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DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

July 31, 2019

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

Re: *New York State Department of Environmental Conservation – Adverse
Abandonment – Saratoga and North Creek Railway in Town of
Johnsburg, NY*
STB Docket No. AB 1261

Dear Ms. Brown:

Pending before the Board is an application by the New York State Department of Environmental Conservation (the Department) for authorization to abandon a thirty-mile stretch of railroad known as the Tahawus Line (the Line), located in Warren, Hamilton, and Essex Counties in New York's Adirondack Park. The abandonment proceedings are stayed by Board order dated May 28, 2019.

By letter dated July 12, 2019, the Department asked the Board to set a briefing schedule under which the Line's current owner, Saratoga and North Creek Railway, Inc. (SNCR) would have 30 days to file its opposition papers, if any. By letter dated July 11, 2019, a company known as United Rail—until then a stranger to these proceedings—filed a letter indicating that it had “initiated preliminary discussions” with SNCR for the purchase of the Line and requesting that the Board leave the current stay in place.

The Department opposes United's stay request. In March 2019, Warren County issued a request for proposals to lease or purchase a section of rail from North Creek to Saratoga Springs (that is, directly south of the Line) owned by the County and the Town of Corinth. The County received two proposals: one from OmniTRAX, Inc. and one from United. In its proposal, relevant pages of which are

attached to this letter, United described passenger excursion and dinner service as the “backbone” of its business plan and noted that “there is not enough freight traffic” to justify its investment. “On this route,” United wrote, “freight needs to be subsidized by a robust offering of ‘people’[-]related services”; United proposes to haul freight “on demand” while it attempts to develop other business opportunities.

The fact is that no freight has moved on the Line since the 1980s, when the mine it once served as private track ceased operations. While a large quantity of waste rock remains at the former mine site, no carrier has succeeded in moving this heavy, low-value commodity by rail. United—a short line aggregator with little apparent freight experience—has not shown that it has a concrete and economically viable plan to transport stone on the Line.

The Department believes the interests of all New Yorkers would best be served by continuing the abandonment proceedings without further delay. If at a later date United were to present a viable plan for freight service on the Line, the Department would be willing to reconsider United’s request for a stay of proceedings.

Respectfully submitted,

/s Joshua M. Tallent

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cc: service list

**Excerpts from April 18, 2019 United Rail proposal
to Warren County**

Section B.

Operational Plans



Rail Operations

A railroad is a 24 hour a day, 7 day per week asset. Having said this, we must take into consideration the nature of the territory through which we will be running when developing operating plans for the railroad. It is not realistic to plan on running freight trains at night and passenger during the day. Operations over the line between Saratoga Springs, North Creek and potentially Tahawus require accommodating differing types of rail services as well as safely handling recreational demands that compete for the use of the asset. As stated earlier, United Rail, Inc. has a division known as The Rail Management System (RMS), which is a Precision Railroading operating format specifically designed for short line railroads proprietary to United Rail. This system will allow us to operate the line safely, efficiently and dependably while maximizing the use of the line for the benefit of all competing demands on the route. We anticipate that freight operations will be run on demand until enough volume is generated to run a regularly scheduled service.



Operational Plan

While the highest and best use of the line is to provide freight service, there is not enough freight traffic to pay for the investment. On this route, freight needs to be subsidized by a robust offering of “people” related services. As we all know, the more ways income can be generated from a single asset, the greater the return on the investment will be. While our focus will be on utilizing the line for rail-related operations such as excursion, dining and rail car events, we are very open to working with recreational users such as Revolution Rail and event organizers like Stoney Creek Ranch. The use of “theme” trains helps to extend the productive season bringing local patrons back multiple times.

Clearly, excursion and dinner trains will be the backbone of our service offerings. Our plans call for a daily run between Saratoga Springs and North Creek with all station stops along the way, including Corinth, Hadley/Luzern, Stony Creek, Thurman, Glen Hudson Campground, The Glen and Riverside scheduled to connect with Amtrak service available at Saratoga Springs. We also intend to run a regular excursion/scenic train departing from North Creek each day from June through October to Hadley and returning. Ski trains will also be offered during January, February and March. Lunch, dinner and wine trains will also be offered with regular departures year-around. A coordinated marketing effort will be implemented to work with other hospitality businesses in the area to develop substantial special or charter train offerings to complement scheduled trains and increase asset utilization.

We will be performing all required daily, weekly, monthly and annual inspections required by law, regulation and rule by all federal, state and local authority with jurisdiction over our operations. For the most part, we will be performing these inspections with our own forces either stationed locally or on loan from our other nearby operations. Our inspectors will have the appropriate licenses and certifications required for their activities. If necessary, we will contract with qualified third parties to fulfill our obligations. We will maintain the railway in a state of good repair in the same if not better condition than the day we begin our operations.



Operational Plan (Continued)

Any necessary repairs will be performed in a manner that maintains the class of track that governs that section of territory. Pre approvals will be sought where contractually required when time and the safe operation of the railroad permits.

Currently, we are investigating the feasibility of creating a theme attraction and/or station stop somewhere along the line, but we have not identified where that might be. There will become a time where we will need to construct or extend a passing or holding siding to accommodate additional train services, either freight or passenger. The location of sidings will be decided upon when the needs of the service are identified. It goes without saying that when the time comes to expand, we will obtain all necessary permits and consult with the local governing entities and boards as well as taking into consideration the concerns of the nearby residents.

As referenced earlier, we will work with the county and town to provide access to the right of way where it can be done safely and efficiently.

We recognize that access to Canadian Pacific for both Freight and Passenger service is provided for in the Asset Purchase Agreement between the Town of Corinth and Canadian Pacific. We will negotiate with CP the actual details of that access. Steve Fisk, who is a member of our team, will be an active participant in those negotiations. Prior to his retirement from CP Steve was a member of CP's eastern cross functional team that negotiated these types of agreements between CP and other carriers where they were required. Steve negotiated the Asset Purchase agreement with the town.

