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DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

July 12, 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:

Currently 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 northern New York.

On October 16, 2018, the Department wrote the Board requesting that the pending abandonment application be held in abeyance while the Department attempted to negotiate a binding rail car storage agreement with the Line's potential purchaser, OmniTRAX, Inc. (OmniTRAX). The Board issued a stay order on October 23, 2018. At the Department's request, the Board continued the stay on February 2, 2019, April 3, 2019, and May 28, 2019. In its May 28 stamp order, the Board directed the parties to file a status report by July 19, 2019.

On June 14, 2019, OmniTRAX filed a letter with the Board indicating that it had abandoned its quest to purchase the Line. Because the reason for the stay of proceedings no longer exists, the Department respectfully requests that the Board set a briefing schedule, as follows:

- By Monday, August 19, 2019 the opposition case in chief, all protests and comments on the Department's application, and any requests for interim trail use shall be filed with the Board;
- By Friday, August 30, 2019, the Department shall reply to the opposition case.

Additionally, because the Line's natural setting renders it uniquely suited to railbanking, the Department wishes to inform the Board that it is considering filing a request for interim trail use under section 8(d) of the National Trails System Act. However, because sovereign immunity principles may limit the Department's ability to enter into an indemnification agreement with the Line's current owner, the Department may not be in a position to file a statement of willingness to assume financial responsibility until after the typical deadline for such a filing has passed.

Respectfully submitted,

/s Joshua M. Tallent

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cc: service list