

BEFORE THE
SURFACE TRANSPORTATION BOARD

301034

ENTERED
Office of Proceedings
September 1, 2020
Part of
Public Record

DOCKET NO. FD_36435
CATTARAUGUS LOCAL DEVELOPMENT CORP.
ACQUISITION EXEMPTION
ERIE LACKAWANNA RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION OF
CATTARAUGUS LOCAL DEVELOPMENT CORP.
PURSUANT TO 49 C.F.R. § 1150.31(a)(3)**

Pursuant to 49 C.F.R. part 1150, subpart D, Cattaraugus Local Development Corp. ("CLDC"), currently a non-carrier, hereby files this Verified Notice of Exemption to acquire a portion of the former Erie Lackawanna Railway ("Erie Railway") a railroad line (the "Line") extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5), to the City line of the City of Salamanca in the Town of Salamanca (near Milepost 414.1), Cattaraugus County, State of New York. Pursuant to the Order of the United States District Court for the Northern District of Ohio dated February 28, 1980, the Line was deeded to the Cattaraugus County Industrial Development Agency ("IDA") by Quit Claim deed, which entity transferred the Line to CLDC on or about August 2000.

In accordance with the requirements of 49 C.F.R § 1150.33, CLDC submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the applicant is:

Cattaraugus Local Development Corp.
PO Box 1
Cattaraugus, NY 14719

The alternate address is:
c/o 11 South Franklin Street
Cattaraugus, NY 14719

Applicant's Representative: 49 C.F.R. § 1150.33(b)

CLDC's representative for this proceeding who is authorized to receive correspondence is:

Robert J. McLaughlin, Esq.
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, NY 12207
(518) 520-0740

**FEE RECEIVED
September 1, 2020
SURFACE**

TRANSPORTATION BOARD

**FILED
September 1, 2020
SURFACE
TRANSPORTATION BOARD**

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

The CLDC was established in 1996 as a New York not-for-profit corporation to create community and economic development opportunities throughout Cattaraugus County, New York. It acquired the Line from the IDA in August 2000 (Cattaraugus County Clerk records in Liber 996 of Deeds at page 471). The IDA acquired the Line from the Trustees of the Erie Railway pursuant to an Order of the United States District Court for the Northern District of Ohio, Eastern Division, dated February 28, 1980 (the "Order"). The Order directed that the Line be conveyed "free and clear of all liens, including judgment liens, mortgage liens, liens authorized by the Court and tax liens, including interest and penalties. Further, the Order provides that "all liens on the property conveyed [by the Order] . . . shall be divested from the property and shall attach, according to their respective priorities, to the proceeds from the transaction authorized herein."

Prior to conveying the Line to the IDA, the Erie Railway operated the Line as part of the Dunkirk Branch of USRA Line No. 1250. The IDA acquired the corridor in 1980 and by the early 1990s, the Line was no longer in operation. On September 6, 1996, the New York & Lake Erie Railroad Company, (the "Railroad Operator") contracted by the IDA to operate their railroad holdings, provided notice (the "Notice") to various parties---including the Department of Defense, the National Park Service, the US Department of Agriculture, and the Commissioner of Transportation---under Subpart F of Title 49 of the Code of Federal Regulations stating its intention to file a Notice of Exemption. That Notice of Exemption was never filed.

Operator of the Line & Property: 49 C.F.R. § 1150.33(d)

CLDC acquired title to the Line in 2000 as described above. There is no current line to operate, as the rails and other parts required for a railroad have been removed. The Line has been used since 2005 as the Senator Pat McGee Trail under the "Rails-to-Trails" Program.

Summary of Transaction: 49 C.F.R. § 1150.33(e)

As described above, CLDC was conveyed title to the Line by the IDA in August 2000. The Line starts at Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5), to the City line of the City of Salamanca in the Town of Salamanca (near Milepost 414.1), Cattaraugus County, State of New York for 12.14 miles.

The complete name and address of the IDA is as follows:

County of Cattaraugus Industrial Development Agency
9 W Washington Street
Ellicottville, NY 14731
(716) 699-2005

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and the surrounding area is attached as **Exhibit A**.

Certificate of Eligibility: 49 C.F.R. § 1150.33(g)

The required certification that CLDC would qualify as a Class III carrier does not apply – there is no rail line on the McGee Trail – it is a hiking and scenic trail for the public to enjoy.

Interchange Commitments: 49 C.F.R. § 1150.33(h)

There are no interchange commitments – the Line cannot support railway traffic.

Advance Notice: 49 C.F.R. § 1150.32(e)

The projected annual revenues for CLDC are not expected to exceed \$5 million. Accordingly, the advance notice provisions of section 1150.32(3) are not applicable.

