

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
July 23, 2018
Part of
Public Record

STB Docket No. AB 1261

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION – ADVERSE ABANDONMENT – SARATOGA AND NORTH
CREEK RAILWAY IN TOWN OF JOHNSBURG, NY**

ENVIRONMENTAL AND HISTORIC REPORT

Pursuant to 49 C.F.R. §§ 1105.7 and 1105.8, the New York State Department of Environmental Conservation (DEC) hereby submits this combined Environmental and Historic Report. So far as applicable to the present proceeding, this document contains the information required by 49 C.F.R. §§ 1105.7(e) and 1105.8(d) and is organized to track the language of those regulations.

I. Environmental Report

As required by 49 C.F.R. § 1105.7(e), DEC submits the following:

(1) Proposed action and alternatives

Under the authority of 49 U.S.C. § 10903 and 49 C.F.R. part 1152, DEC will file an application for adverse abandonment of the authority of the Saratoga and North Creek Railway (SNCR) to operate over a rail line commonly known as the Sanford Lake Branch or the Tahawus Line (the Line), between milepost NC 0.0 at

North Creek, New York and the Line's terminus near the Tahawus Mine at milepost NC 29.71.¹ A map of the Line is attached hereto as Exhibit A.

Under the circumstances presented here, the public convenience and necessity permit abandonment because there is no present or future need for freight service over the Line. The public convenience and necessity *require* abandonment because the little-used Line—situated wholly within the six-million-acre Adirondack Park—cuts through the heart of New York's constitutionally-protected Forest Preserve, frustrating the State's constitutional obligation to preserve the forest in its natural state for the benefit and enjoyment of all New Yorkers.

During the Second World War, the United States government exercised its war powers to condemn a right-of-way from the Tahawus Mine generally south over both private lands and public Forest Preserve lands to a railhead at North Creek.² The purpose of the condemnation was to provide a rail link “for the transportation of strategic materials”—to wit, ilmenite ore—“vital to the successful prosecution of the War.”³ When New York protested the condemnation, the United States agreed to limit the duration of the right-of-way over State-owned lands to 15 years. The United States built the Line and leased it to the Tahawus Mine's owner, National Lead (NL).⁴

¹ From North Creek southwest to Saratoga Springs, SNCR operates over tracks belonging to Warren County and the Town of Corinth under contract with those municipalities. DEC does not seek abandonment of SNCR's authority to operate on the tracks from North Creek south to Saratoga.

² See *Saratoga and North Creek Railway, LLC – Operation Exemption – Tahawus Line*, FD 35559 (STB served May 14, 2012).

³ Pet'n in Condemnation at 2 (attached hereto as Exhibit B).

⁴ For purposes of this Report, unless otherwise indicated, NL will refer globally to National Lead and/or any successor entity.

Before the easement over State lands could expire, the United States re-condemned the right-of-way for an additional 100-year term, to expire in 2062.

NL mined ilmenite at the Tahawus Mine until 1982. From 1987 to 1989, NL used the Line to transport waste rock from the mine. NL ceased hauling rock and stopped using the Line in 1989. The same year, rather than return the condemned land to the State of New York, the General Services Administration sold the right-of-way and all railroad appurtenances to NL as surplus property. In 2003, NL sold 10,050 acres of its 11,250-acre Tahawus property, including its remaining ilmenite deposits.⁵ NL demolished the mill buildings in 2006. In 2011, NL sold the right-of-way and all rail appurtenances to SNCR. Since obtaining federal authority to operate on the Line as a common carrier in 2012, SNCR has moved a few carloads of garnet south from the Barton International facility in North River.⁶ In 2017, in the absence of freight customers and apparently to generate much-needed revenue, SNCR began storing obsolete DOT-111 tank cars and other rail cars on the Line in the Forest Preserve.

The Line was constructed on State-owned, constitutionally-protected lands to serve a mining concern that no longer exists and in response to wartime exigencies

⁵ Of the approximately 10,000 acres NL sold, 7,000 acres were eventually conveyed to the State and became part of the Forest Preserve; the remaining 3,000 acres were sold for private forestry purposes but were burdened by a conservation easement in favor of the State of New York. For present purposes, the import of the sale is that ilmenite ore will never be mined at Tahawus again. DEC believes that NL recently sold its remaining holdings at Tahawus to an entity known as Mitchell Stone Products, LLC.

⁶ In addition to the few carloads of industrial garnet, SNCR also moved some 80 carloads of waste rock from the former Tahawus Mine in late 2014 and early 2015. This rock was ballast purchased by SNCR for use on the Line itself. No other freight has moved on the Line since SNCR purchased it in 2011.

now long past. Despite repeated representations that it could economically transport waste rock from the Tahawus Mine, SNCR has never contracted to do so and there is no indication that it will sign such a contract in the future. Indeed, to the extent SNCR has publicly stated that it intends to store thousands of obsolete tank cars on the Line to supplement its meager income, its own actions belie any future intent or ability to use the Line for viable freight service.

Meanwhile, abandonment of the Line would serve all New Yorkers' interest in protecting the ecologically sensitive Forest Preserve. In 1895, the citizens of the State of New York amended the State Constitution to ensure that the lands then owned or later acquired by the State in the vast Adirondack Park would forever remain wild forest lands.⁷ The Forest Preserve now totals over 2.9 million acres of public land held in trust and managed by the State for the benefit of all New Yorkers.⁸ While different areas of the Forest Preserve are amenable to different levels of recreational use, New York State's overriding management goal is to allow visitors to explore the Forest Preserve in a way that will ensure its biological integrity for generations to come. SNCR's plan to store thousands of obsolete tank cars on the moribund Line will not promote the efficient movement of goods in interstate commerce and is clearly at odds with the State's constitutional duty to defend and preserve the biological integrity of the Forest Preserve for the benefit of its citizenry. Abandonment of the

⁷ See NY Constitution, article XIV, § 1. The full text of clause reads: "The lands of the [S]tate, now owned or hereafter acquired, constituting the [F]orest [P]reserve as now fixed by law, *shall be forever kept as wild forest lands*. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed" (emphasis added).

