

January 30, 2008



221477-SUB-1
221478-SUB-2
221479-SUB-3
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221482-SUB-6
221483-SUB-7

BY HAND

Hon. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

**Re: STB Finance Docket No. 35087, Sub Nos. 1-7
Canadian National Railway Company and Grand Trunk Corporation –
Control – EJ&E West Company**

Dear Ms. Quinlan:

We represent ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor LLC, ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. (collectively, "ArcelorMittal") in the above-captioned proceeding. Enclosed for filing please find an original and ten copies of ArcelorMittal's Motion to Compel Discovery from the Elgin, Joliet and Eastern Railway Company and EJ&E West Company, which includes a request for expedited consideration.

Also enclosed is an extra copy of the above motion. Please receipt-stamp this copy and return it to our messenger.

Respectfully submitted,

Brendon P. Fowler

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35087
Sub-Nos. 1-7

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION
- CONTROL -
EJ & E WEST COMPANY

**ARCELORMITTAL USA INC., ARCELORMITTAL BURNS HARBOR LLC,
ARCELORMITTAL INDIANA HARBOR LLC, ARCELORMITTAL KOTE INC.,
ARCELORMITTAL TEK INC., ARCELORMITTAL HENNEPIN INC., AND
ARCELORMITTAL RIVERDALE INC.'s MOTION TO COMPEL DISCOVERY FROM
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY AND EJ&E WEST
COMPANY**

EXPEDITED CONSIDERATION REQUESTED

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HARBOR INC., ARCELORMITTAL
KOTE INC., ARCELORMITTAL TEK
INC., ARCELORMITTAL HENNEPIN
INC., and ARCELORMITTAL
RIVERDALE INC.**

Dated: January 30, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35087
Sub-Nos. 1-7

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION
– CONTROL –
EJ & E WEST COMPANY

**ARCELORMITTAL USA INC., ARCELORMITTAL BURNS HARBOR LLC,
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ELGIN, JOLIET AND EASTERN RAILWAY COMPANY AND EJ&E WEST
COMPANY**

EXPEDITED CONSIDERATION REQUESTED

I. INTRODUCTION

Pursuant to 49 C.F.R. § 1114.31, ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor LLC,¹ ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. (collectively, "ArcelorMittal"), by their undersigned attorneys, timely move to compel complete and substantive responses by the Elgin Joliet & Eastern Railway Company and EJ&E West Company (collectively, "EJ&E") to discovery requests served by ArcelorMittal.

¹ Formerly known as ArcelorMittal Indiana Harbor Inc.

II. STATEMENT OF FACTS

As more fully described in ArcelorMittal's recently filed Comments and Requests for Conditions,² ArcelorMittal is the largest steel producer in North America, and the largest integrated steel producer in the United States. All told, ArcelorMittal employs over 320,000 workers in over 60 countries worldwide. ArcelorMittal operates some of the most modern and efficient steel plants in North America. Those facilities include the largest steelmaking complex in North America, which is located in East Chicago, Indiana, and includes the sister steel plants of Indiana Harbor East Plant and Indiana Harbor West Plant ("Indiana Harbor").³ Indiana Harbor has a total raw steelmaking capability of 10 million tons annually, and also contains a significant galvanizing facility near the Indiana Harbor West Plant.

ArcelorMittal operates a steel plate mill located in the U.S. Steel Gary Works complex in Gary, Indiana (the "Gary Plate mill"). Another ArcelorMittal plant located near the Indiana border south of Chicago in Riverdale, Illinois is capable of producing an additional 750,000 tons of raw steel annually, and ArcelorMittal also operates a steel sheet finishing facility located on the Illinois River in Hennepin, Illinois, and two other state-of-the-art steel finishing plants near New Carlisle, Indiana, the latter as part of a joint venture with Nippon Steel.

The daily operations at each of the Chicago-area ArcelorMittal facilities described in the section above depend on the continuation of smooth, efficient, and locally tailored rail service. In addition to transportation contracts, published rates and tariffs, and other written agreements governing freight rates and service, ArcelorMittal and EJ&E have an established course of

² See *ArcelorMittal's Comments and Requests for Conditions*, STB Finance Docket 35087 (Board served January 28, 2008).

³ The Indiana Harbor West Plant is served by the South Chicago & Indiana Harbor Railroad ("SCIH"), the EJ&E, and the Indiana Harbor Belt Railroad ("IHB"), except its galvanizing facility which is served by EJ&E and IHB.

dealing governing vital elements of the rail transportation service provided at these facilities, including car ordering and car supply; intraplant switching and classification; storage of empty and loaded cars; and communications. Accordingly, ArcelorMittal read the Application, including the Operating Plan, with great interest soon after it was filed with the Board. Unfortunately, the Application does not contain any information regarding local operations in and around ArcelorMittal's various Chicago-area facilities.

Consequently, it became necessary for ArcelorMittal to file discovery not only on the Canadian National Railway Company and Grand Trunk Corporation (collectively "CN"), but on the EJ&E as well. Between CN and EJ&E, only the EJ&E has full and complete knowledge of its numerous agreements and day-to-day operations arrangements with ArcelorMittal, and consequently only EJ&E is in a position to fully and effectively inform ArcelorMittal as to any and all likely changes to those agreements and operations in the event the Board approves the CN Transaction.

