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FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

ENTERED

Office of Proceedings

April 22, 2022

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Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH

(312) 252-1504
rwimbish@fletcher-sippel.com

April 22, 2022

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: **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:

On April 6, 2022, Hamilton Northwestern Railroad Co. (“HNW”) and Hamilton Hartford Group, LLC (“HHG”) filed, respectively, the above-referenced notices of exemption (the “Notices”). Pursuant to 49 C.F.R. §§ 1150.32(b) and 1180.4(g)(iii), HNW and HHG anticipated seeing notices of exemption for each proceeding published in the *Federal Register* no later than today. As no notices were published, HNW perceives that the Board may have issues with the scope of the notice filing in FD 36607, which may have contributed to the delayed processing of both class exemptions. Accordingly, HNW (and HHG) hereby offer this supplement in each of the above-referenced dockets in an effort to address any concerns the agency may have, thereby advancing the class exemptions.

As the Notice in the FD 36607 indicates, HNW intends to restore common carrier service over approximately 6.1 miles of private track and underlying right-of-way (the “Track Assets”) currently owned by Endeavor Ag and Energy, LLP (“Endeavor”), as those Track Assets are described in the April 6, 2022 notice of exemption (Notice, 3). HNW plans to commence common carrier operations coterminous with its acquisition of the subject Track Assets.

HNW understands that, as private track, the Track Assets do not presently constitute a line of railroad subject to the Board's jurisdiction. But HNW's proposed purchase of the Track Assets for purposes of restored common carrier railroad service could be construed as involving a transaction for acquisition, or the re-establishment, of a railroad line under 49 U.S.C. § 10901. If so, then it would stand to reason that HNW would need Board authorization to acquire the Track Assets (or to otherwise re-designate the Track Assets as regulated lines of railroad), and not just authorization to conduct common carrier operations over them.

In light of that consideration, HNW hereby respectfully requests that the Board accept this supplemental filing to modify the scope of the FD 36607 class exemption to encompass both – (a) HNW's acquisition of the Track Assets (or, if more appropriate, the re-designation of the Track Assets as a line of railroad upon HNW's acquisition of those assets); and (b) HNW's commencement of common carrier operations over the Track Assets once acquired. HNW respectfully requests that the Board promptly process the subject class exemptions in keeping with this expanded scope of authorization.

Finally, to the extent that the Notices may have been unclear on this point, HNW hereby advises that it will neither acquire the Track Assets nor will it commence common carrier operations over the Track Assets *unless and until* the Notices in both of the above-referenced proceedings take effect under appropriate Board processes.

If you have any questions regarding this filing, 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

cc: All parties of record