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August 7, 2001

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ENTERED
Office of the Secretary

AUG - 8 2001

Part of
Public Record

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 34000, Canadian National
Railway Company, et al. -- Control -- Wisconsin
Central Transportation Corporation, et al.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and twenty-five (25) copies of AK Steel Corporation's Motion to Strike (AKS-11).

We have enclosed an electronic copy of the Motion on a computer diskette, and have enclosed an additional hard copy to be receipt-stamped and returned to the bearer of this letter.

Thank you for your attention to this matter.

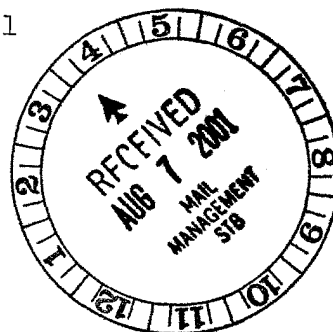
Respectfully submitted,



John H. LeSeur
An Attorney for AK Steel
Corporation

Enclosures

cc: Parties of Record



ENTERED
Office of the Secretary

AKS-11

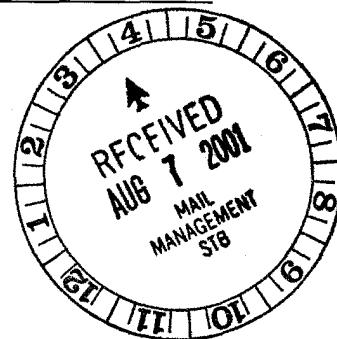
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BEFORE THE
SURFACE TRANSPORTATION BOARD

Canadian National Railway Company,)
Grand Trunk Corporation, and WC)
Merger Sub, Inc. -- Control and)
Merger -- Wisconsin Central)
Transportation Corporation,)
Wisconsin Central Ltd.,)
Fox Valley & Western Ltd.,)
Sault Ste. Marie Bridge Company,)
and Wisconsin Chicago Link Ltd.)

Finance Docket No. 34000



MOTION TO STRIKE

AK STEEL CORPORATION
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(513) 425-5000

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OF COUNSEL:

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Washington, D.C. 20036

Dated: August 7, 2001

Attorneys for AK Steel
Corporation

BEFORE THE
SURFACE TRANSPORTATION BOARD

Canadian National Railway Company,	)	
Grand Trunk Corporation, and WC	)	
Merger Sub, Inc. -- Control and	)	
Merger -- Wisconsin Central	)	
Transportation Corporation,	)	Finance Docket No. 34000
Wisconsin Central Ltd.,	)	
Fox Valley & Western Ltd.,	)	
Sault Ste. Marie Bridge Company,	)	
and Wisconsin Chicago Link Ltd.	)	

MOTION TO STRIKE

AK Steel Corporation ("AK") requests that the Board strike from the record Great Lakes Transportation LLC's ("GLT's") July 31, 2001 letter ("Letter"), denominated GLT-19, and in support hereof states as follows:

(1) By GLT's own admission, its Letter constitutes a reply to a reply. Letter at 1 n.1.

(2) GLT's Letter was not permitted under the procedural schedule in this case. That schedule called for all reply filings to be made by July 25, 2001. AK, and other parties to

this proceeding, complied with the deadline.¹ The schedule does not call for, nor does it allow, any post-reply filings.

(3) GLT acknowledges that replies to replies "are not ordinarily permitted" but asks the Board to ignore its ordinary practice because GLT purportedly needs "to respond to numerous inaccurate allegations made for the first time in the reply comments" filed by AK, and others, on July 25, 2001. Letter at 1 n.1.

(4) The factual predicate for GLT's request ("inaccurate allegations") is demonstrably wrong. According to GLT, AK and others "inaccurately" read the settlement agreement between the Applicants and GLT ("GLT Agreement") as precluding a shipper from obtaining "bottleneck" relief on post-merger DMIR/CN-WC² movements over covered routings. But that is exactly what the GLT Agreement does on covered GLT/CN-WC movements -- a fact that even GLT itself is forced to concede. Id. at 4.³

¹Indeed, GLT vociferously objected when AK requested a one-week extension in the deadline. See Opposition of Great Lakes Transportation LLC to Joint Request For Extension of Time (July 23, 2001) (GLT-17).

²Applicants Canadian National Railway Company, et al. ("CN") and Wisconsin Central Transportation Corp. et al. ("WC").

³GLT disingenuously claims that shippers can enter into contracts with "other" carriers to obtain bottleneck relief. Id. Omitted from this list, obviously, is CN/WC. GLT also claims that WC "has not" entered into separate contracts for DMIR-originated taconite shipments. Id. That's wrong. WC has entered into such contracts on shipments to AK's Middletown, Ohio facilities.

(5) GLT also maintains that AK, and others, "inaccurately" read the GLT Agreement as precluding build-outs or build-ins involving covered movements. Again, GLT is wrong. By its express terms, the GLT Agreement applies to DMIR-"served" points on covered movements. GLT's Letter attempts to re-write the Agreement to say something else -- "the arrangement will not apply unless DMIR participates in the route." Id. at 3 (emphasis in original). That's not what the GLT Agreement says. Nor does this attempted revision make any practical difference.

