

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1300X]

Cattaraugus Local Development Corp.—Abandonment Exemption—in Cattaraugus County, N.Y.

Cattaraugus Local Development Corp. (CLDC) has filed with the Surface Transportation Board (Board) a petition under 49 CFR 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon¹ approximately 12.14 miles of rail line extending from milepost 426.5, in the Town of New Albion, to the city line of the City of Salamanca in the Town of Salamanca, which is near milepost 414.1,² in Cattaraugus County, N.Y. (the Line).³

CLDC states that, based on information in its possession, the Line does not contain federally granted rights-of-way. Any documentation in CLDC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final

decision will be issued by March 17, 2021.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by December 28, 2020, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

Following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than January 6, 2021.⁴

All pleadings, referring to Docket No. AB 1300X, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on CLDC's representative, Robert J. McLaughlin, McLaughlin Law, P.C., 90 State Street, Suite 700, Albany, NY 12207. Replies to the petition are due on or before January 6, 2021.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

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

Decided: December 11, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket Number FRA-2020-0093]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on December 2, 2020, the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART TD) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 240 and 242. FRA assigned the petition Docket Number FRA-2020-0093.

Paragraphs (c) and (d) of § 240.403 require petitions seeking review of a railroad's decision to deny or revoke a locomotive engineer's certification or recertification to be filed with FRA no more than 180 or 120 days, respectively, after the date of a railroad's decision. Paragraph (c) of § 242.503 requires petitions seeking review of a railroad's decision to revoke a conductor's certification to be filed with FRA no more than 120 days after a railroad's decision. Due to the coronavirus disease 2019 (COVID-19) public health emergency, FRA granted relief by letter dated April 7, 2020, and renewed that relief on June 3, 2020, July 30, 2020, and September 24, 2020. BLET and SMART TD once again request to renew this emergency relief. In light of the continued renewal requests, FRA now considers whether longer-term relief is necessary.

In support of their initial March 30, 2020, request for relief, petitioners noted FRA's March 25, 2020, waiver from certain requirements of 49 CFR parts 240 and 242 related to deadlines for responding to petitions submitted to FRA's Operating Crew Review Board granted to the Association of American Railroads, the American Short Line and Regional Railroad Association, and the American Public Transportation Association (together referred to as the

¹ CLDC originally submitted a petition for declaratory order on March 4, 2020, requesting that the Board declare that the Line has been abandoned pursuant to 49 U.S.C. 10502, or, in the alternative, that CLDC may satisfy the requirements for an exempt abandonment pursuant to 49 U.S.C. 10502. By decision served on August 5, 2020, the Board docketed CLDC's petition under Docket No. AB 1300X for consideration under the Board's abandonment exemption procedures. *Cattaraugus Local Dev. Corp.—Pet. for Declaratory Order*, FD 36389, et al. (STB served Aug. 5, 2020). However, because CLDC had not obtained Board authority when it acquired the Line in 2000, the abandonment proceeding was held in abeyance to permit CLDC to seek authority after-the-fact for the acquisition. *Id.* at 3. CLDC did so, and the acquisition exemption became effective on October 8, 2020. See *Cattaraugus Local Dev. Corp.—Acquis. Exemption—Rail Line in Cattaraugus Cnty., N.Y.*, FD 36435 (STB served Sept. 24, 2020). In this abandonment docket, CLDC filed its environmental and historic report in on November 16, 2020, and a supplemental certificate of service on November 27, 2020. By publication of this notice, the abandonment proceeding is removed from abeyance, and the petition for exemption is deemed to have been filed on November 27, 2020.

² In the acquisition docket, CLDC noted that milepost 414.1 is the closest mile marker to the southern boundary of the Line but "the actual [m]ilepost, if it existed," would be milepost 414.36. CLDC Suppl., Sept. 8, 2020, *Cattaraugus Local Dev. Corp.—Acquis. Exemption—Rail Line in Cattaraugus Cnty., N.Y.*, FD 36435.

³ CLDC states that the Line has not been operational since at least 2000. (CLDC Pet. 5-6.)

⁴ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.