

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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

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

ROBERT A. WIMBISH

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

July 21, 2022

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VIA E-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
July 21, 2022
Part of
Public Record

Re: ***CSXT Transportation, Inc. – Abandonment Exemption – in
Muskegon County, Mich.,
Docket No. AB-55 (Sub-No. 807X)***

Request for Interim Trails Use/Rail Banking

Dear Ms. Brown:

The City of Muskegon, Michigan (“Muskegon”) requests that the Surface Transportation Board issue a Notice of Interim Trail Use for a 2-mile portion of the railroad line referred to by CSX Transportation, Inc. (“CSXT”) as the South Horn Spur, between milepost CGCS 56.35 and milepost CGCS 58.35, in the City of Muskegon, Muskegon County, Michigan (the “Segment”) that is the subject of the above-referenced abandonment notice of exemption proceeding. In satisfaction of the requirements of 49 C.F.R. § 1152.29(a), Muskegon supplies below its Statement of Willingness to Assume Financial Responsibility for the Segment.

To establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and 49 CFR § 1152.29 with respect to the Segment’s right-of-way possessed by CSXT, and over which Michigan Shore Railroad division, Mid-Michigan Railroad, Inc. (“MMRR”) has operating interests,¹ Muskegon is willing to assume full

¹ See *Michigan Shore Railroad Division, Mid-Michigan Railroad, Inc. – Discontinuance of Service Exemption – in Muskegon County, Mich.*, AB-364 (Sub-No. 17X) (filed June 21, 2022). Muskegon supports MMRR’s discontinuance of service notice of exemption, although it is unclear whether MMRR needs any such formal exit authorization, given the scope of common carrier operating authority sought in *Mid-Michigan Railroad, Inc. – Lease and Operation Exemption – CSX Transportation, Inc.*, FD 34725 (filed September 2, 2005).

FILING FEE WAIVED

FLETCHER & SIPPEL LLC

Ms. Cynthia T. Brown
July 21, 2022
Page 2

responsibility for: (1) managing the Segment's right-of-way; (2) any legal liability arising out of the transfer or use of the Segment's right-of-way (or, to the extent that Muskegon is immune from liability, then Muskegon will indemnify CSXT against any potential liability); and (3) the payment of any and all taxes that may be levied or assessed against the Segment's right-of-way.

A map depicting the Segment's right-of-way is attached.

Muskegon acknowledges that its proposed use of the Segment right-of-way is subject to it continuing to meet its responsibilities described above, and is subject to possible future reconstruction and reactivation of the Segment's right-of-way for rail service.

As additional information, Muskegon is party to an agreement with CSXT pursuant to which, at the appropriate time – (1) Muskegon would acquire the Segment for purposes of interim trails use, and (2) the balance of the South Horn Spur west of the Segment would not be made available for interim trails use, but would instead be fully abandoned following Board authorization.

Finally, as a consequence of being a municipal subdivision of the State of Michigan (a local government entity), the otherwise-applicable filing fee associated with a request for issuance of a notice of interim trails use is waived. *See* 49 C.F.R. § 1002.2(e)(1).

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Counsel for the City of Muskegon, Michigan

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Enclosure

cc: All parties of record

