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October 3, 2022
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Public Record

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(312) 252-1511
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October 3, 2022

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

Re: **Docket No. FD 36581**
Akron Barberton Cluster Railway Company – Acquisition
Exemption – Rittman Community Improvement Corporation

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Akron Barberton Cluster Railway Company Pursuant to 49 C.F.R. § 1150.41**, dated October 3, 2022. The sum of \$2,200, representing the appropriate fee for this filing, has been tendered electronically via Pay.gov.

If you have any questions regarding this filing, please feel free to contact the undersigned. Thank you for your assistance on this matter.

Respectfully submitted,

/s/ *Michael J. Barron, Jr.*

Michael J. Barron, Jr.
Attorney for Akron Barberton Cluster
Railway Company

FILED
October 3, 2022
SURFACE
TRANSPORTATION BOARD

MJB:ah

Attachment

FEE RECEIVED
October 3, 2022
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36581

AKRON BARBERTON CLUSTER RAILWAY COMPANY
– ACQUISITION EXEMPTION –
RITTMAN COMMUNITY IMPROVEMENT CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
AKRON BARBERTON CLUSTER RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1150.41**

Michael J. Barron, Jr.
Audrey E. Lane
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-2832
(312) 252-1500
Email: mbarron@fletcher-sippel.com

**ATTORNEYS FOR AKRON BARBERTON
CLUSTER RAILWAY COMPANY**

Dated: October 3, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36581

AKRON BARBERTON CLUSTER RAILWAY COMPANY
– ACQUISITION EXEMPTION –
RITTMAN COMMUNITY IMPROVEMENT CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
AKRON BARBERTON CLUSTER RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1150.41**

Pursuant to 49 C.F.R. § 1150.41, et seq., Akron Barberton Cluster Railway Company (“ABC”), a Class III rail carrier, hereby files this Verified Notice of Exemption to acquire a line of railroad owned by the Rittman Community Improvement Corporation (“RCIC”) between milepost 216.76 near Wadsworth, Ohio and milepost 220.02 near Rittman, Ohio, a distance of 3.26 miles (the “Rittman Line”). ABC is the current operator of the Rittman Line. Based on projected revenues for the Rittman Line, ABC expects to remain a Class III rail carrier after consummation of the transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.43, ABC submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the rail carrier applicant herein is as follows:

Akron Barberton Cluster Railway Company
43 Second Street NW
Barberton, Ohio 44203
(330) 745-4431

Applicant's Representative: 49 C.F.R. § 1150.43(b)

ABC's representative to whom correspondence regarding this transaction should be sent is as follows:

Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-2832
(312) 252-1511

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

On September 23, 2022, RCIC and ABC executed a Purchase and Sale Agreement (the "Agreement") providing for ABC's acquisition of all of RCIC's right, title and interest in and to the Rittman Line between milepost 216.76 near Wadsworth, Ohio and milepost 220.02 near Rittman, Ohio subject to ABC's receipt of appropriate authority or exemption from this Board.

Operation of the Property: 49 C.F.R. § 1150.43(d)

ABC will own and provide rail common carrier service as required on the Rittman Line. ABC and its predecessor have operated the Rittman Line since it was acquired by RCIC in 1984. *See Conrail Abandonment in Medina and Wayne Counties, OH – In the Matter of an Offer of Financial Assistance*, Docket No. AB-167 (Sub-No. 874N) (ICC served Sep. 21, 1984) ("RCIC OFA").

Summary of the Transaction: 49 C.F.R. § 1150.43(e)

ABC is a Class III common carrier which owns, operates, or otherwise holds interests in approximately 71 route miles of rail line in the Akron, Ohio area (including Akron, Barberton, Rittman, Wadsworth, Kent and Ravenna, Ohio). ABC began operations in 1994 after acquiring certain Akron-area terminal trackage from the Akron & Barberton Belt Railroad

Company (“A&BB”) and Consolidated Rail Corporation (“Conrail”). *Akron Barberton Cluster Railway Company – Acquisition and Operation Exemption – Certain Lines of Consolidated Rail Corporation*, Docket No. FD 32537 (ICC served Aug. 10, 1994 and Jan. 12, 1996) (“*ABC Acquisition*”). ABC is a wholly-owned subsidiary of The Wheeling Corporation, and is affiliated with the Wheeling & Lake Erie Railway Company. See *Wheeling Corporation – Continuance in Control Exemption – Akron Barberton Cluster Railway Company*, Docket No. FD 32538 (ICC served Oct. 27, 1994 and Jan. 12, 1996).

