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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35087 (Sub-No. 1)
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY
—CORPORATE FAMILY EXEMPTION—
EJ&E WEST COMPANY

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U. S.C. §10502(a) AND
THE REGULATIONS AT 49 C.F.R. §1180.2(d)(3)

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and EJ&E West Company

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EXHIBITS

<u>Exhibit 1</u>	Map
<u>Exhibit 2</u>	Agreement

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Elgin, Joliet and Eastern Railway ("EJ&E") hereby files this Verified Notice of Exemption 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).

I. SUMMARY

The exemption noticed herein would permit EJ&E to transfer certain of its rail assets, as described in more detail in Section IV.1., herein, to EJ&EW, which would thereupon become a rail common carrier. Thereafter, pursuant to a Railroad Control Application ("Application") being filed concurrently herewith in STB Finance Docket No. 30587, Canadian National Railway Company ("CNR"), through its wholly-owned

U.S. subsidiary Grand Trunk Corporation ("GTC"), would acquire all of the stock of EJ&E ("the Control Transaction"). Thus, the proposed exempt transfer of assets from EJ&E to EJ&EW is an initial step to facilitate the control transaction under 49 U.S.C. §11323 described in the Application.

II. DESCRIPTION OF PARTIES

EJ&E is a wholly-owned indirect subsidiary of United States Steel Corporation (formerly USX Corporation) ("USS"), a non-carrier. USS owns all of the issued and outstanding stock of Transtar, Inc. ("Transtar"), a non-carrier holding company which owns all of the issued and outstanding stock of seven common carrier railroads, including EJ&E ("the Transtar Railroads"). The common control of the Transtar Railroads by USS was approved by the STB in prior exemption proceedings. *See USX Corporation – Control Exemption – Transtar Inc.*, STB Finance Docket No. 33942 (served Nov. 30, 2000); *United States Steel Corporation – Acquisition of Control Exemption – Delray Connecting Railroad Company*, STB Finance Docket No. 34311 (served Feb. 19, 2003); *Transtar, Inc -Continuance in Control Exemption-Delray Connecting Railroad Company*, STB Finance Docket No. 34767 (served November 1, 2005); *United States Steel Corporation – Acquisition of Control Exemption – Texas & Northern Railway Company*, STB Finance Docket No. 35027 (served May 25, 2007); and *Transtar, Inc.-Control Exemption-Texas & Northern Railway Company*, STB Finance Docket No. 35070 (served August 8, 2007)

EJ&E is a Class II rail common carrier that was founded on December 4, 1988. It was originally incorporated under the general laws of the States of Illinois and Indiana and is presently a Delaware corporation.

EJ&E operates in northeastern Illinois and northwestern Indiana over 198 track miles consisting primarily of an arc around Chicago extending from Waukegan, IL southward to Joliet, IL, then in an easterly direction to Gary, IN, and then northwest to South Chicago along Lake Michigan. EJ&E provides rail service to approximately 100 customers, including steel mills, coal utilities, plastics and chemical producers, steel processors, distribution centers and scrap processors.

EJ&EW is an Illinois corporation formed on August 16, 2007 and is a wholly-owned non-carrier subsidiary of EJ&E.

III. GOVERNING LAW AND REGULATIONS

Pursuant to 49 U.S.C. §10502(a), the STB must exempt a transaction which is otherwise subject to its jurisdiction whenever it finds that the application of its jurisdiction:

“(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

“(2) either --

“(A) the transaction or service is of limited scope; or

“(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.”

Pursuant to these statutory provisions, the Board has promulgated detailed regulations concerning railroad acquisitions and certain other transactions. Specifically, transactions proposed under 49 U.S.C. §11323 involving more than one common carrier railroad are classified into one of four categories, namely “*major, significant, minor and exempt*”. 49 C.F.R. §1180.2.

The regulations provide that a transaction is “exempt” if it falls within one of eight described categories. 49 C.F.R. §1180.2(d). The category applicable to the present transaction is the corporate family exemption set forth at 49 C.F.R. §1180.2(d)(3).

With respect to transactions which fall within any one of the exempt categories, the regulations provide that the STB has found that those transactions meet the *per se* exemption requirements of 49 U.S.C. §10502(a), specifically that the STB’s prior review and approval of the transactions are not necessary to carry out the rail transportation policy of 49 U.S.C. §10101 and are of limited scope or unnecessary to protect shippers from market abuse. 49 C.F.R. §1180.2(d).

