

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
April 4, 2024
Part of
Public Record

STB FINANCE DOCKET NO 36763

ACQUISITION EXEMPTION

THE LOWVILLE & BEAVER RIVER RAILROAD COMPANY

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31 *ET SEQ.***

Pursuant to 49. C.F.R. § 1150.31 *et seq.*, The Lowville & Beaver River Railroad Company (hereinafter the LBRR) files this Verified Notice of Exemption for after-the-fact authority to acquire from the Lewis County Industrial Development Agency (hereinafter LCID), a non-carrier, the approximately 10.61 (10.57 + 0.4 secondary branch) miles of railroad of its Lowville-Croghan Line. Recently when LBRR filed to abandon this line in Docket AB-180X it was made aware that it had failed to file for acquisition of the line when it reacquired the Line from the LCID. In 1991 LBRR gave the line to LCID solely for real property tax elimination purposes, and, under an immediate leaseback from LCID, had been the only party leasing and operating the Line prior to its reacquisition on July 14, 2016. This filing is made pursuant to a Decision of the Board decided on January

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April 4, 2024
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22, 2024 in Docket No. AB-180X which required that LBRR file this Notice and request that the Board grant it acquisition authority which it would need so that it can proceed with its Notice of Exemption to abandon the Line in Docket AB-180X which is currently being held in abeyance by the Board.

In Support of this Verified Notice, LBRR submits the following information required by 49. C.F.R. § 1150.33:

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

The Lowville & Beaver River Railroad Company
One Mill Street, Suite 101
Batavia, N.Y. 14020

Applicant's Representative

LBRR's representative to whom correspondence regarding the transaction should be sent is as follows:

John K. Fiorilla, Esq.
Dyer & Peterson PC
605 Main Street Suite 104
Riverton, N.J. 08077-1440
(609) 792-6851

Pursuant to the terms of the lease under which LBRR leased its Line from LCID, the LCID had authority to convey title to the Line back to LBRR upon expiration of the lease. The lease expired on December 31, 2015. LBRR and

LCID were unable to agree on extending the lease, and in July 2016 a deed was recorded conveying title to the Line back to LBRR.

For purposes of future railroad service, LBRR has filed in Docket AB-180X to abandon the Line and to sell it to the County of Lewis, NY which intends to build a recreational trail on the right of way.

The revenues from the operation of the Line since the reacquisition in 2016 have been zero. Accordingly, the advance labor notice provisions of 49 C.F.R. 1150.32(e) were inapplicable.

The name and address of the non-carrier transferring the subject property to LBRR is the Lewis County Industrial Development Agency, 7638 N. State Street, Lowville, NY 13367.

The transaction reconveying the Line to LBRR was consummated on or about July 14, 2016 when LCID issued a Deed to LBRR for the property. LBRR, having failed to file to obtain the authority to purchase and continue operating the property, does so now and requests Nunc pro tunc authority to acquire the Line.

As stated above, the Line extends between MP 0.0 and MP 10.57 between the Village of Lowville, NY and the Village of Croghan, NY in the County of Lewis, NY, with a secondary branch line of 0.4 miles extending towards Beaver Falls, NY

A map depicting the Line is attached as Exhibit A.

A Certificate of Compliance with the requirements of 49 C.F.R. § 1150.33(g) is attached as Exhibit B to this notice.

Pursuant to 49 C.F.R. § 1150.33(h), LBRR hereby certifies that the transactional documents governing the reacquisition transaction did not include any provisions that may limit or preclude future interchange with a third-party connecting carrier.

