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April 6, 2022

304253

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

ENTERED
Office of Proceedings
April 6, 2022
Part of
Public Record

Re: **FD 36607**
Hamilton Northwestern Railroad Co. —
Operation Exemption — In Allegan County, MI

FD 36608
Hamilton Hartford Group, LLC —
Continuance in Control – Hamilton Northwestern Railroad Co.

Dear Ms. Brown:

Attached for filing in the above-captioned proceedings are the **Verified Notice of Exemption of Hamilton Northwestern Railroad Co. Pursuant to 49 C.F.R. Part 1150, subpart D**, and the **Verified Notice of Exemption of Hamilton Hartford Group, LLC Pursuant to 49 C.F.R. § 1180.2(d)**, dated April 6, 2022. Appropriate fees for these filings have been tendered electronically via Pay.gov.

FILED
April 6, 2022
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
April 6, 2022
SURFACE
TRANSPORTATION BOARD

If you have any questions regarding these filings, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish

Thomas J. Healey

Attorneys for Hamilton Northwestern Railroad
Co. and Hamilton Hartford Group, LLC

RAW:th

Attachments

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36607

HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI

**VERIFIED NOTICE OF EXEMPTION OF
HAMILTON NORTHWESTERN RAILROAD CO.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Robert A. Wimbish
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Suite 800
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(312) 252-1500

**ATTORNEYS FOR HAMILTON
NORTHWESTERN RAILROAD CO.**

Dated: April 6, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36607

HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI

**VERIFIED NOTICE OF EXEMPTION OF
HAMILTON NORTHWESTERN RAILROAD CO.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Hamilton Northwestern Railroad Co. (“HNW”), a non-carrier, hereby files this notice of exemption under 49 C.F.R. Part 1150, subpart D, to acquire, and restore common carrier rail service over, a track segment (the “Track”) located in Allegan County, Michigan, that is currently operated as private track. The Track extends from a point of connection with a line of CSX Transportation, Inc. (“CSXT”) at milepost 19.00 in Holland, Michigan, to milepost 12.90 in Hamilton, Michigan, a distance of approximately 6.10 miles. Based on projected revenues, HNW expects to become a Class III rail carrier. Hamilton Hartford Group, LLC is concurrently filing a notice of exemption to remain in control of HNW once HNW becomes a common carrier. *See Hamilton Hartford Group, LLC – Continuance in Control Exemption – Hamilton Northwestern Railroad Co., FD 36608.*

In accordance with the requirements of 49 C.F.R. § 1150.33, HNW submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the applicant herein is as follows:

Hamilton Northwestern Railroad Co.
P.O. Box 885
6508 Island Lake Road
Saugatuck, MI 49543

Applicant's Representative: 49 C.F.R. § 1150.33(b)

The HNW's representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1504

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

The Track is owned by a non-carrier third party, as discussed in the Summary of the Transaction section below. The Track is currently private (non-jurisdictional) track, and HNW has a signed agreement to purchase the Track. At such time as HNW acquires the Track, HNW intends to commence the provision of common carrier service over it, hence HNW's resort to the Board's class exemption procedures here.

Operation of the Property: 49 C.F.R. § 1150.33(d)

HNW will offer common carrier service on the Track upon the effective date of this exemption or the closing of its purchase of the Track, whichever is later. Closing on the purchase of the Track – but not the commencement of common carrier service – may occur before the effective date of this notice, because the Track is currently owned and operated over as private track beyond the scope of the Board's jurisdiction. As the service will constitute the entirety of HNW's common carrier railroad operations, authorization pursuant to the present

notice of exemption is in keeping with *Effingham Railroad Company — Petition for Declaratory Order — Construction at Effingham, Ill.*, FD 41986, 2 STB 606, 607 (1997) and *Effingham Railroad Company — Operation Exemption — Line Owned by Agracel*, FD 33468 (STB served Sep. 24, 1997), 1 *aff'd United Transp. Union v. United States*, 183 F.3d 606, 614 (7th Cir. 1999).