To that end, in addition to serving discovery on CN, ArcelorMittal served discovery on the EJ&E on January 10, 2008. A copy of those discovery requests is attached hereto as **Exhibit 1**. ArcelorMittal's Document Request contains 28 requests, and there are 27 Interrogatories.

Among other requests, ArcelorMittal sought information from EJ&E regarding:

- Changes in EJ&E interchange locations or operations, including the manner in which CN will interchange with the Gary Railroad. Interrogatories 3, 6, 19, 25; Discovery Request 2.
- Changes in inbound or outbound service on the EJ&E Line and/or the Gary Railroad relative to ArcelorMittal's facilities. Interrogatories 2, 14; Discovery Requests 1, 3.

- Changes in ArcelorMittal's current arrangements with the EJ&E, including demurrage, charges for cars loaded or unloaded within the same plant, private car storage and fleet management, and areas of specialized switching. Interrogatories 9, 10; Discovery Requests 4, 5, 21-25.
- Changes to current rates, tariffs, or other authorities currently in place between ArcelorMittal and the EJ&E. Interrogatories 8, 15; Discovery Requests 10, 21-25.
- The impact of the CN Transaction on trackage rights agreements related to ArcelorMittal facilities that are either in existence or under discussion. Interrogatory 13; Discovery Requests 8, 9, 21-25.
- Changes to current arrangements with the EJ&E for car hire and car supply. Interrogatory 9, Discovery Requests 4, 21-25.
- New processes by which customers will order cars from the other Class I railroads. Discovery Request 5.
- The new logistical, administrative, or electronic capabilities CN will expect of its customers relative to the EJ&E Line or the Gary Railroad, such as switching requirements. Interrogatory 11.
- Information regarding CN's plans for changes to the current EJ&E fleet of owned, leased, or operated railcars. Interrogatory 10.
- Information regarding changes or capital improvements to rail yards and similar facilities, as well as yard operations. Interrogatory 21; Discovery Requests 16, 17.
- Information regarding implementation of the CN Transaction, including timelines and key events. Interrogatory 18; Discovery Requests 12.

EJ&E responded to ArcelorMittal's discovery requests by letter on January 25, 2008 (attached hereto as **Exhibit 2**) In a manner consistent with their responses to other discovery requests served on EJ&E by other parties in this proceeding,⁴ EJ&E objected to all of ArcelorMittal's discovery requests and provided no substantive responses to any requests. During the last several days, counsel for ArcelorMittal and counsel for EJ&E have in good faith engaged in discussions and correspondence regarding these matters, but have been unable to reach a resolution. This motion to compel follows.

III. DISCUSSION

In its response to ArcelorMittal's discovery requests, EJ&E asserts that "[i]t is the position of EJ&E and EJ&EW that they are not parties to the above proceeding and therefore are not required to respond to the Discovery Requests." Exhibit 2, at 2. In alleged support of this contention, EJ&E cites 49 C.F.R. § 1101.2(d), which defines a "party" as:

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

Id. (emphasis added). EJ&E simply asserts without further support that "[n]either EJ&E or EJ&EW are included within the aforesaid definition and therefore cannot be considered parties to the proceeding." Exhibit 2, at 2. EJ&E is mistaken. The Board's very first decision in this proceeding demonstrated that EJ&E is a party for the purposes of 49 C.F.R. § 1101.2(d). In

⁴ See, e.g., *Village of Frankfort's Motion to Compel Discovery from Elgin, Joliet and Eastern Railway Company and EJ&E West Company*; STB Finance Docket No. 35087 (Board served January 22, 2008); *Will County, Illinois' Motion to Compel Discovery from Elgin, Joliet and Eastern Railway Company and from EJ&E West Company*, STB Finance Docket No. 35087 (Board served January 28, 2008).

Decision No. 1, in which the Board enacted the protective order governing the very discovery of which EJ&E now complains, the Board noted that “Canadian National Railway Company (CNR), Grand Trunk Corporation (GTC), and *Elgin, Joliet and Eastern Railway company (EJ&E)*, collectively referred to as Applicants, filed a joint petition for protective order ...”⁵

Indeed, a review of that initial petition for protective order (which included the proposed protective order itself) reveals that it was submitted by “*Petitioners Canadian National Railway Company ..., Grand Trunk Corporation .. , and Elgin, Joliet and Eastern Railway Company ...*”⁶ Both “applicants” and “petitioners” are expressly defined as parties in 49 C.F.R. § 1101.2(d).

Nor was this EJ&E’s last appearance in the record as a party. Simultaneously with the subsequent filing of CN’s Application, EJ&E filed a notice of exemption in this proceeding “based on a corporate family transaction involving EJ&E West Company (EJ&EW”), a non-carrier subsidiary of EJ&E, pursuant to 49 C.F.R. § 1180.2(d)(3).”⁷ As part of that filing, EJ&E identified itself as a party.⁸ It is contradictory to say the least for EJ&E to repeatedly submit filings in the proceeding and avail itself of the Board’s processes through its notice of exemption, *submitted as part of the Application*, and then attempt to argue it is not an applicant, petitioner, or otherwise subject to the “party” definition.