Under 49 C.F.R. § 1105.6(c)(2), this transaction is exempt from environmental reporting requirements because it will not exceed the thresholds of 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the proposed transaction is exempt from historic preservation reporting requirements. LBRR has applied for separate Surface Transportation Board approval to discontinue service and abandon the Line in Docket AB-180X,

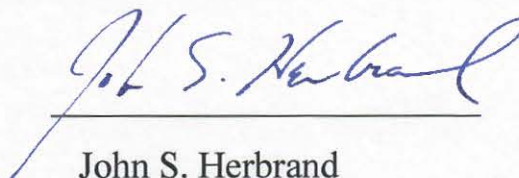
Respectfully Submitted

John K. Fiorilla
Dyer & Peterson P.C.
605 Main Street Suite 104
Riverton, N.J 08077-1440
609-792-6851
Jfiorilla@dyerpeterperson.com
Attorney for Lowville & Beaver River
Railroad Company

VERIFICATION PURSUANT TO 28 USC § 1746(2)

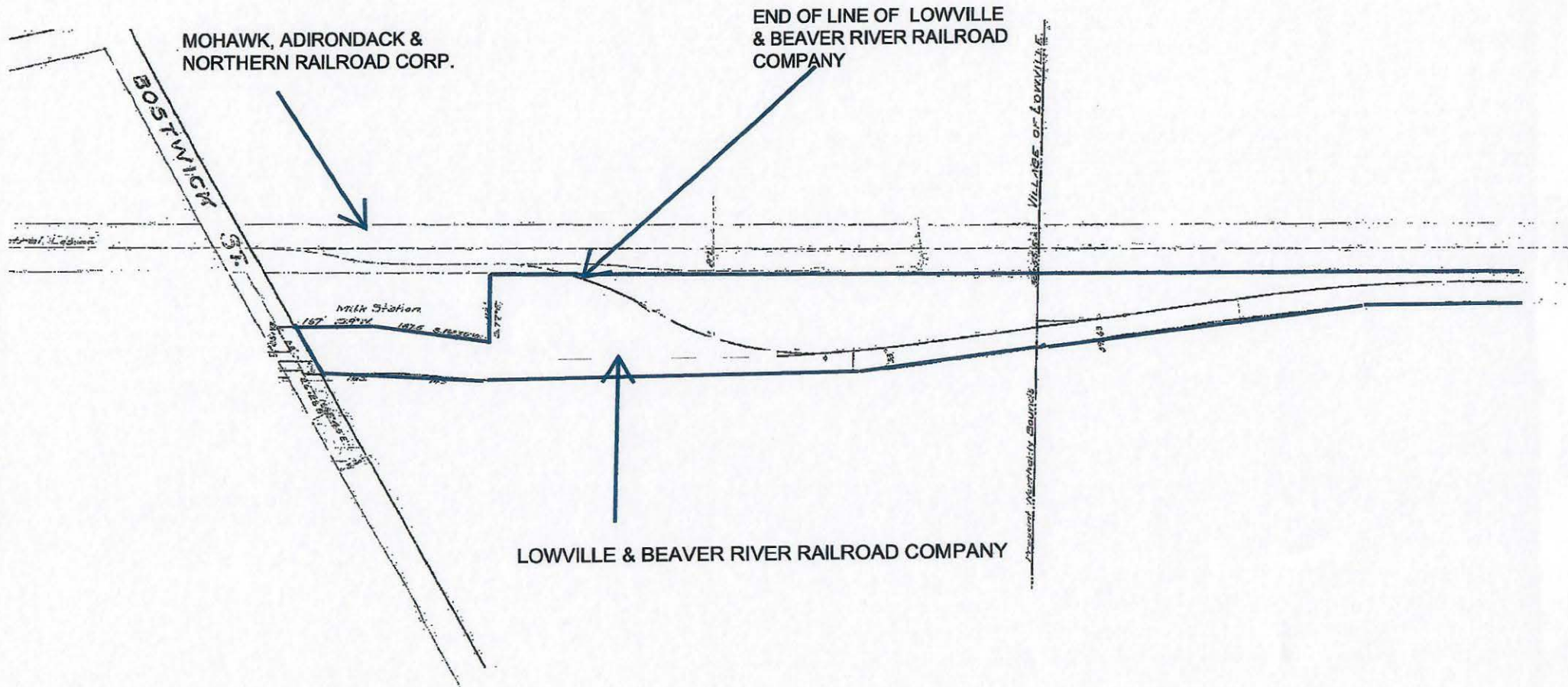
I John S. Herbrand, Secretary and General Counsel of The Lowville & Beaver River Railroad Company, declare under penalty of perjury under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of The Lowville & Beaver River Railroad Company.

