates, tariffs, authorities, agreements, or other arrangements between Mittal and EJ&E will change as a result of the CN Transaction, including but not limited to agreements for (1) demurrage; (2) charges for cars unloaded and reloaded within the same plant; (3) private car storage and/or fleet management; and (4) specialized switching.
9. Please describe the process or processes by which CN customers on the EJ&E Line and/or the Gary Railroad will be expected to use when ordering railcars from other Class I railroads.	
10. Please describe whether CN plans to or will continue to supply rail cars in the same quantity and consistency that the EJ&E presently employs with regard to Mittal.	9. Please describe, to the extent known, whether CN plans to or will continue to supply rail cars in the same quantity and consistency that the EJ&E presently employs with regard to Mittal.
11. Please describe CN's plans for the current EJ&E fleet of owned, leased, and/or operated railcars.	10. Please describe, to the extent known, CN's plans for the current EJ&E fleet of owned, leased, and/or operated railcars.

Interrogatories to Applicants	Interrogatories to EJ&E
12. Please describe any and all administrative, logistical, or electronic capabilities that CN will expect of its customers related to the EJ&E Line and/or the Gary Railroad, including but not limited to (1) receipt of railcars; (2) ordering in loads and/or empties into facilities, yards, or plants; (3) releasing empties and/or loads from facilities, yards, or plants; (4) switching requirements; (5) BOL process; (6) invoicing; and (7) payment.	11. Please describe any and all administrative, logistical or electronic capabilities that CN will expect of its customers related to the EJ&E line and/or the Gary Railroad, including but not limited to (1) receipt of railcars; (2) ordering in loads and/or empties into facilities, yards, or plants; (3) releasing empties and/or loads from facilities, yards, or plants; (4) switching requirements; (5) BOL process; (6) invoicing; and (7) payment.
13. Please describe any and all tariffs or publications that CN plans or may potentially use related to the Facilities, including but not limited to a description of any changes between CN's actual or anticipated tariffs or publications, and those currently maintained by the EJ&E.	
14. Please describe any plans to address current service issues related to the use of the yards in Indiana Harbor.	12. Please describe any plans to address current service issues related to the use of the yards in Indiana Harbor.
15. Please describe any and all effects, changes, or other impacts the CN Transaction will or may have on existing trackage rights agreements related to the EJ&E Line and/or the Gary Railroad.	13. Please describe any and all effects, changes, or other impacts the CN Transaction will or may have on existing trackage rights agreements related to the EJ&E Line and/or the Gary Railroad.
16. Please describe any and all plans or potential changes to direct or indirect service or operations regarding Indiana Harbor, including but not limited to Mittal's offer to refurbish the canal bridge in exchange for a long term commercial agreement.	14. Please describe any and all plans or potential changes to direct or indirect service or operations regarding Indiana Harbor, including but not limited to Mittal's offer to refurbish the canal bridge in exchange for a long term commercial agreement.
17. Please describe any and all plans regarding any and all existing inbound, outbound, and/or intraplant rates, tariffs, or agreements related to the Facilities, the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction, including but not limited to plans related to the equipment, power, or manpower requirements for those rate <u>tariffs</u> or agreements.	15. Please describe any and all plans regarding any and all existing inbound, outbound, and/or intraplant rates, tariffs, or agreements related to the Facilities, the EJ&E line and/or the Gary Railroad as a result of the CN Transaction, including but not limited to plans related to the equipment, power, or manpower requirements for those rate agreements.
18. Please describe any and all plans for changes to the rail workforce and/or organized labor representation related to the Facilities, the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction.	16. Please describe any and all plans for changes to the rail workforce and/or organized labor representation related to the Facilities, the EJ&E Line and/or the Gary Railroad as a result of the CN Transaction.