Nor does the fact that EJ&E’s Notice of Exemption received its own sub-number (No. 1) in Finance Docket 35087 provide any support for EJ&E’s claims that it is not a party. To the

⁵ *Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company*, STB Finance Docket No. 35087 (Board served October 22, 2007), at 1 (“Decision No. 1”) (emphasis added).

⁶ *See Joint Petition for Protective Order*, STB Finance Docket No. 35087 (Board served October 3, 2007) (emphasis added).

⁷ *See Application*, at 338-48.

⁸ *See Application*, at 344 (listing EJ&E in Section 2.1, “Parties”).

contrary, the caption to EJ&E's filing indicates it submitted its Notice of Exemption "pursuant to 49 U.S.C. § 10502(a) ..".⁹ The Board's regulations define a "proceeding" to include not only an application, but also "[a] petition for exemption filed under 49 U.S.C. 10502 requesting the Board to exempt from application all or part of subtitle IV of Title 49 of the United States Code any person, class of persons, transaction, or service related to a rail carrier."¹⁰ Consequently, EJ&E's Notice of Exemption filing is part of the proceeding, to which EJ&E has self-identified as a party.

Furthermore, in the protective order itself (which was, as previously noted, drafted and jointly submitted by the Applicants including the EJ&E), the Board defined "proceedings" as "those proceedings before the Surface Transportation Board ... *concerning the application in STB Finance Docket No. 35087, regulatory authority for the creation of the EJ&EW, and any related proceedings before the Board, ...*"¹¹ Indeed, EJ&E's Notice of Exemption is a central and necessary element in the design of the proposed CN Transaction, as it would authorize EJE to transfer its assets to EJEW. Each of the sub-dockets is clearly related to the main docket, and together encompasses the overall proceeding.¹² The fact that the protective order governing

⁹ See Application, at 340.

¹⁰ 49 C.F.R. § 1101.2(d).

¹¹ Decision No. 1, Appendix, at 3 (emphasis added).

¹² See *Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company*, STB Finance Docket No. 35087 (Board served November 26, 2007), at 1 and fn. 1 (describing the sub-dockets as "related filings" and noting that the decision embraces each sub-docket) ("Decision No. 2").

discovery in this proceeding expressly extends to any proceedings “related” to the Application inherently presupposes that discovery itself is similarly expansive.¹³

In any event, a review of the Board’s own service list demonstrates that both EJ&E and ArcelorMittal are listed, through counsel, as Parties of Record in Finance Docket No. 35087, Sub-No. 1.¹⁴ As a result, EJ&E clearly meets the definition of a party in numerous respects, as it is an applicant in the proceeding, as well as a petitioner and an entity permitted by the Board to participate in this proceeding.¹⁵

IV. REQUEST FOR EXPEDITED CONSIDERATION

In light of the narrow deadlines in this proceeding, it is critical that EJ&E’s responses be provided in a time frame sufficient to allow resulting relevant information to be of timely use. While Board stated in Decision No. 2 that it will not issue a final decision on the merits of the Application until the environmental review process is completed,¹⁶ under the procedural schedule responses to the January 28, 2008 filings are nonetheless due on March 13, 2008, with a decision to follow on April 25, 2008. Any further delay in EJ&E’s responses to discovery will

¹³ The Board’s discovery rules are also to be “construed liberally to secure just, speedy and inexpensive determination of the issues presented.” 49 C.F.R. § 1100.3.

¹⁴ Attached hereto as **Exhibit 3**.

¹⁵ In the event the Board determines EJ&E to be a party, EJ&E’s response purports to “incorporate by reference and adopt to the extent relevant the Applicants’ responses/objections to the Discovery Requests.” Exhibit 2, at 2. As previously described above, the information ArcelorMittal seeks from EJ&E is largely specific to EJ&E, and cannot be replicated through ArcelorMittal’s separate and previously served discovery requests directed at CN. Any responses and/or objections by CN are irrelevant to the information sought from EJ&E, and should not bar substantive responses by EJ&E.

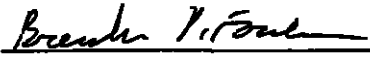
¹⁶ Decision No. 2, at 2.

unduly prejudice the numerous parties, including ArcelorMittal, that have not had the benefit of any responsive information from EJ&E. In the event that the EJ&E is ultimately ordered to produce responses, it is reasonably foreseeable that such information will impact both previously filed comments and pleadings, and imminent submissions. Given the number of parties now seeking to compel discovery from the EJ&E, as well as the range of their various interests, it is imperative that the Board act expeditiously on this motion to compel in order to avoid further prejudice occasioned by EJ&E's refusal to provide discovery responses. Therefore, ArcelorMittal respectfully requests that the Board issue its decision on this motion no later than Monday, February 4, 2008, and require EJ&E to provide responsive discovery requests no later than Friday, February 8, 2008.

CONCLUSION

ArcelorMittal respectfully requests that the Board clarify that the EJ&E is a party to these proceedings, and order EJ&E to respond fully and completely to ArcelorMittal's discovery requests in the expedited manner described above. Furthermore, ArcelorMittal respectfully requests that the Board, pursuant to 49 C.F.R. § 1114.31(d), order EJ&E to pay ArcelorMittal's reasonable expenses, including attorneys' fees, incurred as a result of EJ&E's refusal to respond to discovery.