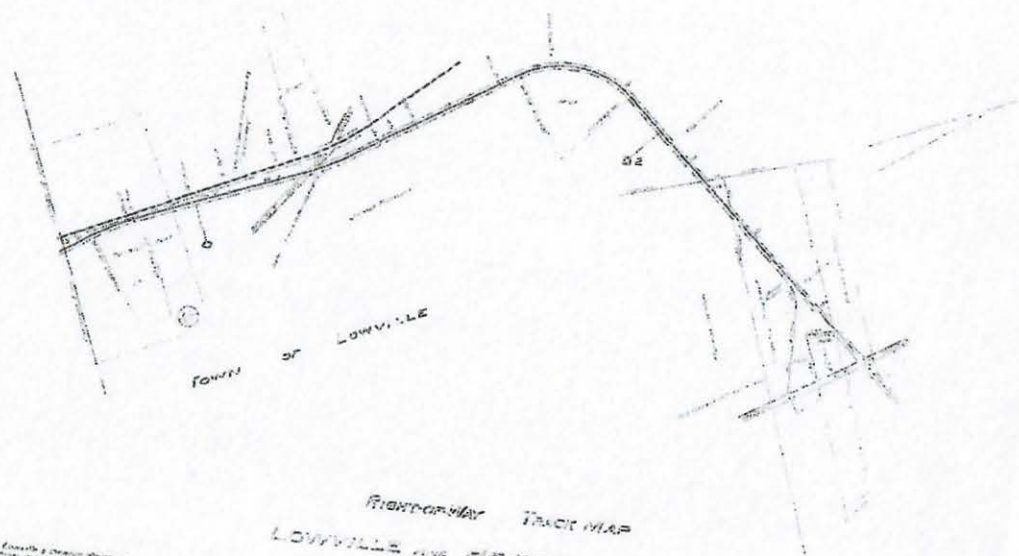
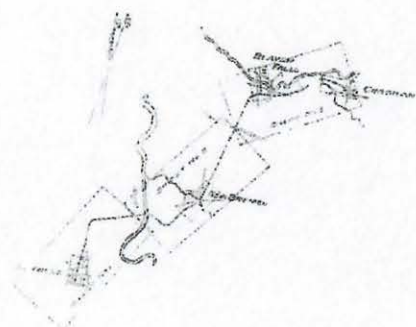
Dated at Batavia, NY this Fourth day of April, 2024

A handwritten signature in blue ink, reading "John S. Herbrand", is written over a horizontal line. The signature is cursive and stylized.

John S. Herbrand

LOWVILLE, NEW YORK





STATE OF NEW YORK
County of Lewis
The undersigned, Clerk of the County, do hereby certify that the foregoing map, as shown, is a true and correct copy of the original map, as shown, and that the same is a true and correct copy of the original map, as shown, and that the same is a true and correct copy of the original map, as shown.

Attest:

[Signature]
Clerk of the County

Witness my hand and the seal of the County of Lewis, this 12th day of June, 1910.

PROPOSED TRACK MAP
LOWVILLE AND BEAVER RIVER R.R.