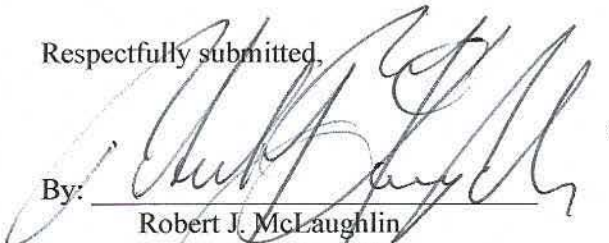
Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. There is no proposed sale in connection with this exemption.

Caption Summary: 49 C.F.R. § 1150.34

A caption is included above.

Respectfully submitted,

By: 

Robert J. McLaughlin
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, NY 12207
(518) 520-0740

ATTORNEYS FOR THE PETITIONER

Dated: August 31, 2020

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD_36435

CATTARAUGUS LOCAL DEVELOPMENT CORP.

ACQUISITION EXEMPTION
ERIE LACKAWANNA RAILWAY COMPANY

Cattaraugus Local Development Corp. ("CLDC"), a non-carrier, has filed a Verified Notice of Exemption to acquire from the Erie Lackawanna Railway Company a portion of a rail line (USRA Line 1250 or the "Line") extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5), to the City line of the City of Salamanca in the Town of Salamanca (near Milepost 414.1), Cattaraugus County, State of New York.

As set forth in the Verified Notice of Exemption, the CLDC was established in 1996 as a New York not-for-profit corporation to create community and economic development opportunities throughout Cattaraugus County, New York. It acquired the Line from the Cattaraugus County Industrial Development Agency (the "IDA") in August 2000 (Clerk of Cattaraugus County in Liber 996 of Deeds at page 471). The IDA acquired the Line from the Trustees of the Erie Railway pursuant to an Order of the United States District Court for the Northern District of Ohio, Eastern Division, dated February 28, 1980 (the "Order"). The Order directed that the Line be conveyed "free and clear of all liens, including judgment liens, mortgage liens, liens authorized by the Court and tax liens, including interest and penalties" and that "all liens on the property conveyed [by the Order] . . . shall be divested from the property and shall attach, according to their respective priorities, to the proceeds from the transaction authorized herein."

Prior to conveying the Line to the IDA, the Erie Railway operated the Line as part of the Dunkirk Branch of USRA Line No. 1250. The IDA acquired the corridor in 1980 and by the early 1990s, the Line was no longer in operation. On September 6, 1996, the New York & Lake Erie Railroad Company, (the "Railroad Operator") contracted by the IDA to operate their railroad holdings, provided notice (the "Notice") to various parties---including the Department of Defense, the National Park Service, the US Department of Agriculture, and the Commissioner of Transportation---under Subpart F of Title 49 of the Code of Federal Regulations stating its intention to file a Notice of Exemption. That Notice was never filed.

Comments must be filed with the Board and served on:

Robert J. McLaughlin, Esq.
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, NY 12207
(518) 520-0740

This Notice is filed under 49 C.F.R. § 1150.31(a)(3). If the Notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

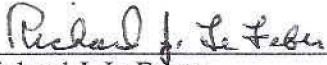
Dated: August 31, 2020

CERTIFICATION AND VERIFICATION

Richard J. LeFeber, Executive Director of the Cattaraugus Local Development Corp. ("CLDC"), hereby certifies as follows:

1. The projected annual revenues of CLDC will not, as a consequence of the transaction proposed herein, result in CLDC becoming a Class II or a Class I rail carrier under the provisions of 49 C.F.R. § 1201(11).
2. The projected annual revenues of CKDC are not projected, as a result of the transaction, to exceed \$5 million.
3. The Line that is the subject of the present Notice of Exemption proceeding does not involve any provisions or agreements that would limit future interchange with a third-party connecting carrier, except that the rails no longer exist and the Line cannot be used by a carrier in its current form.

I also hereby verify that (i) I have read the foregoing Notice of Exemption; (ii) know the facts asserted in such Notice of Exemption; (iii) know such facts to be true as stated; and (iv) that I am authorized to offer this Certification and Verification on behalf of the CLDC.



Richard J. LeFeber
Executive Director, Cattaraugus Local
Development Corp.

