

SERVICE DATE – MARCH 3, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1261

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

Decided: March 3, 2020.

On September 10, 2018, the New York State Department of Environmental Conservation (the Department) filed an application under 49 U.S.C. § 10903 requesting a third-party, or “adverse,” abandonment of the Saratoga and North Creek Railway (SNCR) over approximately 29.71 miles of rail line between milepost NC 0.0 at North Creek, N.Y., and its terminus at milepost NC 29.71 near the former Tahawus Mine (the Line). Notice of the application was served and published in the Federal Register on September 28, 2018 (83 Fed. Reg. 49,151).

By decision served on December 18, 2019, the Board sought supplemental information regarding whether and how a pending receivership proceeding involving the San Luis & Rio Grande Railroad, Inc. (SLRG) and certain SLRG affiliates and subsidiaries, including SNCR, in the U.S. District Court for the Northern District of Illinois¹ and a pending bankruptcy proceeding involving SLRG in the U.S. Bankruptcy Court for the District of Colorado (the Bankruptcy Court)² affect this proceeding, including the effect of any stays in those cases.

On February 18, 2020, William A. Brandt, as chapter 11 trustee for the bankruptcy estate of SLRG (the Trustee) filed a response stating that, as of that date, SNCR and its assets are not property of SLRG or SLRG’s bankruptcy estate and that, accordingly, the automatic stay imposed under 11 U.S.C. § 362(a) by the filing of SLRG’s bankruptcy case does not apply to SNCR. The Trustee, however, further states that the Bankruptcy Court has authorized, but not directed, the Trustee to file a bankruptcy petition on behalf of SNCR. The Trustee requests that the Board place the Board proceeding in abeyance for approximately 60 days to allow time for the Trustee to determine whether to file a bankruptcy petition on behalf of SNCR.

¹ Big Shoulders Capital LLC v. San Luis & Rio Grande R.R., Case No. 19-cv-06029 (N.D. Ill.).

² In re San Luis & Rio Grande R.R., Case No. 19-18905-TBM (Bankr. D. Colo.).

The request to hold the proceeding in abeyance for 60 days is reasonable and will be granted. Accordingly, the proceeding will be held in abeyance until April 17, 2020.

It is ordered:

1. The proceeding is held in abeyance until April 17, 2020.
2. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.