IV. REQUIRED INFORMATION

The following is the information required by 49 C.F.R. §1180.4(g) to qualify for an exemption under 49 C.F.R. §1180.2(d), including the intra-corporate family transaction that is the basis for this exemption notice:

1. Description of Proposed Transaction (49 C.F.R. §1180.6(a)(1)(i)).

Before CNR and GTC acquire control of EJ&EW, EJ&E intends to transfer all of its land, rail, and related assets located west of the centerline of Buchanan Street in Gary, IN (together with the real property and related fixtures associated with the hump and Dixie leads located east of Buchanan Street) to EJ&EW, which upon completion of the transfers would become a rail common carrier. EJ&E would retain its land, rail, and related assets east of the centerline (other than the real property and related fixtures associated with the hump and Dixie leads). These transfers and the assets involved are more precisely described in the Stock Purchase Agreement dated as of September 25, 2007, between GTC and EJ&E, which is attached to the Application as Exhibit 2.

It is anticipated that, after CNR and GTC acquire control of EJ&EW, EJ&E will change its name to Gary Railway Company and EJ&EW will assume the Elgin, Joliet and Eastern Railway Company name.

**2. Names of Parties, Legal Counsel and Contact Information
(49 C.F.R. §1180.6(a)(1)(i)).**

2.1 Parties.

Elgin, Joliet & Eastern Railway Company
600 Grant Street, 18th Floor
Pittsburgh, PA 15219
(412) 433-4046

EJ&E West Company
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**3. Proposed Time Schedule for Consummation
(49 C.F.R. §1180.6(a)(1)(ii)).**

EJ&E intends to consummate the transaction with EJ&EW immediately before CNR and GTC acquire control of EJ&EW, which consummation would not occur until after approval of the Control Transaction by the STB.¹ Nevertheless, EJ&E requests the STB to permit the exemption to take effect without stay in order to permit the negotiation, in advance of consummation of the Control Transaction, of implementing

¹ As this transfer would be followed immediately by the Board approved acquisition of EJ&EW by CN and GTC, this transfer would itself have no affect on service levels, operations, or competition.

agreements pursuant to *New York Dock – Control – Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd sub nom New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir. 1979) (“*New York Dock*”).

4. Purpose of the Transaction (49 C.F.R. §1180.6(a)(1)(iii)).

The intra-corporate family transfer of assets would allow EJ&E to segregate into a separate corporate entity (EJ&EW) the rail properties to be acquired by GTC, facilitating the Control Transaction described in the primary Application.

5. List of States in Which Applicant Carrier’s Property is Located (49 C.F.R. §1180.6(a)(5)).

The portions of EJ&E’s rail line to be transferred to EJ&EW are situated in the States of Illinois and Indiana.

6. Carrier’s Operating Map (49 C.F.R. §1180.6(a)(6)).

There is attached as Exhibit 1 hereto a railroad operating map of the area served by EJ&E, showing the lines of EJ&E to be transferred to EJ&EW, the lines to be retained by EJ&E, short line connections, other rails lines in the territory and the principal geographic points in the involved region.

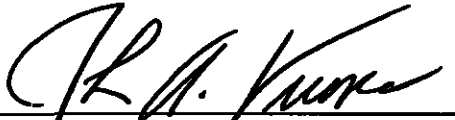
7. Agreement (49 C.F.R. §1180.6(a)(7)(ii)).

The Stock Purchase Agreement dated as of September 25, 2007 between GTC and EJ&E is attached as Exhibit 2 to the Application, filed simultaneously herewith, and is incorporated herein by reference.

8. Level of Labor Protection (49 C.F.R. §1180.4(g)(1)(i)).

EJ&E acknowledges that the transaction will be subject to the employee protective conditions and other procedures adopted in *New York Dock*.

Respectfully submitted,

By: 

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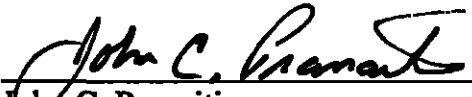
Date: October 26, 2007

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VERIFICATION

John C. Pranaitis, under penalty of perjury, deposes and says that he is the President of Transtar, Inc.; that he is authorized to file this Verification to the Notice of Exemption on behalf of Elgin, Joliet and Eastern Railway Company and EJ&E West Company; that he knows the contents thereof; and that the facts therein are true as stated to the best of his knowledge, information and belief.