Today, if a DMIR⁴-captive taconite shipper builds-out to CN, DMIR has claimed the right to "participate" in any such CN routing where such routing uses specified DMIR trackage in the Duluth/Superior area. These claims have been asserted under color of restrictive covenants set forth in the involved CN/DMIR and WC/DMIR trackage rights agreements.⁵ GLT is evidently concerned

⁴DMIR is a subsidiary of GLT.

⁵As the Applicants have explained, most CN-originated taconite shipments would have to move over DMIR trackage in the Duluth/Superior area. See Applicants' June 13, 2001 letter to Ms. Phillis Johnson-Ball, STB Environmental Project Manager (filed June 13, 2001) at 3-4. GLT has imposed restrictive covenants that do not allow CN-originated Iron Range taconite shipments to use the DMIR trackage unless DMIR has the right to "participate" in the movement. Id.; Applicants' Comments on The Status of GLT Issues (dated June 19, 2001) (CN/WC-13) at Appendix I., 4-5. A copy of the CN/DMIR agreement (which names a CN subsidiary as the participating party) is appended to AK's Motion to Compel (filed June 11, 2001) (AKS-3). The legality of these restrictions is not an issue in this merger proceeding but AK has requested that the Board take no action to insulate these covenants from legal challenge in future proceedings. See Response of AK Steel Corporation to Comments and Requested Conditions (filed July 25, 2001) (AKS-10) at 13.

-- as it should be -- that these covenants may be declared unlawful in a future proceeding. Accordingly, GLT wants the GLT Agreement to serve as a second anticompetitive legal hurdle for DMIR-captive Iron Range shippers to overcome to obtain DMIR/CN-WC origin carrier competition for taconite movements.

(6) GLT also claims that GLT and Applicants "do not intend to" use the secret amendment provision in the GLT Agreement "to expand the scope of the agency arrangement." Letter at 2 n.4. Again, that's not what the GLT Agreement says, nor are there any guarantees that GLT and Applicants will not change their intent. This concern takes on particular significance given GLT's contention that the Board lacks jurisdiction to enforce representations GLT makes in this case.⁶

(7) GLT's claim that its reply to a reply constitutes GLT's "only opportunity" to respond to party criticisms of the GLT Agreement (Letter at 1 n.1) is also entitled to no weight. GLT first announced that it had reached a settlement with Applicants in GLT's opening comments, filed on June 26, 2001. Under the procedural schedule, the only opportunity for parties to file responsive comments was in their July 25, 2001 reply comments.⁷ GLT was aware of the procedural schedule and should not be heard now to complain about the timing or content of reply comments.

⁶See Reply Comments of Great Lakes LLC (filed July 26, 2001) (GLT-18) at 14-17 (arguing that representations GLT makes concerning AK Steel service are not enforceable by the STB).

⁷Moreover, the actual terms of the GLT Agreement were not publicly disclosed until July 18, 2001.

Moreover, in AK's case, AK's request for an extension of time -- filed before the reply comments in this case were due -- alerted GLT to AK's concerns about the GLT Agreement.⁸ Both GLT and Applicants filed replies to this motion. These replies acknowledge and discuss in detail AK's contentions.⁹ Under the circumstances, GLT can not legitimately argue it was unaware of the issues AK would discuss in its reply filing.

(8) Stripped to its core, GLT's Letter is simply an unauthorized reply to a reply.¹⁰ The Letter should be stricken from the record.

⁸Joint Request For Extension of Time to File Responsive Comments (filed July 20, 2001) (AKS-9).

⁹Applicants Reply to Petition of AK Steel Corporation and Eveleth Mines LLC for Extension of Time to File Responsive Comments (dated July 23, 2001) (CN/WC-15); Opposition of Great Lakes Transportation LLC to Joint Request for Extension of Time (dated July 23, 2001) (GLT-17).

¹⁰See e.g., Docket No. AB-33 (Sub-No. 140), Union Pacific Railroad Co. -- Abandonment -- in Lancaster and Gage Counties, NE, and Marshall County, KS (Decision served Dec. 17, 1999) at 1-2 ("[o]nly in exceptional circumstances will we interrupt the deliberative process to consider what are generally prohibited replies to replies"); Docket No. 42034, PSI Energy, Inc. v. CSX Transportation, Inc. and Soo Line Railroad Co. (Decision served Sept. 11, 1998) at 2 (replies to replies are rejected where not accompanied by petition for waiver and where arguments could have been raised earlier).

Respectfully submitted,

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OF COUNSEL:

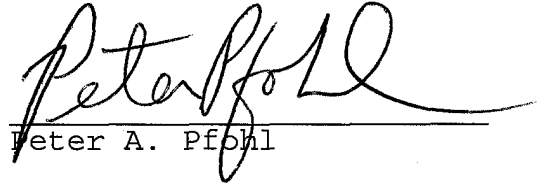
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: August 7, 2001

Attorneys for AK Steel
Corporation

CERTIFICATE OF SERVICE

I hereby certify that this 7th day of August, 2001, I have served a copy of the foregoing document by first class mail, postage-prepaid, or by more expeditious means upon all parties of record in this case.


Peter A. Pfohl