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Office of Proceedings *Town Board*
March 12, 2021 **David Olbert**
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Lana Fennessy

Assessors
Lowell Stringer, Chair
Jennifer Fifield
Edna VanAuken

Robert Ward
Town Justice

March 11, 2021

Ann D. Begeman
Surface Transportation Board
Office of Proceedings 395 E Street, SW
Washington, DC 20423

Re: New York State Department of Environmental Conservation – Adverse Abandonment –
Saratoga and North Creek Railway in Town of Johnsbury, NY STB Docket No. AB 1261

Dear Ms. Begeman:

In response to the March 4, 2021 letter of Nicholas Buttino, Assistant Attorney General of the State of New York, filed with the Surface Transportation Board on behalf of the New York State Department of Environmental Conservation, seeking the Surface Transportation Board to resolve the abandonment proceeding promptly after April 30, 2021, the Town of Newcomb does not share the urgency of deciding the destiny of the Saratoga North Creek Railway (aka. the Tahawus Line). The Town of Newcomb continues to oppose the application by New York State to adverse abandon the S&NCR railway, and will remain supportive for the sale of the Saratoga and North Creek Railway and its future use, which will, if successful, provide much needed additional economic benefit to our upstate New York region.

In the March 4, 2021 letter, Mr. Buttino indicated that "the Trustee now seeks another abeyance, due to the impacts of the COVID-19 pandemic", attempting to marginalize the Trustee responsibility and obligation to the U.S. District Court Bankruptcy proceedings. Today, marks the 1-year anniversary of the World Health Organization declaring COVID-19 a pandemic which has so far, resulted in over a half million deaths in the United States alone.

Mr. Buttino's letter recalled that on October 18, 2019, S&NCR "irrevocably represent[ed]" that it did not and would not oppose the Department's abandonment application, and affirmatively stated that "the public convenience and necessity favor abandonment" of the Tahawus Line. Mr. Buttino failed to remind the Surface Transportation Board that on May 11, 2020, S&NCR wrote to withdraw its previous statement of non-objection to proceeding with abandonment on a voluntary basis.

The crutch of the New York State Department of Environmental Conservation's third-party adverse abandonment filing was "to protect the Forest Preserve and natural resources in the Adirondack Park" based on the S&NCR use of its rail line to store some unused railcars on the Tahawus Branch (SEE SURFACE TRANSPORTATION BOARD DECISION Docket No. AB 1261 – SERVICE DATE JANUARY 27, 2018).

The controversy of the stored rail cars arose in the middle of the northern New York's harsh winter months, when heavy accumulated snowfall blanketed the ground, where moving the cars immediately would have been extremely difficult. All the cars placed on the line in during the fall months of 2017, were removed by the end of May 2018, after the snow had melted. The forest preserve is in no danger and it is critical that the Town of Newcomb secure the assets of the Saratoga and North Creek Railroad for future use.

Mr. William Brandt, Jr., is a highly qualified individual serving as the Trustee and was appointed to represent the bankruptcy proceedings of the S&NCR on December 30, 2019 from a list submitted by the US Secretary of Transportation. Mr. Brandt's filing of a voluntary petition under chapter 11 on behalf of Saratoga and North Creek Railway, LLC ("SNCR") remains a pending matter before the United States Bankruptcy Court.

On May 19, 2020, the Surface Transportation Board rightfully approved the Trustees requests that the Board continue to hold this proceeding in abeyance until further ordered by the Board.

The Town of Newcomb admonishes the authority of the Surface Transportation Board over AB-1261, we will continue to oppose the New York State Department of Environmental Conservation application, we will support the efforts of Mr. Brandt, and any negotiations and discussions with potential bidders to effectuate a sale of the line. Mr. Brandt is in active discussions and negotiations with two potential purchasers of SNCR's assets.

It is our hopes that Mr. Brandt will be successful, and the Town of Newcomb stands ready to assist the new owners and future users of the Tahawus Line.

Sincerely,



Mr. Robin T. DeLoria
Supervisor – Town of Newcomb

cc. Parties on Record

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2021, I caused a true and correct copy of the RESPONSE FOR A Motion/Petition/Request from the New York State Department of Environmental Conservation TO CHAPTER 11 TRUSTEE OF SAN LUIS & RIO GRANDE RAILROAD TO DECISION DATED DECEMBER 18, 2019 BY THE SURFACE TRANSPORTATION BOARD to be filed electronically with the Surface Transportation Board's E-Filing System, which will be sent via First-Class mail to the following,

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