Signed this 23rd day of October, 2007.



John C. Pranaitis

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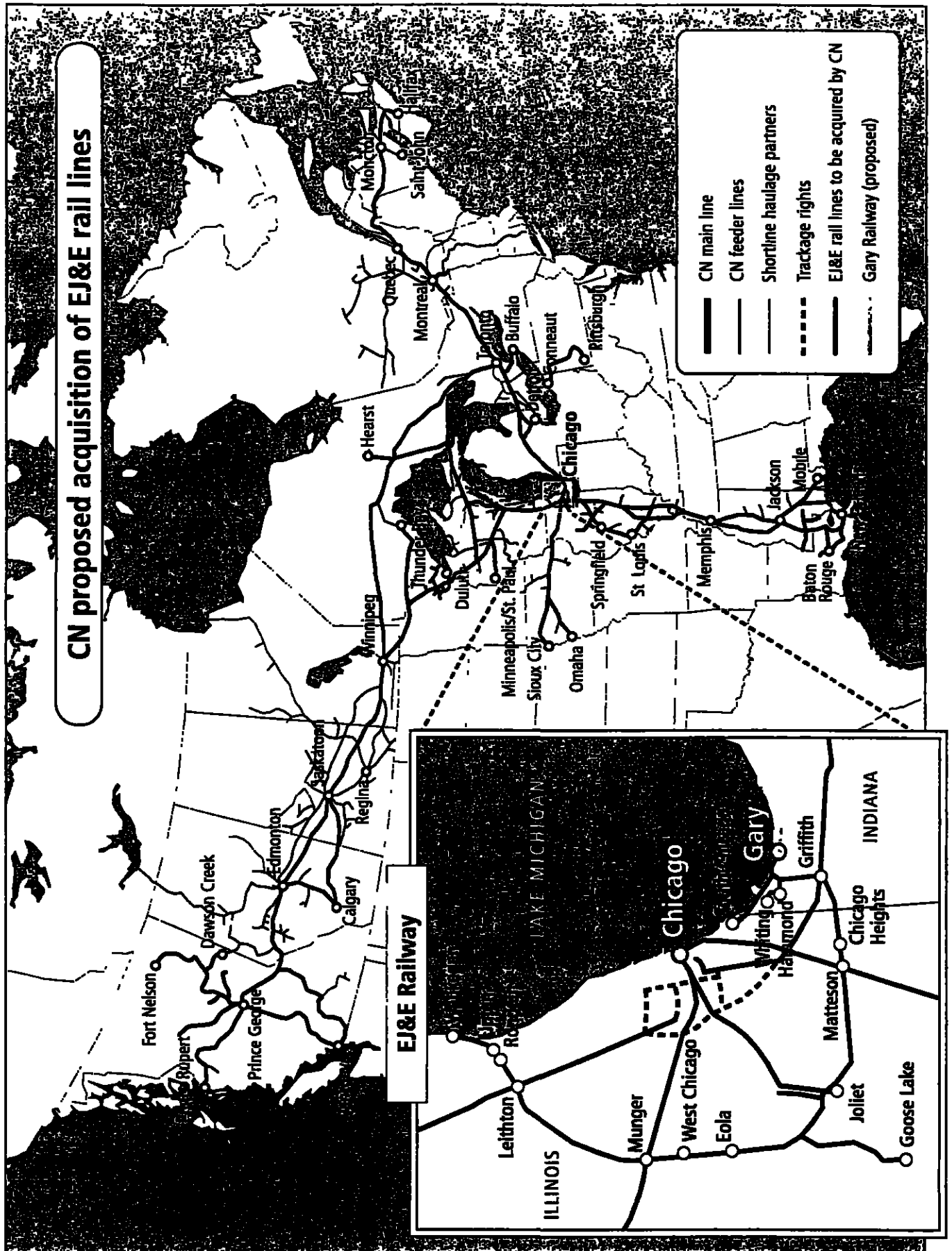


EXHIBIT 2

AGREEMENT

**(See Exhibit 2 of Railroad Control Application in
STB Finance Docket No. 35087)**