Respectfully submitted,

By 

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KOTE INC., ARCELORMITTAL TEK
INC., ARCELORMITTAL HENNEPIN
INC., and ARCELORMITTAL
RIVERDALE INC.**

January 30, 2008

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2008 I caused the foregoing Motion to Compel Discovery to be served via first class mail, postage prepaid, or by a more expeditious method of delivery on the following and on all other Parties of Record:

John A. Vuono
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310 Grant Street, Suite 2310
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**Counsel for Elgin, Joliet & Eastern Railway Company
and EJ&E West Company**

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Secretary of Transportation
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Attorney General of the United States
c/o Assistant Attorney General
Antitrust Division, Room 3109
U.S. Department of Justice
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Brendon P. Fowler

EXHIBIT 1

January 10, 2008

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VIA FEDERAL EXPRESS

John A. Vuono
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**Re: STB Finance Docket No. 35087
Canadian National Railway Company and Grand Trunk Corporation –
Control – EJ&E West Company**

Dear Counsel:

Enclosed please find the ArcelorMittal's First Set of Written Interrogatories, and First Request for the Production of Documents directed to the Elgin, Joliet & Eastern Railway Company in the above-captioned proceeding.

Sincerely,


Brendon P. Fowler

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35087

**CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION
- CONTROL -
EJ & E WEST COMPANY**

**FIRST SET OF WRITTEN INTERROGATORIES TO THE ELGIN, JOLIET &
EASTERN RAILWAY COMPANY**

Pursuant to 49 C.F.R. § 1114.26 and the Decision served by the Surface Transportation Board on November 26, 2007 in the above-captioned proceeding, ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor Inc., ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. (collectively, "Mittal"), by their undersigned attorneys, hereby request that the Elgin, Joliet & Eastern Railway Company ("EJ&E"), by duly authorized officers and agents, serve upon counsel for Mittal, within fifteen (15) days after service of this request, sworn answers to this First Set of Interrogatories set forth below.

GENERAL DEFINITIONS AND INSTRUCTIONS

I Definitions

A. "Application" means the Railroad Control Application filed by CN on October 30, 2007, in the above-captioned proceeding.

B The term "between", when used in the context of a request for communications between persons and/or entities, or between and among persons and/or entities, refers to

communications to, from, shared between or among, or transmitted in any other manner or direction between or among such persons and/or entities.

C. "CN" means the Canadian National Railway Company and its parent company, subsidiaries, and affiliates, including without limitation the Grand Trunk Corporation and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, consultants, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

D. "CN Transaction" means the proposed acquisition by Canadian National Railway Company and Grand Trunk Corporation of control of the EJ&E West Company, a wholly-owned subsidiary of the Elgin, Joliet & Eastern Railway Company.

E. The term "describe" means to explain and report a full account of all aspects of the event, transaction, or subject matter.

F. The term "document(s)" means every type of recorded information prepared either prior to or subsequent to this request, including, but not limited to, any letter, intra-company communication, note, e-mail, print mail, memoranda, analysis, forecast, projection, report, study, record, correspondence, minutes of a meeting, printed publication, article, instruction, work assignment, notebook, draft, work sheet, drawing, sketch, photograph, charge, advertisement, catalogue, brochure, news release, trade publication, invoice, and any other written, recorded, electronic, mechanical or electric form of representation of any kind, or graphic material however produced or reproduced and, in the absence of the original, a copy thereof, and any copy bearing markings thereon not present on the original or other copy thereof. All drafts, copies or preliminary materials that are different in any way from the executed or final document shall be considered to be additional documents as the term is used herein.

G. "EJ&E" or "you" or "your" means the Elgin, Joliet & Eastern Railway Company and its parent company, subsidiaries, and affiliates, including without limitation the EJ&E West Company, Transtar, Inc., and United States Steel Corporation and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

H. The "EJ&E Line" means the land, rail, and related assets of the EJ&E that are to be acquired by the EJ&E West Company, consisting primarily of an arc around Chicago, IL, extending from Waukegan, IL, southwards to Joliet, IL, then eastward to Gary, IN, that are the subject of the CN Transaction.

I. "Facilities" means the Mittal facilities of Gary Plate, Hennepin, Indiana Harbor, New Carlisle, and Riverdale.

J. "Gary Plate" means Mittal's steel plate mill located in the U.S. Steel Gary Works in Gary, IN, as well as all related facilities, mills, and equipment.

K. "Gary Railroad" means the remainder of the EJ&E Line that would be retained by United States Steel following implementation of the CN Transaction.

L. "Hennepin" means Mittal's facility located on the Illinois River in Hennepin, IL, west of Chicago, as well as all related facilities, mills, and equipment.

M. "Identify," when used with reference to a document, means to either produce such document or to state its date, type of document (e.g., letter, memorandum, chart, etc., or other means of identifying it), its title or heading, the author's (authors') full name(s), its recipient(s), general subject matter contents, number of pages, and the document's present location and

custodian. If such a document was, but is no longer in EJ&E's possession, custody, or control, state what disposition was made of it.