RCIC is an Ohio municipal entity and a non-operating rail carrier which acquired the Rittman Line from Conrail in 1984 pursuant to an offer of financial assistance. *RCIC OFA, supra*. A&BB provided all operations on the Rittman Line pursuant to an agreement with RCIC, and obtained trackage rights on an adjacent segment of Conrail’s Rittman Secondary to reach the Rittman Line. *RCIC OFA; Akron & Barberton Belt Railroad Company – Exemption from 49 U.S.C. 11343*, Docket No. FD 30585 (ICC served Nov. 21, 1984). ABC assumed operation of the Rittman Line when it acquired all of A&BB’s rail assets and several Conrail lines (including the Rittman Secondary) in 1994. *ABC Acquisition, supra*.¹

Pursuant to the Agreement between the parties, ABC will now purchase the Rittman Line from RCIC, thus aligning ownership of the line with its operation.

The complete name and address of the current owner of the Rittman Line is as follows:

¹ ABC’s continued operation of the Rittman Line as A&BB’s successor-in-interest was inadvertently omitted from the notice of exemption filed in Docket No. FD 32537 in 1994. ABC’s authority to acquire the Rittman Line pursuant to this notice of exemption in the instant docket will moot that oversight and ABC will properly be the sole authorized common carrier on the Rittman Line.

Rittman Community Improvement Corporation
30 North Main Street
Rittman, Ohio 44270

ABC intends to consummate its acquisition of the Rittman Line on or after November 2, 2022.

Map: 49 C.F.R. § 1150.43(f)

A map showing the Rittman Line and the surrounding area is attached as Exhibit A to this Notice.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to this Notice.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

ABC's proposed acquisition of the Rittman Line does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

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

Under 49 C.F.R. § 1105.6(c)(2), ABC's proposed acquisition of the Rittman Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), ABC's acquisition of the Rittman Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Further Surface Transportation Board approval is required to abandon or discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.44

A caption summary in appropriate form is attached as Exhibit C to this Notice.

Respectfully submitted,

By: /s/ *Michael J. Barron, Jr.*

Michael J. Barron, Jr.