Dated: August 31, 2020

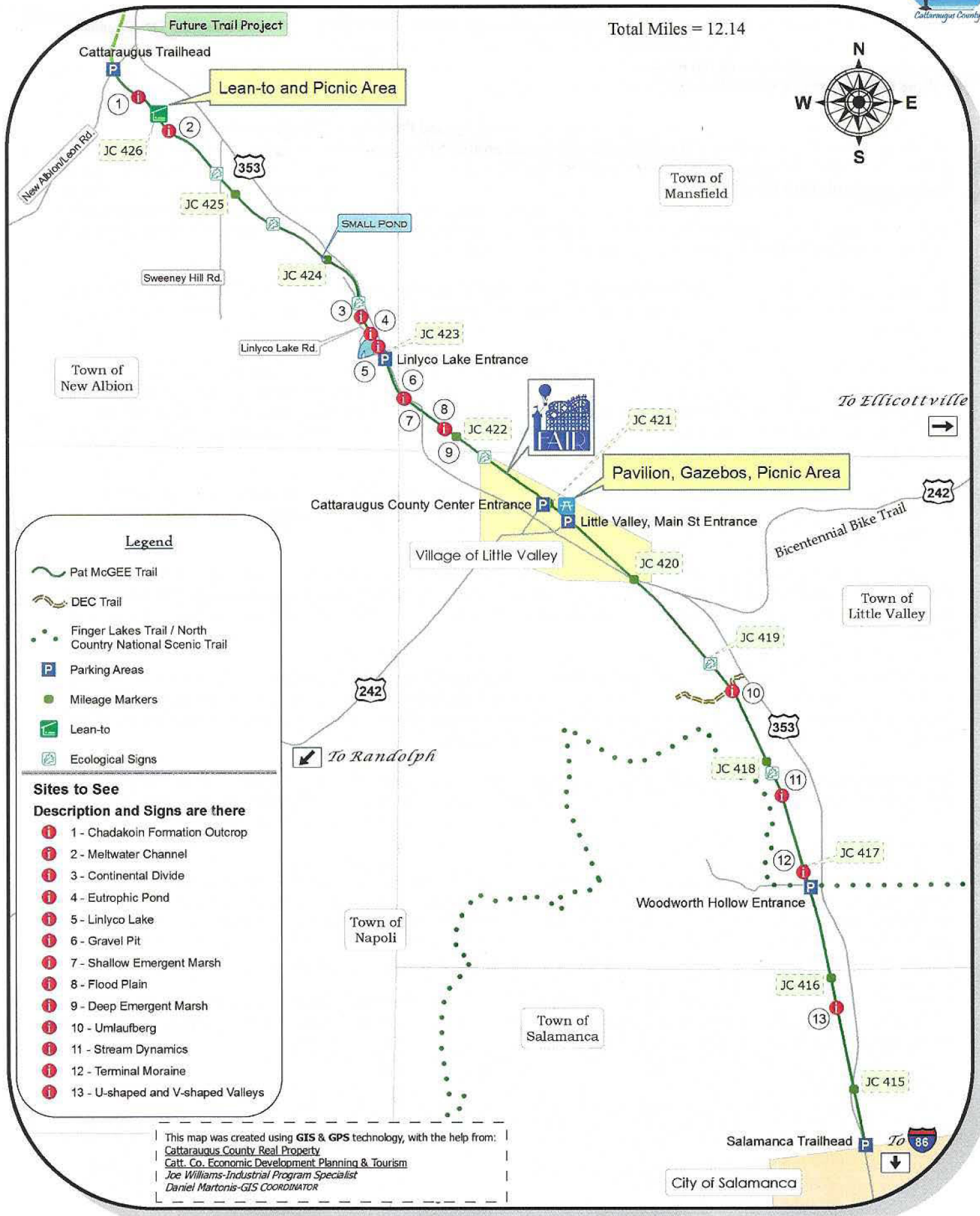
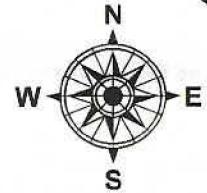
EXHIBIT A



WELCOME TO THE PAT MCGEE TRAIL



Total Miles = 12.14



Legend

- Pat McGEE Trail
- DEC Trail
- Finger Lakes Trail / North Country National Scenic Trail
- Parking Areas
- Mileage Markers
- Lean-to
- Ecological Signs

Sites to See

Description and Signs are there

- 1 - Chadakoin Formation Outcrop
- 2 - Meltwater Channel
- 3 - Continental Divide
- 4 - Eutrophic Pond
- 5 - Linlyco Lake
- 6 - Gravel Pit
- 7 - Shallow Emergent Marsh
- 8 - Flood Plain
- 9 - Deep Emergent Marsh
- 10 - Umlaufberg
- 11 - Stream Dynamics
- 12 - Terminal Moraine
- 13 - U-shaped and V-shaped Valleys

This map was created using GIS & GPS technology, with the help from:
 Cattaraugus County Real Property
 Catt. Co. Economic Development Planning & Tourism
 Joe Williams-Industrial Program Specialist
 Daniel Martonis-GIS COORDINATOR