N. "Identify," when used with reference to a communication other than a document, means to state the nature of the communication (e.g., meeting, telephone call, etc.), the time, date and place the communication occurred, and the participants' full names, business addresses and job titles at the time of the communication (and as of the date of your response if different).

O. "Indiana Harbor" means Mittal's steelmaking complex located in East Chicago, Indiana and includes, unless otherwise stated, Mittal's two sister steel plants of Indiana Harbor East Plant and Indiana Harbor West Plant as well as all related facilities, mills, and equipment.

P. "Mittal" means ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor Inc., ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, consultants, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

Q. "New Carlisle" means Mittal's Kote and Tek facilities in New Carlisle, IN, as well as all related facilities, mills, and equipment.

R. "Operating Plan" means Exhibit 15 to the Railroad Control Application filed by CN on October 30, 2007 in the above-captioned proceeding, including any and all attachments or subsequent amendments thereto.

S. The term "person or entity" means any natural person or legal entity, including without limitation any corporation, partnership, limited liability company, union, proprietorship,

trust, association, incorporated or unincorporated organization and any group of persons or entities.

T. The terms “relating to” or “relate to” a given subject mean any document or communication that constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, relates to, responds to, describes, analyzes or is in any way pertinent to that subject, including, without limitation, documents concerning the transmittal of other documents.

U. “Riverdale” means Mittal’s strip facility located south of Chicago in Riverdale, IL, as well as all related facilities, mills, and equipment.

V. “Shipper” means any person or entity engaged in the transfer, distribution, movement, or receipt of freight at least partially by rail, including but not limited to the customers of CN, EJ&E, and/or other railroads, and extends without limitation to shippers, receivers, consignors, consignees, and third party agents.

W. The phrase “traffic” includes intermodal, local, overhead, switching, inter-yard transfers, interline, through trains, haulage, and any other forms of transportation involving rail.

X. The phrase “traffic flow” includes traffic data such as carloads, tons, train counts, train lengths, commodity and/or major business groups, as well as movement directions, velocities, and densities.

To the extent not otherwise defined, capitalized terms have the meanings ascribed to them by the Application.

II. Instructions

A. These Interrogatories are served upon EJ&E pursuant to 49 C.F.R. § 1114.26. You are required to answer the following Interrogatories separately and fully in writing under oath pursuant to 49 C.F.R. § 1114.26

B. If any information specified by an Interrogatory below is not available in the full detail requested, such Interrogatory shall be deemed to require information that is responsive to the Interrogatory in such detail as is available.

C. If EJ&E refuses to answer any Interrogatory or part of an Interrogatory on the basis of some type of privilege with respect to the information requested, or if EJ&E refuses to produce a document or any part of a document on the basis of some type of privilege with respect to the document, EJ&E must state the following with respect to such information or document:

1. The Interrogatory or part of an Interrogatory to which such information responds;
2. The identity and/or description of each document that may encompass or be included within the information that EJ&E refuses to provide;
3. The reason for refusing to answer the Interrogatory or part of an Interrogatory; and
4. A statement of facts constituting the basis for any claim of privilege or other ground for nondisclosure with respect to such information.

D. These Interrogatories are of an ongoing nature and should EJ&E obtain, acquire or otherwise come to have any additional or further information or document responsive to these Interrogatories, the answers hereto shall be updated to provide that information in accordance with 49 C.F.R. § 1114.29

E. Use of the singular shall be deemed to include the plural and use of the masculine shall be deemed to include the feminine, as appropriate, and vice versa.

F. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make any Interrogatory inclusive rather than exclusive.

G. The past tense includes the present tense where the clear meaning is not distorted by the change of tenses.

H. Unless otherwise stated, your responses should cover the period from January 1, 2004 onward.

III. INTERROGATORIES

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, 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.
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.
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.
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.
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.
10. Please describe, to the extent known, CN's plans for the current EJ&E fleet of owned, leased, and/or operated railcars.
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.
12. Please describe any plans to address current service issues related to the use of the yards in Indiana Harbor.
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.
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.
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.
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.

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.
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.
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.
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.
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.
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.
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.
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.
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.
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.
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.

Respectfully submitted,

By: Brendon P. Fowler
Kevin M. Sheys
Edward J. Fishman
Janie Sheng
Brendon P. Fowler
Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street NW
Washington, D.C. 20006
(202) 778-9000

**ATTORNEYS FOR
ARCELORMITTAL USA INC.,
ARCELORMITTAL BURNS HARBOR
LLC, ARCELORMITTAL INDIANA
HARBOR INC., ARCELORMITTAL
KOTE INC., ARCELORMITTAL TEK
INC., ARCELORMITTAL HENNEPIN
INC., and ARCELORMITTAL
RIVERDALE INC.**

Dated: January 10, 2008

CERTIFICATE OF SERVICE

I certify that I have, this 10th day of January, 2008, served the foregoing First Set of Written Interrogatories to the Elgin, Joliet & Eastern Railway Company by causing a copy to be sent by first-class mail, postage prepaid, or by a more expeditious method of delivery, to all known parties of record.



