

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36763]

The Lowville & Beaver River Railroad Company—Acquisition Exemption—Lewis
County Industrial Development Agency

The Lowville & Beaver River Railroad Company (LBRR) has filed a verified notice of exemption pursuant to 49 CFR 1150.41¹ for authority after-the-fact to acquire approximately 10.61 miles of rail line between milepost 0.0 and milepost 10.57 between the Village of Lowville, N.Y., and the Village of Croghan, N.Y., including a secondary branch line of 0.4 miles extending towards Beaver Falls, N.Y.,² in Lewis County, N.Y. (the Line).

¹ LBRR states that it is seeking an operation exemption pursuant to 49 CFR 1150.31. However, because LBRR is already a Class III carrier, it must seek this authority pursuant to 49 CFR 1150.41. As such, the notice will be considered filed under 49 CFR 1150.41 instead.

² By decision in The Lowville & Beaver River Railroad Co.—Abandonment Exemption—in Lewis County, N.Y., AB 180X (STB served Jan. 22, 2024), the Board directed LBRR to clarify the location of the 1.15-mile branch line at Beaver Falls that was referenced in Docket No. FD 31825. Specifically, the Board directed LBRR to clarify whether that line is the same one as the 0.40-mile rail line shown on the Federal Rail Administration (FRA) Safety Map that branches off from the Lowville-Croghan Line at Deveines Road, extends northward over a bridge on the Beaver River, and then terminates in Beaver Falls. In a supplemental environmental and historic report filed in that docket, LBRR refers to the line shown on the FRA Safety Map as the “Beaver Falls Branch.” Although LBRR does not explain the reference in Docket No. FD 31825 to the 1.15-mile branch line, the Board presumes that the lines are the same.

According to LBRR, it had been leasing the Line from the Lewis County Industrial Development Agency (LCID) since 1991 but the lease expired on December 31, 2015. LBRR states that the terms of the lease gave LCID authority to convey title to the Line to LBRR upon expiration of the lease, and when the parties were unable to reach an agreement to extend the lease, a deed was recorded conveying title of the Line to LBRR in July 2016. LBRR now seeks after-the-fact Board authorization for its 2016 acquisition. LBRR states that it intends to abandon the Line and to sell it to Lewis County, which intends to build a recreational trail on the right of way.³

LBRR certifies that it will not be subject to any limitations on its ability to interchange with a third-party connecting carrier. LBRR also certifies that its projected annual revenues are not expected to exceed \$5 million and that the proposed transaction will not result in LBRR's becoming a Class I or Class II rail carrier.

The effective date of this exemption will be May 4, 2024 (30 days after the verified notice was filed).

If the verified 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

³ On September 11, 2023, the Mohawk, Adirondack & Northern Railroad Corporation filed a verified notice of exemption to abandon a connected line, the Lowville-Carthage Line, as well as a separate segment, the Lyons Falls Track, in Mohawk, Adirondack & Northern Railroad Corp.—Abandonment Exemption—in Lewis & Jefferson Counties, N.Y., AB 768X. The next day, LBRR filed a verified notice of exemption to abandon the Line in The Lowville & Beaver River Railroad—Abandonment Exemption—in Lewis County, N.Y., AB 180X. By decision served on January 22, 2024, those dockets were held in abeyance and the carriers were directed to take certain actions, one of which was for LBRR to seek after-the-fact authority to acquire the Line. The issuance of this notice does not alter the status of either of those abandonment proceedings; both abandonment dockets remain in abeyance pending further Board order in those dockets.

at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 26, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36763, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on LBRR's representative, John K. Fiorilla, Esq., Dyer & Peterson PC, 605 Main Street, Suite 104, Riverton, NJ 08077-1440.

According to LBRR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: April 15, 2024.

By the Board, Mai T. Dinh, Director, Office of Proceedings.