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

The Track extends from a point of connection with a CSXT line at milepost 19.00 in Holland to milepost 12.90 in Hamilton, a distance of approximately 6.10 miles, all in Allegan County, Michigan. The Track was once a part of CSXT's network of lines in Western Michigan. In 2002, CSXT obtained authority to abandon the Track (*CSX Transportation, Inc. — Abandonment Exemption — In Allegan County, MI*, AB-55 (Sub-No. 619X) (STB served Nov. 29, 2002)). CSXT consummated its abandonment of entirety of the Track in 2003. *See CSX Transportation, Inc. — Abandonment Exemption — In Allegan County, MI*, AB-55 (Sub-No. 619X) (CSXT filed Jul. 7, 2003).

Although CSXT abandoned the Track, it was never salvaged. HNW understands that the Track and right of way were sold several times post-abandonment as private industry track used in support of one or more railroad shippers. The Track ultimately was acquired by its current owner, Endeavor Ag and Energy, LLP ("Endeavor"), a non-carrier. The proposed Track transfer from Endeavor to HNW would not involve a Board-regulated railroad line. However, the Track would once again become a regulated line of railroad by virtue of the operating authority that HNW seeks through this exemption.

Upon the later of the effective date of the subject class exemption or the closing on HNW's purchase of the Track, HNW intends to re-establish common carrier service over the

Track, and the Track once again will fall within the scope of the Board's jurisdiction as a line of railroad, as it had been until 2003.¹

Map: 49 C.F.R. § 1150.33(f)

A map showing the Track and indicating the area served is attached as Exhibit A to this notice.

Certificate of Compliance: 49 C.F.R. § 1150.33(g)

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.33(g) is attached as Exhibit B to this notice.

Interchange Commitments: 49 C.F.R. § 1150.33(h)

HNW will not be subject to any limitations on its ability to interchange traffic on the Track with a third-party connecting carrier. As matters currently stand, HNW's only interline connection is CSXT.

Advance Notice: 49 C.F.R. § 1150.32(e)

The projected annual revenue of HNW is not expected to exceed \$5 million, and accordingly the advance notice requirements of 49 C.F.R. § 1150.32(e) are not applicable to this transaction.² See Exhibit B hereto.

¹ See, e.g., *Wheeling & Lake Erie Railway Company – Operation Exemption – Valley Line in Harrison and Jefferson Counties, Ohio*, FD 36010 (STB served Sep. 8, 2016) (“*Wheeling*”); *Arkansas Midland Railroad Company, Inc. – Operation Exemption – In Jacksonville, AR*, FD 35152 (STB served Sep. 12, 2008).

² See, e.g., *Wheeling; R.J. Corman Railroad Company/Memphis Line – Operation Exemption – Line in Montgomery and Stewart Counties, TN*, FD 33841 (STB served Jan. 18, 2000).

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the proposed purchase of the Track is exempt from environmental reporting requirements. HNW's purchase and operation of the Track will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), HNW's proposed purchase of the Track also is exempt from historic preservation reporting requirements. HNW's purchase of the Track is for the purpose of restoring common carrier rail operations.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in appropriate form is attached as Exhibit C to this notice.

Respectfully submitted,

By: /s/ *R. A. Wimbish*
Robert A. Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1500

