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UTILITIES COMMISSION

6 March 2020

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

EIR-R-20-01

Re: Eastern Idaho Railroad – Abandonment Exemption –  
in Bonneville County, ID, AB 1252 (Sub-no. 1X)

- (1) Statement of Willingness [FEE WAIVER REQUESTED]
- (2) Fee waiver request for filing of Statement of Willingness;
- (3) Request for Public Use Condition

Dear Ms. Brown:

This letter and attachment are for filing on behalf of the City of Idaho Falls (Idaho), hereinafter referred to as "City."

Summary: City supports issuance of a Notice of Interim Trail Use for the entire line at issue in this proceeding, and plans to negotiate to acquire said line, including the historic railroad bridge across the Snake River at Sportsman Park, for trail use as part of the City's comprehensive trail system.

Background: City is a unit of local government within the State of Idaho. The entire rail line (approximately 0.76 mile) proposed for abandonment in this proceeding is within the City. City concurs with the Notice of Exemption filed by Eastern Idaho Railroad insofar as it represents that the line at issue in this proceeding has had no users in the past two years (City understands the period of non-use began prior to 2014), that the property is suitable for public use (trail), and that the City is interested in acquiring the property, including the bridge.

The City conducted an extensive study of means to enhance pedestrian and bicycle transportation within the City and neighboring communities as part of its "Connecting our Community" project. A comprehensive report (and Appendices)



dated November 2014 arising from that study may be found at the following web address: <https://www.idahofallsidaho.gov/621/Connecting-Our-Community>. Suffice it to say that the line at issue here encompasses a railroad bridge over the Snake River. The City wishes to obtain the line and bridge for trail purposes in order to link the downtown to Sportsman Park (a very popular local destination), and for other trail connectivity purposes. Indeed, development of the bridge and approaches is one of the ten priority projects identified in the aforementioned Connecting Our Community study, and is discussed therein as "Project 8." Among other things, the study concluded that "[t]his project would provide another loop trail connecting to Downtown Idaho Falls, improve access to Sportsman Park, improve the Greenbelt Trail behind the library, and provide additional access to the Greenbelt Trail system for users east of Yellowstone Highway." Report, p. C-17. In short, the City's interests in acquiring this for public purposes are based on a comprehensive study and are of long duration.

1. Statement of willingness. Based on research to date, it appears to the City that the right of way is federally-granted. To ensure the right of way is transferred intact, the City expects to seek to acquire it pursuant to 16 U.S.C. 1247(d). The City accordingly is providing (as an attachment to this letter) a "statement of willingness" (49 C.F.R. 1152.29) for filing in this proceeding.

2. Request for fee waiver from fee for filing statement of willingness. Pursuant to 49 C.F.R. 1002.2(e)(1), City requests a waiver of the fee for filing a statement of willingness. City qualifies for the waiver: City is a unit of local government, and is not acting in a corporate or government subsidized transportation company capacity.

3. Request for public use condition. Pursuant to 49 C.F.R. 1152.28(a)(2), City makes the following four representations in support of the public use condition set forth in (i) below:

(i) Condition requested. City requests the following condition on any effective abandonment providing authorization: EIRR may not dispose of the line other than for public purposes and use for a period of 180 days after the effective date of the abandonment authorization.

(ii) Public importance. As explained in the section entitled "Background" in this letter, the City has long identified the line in question as an important component of its Connecting Our Community project to establish a comprehensive and connected non-motorized transportation infrastructure in Idaho Falls, serving its



downtown, University of Idaho—Idaho Falls, local neighborhoods, and adjacent communities. Indeed, acquisition of this project is one of the City's top ten priorities in that regard.

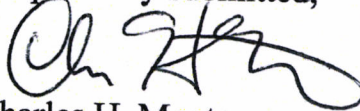
(iii) Time period. 180 days.

(iv) Justification of time period. Negotiation of trail use agreements typically take more than 180 days. See STB Ex Parte 753, served Dec. 4, 2019, slip op. at 4-5.

4. Further comments. The City reserves the right to make further comments as it deems appropriate, and otherwise supports prompt issuance of a Notice of Interim Trail Use (NITU) in this proceeding, which we understand is a result acceptable to, and anticipated by, EIRR.

Certificate of Service. The undersigned hereby certifies service on counsel for EIRR (Mr. Wimbish) on 6 March 2020 by email and by USPS, postage pre-paid, at his address and email as set forth in the cc. below.

Respectfully submitted,



Charles H. Montange  
Counsel for City of Idaho Falls

Att. (Statement of Willingness)

cc. Randall Fife, Esq.  
City Attorney, City of Idaho Falls  
P.O. Box 50220  
Idaho Falls, Idaho 83402 (w/att.)

Robert A. Wimbish, Esq.  
Fletcher & Sippel LLC  
29 North Wacker Drive, Suite 800  
Chicago, Illinois 60606-2832  
(by USPS, first class, and  
Email to [rwimbish@fletcher-sippel.com](mailto:rwimbish@fletcher-sippel.com)) (w/att.)

Before the Surface Transportation Board

Eastern Idaho Railroad - )

Abandonment Exemption - ) AB-1252 (Sub.no. 1X)

In Bonneville County, ID )

STATEMENT OF WILLINGNESS TO ASSUME  
FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29, The City of Idaho Falls ("City" or "Interim Trail User") is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Eastern Idaho Railroad ("EIRR") and operated by same. The property, known as the Old Butte Main Line, extends from the beginning of abandonment at railroad milepost 184.14, near the Yellowstone Highway, to the end of abandonment at railroad milepost 184.90, near Broadway, a distance of approximately 0.76 miles, in the City of Idaho Falls, Bonneville County, ID. The right of way is part of a line of railroad proposed for abandonment in STB docket AB-1252 (Sub-no. 1X).

A map of the property depicting the right of way is attached.<sup>1</sup>

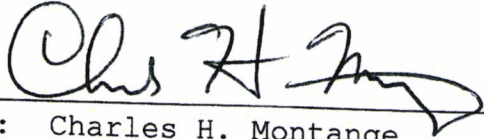
City acknowledges that use of the right of way is subject to the user's continuing to meet its responsibilities described

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<sup>1</sup> The map is the same used by EIRR in connection with its notice of exemption in AB-1252.



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 the railroad on the same date it is being served on the Board.



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Attachments: Map (Appendix A, as supplied by EIRR)

cc. Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive, Suite 800  
Chicago, Illinois 60606-2832  
(by USPS, first class, and  
Email to [rwimbish@fletcher-sippel.com](mailto:rwimbish@fletcher-sippel.com))  
Counsel for EIRR cc. Robert A. Wimbish

**Docket No. AB-1252 (Sub-No. 1X)  
Eastern Idaho Railroad, LLC –  
Abandonment Exemption – In Bonneville County, Idaho**

