

Mr. Robin DeLoria
Supervisor

Mary Pound
Secretary - Town Clerk

Marchelle Chase
Admin. Assistant

Mark Yandon
Supt. of Highways

Karen Darrah
Tax Collector

Town of Newcomb

Box 405
Newcomb, NY 12852

"Heart of the Park"



Phone: 518-582-3211

248231

July 18, 2019

Town Board
David Olbert
Donald Bott
Joseph Novak
Lana Fennessy

Assessors
Lowell Stringer, Chair
Jennifer Fifield
Edna VanAuken

Robert Ward
Town Justice

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

ENTERED
Office of Proceedings
July 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 – Status Reports on Request for Extension of Time*

STB Docket No. AB 1261

Dear Ms. Brown:

On June 14, 2019, OmniTRAX who had been engaged in discussion with Saratoga and North Creek Railway, LLC for the potential purchase of the Tahawus Line filed a status report under this docket requesting to withdraw as a party of record. In addition, its status report to the STB indicated that *“the Tahawus Line possesses sound commercial prospects for the right operator, but it has concluded that continued pursuit of this opportunity is not right for OmniTRAX at this time.”*

On July 12, 2019 the New York State Department of Environmental Conservation (the Department) seeking third-party abandonment authorization of the thirty-mile stretch of railroad, also filed its status report. The Department status report also requested the STB to set a briefing schedule because the reason for the stay of proceedings no longer exists.

Within that request the Department is seeking that “any requests for interim trail use be filed with the Board”, however; on September 28, 2018 the Office of Proceedings entered into the public record notice that *“Any request for an interim trail use/railbanking condition under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 must be filed by October 25, 2018, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application.”* Each trail use request must be accompanied by a \$300 filing fee. See 49 C.F.R. § 1002.2(f)(27). There was no such filing recorded on this docket.

The Department and other interested parties time to file a request for interim trail use has expired and given the strong opposition statements filed by the Town of Newcomb, Mitchell Stone Products LLC of Tahawus, New York, the Essex County Industrial Development Agency, the Adirondack Park Local Government Review Board, if the STB were to allow such request to be entered into the proceedings at this time, it would be inconsistent with the established proceeding rules.

The Town of Newcomb continues to oppose the Departments application for third-party adverse abandonment and is working with Mitchell Stone Products LLC and is directly involved in securing the future of the Sanford Tahawus Railroad for the removal of the material aggregate from Tahawus.

Sincerely:



Mr. Robin Deloria – Supervisor Town of Newcomb

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2019, I caused the foregoing Reply Letter to the New York State Department of Environmental Conservation Abandonment Application Docket #: AB_1261 0 to be served by first class mail on the following Parties of Record:

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

Party of Record

United Rail Inc.
9480 S. Eastern Ave
Las Vegas, Nevada 89123

Party of Record

Robert Wimbish – Attorney for Omnitrac
Fletcher & Sippel LLC
29 North Wacker Dr. Suite 800
Chicago, IL 60606-3208

Party of Record

David Michaud, Esq.
General Counsel
Iowa Pacific Holdings, LLC
118 South Clinton St. Suite 400
Chicago, IL 60661

Party of Record

Berkman, Thomas S.
New York State Department of Environmental Conservation
625 Broadway, 14Th Floor
Albany, NY 12233,1010

Party of Record

Adirondack Park Local Gov. Review Board
Executive Director
GERALD W DELANEY
326 Downs Rd Cadyville, NY 12918

Party of Record

ESSEX COUNTY IN THE PARK
INDUSTRIAL DEVELOPMENT AGENCY
7566 Court Street - P.O. Box 217
Elizabethtown. NY 12932

Party of Record

William C. Janeway - Executive Director
Adirondack Council
103 Hand Ave, Suite 3 PO Box D-2
Elizabethtown, New York 12932-0604

Party of Record

New York State Department of Public Service
Attn: John J. Sipos, Deputy General Counsel
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

Party of Record:

Mitchell, Paul J
Mitchell Stone Products
15 Mitchell Lane
Tupper Lake, NY 12986

Party of Record

David L. Michaud
Attorney for Saratoga and North Creek Railway, LLC
118 S. Clinton St. Ste. 400,
Chicago, Illinois 60661

Party of Record

William Kuntz III
P.O. Box 461
Lake Placid, NY 12946-0461

Party of Record

Susan L. Taylor
Joshua M. Tallent - Counsel
New York State Office of the Attorney General
Environmental Protection Bureau
The Capitol Office of the Attorney General
Albany, New York 12224

Party of Record

Thomas S. Berkman
Deputy Commissioner
New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233

Party of Record
John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, NW, Suite 717
Washington, DC 20036

Party of Record
FLETCHER & SIPPEL LLC
ATTORNEYS AT LAW
29 North Wacker Drive Suite 800
Chicago, Illinois 60606-3208

Party of Record
Member of Congress:
Schumer, Honorable Charles E
United States Senate
Washington, DC 20510


Mary Pound – Town Clerk

Notary

MARY A. POUND
Notary Public, State of New York
Registration No. 01PO4933473
Qualified in Essex County
Commission Expires May 31, 2022