**ATTORNEYS FOR HAMILTON
NORTHWESTERN RAILROAD CO.**

Dated: April 6, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

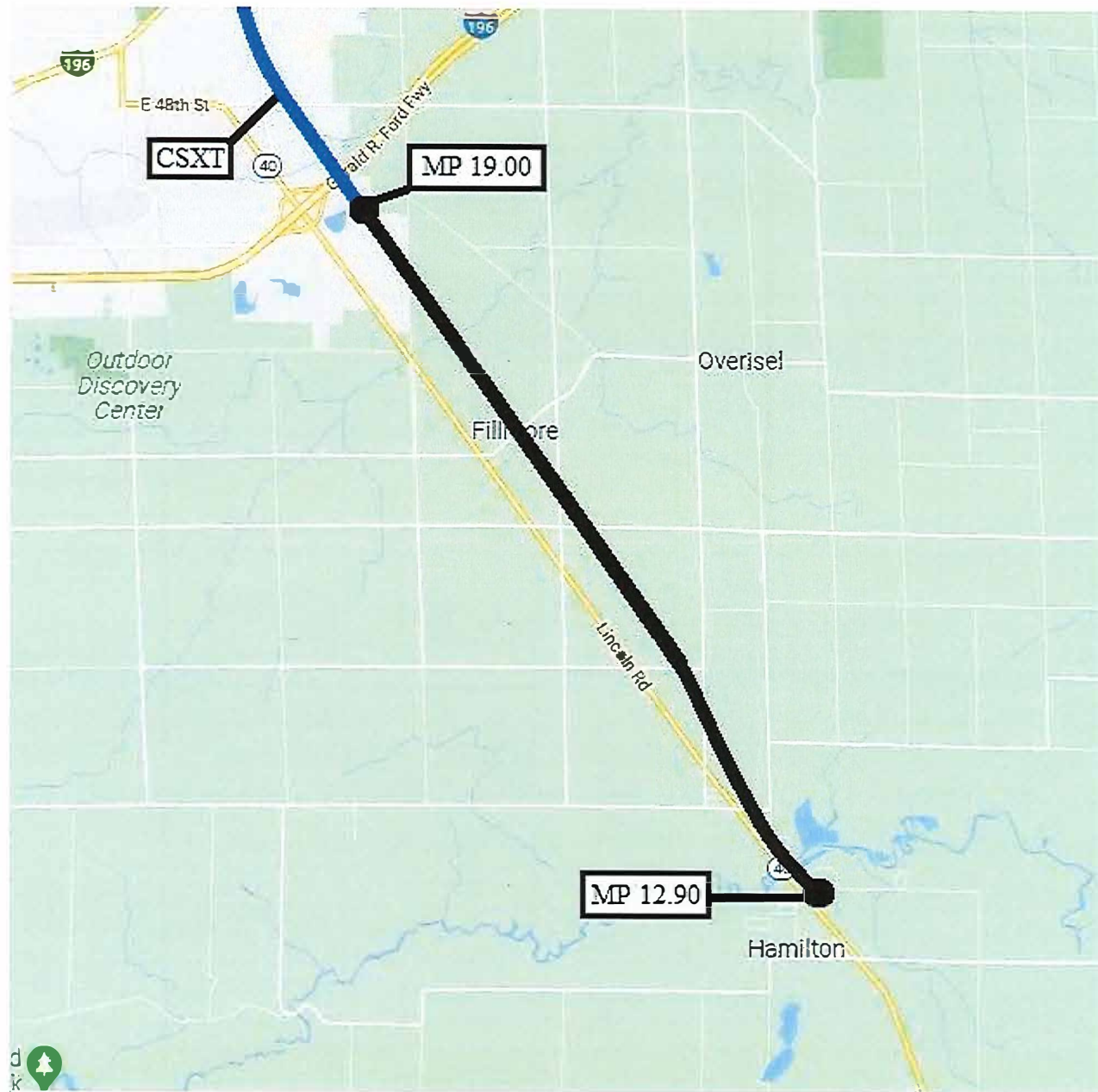
FD 36607

**HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI**

EXHIBIT A

MAP

Hamilton Northwestern Railroad Co.



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36607

**HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI**

EXHIBIT B

VERIFICATION AND CERTIFICATION

VERIFICATION AND CERTIFICATION

I hereby verify under penalty of perjury that I am the President of Hamilton Northwestern Railroad Co. ("HNW"), that I have read the foregoing Notice of Exemption, know the facts asserted therein, and that the same are true as stated to the best of my knowledge, information, and belief; and further, I certify after being duly sworn that the projected annual rail revenue of HNW is not projected to exceed \$5 million, and will not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1) .

A handwritten signature in black ink, appearing to read 'Lynus Starring', is written over a horizontal line.

Lynus Starring
President
Hamilton Northwestern Railroad Co.

Dated: March 31, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36607

**HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI**

EXHIBIT C

FEDERAL REGISTER NOTICE

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36607

**HAMILTON NORTHWESTERN RAILROAD CO.
— OPERATION EXEMPTION —
IN ALLEGAN COUNTY, MI**

Hamilton Northwestern Railroad Co. (“HNW”), a non-carrier, has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.31, et seq. to restore common carrier operations over certain currently-private track (the “Track”) in Allegan County, Michigan, extending from a point of connection with tracks of CSX Transportation, Inc. at approximately milepost 19.00 in Holland, Michigan, to approximately milepost 12.90 in Hamilton, Michigan, a distance of approximately 6.10 miles.

HNW expects to commence common carrier operations over the Track on or after May 6, 2022.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

This Notice is filed under 49 C.F.R. § 1150.31. If this Notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under

49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: April __, 2022

By the Board