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April 1, 2008

BY HAND

The Honorable Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

ENTERED
Office of Proceedings

APR - 2 2008

Port of
Public Record



**Re: STB Finance Docket No. 35129, SSP Railroad Holding LLC—
Acquisition and Operation Exemption—Mittal Steel USA—Railways
Inc.**

Dear Secretary Quinlan

Enclosed please find an original and 10 copies of a Petition for Partial Waiver of 49
C F R § 1150 32(e) in connection with the above-captioned proceeding

Sincerely,

Richard A Allen

Encls

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35129

**SSP RAILROAD HOLDING LLC-
ACQUISITION AND OPERATION EXEMPTION -
MITTAL STEEL USA - RAILWAYS INC.**

**PETITION FOR PARTIAL
WAIVER OF 49 C.F.R. § 1150.32(e)**



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SSP Railroad Holding LLC ("SSP"), a non-carrier, hereby petitions for a partial waiver of the 60-day notice period set forth in 49 C F R § 1150 32(e) to permit the consummation of its acquisition and operation of certain rail lines in Baltimore County, MD ("Lines") from Mittal Steel USA Railways, Inc ("Mittal Railways") on or after May 1, 2008 SRC is filing herewith a Notice of Exemption pursuant to 49 U S C § 10901 and 49 C F R § 1150 31 to authorize its acquisition and operation of the Lines, which, under 49 C F R § 1150 32(e), will become effective on May 1, 2008. Because SRC will become a Class III rail carrier with expected annual revenues of approximately \$5 7 million, as required by 49 C F R § 1150 32(e) SRC has also on this date posted a notice of intent to undertake the transaction at the workplace of the employees on the Lines and has served a copy of the notice on the national office of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW"), which represents the hourly employees on the Lines for collective bargaining purposes

Background

In 2005, Mittal Steel Company N V acquired certain properties of International Steel Group (“ISG”), including ISG’s interests in ISG Railways, Inc , and two other common carrier railroads ¹ The acquired properties included ISG’s plant at Sparrows Point in Baltimore County, MD (once owned by Bethlehem Steel Corporation) and 183 miles of ISG Railways Inc yard tracks in and around the plant, which once comprised the lines of the Patapsco and Back Rivers Railroad Company ² In 2006, ISG Railways changed its name to Mittal Steel USA Railways, Inc Also in 2006, Mittal Steel merged with Acelor, a Luxembourg-based steel company, to form ArcelorMittal, the world’s largest steel company. In litigation brought by the United States Department of Justice challenging that transaction on antitrust grounds, ArcelorMittal Steel (“AMS”) consented to a judgment requiring it to divest its Sparrow’s Point properties and appointing a trustee (“Trustee”) with full powers to effect the divestiture ³

In 2007, AMS reached an agreement to sell its Sparrows Point non-railroad properties to E2 Acquisition Corp and to sell the railroad properties there to BIP Acquisition Sub, Inc , a subsidiary of E2 Acquisition Corp BIP Acquisition Sub, Inc

¹ See STB Finance Docket No 34560, *Mittal Steel Company N V—Acquisition of Control Exemption—ISG Railways Inc , ISG South Chicago & Indiana Harbor Railway Co , and ISG Cleveland Works Railway Co* , Notice of Exemption served May 3, 2005

² See STB Finance Docket No 34159 *Patapsco & Back Rivers Railroad LLC – Acquisition and Operation Exemption – Patapsco & Back Rivers Railroad Company*. (served January 10, 2002), STB Finance Docket No 34344, *ISG Railways, Inc , Acquisition of Control Exemption, Assets of Keystone Railroad LLC d/b/a Philadelphia, Bethlehem and New England Railroad Company, Conemaugh & Black Lick Railroad Company LLC, Steelton & Highspire Railroad Company LLC, Lake Michigan & Indiana Railroad Company LLC, Brandywine Valley Railroad Company LLC, Upper Merion & Plymouth Railroad Company LLC, Patapsco & Back Rivers Railroad Company LLC and Cambria and Indiana Railroad, Inc* , (served May 22, 2003)