Scale: 1 inch = 500 feet

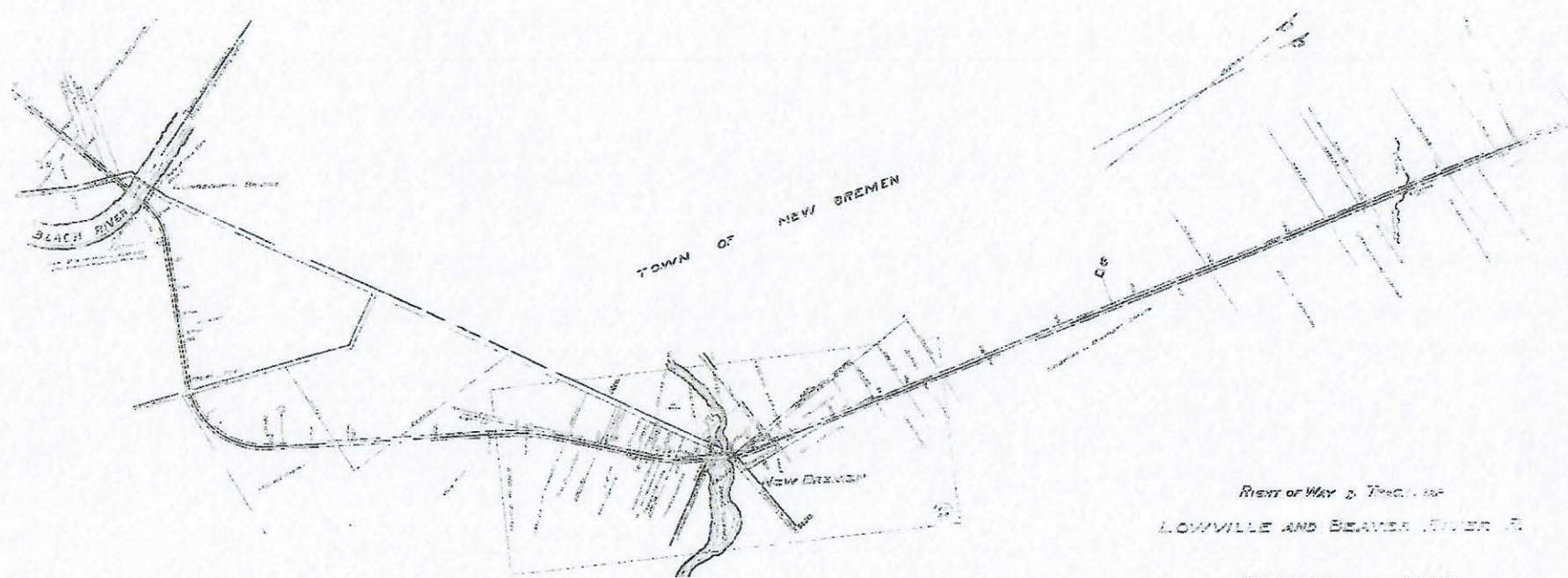
June 12, 1910

J. P. B. B. B.
Engineer
Lowville, N.Y.
June 12, 1910

