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October 28, 2008

Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

RE: Docket No. AB-364 (Sub-No. 12X), *Mid-Michigan Railroad, Inc. –  
Abandonment Exemption—in Kent and Ionia Counties, MI*

**EXPEDITED HANDLING REQUESTED**

Dear Acting Secretary Quinlan:

On February 28, 2008, the Mid-Michigan Railroad, Inc. (“MMRR”) filed a Petition for Exemption to abandon a 15.83-mile rail line (the Line) between milepost 137.83, southeast of Lowell, and milepost 122.00, east of Prairie Center, the end of the Line, in Kent and Ionia Counties, MI (the “Line”). By decision served on April 4, 2008, the Surface Transportation Board granted the Petition subject to requiring MMRR to “retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the section 106 process of the NHPA. MMRR shall report back to SEA regarding any consultations with the SHPO and the public.” *Mid-Michigan Railroad, Inc. Abandonment Exemption—in Kent and Ionia Counties, MI*, STB Docket No. AB-364 (Sub-No. 12X) (SIB served April 4, 2008), at 5 (the “Decision”).

MMRR has completed its consultation with the Michigan Department of History, Arts and Libraries (“MISHPO”), and received the enclosed letter dated October 27, 2008, indicating that because the Line will be purchased for interim trail use/rail banking via a quitclaim deed that will include a covenant stipulating that the bridge will remain in place, “no adverse affect on the Grand River Railroad Bridge.” In the Petition, MMRR indicated that it would not remove the bridges on the Line because it intended to sell the Line for interim trail use/rail banking.<sup>1</sup>

MMRR has entered a Purchase and Sale Agreement (the “PSA”) with the Friends of the Fred Meijer Heartland Trail (the “Friends”) and will deliver a quitclaim deed to Friends at closing. In the PSA the parties agreed that “[Friends] and any assigns or

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<sup>1</sup> MMRR notes that the December 1, 2003 date in the third line of the first paragraph is incorrect. The date of the previous letter from the MISHPO is August 7, 2008.

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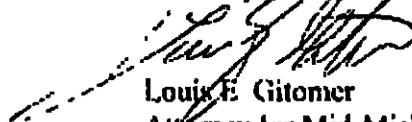
successors of [Friends] shall not remove the Grand River Railroad Bridge, located at Milepost 126.28." In addition, the quitclaim deed states "PROVIDED FURTHER that Grantee, by acceptance of this deed, covenants and represents that Grantee and its successors and assigns shall not remove the Grand River Railroad Bridge, located at Milepost 126.28." Friends is the Grantee under the quitclaim deed.

As a result of this successful consultation and MMRR's and Friend's acceptance of the condition through the PSA and the quitclaim deed, MMRR respectfully requests the Surface Transportation Board to remove the historic condition imposed in ordering paragraph 1(3) of the *Decision* so that MMRR may move forward with the sale of the line for interim trail use/trail banking.

Friends and MMRR plan to close the sale of the Line for interim trail use/trail banking on Thursday October 30, 2008. The only impediment to the sale is the historic condition imposed by the Board in ordering paragraph 1(3). In order to close the sale as scheduled, MMRR respectfully requests the Board to expeditiously serve a decision removing the historic condition imposed in ordering paragraph 1(3). MMRR is authorized to state that the Friends support the expeditious removal of the condition.

MMRR is e-filing this letter. Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours,



Louis E. Gitomer  
Attorney for Mid-Michigan Railroad, Inc.

Enclosure

Cc: Parties of Record



STATE OF MICHIGAN

JENNIFER GRANIHOLM  
GOVERNOR

DEPARTMENT OF HISTORY, ARTS AND LIBRARIES  
LANSING

DR WILLIAM ANDERSON  
DIRECTOR

October 27, 2008

DAVID NAVECKY  
SURFACE TRANSPORTATION BOARD  
SECTION OF ENVIRONMENTAL ANALYSIS  
395 E STREET SW  
WASHINGTON DC 20423

RE: ER99-392 STB Docket No AB-364 (Sub-No 12X), Kent and Ionia Counties (STB)

Dear Mr Navecky

Under the authority of Section 106 of the National Historic Preservation Act of 1966, as amended, we have reviewed the above-cited undertaking at the location noted above. We initially reviewed this project and responded on December 1, 2003 with an opinion that the project would have an *adverse effect* on the Grand River Railroad Bridge, which appears to meet the criteria for listing in the National Register of Historic Places. More specifically, the abandonment of the rail line would result in the physical deterioration of the bridge due to neglect, as well as the transfer, lease, or sale of the bridge out of federal control without adequate, legally enforceable conditions to ensure its long-term preservation.

In response to our determination, we have received follow-up correspondence from you as well as a representative for Mid-Michigan Railroad, Inc. (MMRR), Mr. Louis Gitomer, regarding the National Trails System Act (16 U.S.C. 1247(d)) and planned "rail-banking" for this particular section of railroad. The information you sent indicates that under the Trails System Act, a voluntary arrangement can be made between a railroad and a trail sponsor to preserve a railroad right-of-way that would otherwise be abandoned for future rail use ("rail banking"), while allowing the property to be used in the interim as a trail, which thereby retaining jurisdiction over the rail line. In addition, Mr. Gitomer related that the MMRR has negotiated an agreement with the Friends of the Fred Meijer Trail (the "Friends"), whereby the "Friends" will purchase the rail line with a quitclaim deed for the property that will include a covenant stipulating that the bridge will remain in place.

Based on this additional information, it is the opinion of the State Historic Preservation Officer (SHPO) that the effects of the proposed undertaking do not meet the criteria of adverse effect [36 CFR § 800.5(a)(1)]. Therefore, the project will have no adverse effect [36 CFR § 800.5(b)] on the Grand River Railroad Bridge, which appears to meet the criteria for listing in the National Register of Historic Places.

The views of the public are essential to informed decision making in the Section 106 process. Federal Agency Officials or their delegated authorities must plan to involve the public in a manner that reflects the nature and complexity of the undertaking, its effects on historic properties and other provisions per 36 CFR § 800.2(d). We remind you that Federal Agency Officials or their delegated authorities are required to consult with the appropriate Indian tribe and/or Tribal Historic Preservation Officer (THPO) when the undertaking may occur on or affect any historic properties on tribal lands. In all cases, whether the project occurs on tribal lands or not, Federal Agency Officials or their delegated authorities are also required to make a reasonable and good faith effort to identify any Indian tribes or Native Hawaiian

organizations that might attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties per 36 CFR § 800.2(c)

This letter evidences the STB's compliance with 36 CFR § 800.4 "Identification of historic properties" and 36 CFR § 800.5 "Assessment of adverse effects", and the fulfillment of the STB's responsibility to notify the SHPO, as a consulting party in the Section 106 process, under 36 CFR § 800.5(c) "Consulting party review"

The State Historic Preservation Office is not the office of record for this undertaking. You are therefore asked to maintain a copy of this letter with your environmental review record for this undertaking. If the scope of work changes in any way, or if artifacts or bones are discovered, please notify this office immediately.

If you have any questions, please contact Martha MacFarlane Fues, Environmental Review Coordinator, at (517) 335-2721 or by email at ER@michigan.gov. Please reference our project number in all communication with this office regarding this undertaking. Thank you for this opportunity to review and comment, and for your cooperation.

Sincerely,



Brian D. Conway  
State Historic Preservation Officer

BDC BGG

copy Advisory Council on Historic Preservation  
~~Louis Sitemer~~

Enclosure(s)