³ *United States v Mittal Steel Company N V* , U S D C No 1 06-CV-01360-ESH (May 23, 2007)

filed a Notice of Exemption to authorize the rail properties acquisition and operation on August 9, 2007⁴ That agreement, however, was never consummated

On March 20, 2008, OAO Severstal (“Severstal”), a publicly-owned Russian steel company headquartered in Cherepovets, Russia, and the Trustee executed a purchase and sale agreement (the “Purchase Agreement”) for the sale of the non-railroad properties at Sparrows Point to Severstal and the sale of the railroad properties to a to-be-designated subsidiary of Severstal SSP has recently been formed as a Delaware limited liability company and a subsidiary of Severstal and has been designated as the purchaser of the railroad properties under the Purchase Agreement

The purchase of the plant and the railroad properties by Severstal and SSP, respectively, are fully supported by the collective bargaining representative of the employees at Sparrows Point, the USW, as stated in the attached letter of April 1, 2008 of David McCall, District Director of the USW Union, supporting this Petition For Waiver There are presently approximately nine (9) salaried and seventy (70) hourly employees employed on the Lines by Mittal Railways. The Purchase Agreement obligates SSC to offer employment to all of those employees and to provide those who accept such employment “compensation and benefits that are no less favorable in the aggregate than the compensation and employee benefits to which such [employees] are entitled immediately prior to the Closing Date” for at least 12 months after the closing

The parties intend to close the Sparrows Point Transaction as soon as possible but in any event before May 14, 2008 The Purchase Agreement establishes May 14, 2008 as the “drop dead” date on or after which either the Trustee or Severstal may, with certain

⁴ F D 35074, *BIP Acquisition Sub, Inc —Acquisition and Operation Exemption—Mittal Steel USA-Railways Inc* , Verified Notice of Exemption filed August 10, 2007

exceptions, terminate the Purchase Agreement merely by providing notice to the other party

ARGUMENT

THE BOARD SHOULD GRANT SSC'S PETITION TO PARTIALLY WAIVE THE 60-DAY NOTICE PERIOD OF 49 C.F.R. § 1150.32(e) TO PERMIT CONSUMMATION OF THE TRANSACTION ON OR AFTER APRIL 30, 2008.

Pursuant to 49 C F R § 1150 32(b), the Notice of Exemption SSC filed on April 1, 2008 will become effective on May 1, 2008. In cases where the projected revenue of a carrier to be created by the exemption exceeds \$5 million, 49 C F R § 1150.32(c) requires the applicant to post a notice of its intent to undertake the transaction at the workplace of the employees on affected lines at least 60 days before the exemption is to become effective and to serve a copy of the notice on the national offices of the unions representing such employees. SSC posted and served the required notice on April 1, 2008 as well. Unless waived, the effect of § 1150 32(e) would be to preclude the Notice of Exemption from becoming effective and preclude SSC from consummating its acquisition and operation of the Lines until May 31, 2008.

In appropriate cases and for good cause, the Board has waived the 60-day notice requirement of § 1150 32(e). For example, in F D No 34198, *Arzc Operating Company, Inc —Acquisition and Operation Exemption—Parksierra Corp*, decision served May 14, 2002, the Board granted a request to waive the 60-day period and to allow the acquisition to be consummated immediately upon service of the waiver decision for reasons fully applicable to this case that “although the employees of [the selling railroad] will have a new employer after the completion of the transaction, nothing else will change. The employees will continue to work in the same positions, with the same duties, for the same

wages, and at the same location ” Slip op at 2 The Board granted the waiver request, noting that “[t]he purpose of 49 C F R § 1150 32(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation [T]he record here reflects there will be no adverse impact on the personnel of [the selling railroad] ” *Id See also, e g . F D 34871, Wyoming Dakota Railroad Properties, Inc —Acquisition and Operation Exemption— Dakota, Minnesota & Eastern Railroad Corporation*, decision served August 14, 2006