Interrogatories to Applicants	Interrogatories to EJ&E
19. Please describe any and all discussions, meetings, conferences, or other interactions CN has had and/or plans to have with customers and/or Shippers related to the CN Transaction.	17. Please describe any and all discussions, meetings, conferences, or other interactions EJ&E has had and/or plans to have with customers and/or Shippers related to the CN Transaction.
20. Please describe any and all plans regarding the implementation of the CN Transaction, including but not limited to the planned, expected, or anticipated timeline(s) and/or key milestones related to the CN Transaction or its implementation.	18. Please describe, to the extent known, any and all plans regarding the implementation of the CN Transaction, including but not limited to the planned, expected, or anticipated timeline(s) and/or key milestones related to the CN Transaction or its implementation.
21. Please describe any and all discussions with or related to United States Steel, including but not limited to discussions regarding Indiana Harbor and/or Gary Plate related to (i) car supply; (ii) intraplant bridge traffic or operations; or (iii) service or storage of empty or loaded cars, including partially loaded cars.	19. Please describe any and all discussions with or related to United States Steel, including but not limited to discussions regarding Indiana Harbor and/or Gary Plate related to (i) car supply; (ii) intraplant bridge traffic or operations; or (iii) service or storage of empty or loaded cars, including partially loaded cars.
22. Please describe any plans, projections, analyses or other calculations performed by CN related to or regarding direct or indirect service or any other issue related to (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and/or (5) Riverdale.	20. Please describe any plans, projections, analyses or other calculations performed by EJ&E related to or regarding direct or indirect service or any other issue related to (1) New Carlisle; (2) Gary Plate; (3) Hennepin; (4) Indiana Harbor; and/or (5) Riverdale.
23. Please describe any planned, current, anticipated, or foreseeable expansions or capital improvements of yard, repair, or similar facilities presently on or related to the EJ&E Line.	21. Please describe any planned, current, anticipated, or foreseeable expansions or capital improvements of yard, repair, or similar facilities presently on or related to the EJ&E Line and/or the Gary Railroad.
24. Please describe any planned, current, anticipated, or foreseeable relocations of any yard, repair, or similar facilities from the Chicago area to the EJ&E Line.	22. Please describe any planned, current, anticipated, or foreseeable relocations of any yard, repair, or similar facilities from the Chicago area to the EJ&E Line.
25. Please describe any other planned, current, anticipated, or foreseeable mergers, acquisitions, or other transactions by CN that will or may impact traffic levels related to the Facilities on the EJ&E Line and/or the Gary Railroad.	23. Please describe any other planned, current, anticipated, or foreseeable mergers, acquisitions, or other transactions by CN that will or may impact traffic levels related to the Facilities on the EJ&E Line and/or the Gary Railroad.
26. For every merger, acquisition, or transaction identified in Interrogatory No. 25, please identify and describe the anticipated impacts on traffic levels on the EJ&E Line and/or the Gary Railroad and describe how those impacts were calculated.	24. For every merger, acquisition, or transaction identified in Interrogatory No. 23, please identify and describe the anticipated impacts on traffic levels on the EJ&E Line and/or the Gary Railroad and describe how those impacts were calculated.

Interrogatories to Applicants	Interrogatories to EJ&E
27. Please describe with specificity CN's plans for \$100 million in proposed improvements and additions to the EJ&E Line as described in the Application, including but not limited to any and all track and signal upgrades, grade crossing eliminations, track speed alterations, yard construction or relocation, or other capital improvements.	
28. Please describe the results of any and all meetings, discussions, or consultations with or between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company related to the CN Transaction, including but not limited to descriptions of any terms, conditions, agreements, or settlements reached during or as a result of such meetings, discussions, or consultations.	26. Please describe the results of any and all meetings, discussions, or consultations with or between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company related to the CN Transaction, including but not limited to descriptions of any terms, conditions, agreements, or settlements reached during or as a result of such meetings, discussions, or consultations.
29. For any and all terms, conditions, agreements, or settlements reached between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company identified in response to Interrogatory No. 28, please describe whether and to what extent the terms, conditions, agreements, or settlements reached will or may permit the Indiana Harbor Belt Railroad Company to access EJ&E and/or CN trackage that the Indiana Harbor Belt Railroad Company does not presently access or directly serve.	27. For any and all terms, conditions, agreements, or settlements reached between CN and/or EJ&E and the Indiana Harbor Belt Railroad Company identified in response to Interrogatory No. 26, please describe whether and to what extent the terms, conditions, agreements, or settlements reached will or may permit the Indiana Harbor Belt Railroad Company to access EJ&E and/or CN trackage that the Indiana Harbor Belt Railroad Company does not presently access or directly serve. 25. Please describe any and all plans, meetings, discussions, analyses, projections, or other calculations held, made, or performed by EJ&E and/or United States Steel regarding service levels and operations on the Gary Railroad following the CN Transaction.

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2008, I have served copies of Elgin, Joliet & Eastern Railway Company and EJ&E West Company's Reply to the Motion to Compel of ArcelorMittal Companies upon all known parties of record in this proceeding by first-class mail or a more expeditious method.

Lora Pelton