Brendon P. Fowler

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35087

**CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK CORPORATION
- CONTROL -
EJ & E WEST COMPANY**

**FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS FROM ELGIN,
JOLIET & EASTERN RAILWAY COMPANY**

Pursuant to 49 C.F.R. § 1114.30 and the Decision served by the Surface Transportation Board on November 26, 2007 in the above-captioned proceeding, ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor Inc., ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. (collectively, "Mittal"), by their undersigned attorneys, hereby request that the Elgin, Joliet & Eastern Railway Company ("EJ&E") produce, in accordance with the Definitions and Instructions set forth below, the documents and tangible things identified in this Request for Production within fifteen (15) calendar days of the service hereof, such production to be at the offices of Kirkpatrick & Lockhart Preston Gates Ellis LLP, 1601 K Street N.W., Washington, D.C., 20006-1600.

GENERAL DEFINITIONS AND INSTRUCTIONS

I. Definitions

A. "Application" means the Railroad Control Application filed by CN on October 30, 2007, in the above-captioned proceeding.

B. The term "between", when used in the context of a request for communications between persons and/or entities, or between and among persons and/or entities, refers to communications to, from, shared between or among, or transmitted in any other manner or direction between or among such persons and/or entities.

C. "CN" means the Canadian National Railway Company and its parent company, subsidiaries, and affiliates, including without limitation the Grand Trunk Corporation and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, consultants, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

D. "CN Transaction" means the proposed acquisition by Canadian National Railway Company and Grand Trunk Corporation of control of the EJ&E West Company, a wholly-owned subsidiary of the Elgin, Joliet & Eastern Railway Company.

E. The term "describe" means to explain and report a full account of all aspects of the event, transaction, or subject matter.

F. The term "document(s)" means every type of recorded information prepared either prior to or subsequent to this request, including, but not limited to, any letter, intra-company communication, note, e-mail, print mail, memoranda, analysis, forecast, projection, report, study, record, correspondence, minutes of a meeting, printed publication, article, instruction, work assignment, notebook, draft, work sheet, drawing, sketch, photograph, charge, advertisement, catalogue, brochure, news release, trade publication, invoice, and any other written, recorded, electronic, mechanical or electric form of representation of any kind, or graphic material however produced or reproduced and, in the absence of the original, a copy thereof, and any copy bearing markings thereon not present on the original or other copy thereof. All drafts,

copies or preliminary materials that are different in any way from the executed or final document shall be considered to be additional documents as the term is used herein.

G. "EJ&E" or "you" or "your" means the Elgin, Joliet & Eastern Railway Company and its parent company, subsidiaries, and affiliates, including without limitation the EJ&E West Company, Transtar, Inc., and United States Steel Corporation and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

H. The "EJ&E Line" means the land, rail, and related assets of the EJ&E that are to be acquired by the EJ&E West Company, consisting primarily of an arc around Chicago, IL, extending from Waukegan, IL, southwards to Joliet, IL, then eastward to Gary, IN, that are the subject of the CN Transaction.

I. "Facilities" means the Mittal facilities of Gary Plate, Hennepin, Indiana Harbor, New Carlisle, and Riverdale.

J. "Gary Plate" means Mittal's steel plate mill located in the U.S. Steel Gary Works in Gary, IN, as well as all related facilities, mills, and equipment.

K. "Gary Railroad" means the remainder of the EJ&E Line that would be retained by United States Steel following implementation of the CN Transaction.

L. "Hennepin" means Mittal's facility located on the Illinois River in Hennepin, IL, west of Chicago, as well as all related facilities, mills, and equipment.

M. "Identify," when used with reference to a document, means to either produce such document or to state its date, type of document (e.g., letter, memorandum, chart, etc., or other means of identifying it), its title or heading, the author's (authors') full name(s), its recipient(s),

general subject matter contents, number of pages, and the document's present location and custodian. If such a document was, but is no longer in CN's possession, custody, or control, state what disposition was made of it.

N. "Identify," when used with reference to a communication other than a document, means to state the nature of the communication (e.g., meeting, telephone call, etc.), the time, date and place the communication occurred, and the participants' full names, business addresses and job titles at the time of the communication (and as of the date of your response if different).

O. "Indiana Harbor" means Mittal's steelmaking complex located in East Chicago, Indiana and includes, unless otherwise stated, Mittal's two sister steel plants of Indiana Harbor East Plant and Indiana Harbor West Plant as well as all related facilities, mills, and equipment.

P. "Mittal" means ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor Inc., ArcelorMittal Kote Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc., and ArcelorMittal Riverdale Inc. and, unless indicated to the contrary, their respective directors, officers, trustees, employees, representatives, agents, consultants, affiliates, subsidiaries, parents, predecessors, successors, counsel and all other persons or entities acting or purporting to act on their behalf.

Q. "New Carlisle" means Mittal's Kote and Tek facilities in New Carlisle, IN, as well as all related facilities, mills, and equipment.

R. "Operating Plan" means Exhibit 15 to the Railroad Control Application filed by CN on October 30, 2007 in the above-captioned proceeding, including any and all attachments or subsequent amendments thereto.

S. The term "person or entity" means any natural person or legal entity, including without limitation any corporation, partnership, limited liability company, union, proprietorship,

trust, association, incorporated or unincorporated organization and any group of persons or entities.