The waiver requested here is similarly warranted, largely for the same reasons As in the *Arzc Operation* case, SSP’s acquisition and operation of the rail lines at Sparrows Point will have no adverse impact on the employees or their union. SSC intends to make no significant changes in the operation of those lines, the employees performing the work or the terms or conditions of their employment, indeed, SSC is contractually obligated to provide to those employees compensation and employee benefits no less favorable in the aggregate than the compensation and employee benefits that they were receiving immediately prior to the closing of the transaction

Furthermore, the employees and their union, the USW Union, have been on notice of Severstal’s intention to purchase the Sparrows Point plant and rail properties for several months, and Severstal and the USW reached a general understanding in mid-February 2008 The employees and USW have also been aware for almost a year that Mittal Steel and Mittal Railways are required by a consent decree to sell the properties to someone As reflected in the attached letter of Mr McCall, the USW Union strongly

supports the acquisition of the properties by Severstal and SSP as well as this waiver request⁵

CONCLUSION

The Board should grant SSP's request to waive part of the 60-day notice period of 49 C F R § 1150 32(c) to permit SSC to consummate the acquisition and operation of the Mittal Railways properties at Sparrows Point, MD on or after May 1, 2008, the date the notice of exemption in this proceeding is scheduled to become effective

Respectfully submitted,



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April 1, 2008

Attorneys for SSP Railroad Holding LLC

⁵ Moreover, the expanded 30-day notice period and Federal Register publication requirements for notices of exemption recently established in STB Ex Parte No 659, *Public Participation in Class Exemption Proceedings*, served October 19, 2006, provides significantly more notice of rail line acquisitions under 49 C F R Part 1150 than previously existed to employees and other interested persons



District 1

David McCall
District Director

April 1, 2008

The Honorable Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 E St, S W.
Washington, D C 20024

**Re: SSP Railroad Holding LLC Acquisition and Operation of Rail
Lines of Mittal Steel USA– Railways Inc. – Waiver Petition**

Dear Secretary Quinlan

I am writing on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union ("USW"), commonly known as United Steelworkers, to support a petition by SSP Railroad Holding LLC ("SSP") requesting the Surface Transportation Board to waive part of the 60-day notice period to employees and unions contained in 49 C.F.R. § 1150.32(e) to permit SSP to consummate its acquisition and operation of railroad lines and properties of Mittal Steel USA– Railways Inc at Sparrows Point, MD on or after April 30, 2008

SSP is a newly-formed subsidiary of OAO Severstal, a Russian steel company that has recently entered into an agreement to purchase the steel plant and other properties, including the railroad properties, of ArcelorMittal S.A and its subsidiaries at Sparrows Point. USW is the collective bargaining representative of the employees at Sparrows Point, including the railroad employees.

USW strongly supports this transaction and believes it is in the best interest of the employees. USW has been aware of OAO Severstal's intent to buy these properties for several months. I and other USW officials have discussed OAO Severstal's intentions regarding this acquisition with representatives of that company, and USW reached a general understanding with the company in mid February, 2008. It is USW's understanding that SSP does not intend to make significant changes to the operations or

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

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in the workforce of the railroad at Sparrows Point and is contractually obligated to offer employment to all of the railroad employees on substantially the same terms as their current employment

USW believes it is in the interests of the employees that this transaction be consummated as soon as possible. I have received a copy of the notice of intent that SSP intends to post at the workplace of the Sparrows Point railroad employees, and I believe it accurately states SSP's intentions. USW does not believe the full 60-day notice period of 49 C.F.R. § 1150.32(e) is needed to protect the interests of the employees or USW, and it therefore supports SSP's request that the Board waive that full notice period.

Sincerely,

A handwritten signature in black ink that reads "David McCall". The signature is written in a cursive, slightly slanted style.

David McCall, Director
USW District 1

cc Ron Nock
Ron Bloom
David Jury