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October 26, 2020

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## VIA ELECTRONIC FILING

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20423-0001

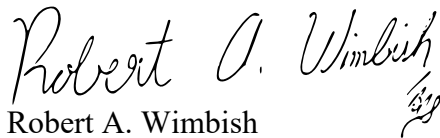
Re: **Docket No. EP 346 (Sub-No. 24)**  
**Rail General Exemption Authority –**  
**Miscellaneous Manufactured Commodities**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Reply of Grand Trunk Western Railroad Company to Petition for Partial Revocation of Class Exemption**, dated October 26, 2020.

Please feel free to contact me should any questions arise regarding this filing.  
Thank you for your assistance on this matter.

Respectfully submitted,



Robert A. Wimbish  
Attorney for Grand Trunk Western  
Railroad Company

RAW:tjl

Attachment

cc: Thomas F. McFarland, Esq.

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. EP 346 (SUB-NO. 24)

RAIL GENERAL EXEMPTION AUTHORITY –  
MISCELLANEOUS MANUFACTURED COMMODITIES

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**REPLY OF GRAND TRUNK WESTERN RAILROAD COMPANY  
TO PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION**

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**ATTORNEYS FOR GRAND TRUNK WESTERN  
RAILROAD COMPANY**

Dated: October 26, 2020

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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. EP 346 (SUB-NO. 24)

RAIL GENERAL EXEMPTION AUTHORITY –  
MISCELLEANOUS MANUFACTURED COMMODITIES

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**REPLY OF GRAND TRUNK WESTERN RAILROAD COMPANY  
TO PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION**

Grand Trunk Western Railroad Company (“GTW”) hereby replies to the petition (the “Petition”) of Kingsbury Elevator, Inc. (“KE”) to partially revoke commodity exemptions adopted in *Rail Exemption – Misc. Manufactured Commodities*, 6 I.C.C.2d 186 (1989) (“*Misc. Manufactured Commodities*”) for purposes of KE’s concurrently-filed complaint in *Kingsbury Elevator, Inc. v. Grand Trunk Western Railroad Company*, Docket No. NOR 42170 (the “Complaint”).<sup>1</sup> KE asserts that a partial revocation is needed to permit it to pursue its Complaint. But KE is mistaken – the *Misc. Manufactured Commodities* class exemption does not apply to the commodities in its Complaint. The relief KE seeks in its Petition is unnecessary, and, accordingly, the Petition should be denied.

KE’s Complaint in Docket No. NOR 42170 alleges violations of various provisions of the Interstate Commerce Act in connection with GTW’s transportation by rail of “canola meal, corn gluten meal, [and] gluten feed pellets” (the “Subject Commodities”) to KE’s facility in Kingsbury, Indiana. Complaint, par. 1. KE states that the Subject Commodities are

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<sup>1</sup> The KE Petition and Complaint were filed on August 6, 2020. Pursuant to Board decisions served August 13, 2020 and September 25, 2020, GTW’s time for filing responses to the Petition and Complaint were extended to October 26, 2020. KE subsequently amended its Complaint on October 5, 2020. Concurrently with this reply, GTW is filing an answer to the KE Complaint as amended.

“included in the class exemption” adopted by *Misc. Manufactured Commodities*, thereby precluding Surface Transportation Board (“Board”) adjudication of KE’s Complaint unless the agency were partially to revoke the class exemption in this docket with respect to KE’s receipt of those commodities by rail from GTW. Petition, 2-3.<sup>2</sup>

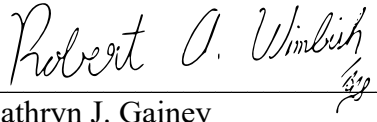
Although KE has not provided Standard Transportation Commodity Code (“STCC”) numbers for the Subject Commodities it describes, those commodities appear to reference gluten meal (STCC 2041928), canola meal pellets (STCC 2093922) and/or canola seed meal (STCC 2093939), each of which GTW has transported by rail to KE in Kingsbury, Indiana. KE has apparently misread *Misc. Manufactured Commodities* and the corresponding regulation at 49 C.F.R. § 1039.11(a) as exempting such commodities from agency regulation. They do not. As such, a revocation of the commodity exemption in this docket is not implicated in connection with the KE Complaint.

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<sup>2</sup> KE also claims to receive shipments of fertilizer via GTW, but acknowledges that the transportation of fertilizer is not subject to a class exemption. *Id.*, 3.

WHEREFORE, GTW respectfully requests that KE's Petition for Partial Revocation of Class Exemption in this docket be denied.

Respectfully submitted,

By:   
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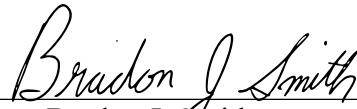
**ATTORNEYS FOR GRAND TRUNK WESTERN  
RAILROAD COMPANY**

Dated: October 26, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of October, 2020, a copy of the foregoing  
**Reply of Grand Trunk Western Railroad Company to Petition for Partial Revocation of  
Class Exemption** was served by electronic delivery and U.S. first class mail, postage prepaid,  
upon:

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Bradon J. Smith