

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW Washington, DC 20423

May 11, 2020

ENTERED
Office of Proceedings
May 11, 2020
Part of
Public Record

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. Brown:

I am writing on behalf of Saratoga & North Creek Railway, LLC (SNCR) regarding the above-captioned matter. On October 18, 2019, I, as counsel to SNCR, indicated that SNCR had no objection to proceeding with the pending abandonment on a voluntary basis. A copy of the letter, which was jointly signed by myself as well as Joshua M. Tallent, Assistant Attorney General for the State of New York, is attached hereto as “Exhibit A” for your convenience.

SNCR hereby rescinds its statement of having no objection to proceeding with the pending abandonment. The non-objection previously agreed to was predicated on a reasonable proposal being made in a timely manner from the State of New York, or its agents, for interim trail use. To date, seven months later, no such proposal has been made.

Furthermore, the circumstances have substantially changed since the position of non-objection was taken. Namely, SNCR is now the debtor in a voluntary Chapter 11 bankruptcy proceeding that was filed on March 30, 2020 (Case No. 1:2020 BK 12313). As you may also be aware, San Luis & Rio Grande Railroad, Inc., the parent company to SNCR, is also the debtor in a separate involuntary Chapter 11 bankruptcy proceeding that was filed on October 16, 2019 (Case No. 1:19-BK-18905). With two bankruptcy cases, and two bankruptcy stays now in effect, the complexity of this matter cannot be understated.

Additionally, given the unique opportunities that a bankruptcy process affords to companies that are otherwise burdened with financial liabilities and soured relationships, a continuation of freight railroad operations now appears viable through the sale of the SNCR line to a qualified private operator. It is my understanding that the bankruptcy trustee is actively engaged in discussions with several such potential buyers.

Accordingly, please consider SNCR’s position of non-objection to be rescinded, and SNCR’s willingness to negotiate an interim-trail use agreement to be paused, while the bankruptcy trustee continues its discussions with several potential purchasers of the subject line.

Yours truly,

/s/ David Michaud
David Michaud
10 S. LaSalle St., Suite 3300
Chicago, IL 60603
michaudd@iowapacific.com
773-255-3375
Counsel for Saratoga & North Creek Railway, LLC

Certificate of Service

I hereby certify that on May 11, 2020, a copy of the foregoing was served by first class mail on all parties of record in the proceeding bearing docket number AB 1261.

/s/ David Michaud
David Michaud
10 S. LaSalle St., Suite 3300
Chicago, IL 60603
michaudd@iowapacific.com
773-255-3375
Counsel for Saratoga & North Creek Railway, LLC

EXHIBIT A



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

October 18, 2019

248626

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings
October 18, 2019
Part of
Public Record

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. Brown:

This office represents the New York State Department of Environmental Conservation in the above-captioned proceeding. On September 30, 2019, the Department requested that the Board issue a certificate of interim trail use for the subject line of railroad. I have discussed the Department's trail use request with David Michaud, counsel for Saratoga and North Creek Railway (SNCR), and we write jointly to inform the Board that SNCR is willing to negotiate an interim trail use agreement with the Department.

In addition, SNCR has no objection to proceeding with the pending abandonment on a voluntary basis. Accordingly, SNCR irrevocably represents that it does not now and will not in the future oppose the Department's abandonment application, and that the public convenience and necessity favor abandonment of the subject line.

Yours truly,

/s/ Joshua M. Tallent

Joshua M. Tallent

Exhibit A

Assistant Attorney General
(518) 776-2456
Joshua.Tallent@ag.ny.gov

/s/ David Michaud

David Michaud
General Counsel, Iowa Pacific
Holdings, LLC
*Counsel for Saratoga and North
Creek Railway*
(312) 278-1257
MichaudD@IowaPacific.com

cc: service list