Audrey E. Lane

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 800

Chicago, Illinois 60606-3208

(312) 252-1500

Email: mbarron@fletcher-sippel.com

**ATTORNEYS FOR AKRON BARBERTON
CLUSTER RAILWAY COMPANY**

Dated: October 3, 2022

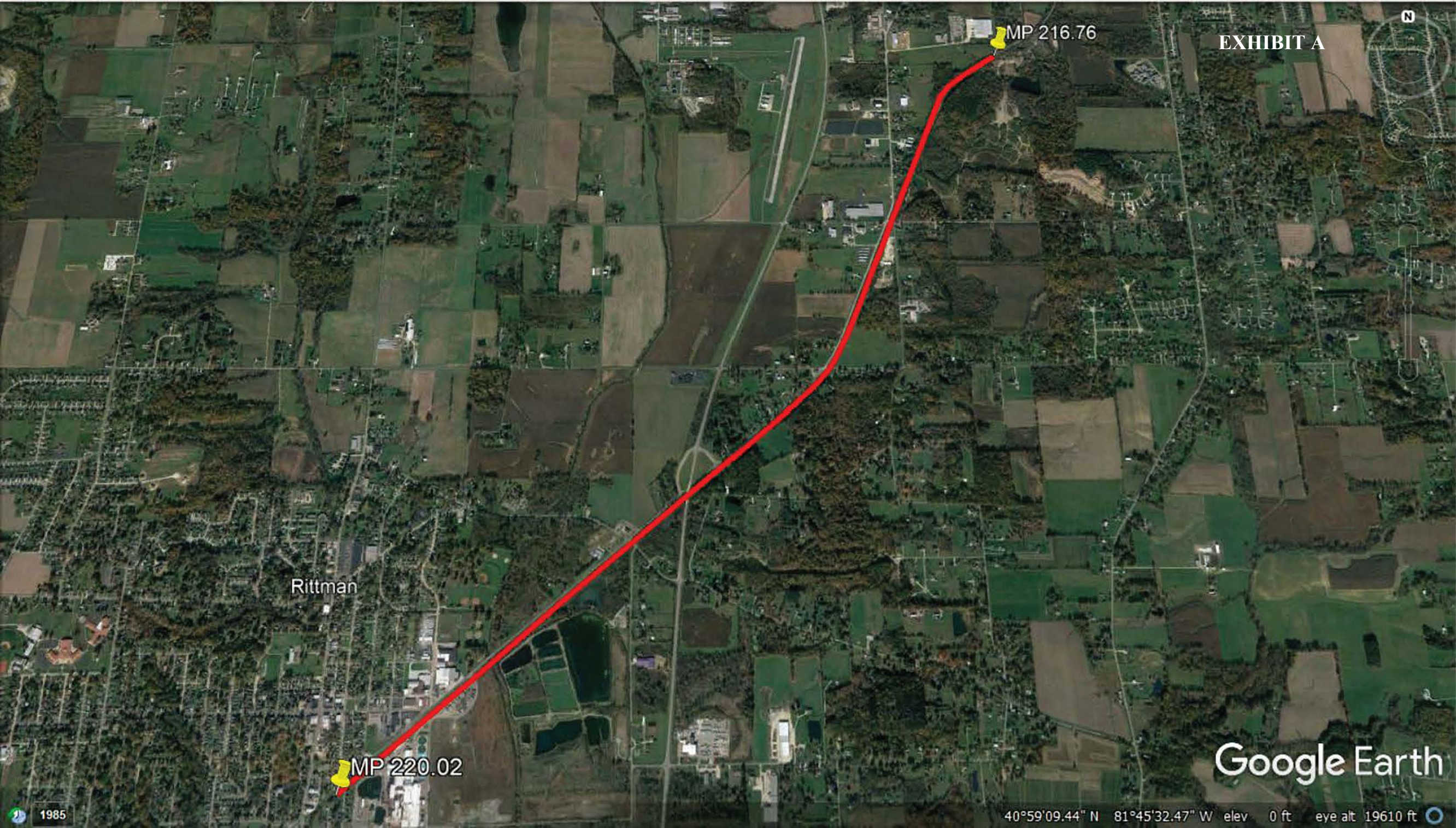


EXHIBIT A

MP 216.76

Rittman

MP 220.02

Google Earth

1985

40°59'09.44" N 81°45'32.47" W elev 0 ft eye alt 19610 ft

CERTIFICATION

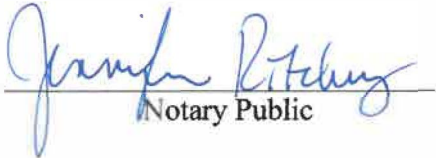
State of Ohio)
) ss:
County of Stark)

Jonathan M. Chastek, President, being duly sworn, hereby certifies that the projected annual rail revenues of Akron Barberton Cluster Railway Company as a result of the transaction proposed herein will not exceed \$5,000,000 and will not result in the creation of a Class II or a Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1).



Jonathan M. Chastek
President

SUBSCRIBED AND SWORN TO
before me this 3rd day
of October, 2022.



Notary Public

My Commission expires:



JENNIFER L. RITCHEY
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Wayne County
My Comm. Exp. 11/2/2023

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36581

AKRON BARBERTON CLUSTER RAILWAY COMPANY
– ACQUISITION EXEMPTION –
RITTMAN COMMUNITY IMPROVEMENT CORPORATION

Akron Barberton Cluster Railway Company (“ABC”), a Class III rail carrier, has filed a Verified Notice of Exemption to acquire a line of railroad of the Rittman Community Improvement Corporation extending from milepost 216.76 near Wadsworth to milepost 220.02 near Rittman, a distance of approximately 3.26 miles in Medina and Wayne Counties, Ohio (the “Rittman Line”).

ABC expects to consummate the proposed acquisition transaction on or after November 2, 2022.

Comments must be filed with the Board and served on:

Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-2832
(312) 252-1511

This Notice is filed under 49 C.F.R. § 1150.41. If this 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: October __, 2022

By the Board

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings

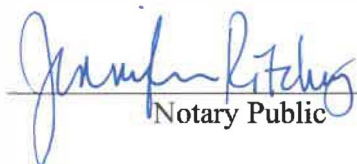
VERIFICATION

State of Ohio)
) ss:
County of Stark)

Jonathan M. Chastek, being duly sworn, deposes and says that he is President of Akron Barberton Cluster Railway Company, that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.


Jonathan M. Chastek

SUBSCRIBED AND SWORN TO
before me this 3rd day
of October, 2022.


Notary Public

My Commission expires:



JENNIFER L. RITCHEY
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Wayne County
My Comm. Exp. 11/2/2023