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September 21, 2023

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

ENTERED
Office of Proceedings
September 21, 2023
Part of
Public Record

RE: **STB Docket AB-565 (Sub-No. 1X), New York Central Lines, LLC—
*Abandonment Exemption—in Middlesex County, Mass.***

Dear Ms. Brown:

Enclosed is a Response by CSXT Transportation, Inc. (“CSXT”) and Georgetown and High Line Railway, LLC (“GHL”) to the letter filed in this proceeding by the National Association of Reversionary Property Owners on September 7, 2023.

The filing of this letter has been authorized by CSXT and GHL. This letter is being efiled. Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours,

/s/ *Louis E. Gitomer*

Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Attachment

DOCKET NO. AB-565 (Sub-No. 1X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN
MIDDLESEX COUNTY, MA

**RESPONSE OF CSX TRANSPORTATION INC. AND GEORGETOWN AND HIGH LINE
RAILWAY, LLC**

EXPEDITED HANDLING REQUESTED

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Attorney for Georgetown and High Line
Railway, LLC

Attorneys for CSX Transportation, Inc.

Dated: September 21, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-565 (Sub-No. 1X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN MIDDLESEX
COUNTY, MA

**RESPONSE OF CSX TRANSPORTATION INC. AND GEORGETOWN AND HIGH LINE
RAILWAY, LLC**

EXPEDITED HANDLING REQUESTED

CSX Transportation, Inc. (“CSXT”) and the Georgetown and High Line Railway, LLC (“GHL” and with CSXT “Respondents”) respond to the letter filed by the National Association of Reversionary Property Owners (“NARPO”) on September 7, 2023 (the “September NARPO Letter”). CSXT and GHL respectfully request the Surface Transportation Board (the “STB”) to deny all relief requested by NARPO. GHL and the City of Framingham (“Framingham”) have entered a trail use agreement for Framingham to replace GHL as the trail owner on September 29, 2023.

NARPO requests that the STB “not allow the requested transfer of the NITU from GHL to the City of Framingham.” NARPO further contends that “Due to the obvious subversion of STB rules, the STB should declare that the rail line in AB-565-1X is abandoned and consummated due to over 23 years of non use....” Finally, NARPO erroneously contends that a 1.40-mile portion of the line that was transferred to the Town of Sudbury as a trail is in limbo.

CSXT and GHL previously responded to NARPO’s August 9, 2023 erroneous claims on August 25, 2023, and adopt those responses here.

The “... Chairman of the Surface Transportation Board ... shall encourage State and local agencies and private interests to establish appropriate trails using the provisions of such programs.” 16 U.S.C. 1247(d). CSXT, GHL, and Framingham agreed to establish a trail pursuant to the requirements of 16 U.S.C. 1247(d) and 49 CFR 1152.29.

A Notice of Interim Trail Use (“NITU”) was properly acquired by GHL for the 3.40-mile segment between milepost QBS 0.0 and milepost QBS 3.40 (the “Framingham Line”) pursuant to the STB’s rules.¹ On December 4, 2020, GHL and CSXT notified the STB that a trail agreement had been reached. On September 6, 2023, the Town of Framingham and GHL in compliance with the STB’s rules at 49 CFR 1152.29(f), jointly requested a substitution of Framingham for GHL as the trail user to occur on September 29, 2023. Framingham submitted a Statement of Willingness to Assume Financial Responsibility on September 6, 2023. At all times in this proceeding CSXT, GHL, and Framingham have complied with the STB’s trail use rules at 49 CFR 1152.29 and NARPO has not demonstrated a failure by the parties to abide by those rules.² Framingham is acquiring the Framingham Trail to connect to and extend the existing 25-mile Bruce Freeman Rail Trail.

There has been no “subversion” of the STB rules. Indeed, Framingham, CSXT, and GHL have acted in complete compliance. However, based on its “subversion” theory, NARPO asks the STB to declare the Framingham Line abandoned.³ It is NARPO that is requesting a

¹ STB Docket No. AB-565 (Sub-No. 1X), *New York Central Lines, LLC-Abandonment Exemption Middlesex County, MA* (served December 1, 2020) at 2-3 “GHL’s NITU request complies with the requirements of 49 C.F.R. § 1152.29, and CSXT is willing to negotiate with GHL for interim trail use. Accordingly, a NITU will be issued, and GHL and CSXT may negotiate an agreement for interim trail use/rail banking of the Framingham Segment during the one-year period prescribed below.”

² Respondents will not dignify NARPO’s snide remarks by responding to them.

³ The miscited opinion relied upon by NARPO, *RLTD Railway Company v. Surface Transportation Board*, 166 F.3d 808 (6th Cir.) involved a line that had been approved for

subversion of the STB's rules. In order to reinstate past practice and avoid uncertainty, the STB adopted rules that require a railroad to "file a notice of consummation with the Board to signify that it has exercised the authority and fully abandoned the line." 49 CFR 1152.29(e)(2). CSXT has not filed a notice of consummation and has not abandoned the Framingham Trail.

Finally, NARPO erroneously claims that there is a 1.40-mile rail line island left over from the original abandonment between milepost QBS 3.40, the Framingham town line and the intersection of the former Penn Central Transportation Company line at milepost QBS 4.80, in Middlesex County, Mass. (the "Sudbury Trail"). On December 4, 2022, CSXT and the Town of Sudbury filed a letter pursuant to 49 CFR 1152.29(h) notifying the STB that they entered a Purchase Sale Agreement for the Sudbury Trail as a trail. There is no island.

CSXT and GHL respectfully request the STB pursuant to 49 CFR 1152.29 (f)(2) to reopen the exemption proceeding, vacate the existing NITU granted to GHL, and issue an appropriate replacement NITU to Framingham by September 28, 2023 for the Framingham Trail so that Framingham can acquire the Framingham Trail on September 29, 2023.

abandonment and no longer linked to the national rail system. The Framingham Line remains linked to the national rail system by connection with the Sudbury trail and a line that crosses that Framingham Line that is owned by the Massachusetts Department of Transportation and operated over by both the Massachusetts Bay Transportation Authority and CSXT.

Respectfully submitted,

/s/ *Melanie B. Yasbin*

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High Line Railway, LLC

Dated: September 21, 2023

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CERTIFICATE OF SERVICE

I certify that this Response has been served on all parties of record in this proceeding by email.

/s/ *Louis E. Gitomer*
Louis E. Gitomer

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