Blumberg No. 5119

EXHIBIT

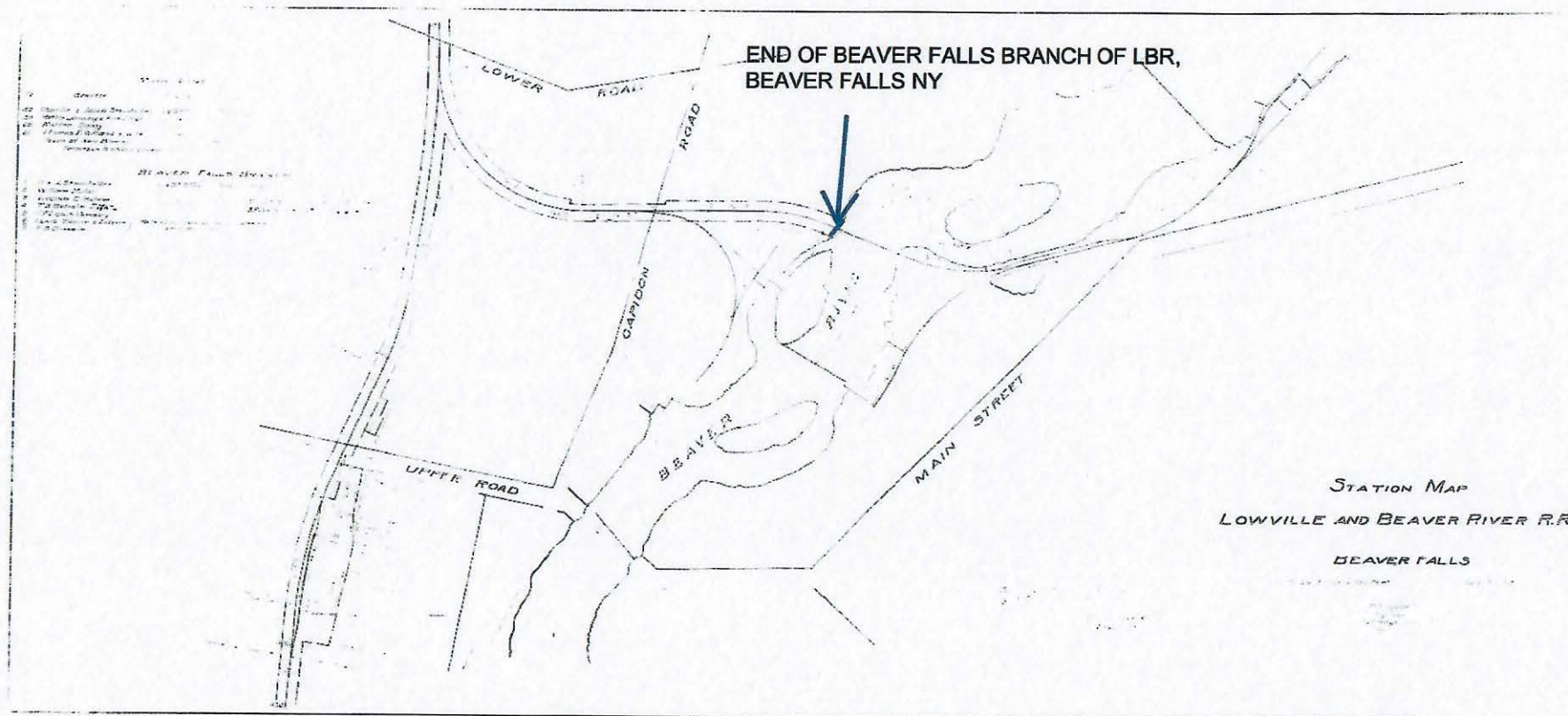
A-3



Right of Way & Tract Map
LOWVILLE AND BEAVER RIVER R.