T. The terms “relating to” or “relate to” a given subject mean any document or communication that constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, relates to, responds to, describes, analyzes or is in any way pertinent to that subject, including, without limitation, documents concerning the transmittal of other documents.

U. “Riverdale” means Mittal’s strip facility located south of Chicago in Riverdale, IL, as well as all related facilities, mills, and equipment.

V. “Shipper” means any person or entity engaged in the transfer, distribution, movement, or receipt of freight at least partially by rail, including but not limited to the customers of CN, EJ&E, and/or other railroads, and extends without limitation to shippers, receivers, consignors, consignees, and third party agents.

W. The phrase “traffic” includes intermodal, local, overhead, switching, inter-yard transfers, interline, through trains, haulage, and any other forms of transportation involving rail.

X. The phrase “traffic flow” includes traffic data such as carloads, tons, train counts, train lengths, commodity and/or major business groups, as well as movement directions, velocities, and densities.

To the extent not otherwise defined, capitalized terms have the meanings ascribed to them by the Application.

II. Instructions

A. This Request for Production seeks all responsive documents in EJ&E’s possession, custody, or control, and the possession, custody and control of any person or entity

acting in EJ&E's interest or on EJ&E's behalf, including employees, attorneys, consultants, experts, agents and representatives, regardless of the location of the document and includes any draft or copy of such document which differs in any respect from the original, whether because of handwritten notations or otherwise.

B. Organize and label all documents produced to correspond with the categories set forth in this request; and identify all binders, folders or containers in which such documents are found prior to their production, including the titles, labels or other descriptions of such binders, folders, or containers. Provide every copy of each document which has any writing, figuring, notation or similar marking, all drafts of each document, all attachments or enclosures with each document and every document referred to in such document.

C. If you assert a claim of privilege with respect to any document hereinafter requested, provide the following information:

- (1) the name of the author of the document;
- (2) the names of all recipients of the document, including all parties receiving undisclosed copies of the document;
- (3) the date appearing on the document and the date the document was created or prepared,
- (4) the nature of the privilege or privileges claimed, including the factual grounds supporting the privilege or the privileges claimed; and
- (5) the names of all persons, whether recipients or not, having knowledge of the factual basis upon which the privilege is asserted.

D. If for any reason any document responsive to this request has been lost, misplaced, shredded, destroyed, or otherwise disposed of at any time, state the time, place,

manner, and reason for loss, misplacement, destruction, shredding, or other disposition of such document. Provide a description of the information contained in the document, including, but not limited to, the author, addressee, any recipients, and subject matter.

E. If any document responsive to this request was, but no longer is, in your possession, custody or control, identify it. Such identification shall include to the fullest extent possible a description of the nature, date, author, length, addressee, recipient(s) and subject matter of such document, and who has possession, custody or control of such document.

F. Use of the singular shall be deemed to include the plural and use of the masculine shall be deemed to include the feminine, as appropriate, and vice versa.

G. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make any document request inclusive rather than exclusive.

H. The past tense includes the present tense where the clear meaning is not distorted by the change of tenses.

I. These requests are continuing in nature so as to require EJ&E to produce all additional documents responsive to them that may hereafter come into the custody, possession or control of EJ&E or any person or entity acting on its behalf.

J. Unless otherwise stated, your responses should cover the period from January 1, 2004 onward.

III. Requested Documents

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.**
- 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.**
- 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.**
- 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.
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.
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.
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.
- 13. Please produce any and all contracts, agreements, or other documents contemplated or entered into between CN and/or the EJ&E 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.
- 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.
- 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.

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 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.
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.
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.
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.
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

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.
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.
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.
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.
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.
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.

Respectfully submitted,

By: 
Kevin M. Sheys
Edward J. Fishman
Janie Sheng
Brendon P. Fowler
Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street NW
Washington, D.C. 20006
(202) 778-9000

**ATTORNEYS FOR
ARCELORMITTAL USA INC.,
ARCELORMITTAL BURNS HARBOR
LLC, ARCELORMITTAL INDIANA
HARBOR INC., ARCELORMITTAL
KOTE INC., ARCELORMITTAL TEK
INC., ARCELORMITTAL HENNEPIN
INC., and ARCELORMITTAL
RIVERDALE INC.**

Dated: January 10, 2008

CERTIFICATE OF SERVICE

I certify that I have, this 10th day of January, 2008, served the foregoing First Request for the Production of Documents by causing a copy to be sent by first-class mail, postage prepaid, or by a more expeditious method of delivery, to all known parties of record.


Brendon P. Fowler

EXHIBIT 2

Law Offices

VUONO & GRAY, LLC

*John A. Vuono
William A. Gray
Mark T. Vuono*
Dennis J. Kusuriss
Louise R. Schrage
Les A. Goldstrom, Jr.*

**Also Admitted in Florida*

310 Grant Street

Suite 2310

Pittsburgh, PA 15219-2383

*Richard R. Wilson
of Counsel*

*Telephone
412-471-1800*

*Facsimile
412-471-4477*

January 24, 2008

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

Brendon P. Fowler, Esq.
Kirkpatrick & Lockhart
Preston Gates Ellis LLP
1601 K Street, N.W.
Washington, DC 20006

ORIGINAL BY FEDERAL EXPRESS

Dear Mr. Fowler:

We represent Elgin, Joliet & Eastern Railway Company ("EJ&E") and EJ&E West Company ("EJ&EW").

