

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ADVERSE ABANDONMENT
SARATOGA AND NORTH CREEK RAILWAY IN TOWN OF JOHNSBURG, N.Y.

300290

RESPONSE OF CHAPTER 11
TRUSTEE OF SAN LUIS & RIO
GRANDE RAILROAD TO DECISION
DATED DECEMBER 18, 2019 BY THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
January 15, 2020
Part of
Public Record

William A. Brandt, Jr., in his capacity as the chapter 11 trustee of the San Luis & Rio Grande Railroad, Inc. (the “Trustee”) hereby files his response to the Decision of the Surface Transportation Board in the above-reference proceeding dated December 18, 2019 and would respectfully show the STB as follows:

On September 12, 2019, as part of a loan default proceeding, the San Luis & Rio Grande Railroad, Inc. (SLRG), was placed into receivership. See *Big Shoulders Capital LLC v. San Luis & Rio Grande R.R.*, Case No. 19-cv-06029 (N.D. Ill.). Novo Advisors was appointed as receiver (the “Receiver”). On October 18, 2019, the District Court issued an order expanding the receivership to include certain SLRG affiliates and subsidiaries, including the Saratoga and North Creek Railroad (“SNCR”). *Big Shoulders Capital*, Case No. 19-cv-06029 (Oct. 18, 2019 Amended Receivership Order) (N.D. Ill.). In its Initial Report of Property and Known Liabilities, the receiver listed SNCR’s track and roadbed as an asset. *Big Shoulders Capital*, Case No. 19-cv-06029 (Nov. 8, 2019 Initial Report, App. 2) (N.D. Ill.).

After SLRG was placed in receivership, several creditors filed an involuntary bankruptcy petition against SLRG in the U.S. Bankruptcy Court for the District of Colorado. In re *San Luis & Rio Grande R.R.*, Case No. 19-18905-TBM (Bankr. D. Colo.). On November 27, 2019, the Receiver filed a Motion to Abstain (the “Motion to Abstain”) with the bankruptcy court, requesting that the Bankruptcy Court dismiss the bankruptcy case in order in favor of the Receivership Case.

On December 30, 2019, the Trustee was appointed for SLRG in the bankruptcy case. The Trustee opposes the Receiver’s Motion to Abstain. The Bankruptcy Court has set an evidentiary hearing on the Motion to Abstain on January 23, 2020.

Until the Bankruptcy Court enters an order on the Motion to Abstain, the Trustee is unable to provide the guidance requested to the Surface Transportation Board in its decision dated December 18, 2019. The Trustee does not know and cannot know how or if the automatic stay will affect the proceeding until he knows whether the bankruptcy court or the receivership court ultimately have jurisdiction over the SLRG and SNCR.

Therefore, the Trustee requests that the Surface Transportation Board grant him an extension of 30-days until February 15, 2020 to substantively respond to the December 18, 2019 decision.

Dated: January 15, 2020

MARKUS WILLIAMS YOUNG &
HUNSICKER LLC

s/ Jennifer Salisbury

James T. Markus, Co. Reg. #25065

Jennifer Salisbury, Co. Reg. #37168

Zachary G. Sanderson, Co. Reg. #52899

1700 Lincoln Street, Suite 4550

Denver, Colorado 80203

Telephone (303) 830-0800

Facsimile (303) 830-0809

jsalisbury@markuswilliams.com

Counsel for the Chapter 11 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of January, 2020, I caused a true and correct copy of the RESPONSE 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 and sent via First-Class mail to the following Parties of Record:

Susan L. Taylor
The Capitol Office Of The Attorney General
Albany, NY 12224-0341

William Kuntz, Iii
PO BOX 1801
Nantucket Island, MA 02554-1801

Claudia Braymer
PO Box 2369
Glens Falls, NY 12801-1280

Micheal Dupee
PO Box 202
North Creek, NY 12853

Paul J Mitchell
15 Mitchell Lane
Tupper Lake, NY 12986

Daniel Elliott
2000 Pennsylvania Avenue NW
Suite 7000
Washington, DC 20006

Steven Potter
64 Talbot Way
Long Lake, NY 12847

Donn C. Meindertsma
1850 M Street Nw, Suite 600
Washington, DC 20036

Thomas S. Berkman
625 Broadway, 14Th Floor
Albany, NY 12233-1010

David Michaud
118 South Clinton Street, Suite 400
Chicago, IL 60661

Donn Meindertsma
1850 M Street NW
Suite 600
Washington, DC 20036

John D. Heffner
1001 Pennsylvania Ave., Nw Suite 1300
South
Washington, DC 20004

D. Scott Bassinson
Three Empire State Plaza
Albany, NY 12223-1350

Darren Darrah
7566 Court Street
P.O. Box 217
Elizabethtown, NY 12932

Joshua M. Tallent
The Capitol Office Of The Attorney General
Albany, NY 12224-0341

Gerald Delaney
326 Downs Rd
Cadyville, NY 12918

Pipich Iii Rudolph
2669 Glenny Ln.
West Mifflin, PA 15122-1512

Micheal Dupee
PO Box 202
North Creek, NY 12853

Robin T. Deloria
P.O. Box 405
Newcomb, NY 12852

Pipich Iii Rudolph
2669 Glenny Ln.
West Mifflin, PA 15122-1512

William C. Janeway
103 Hand Avenue, Suite 3
P.O. Box D-2
Elizabethtown, NY 12932-0640

/s/ Jessica Anderson
Jessica Anderson, Legal Assistant for
Markus Williams Young & Hunsicker LLC