Scale 1 inch = 400 feet
J. H. Brown
Engineer
Cortland, N.Y.
June 3, 1904

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Slumberg No. 8119

EXHIBIT

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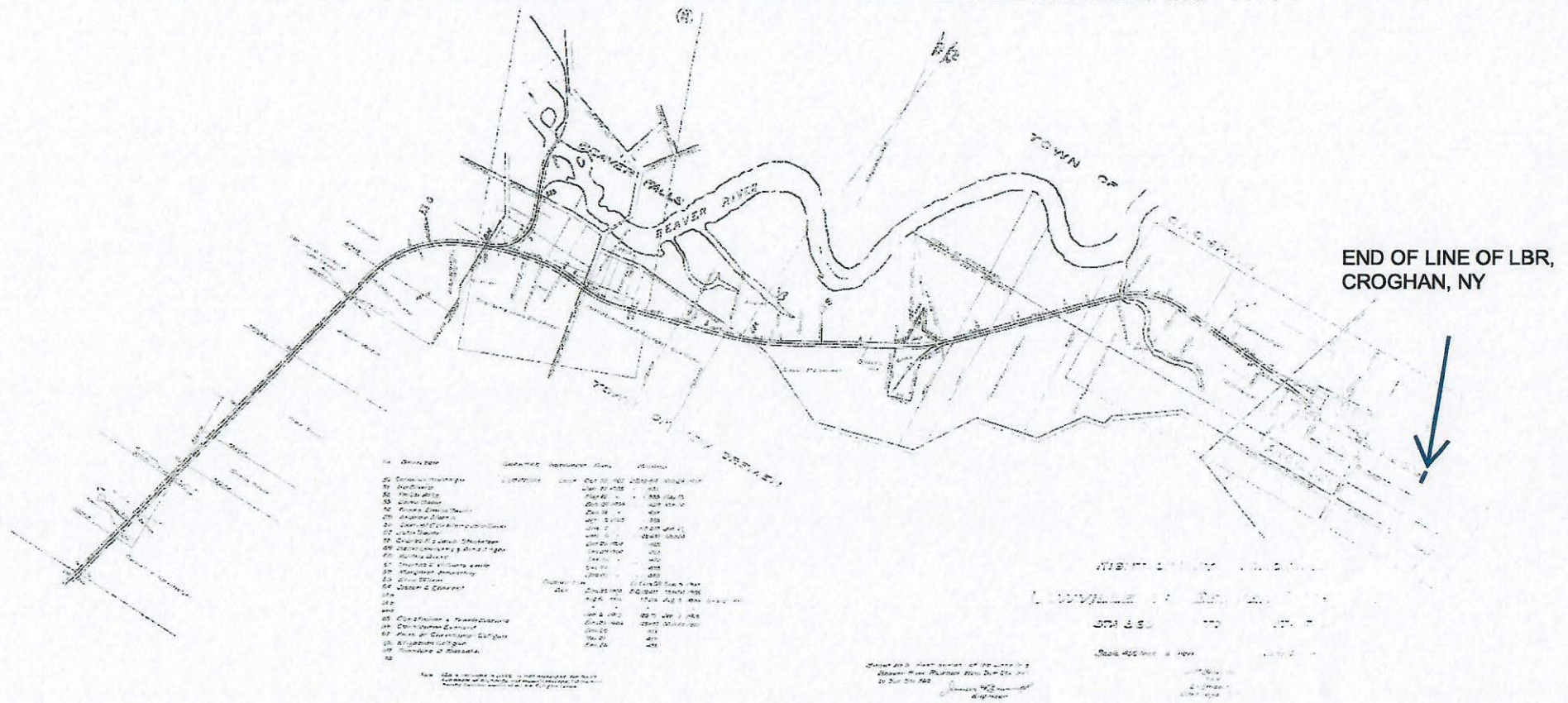
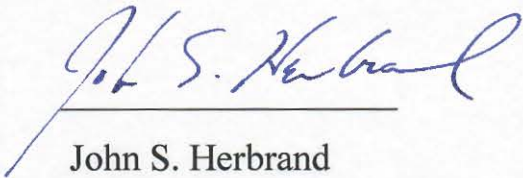


EXHIBIT B:

CERTIFICATION OF COMPLIANCE (§ 1150.33(g))

I, John S. Herbrand, General Counsel of the LBRR hereby certifies that the actual annual rail revenues of the LBRR as a result of the transaction proposed herein did not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1201(1-1)

A handwritten signature in blue ink, reading "John S. Herbrand", is written over a horizontal line.

John S. Herbrand

General Counsel

April 4, 2024

EXHIBIT C:
CAPTION SUMMARY (§ 1150.34)
BEFORE THE
SURFACE TRANSPORTATION BOARD

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THE LOWVILLE & BEAVER RIVER RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31 *ET SEQ.*

The Lowville & Beaver River Railroad Company, (hereinafter LBRR) a common carrier has filed a Verified Notice of Exemption for after the fact authority to acquire and from the Lewis County Industrial Development Authority approximately 10.61 route miles (10.57 + .4 secondary branch) of its Lowville-Croghan Line. Comments must be filed with the Board and served on its representative:

John K. Fiorilla, Esq,
Dyer & Peterson, PC
605 Main Street Suite 104
Riverton, N.J. 08077-1440
(609) 792-6851
Jfiorilla@dierpeterson.com

This notice is filed under 49 C.F.R. 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.