

September 27, 2019

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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

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Office of Proceedings
September 27, 2019
Part of
Public Record

Re: **Docket No. AB 1261**

**New York State Department of Environmental Conservation – Adverse Abandonment –
Saratoga and North Creek Railway in Town of Johnsburg, New York**

Dear Ms. Brown:

I am an independent consultant with more than thirty years' experience in the rail industry. Over the past two years I have followed the developments involving Saratoga and North Creek Railway (SNCR) and the other parties impacted by the railroad's activity in the Adirondack Park. I respectfully offer these comments for your consideration:

- SNCR made significant, reasonable efforts over the period of its active operation to secure freight traffic.
- Although market conditions have, so far, prevented successful conclusion of specific commercial negotiations, SNCR clearly demonstrated that a) it was actively seeking new freight business and b) there are reasonable prospects for future rail business.
- Mitchell Stone Products, who recently became the owner of the large mining operation at Tahawus, has indicated strong interest in using rail service over the line. (see letters submitted in AB-1461 proceeding dated 8/22/2018 and 7/18/2019).
- SNCR has been actively seeking a buyer for the Sanford Lake Branch. At least three parties have expressed interest in acquiring and operating the rail line, based on analysis that concludes there is a reasonable prospect of successful future freight rail business.
- Although OmniTRAX, Inc. (OTI) discontinued negotiations with SNCR in June, 2019 and withdrew from the STB proceeding, their vigorous engagement with all parties of record over a period of more than a year demonstrated the reasonable prospect that a financially viable freight rail operator could succeed on this line.
- OmniTRAX's engagement also demonstrated that diverse interests of parties of record to the proceeding can be satisfied, delivering environmental and community development benefits as well as commercial business benefits.
- Despite SNCR's parent company action to enter receivership, there remains a reasonable prospect that another rail operator can successfully develop freight business on the line and satisfy legitimate concerns raised by NYSDEC.

- Local government opposition to an adverse abandonment is based on a reasonable expectation that economic development and environmental benefits can be achieved through retention of the rail line (see letters from Town of Newcomb dated 9-17-2018 and 7-18-2019, Adirondack Park Local Government Review Board dated 10-15-2018, Essex County in the Park Industrial Development Agency dated 10-29-2018).
- Consistent with the conclusions and decision in **Seminole Gulf** (AB-400, decided November 17, 2004), the evidence in this case supports a similar conclusion:
 - Although SNCR's efforts to attract new shippers to the line were not successful, they demonstrate reasonable prospects to support continued common carrier authority.
 - There is clear evidence that another rail operator can reasonably be expected to acquire and operate the line successfully.
 - A significant freight customer has expressed strong interest in using the freight rail network to expand market reach.
 - There is local community support for the economic development and environmental benefits that can be delivered by a successful rail freight operation in this corridor.
- NYSDEC has not established that the public convenience and necessity (PC&N) require or permit the abandonment of this line.
- To the contrary, as the Board considers the interests of interstate commerce and the rail system, denial of the proposed abandonment is consistent with the goals of ensuring development and continuation of a sound interstate rail transportation system.

Respectfully submitted,

/s/ *Steven A. Potter*

Steven A. Potter
North Country Logistics Solutions, LLC

cc: All parties of record