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August 26, 2022

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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

ENTERED
Office of Proceedings
August 26, 2022
Part of
Public Record

Re: ***CSXT Transportation, Inc. -Abandonment Exemption - in Clark,
Floyd, Lawrence, Orange, & Washington Counties, Ind.,
Docket No. AB-55 (Sub-No. 775X)***

**Request to reopen proceeding to partially vacate notice of interim trails use
and to issue replacement notice of interim trails use**

Dear Ms. Brown:

Pursuant to 49 C.F.R. §§ 1152.29(a) and (d)(2), the City of New Albany, Indiana (“New Albany”) and Radius Indiana (“Radius”) hereby jointly request that – (a) the above-captioned abandonment proceeding be reopened; (b) the notice of interim trails use (“NITU”) issued to New Albany be vacated; and (c) separate NITUs be issued in favor of Radius and New Albany for interconnecting segments of the 62.3-mile rail line on the Northern Region, Louisville Division, Hoosier Subdivision of CSX Transportation, Inc. (“CSXT”) between milepost 00Q 251.7, near Bedford, and milepost 00Q 314.0, near New Albany, in Clark, Floyd, Lawrence, Orange, and Washington Counties, Indiana (the “Line”). New Albany and Radius each supplies below its Statement of Willingness to Assume Financial Responsibility for its respective segment of the Line under a prospective interim trails use arrangement.

As background, the Surface Transportation Board (the “Board”) granted CSXT’s Notice of Exemption to abandon the Line on January 8, 2018. New Albany and the Indiana Trails Fund filed timely separate requests for issuance of an NITU covering the entire Line – requests to which CSXT consented. The Board, by order served February 28, 2018, issued the requested NITU, permitting interim trail use negotiations to proceed. Thereafter, the NITU

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negotiation period has been extended several times, with the most recent Board order (served February 17, 2022) permitting negotiations under the NITU to continue until February 18, 2023.

New Albany has proposed to CSXT that trail sponsorship be split between New Albany between approximately milepost 00Q 309.5 and milepost 00Q 314.0, a distance of about 4.5 miles in Floyd County, Indiana (the “South Segment”); and Radius between approximately milepost 00Q 309.5 at the Floyd County/Clark County Border and milepost 00Q 251.7, near Bedford (the “North Segment”), a distance of about 57.8 miles in Clark, Lawrence, Orange, and Washington Counties, Indiana. The South Segment and North Segment rights-of-way are interconnected parts of the Line proposed for abandonment in this proceeding. A map depicting the rights-of-way and depicting the North Segment and South Segment is attached. Such adjustments to the NITU would facilitate New Albany’s trails use objectives. CSXT has agreed to continue negotiations based on this latest proposal for joint NITUs.

Accordingly, New Albany and Radius request issuance of a replacement NITU (or NITUs, as the case may be), under which Radius would be permitted to pursue trails sponsorship (in place of New Albany) for the North Segment; and New Albany would be permitted to continue to pursue separate trails sponsorship for the South Segment. To accomplish the joint issuance, New Albany and Radius request that the abandonment proceeding be reopened, and that the NITU granted to New Albany be vacated and reissued as requested above.

To establish interim trail use and rail banking under the National Trails System Act, 16 U.S.C. § 1247(d), and 49 CFR §1152.29 with respect to the right-of-way possessed and operated by CSXT, New Albany remains willing to assume full responsibility for: (1) managing the right-of-way of the South Segment; (2) any legal liability arising out of the transfer or use of the South Segment right-of-way (or, to the extent that New Albany is immune from liability, then New Albany will indemnify CSXT against any potential liability), and (3) the payment of any and all taxes that may be levied/assessed against the South Segment right-of-way.

New Albany acknowledges that the use of South Segment the right-of-way is subject to New Albany continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on CSXT on the same date it is being served on the Board.

Similarly, Radius is willing to assume full responsibility for: (1) managing the right-of-way of the North Segment; (2) any legal liability arising out of the transfer or use of the North Segment right-of-way, and (3) the payment of any and all taxes that may be levied or assessed against the North Segment right-of-way.

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Radius Indiana acknowledges that the use of the North Segment right-of-way is subject to Radius continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on CSXT on the same date it is being served on the Board.

Pursuant to 49 CFR 1002.2(e)(1), the filing fee is waived for New Albany as a local government entity. Radius has tendered through pay.gov the filing fee of \$350 applicable to its request for issuance of a replacement NITU for the North Segment.

New Albany and Radius hereby represent that CSXT has consented to the proposed new trails use arrangement and the present filing.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Counsel for the City of New Albany, Indiana and Radius
Indiana.

RAW:ah

Enclosure (map)

cc: All parties of record