On January 14, 2008 we were served with the First Set of Interrogatories and First Request for Production of Documents in behalf of ArcelorMittal USA Inc., ArcelorMittal Burns Harbor LLC, ArcelorMittal Indiana Harbor Inc., ArcelorMittal Kote, Inc., ArcelorMittal Tek Inc., ArcelorMittal Hennepin Inc. and ArcelorMittal Riverdale Inc. (collectively, "Mittal") (jointly, "Discovery Requests"). The Discovery Requests reference the above control application and docket number and are directed to EJ&E. In the Definitions sections of the Discovery Requests, EJ&E is defined as "the Elgin, Joliet & Eastern Railway Company and its parent company, subsidiaries, and affiliates, including without limitation the EJ&E West Company".

With minor exceptions, virtually identical Discovery Requests have been served on Canadian National Railway Corporation ("CN") and Grand Trunk Company ("GTC") (jointly, "Applicants"), the Applicants in the above proceeding.

It is the position of EJ&E and EJ&EW that they are not parties to the above proceeding and therefore are not required to respond to the Discovery Requests. We understand that the Applicants have or will file responses/objections to the Discovery Requests directed to Applicants and have made the distinction that we are raising here, *i.e.*, that CN and GTW are the only Applicants in the above proceeding and that EJ&E and EJ&EW are not Applicants.

The regulations promulgated by the Board succinctly 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)

Neither EJ&E or EJ&EW are included within the aforesaid definition and therefore cannot be considered parties to the proceeding.

Moreover, the relevant discovery regulations are clearly applicable only to parties, as defined above, and an entity which is not a party to a Board proceeding is not required to respond to discovery requests. *See* 49 C.F.R. §1114.26 (Written Interrogatories to Parties); §1114.27 (Request for Admission); and 1114.30 (Production of Documents, etc.).

As noted, the Applicants have or will submit responses/objections to the Discovery Requests. In the unlikely event that EJ&E and EJ&EW are determined to be parties to the above proceeding and, as a result, are required to respond to the Discovery Requests, EJ&E and EJ&EW hereby incorporate by reference and adopt to the extent relevant the Applicants' responses/objections to the Discovery Requests.

Sincerely yours,

VUONO & GRAY, LLC

John A. Vuono

cw/59899cc: Parties of Record

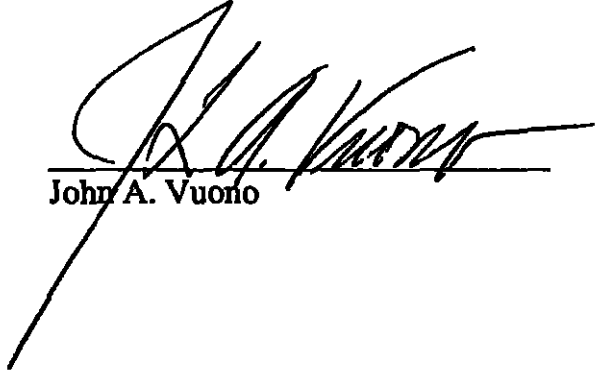
CERTIFICATE OF SERVICE

On this 24th day of January, 2008, I have served a copy of the foregoing response of EJ&E to Mittal's Discovery Requests by overnight delivery service to:

Brendon P. Fowler, Esq.
Kirkpatrick & Lockhart Preston Gates Ellis LLP
1601 K Street NW
Washington, DC 20006

Brian McCarthy
Counsel
ArcelorMittal USA Inc.
One Dearborn Street
Chicago, IL 60603

and by first class mail, postage prepaid, to all of the parties of record set forth on the service list attached to Decision No. 3 in STB Finance Docket No. 35087, served on January 18, 2008.



John A. Vuono

/598992

EXHIBIT 3



Surface Transportation Board

[E-FILE](#) | [E-LIBRARY](#) | [RAIL CONSUMERS](#) | [INDUSTRY DATA](#) | [ENVIRONMENTAL MATTERS](#) | [PUBLIC INFO](#)

Docket #: **FD_35087_1**

**Case Title: Elgin, Joliet Eastern Railway Company--Corporate Family
Exemption-E&JE West Company
6 Service List entries found.**

Party Of Record: Vuono, John A
Vuono & Gray
310 Grant Street, Suite 2310
Pittsburgh, PA 15219-2383

Party Of Record: Macdougall, Gordon P
1025 Connecticut Avenue, Nw, Suite 919
Washington, DC 20036-5444

Party Of Record: Fowler, Brendon P
Kirkpatrick And Lockhart Llp
1800 Massachusetts Avenue Nw Suite 200
Washington, DC 20036-1221

Party Of Record: Sheys, Kevin M.
Kirkpatrick & Lockhart Preston Gates Ellis Llp
1601 K Street, N.W.
Washington, DC 20006

Party Of Record: McCarthy, Brian
ArcelorMittal
One Dearborn Street
Chicago, IL 60603

Party Of Record: John A Vuono
Vuono & Gray
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