

LAW OFFICES  
WICK, STREIFF, MEYER, O'BOYLE & SZELIGO, P.C.

1450 TWO CHATHAM CENTER  
PITTSBURGH, PA 15219-3427

(412) 765-1600

FACSIMILE  
(412) 261-3783

E-MAIL  
wsmos@wsmoslaw.com

HENRY M. WICK, JR.  
CHARLES J. STREIFF  
CARL F. MEYER  
DAVID M. O'BOYLE  
VINCENT P. SZELIGO  
LUCILLE N. WICK



DUFF OFFICE CENTER, SUITE 203  
10 DUFF ROAD  
PITTSBURGH, PA 15235-3206  
(412) 241-7227

August 21, 2003

208760

**UPS NEXT DAY**

ENTERED  
Office of Proceedings

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street NW  
Washington, DC 20423-0001

AUG 21 2003

Part of  
Case Record

Re: Engelhard Corporation -- Petition for Declaratory  
Order -- Springfield Terminal Railway Co., Inc. and  
Consolidated Rail Corporation

**STB Docket No. 42075**

Dear Secretary Williams:

On July 29th, we filed a Rebuttal Statement on behalf of Engelhard pursuant to the schedule set forth in the STB's procedural order in Engelhard Corporation - Petition For Declaratory Order - Springfield Terminal Railway Company and Consolidated Rail Corporation, STB Docket No. 42075, served April 1, 2003. No future pleadings were permitted pursuant to that order; however, on August 18 and 20, we were served with motions to permit filing of Surrebuttal Statements of Springfield Terminal Railway Company and Consolidated Rail Corporation.

Please be advised that Engelhard objects to the requests of Conrail and Springfield Terminal for permission to file surrebuttals. We request that the pleadings not be considered.

Engelhard's rebuttal statement responds to arguments set forth in Reply Statements submitted by Conrail and Springfield Terminal concerning the referred questions of when a cause of action accrues and whether assignments are permitted. Contrary to Conrail's motion, Engelhard has not asked the Board to opine on the question of whether a cause of action for "fraudulent concealment" has been stated.

WICK, STREIFF, MEYER, O'BOYLE & SZELIGO, P.C.

The Honorable Vernon A. Williams  
August 15, 2003  
Page -2-

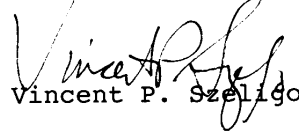
Read together, the proffered surrebuttals of Conrail and Springfield Terminal serve to obfuscate rather than illuminate by interjecting arguments urging distinctions between accrual, tolling and the separate state law tort of fraudulent concealment.

The pertinent statements, arguments and analysis have been more than adequately set forth in the pleadings filed pursuant to the Board's original order. Further expansion of the pleadings will needlessly delay resolution of this matter. Therefore, Engelhard urges the Board to not consider the proffered surrebuttals.

An original and ten copies of this letter are enclosed; however, we understand that an electronic version is not required under the Board's rules. If you have any questions, do not hesitate to call. Please date-stamp the enclosed extra copy of this letter and return same in the self-addressed, stamped envelope.

Very truly yours,

WICK, STREIFF, MEYER,  
O'BOYLE & SZELIGO, P.C.



Vincent P. Szeligo

cc: David C. Ziccardi, Esq.  
Robert B. Culliford, Esq.  
Eric L. Hirschhorn, Esq.  
Engelhard Corporation