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| <br><b>GRANTED</b><br>Office of<br>Proceedings | DECISION ID NO.: 50111                   |
|                                                                                                                               | DECIDED DATE: 1/21/2020                  |
|                                                                                                                               | SERVED DATE: 1/21/2020                   |
|                                                                                                                               | APPROVED: <i>[Signature]</i><br>Director |

Docket No. AB 1261

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

300290

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

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

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

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s/ Jennifer Salisbury

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> 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:

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