⁸ See *Association for Protection of Adirondacks v. MacDonald*, 253 N.Y. 234, 239 (1930).

Line will advance the public interest by neutralizing a threat to the Preserve without harming the national rail network.

(2) Transportation system

Abandonment of the Tahawus Line should have no effect on regional or local transportation systems or patterns. The Line was constructed in the 1940s through protected wilderness to privately serve one shipper: the Tahawus Mine. NL shipped its last carloads of stone from the mine in 1989. In the intervening decades, NL or its contractors have shipped small quantities of waste rock from the mine *by truck*; this activity is expected to continue.⁹ SNCR never successfully contracted with NL to move heavy, low-value waste rock from the Tahawus Mine property by rail and it is unlikely to succeed in doing so in the future.

(3) Land use

(i) Conformity with local land use controls

Abandonment of the Line is wholly consistent with existing land use plans. Much of the Line passes through constitutionally-protected Forest Preserve lands and/or lies within protected river corridors; these lands would simply never have been subject to heavy industrial use in the absence of the federal condemnation proceeding described above.

In New York State, the Adirondack Park Agency (APA) is the executive branch agency generally charged with regulating land use on both public and private land

⁹ The Tahawus Mine's new owner, Mitchell Stone Products, has applied to DEC for a permit to continue crushing and removing waste rock from the mine property for sale as construction aggregate. According to Mitchell's application, the company plans to remove waste rock from the property by truck only.

within the Adirondack Park.¹⁰ As required under its enabling legislation, the APA has created a State Land Master Plan (Master Plan) classifying State-owned lands within the Park “according to their characteristics and capacity to withstand use.”¹¹ Within the limits set forth in the State Constitution, the Master Plan classifications determine the uses to which various areas of the Forest Preserve may be put.¹² Large portions of the Line lie within the Vanderwhacker Mountain Wild Forest. Like other similarly-classified areas in the Preserve, Vanderwhacker Mountain accommodates forms of *recreational* use carefully calibrated to “afford public enjoyment without impairing the wild forest atmosphere.”¹³ No industrial use is allowed in wild forest areas (or indeed on Forest Preserve lands generally).

Further, the New York State Wild, Scenic, and Recreational Rivers System Act (Rivers Act) imposes strict limits on the use of lands proximate to designated rivers throughout the state.¹⁴ Where designated rivers cross State-owned lands, the Rivers Act creates what amounts to a zoning overlay controlling land uses within one-half mile of the rivers’ banks.¹⁵ On private lands, the Rivers Act strictly limits land use within one-quarter mile of the riverbanks.¹⁶ With the exception of one small portion of the right-of-way near Newcomb, the entire Line lies within jurisdictional range of

¹⁰ See Executive Law § 805.

¹¹ *Id.* former § 807(1); *see also id.* § 816.

¹² See Master Plan at 14-16, *available at* https://www.apa.ny.gov/Documents/Laws_Regs/APSLMP.pdf.

¹³ *Id.* at 35.

¹⁴ See Wild, Scenic, and Recreational Rivers System Act (Rivers Act), Environmental Conservation Law (ECL) § 15-2701 *et seq.*

¹⁵ See ECL § 15-2711; 6 N.Y.C.R.R. §§ 666.3(yy); 666.6(f).

¹⁶ See 9 N.Y.C.R.R. § 577.2(o); 9 N.Y.C.R.R. subtit. Q, app. 6.

a classified wild, scenic, or recreational river and is thus subject to strict, generally-applicable use limits designed to preserve the primitive and undeveloped nature of the nearby watercourse. Abandonment will only further the preservation goals set forth in the Rivers Act.

(ii) Effect on prime agricultural lands

The proposed abandonment will have no impact on prime agricultural land. Farming is generally prohibited in the Forest Preserve,¹⁷ and in any event the Line does not cross prime agricultural lands. On March 30, 2018, DEC sent a letter to the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) informing it of DEC's proposed application for abandonment and inquiring whether such abandonment is likely to affect prime agricultural land.¹⁸ On April 5, 2018, NRCS responded that "the project is unlikely to result in significant impacts to farmland of national, state[,] or local importance."¹⁹

(iii) Coastal zone

The proposed abandonment will have no effect on land or water uses within a designated coastal zone because the Line does not lie within such a zone.

¹⁷ See ECL § 9-0303(3) ("No person shall use any portion of the forest preserve for agricultural purposes, nor shall cattle or domestic animals of any kind be permitted to graze thereon").

¹⁸ See DEC letter to NRCS (March 30, 2018), attached hereto as Exhibit C.

¹⁹ See NRCS response letter (April 5, 2018), attached hereto as Exhibit D.

(iv) Public use conditions

DEC has sought and the Board has granted an exemption from 49 U.S.C. § 10905.²⁰ The Board has likewise granted DEC's request for waiver of the Board's rules pertaining to public use conditions set forth at 49 C.F.R. § 1152.28.

(4) Energy

(i) Transportation of energy resources

The proposed abandonment will have no effect on the transportation of energy resources because little to no freight of any sort currently moves over the Line. In any case, the Line has never carried energy commodities and will not carry energy commodities in the future.

(ii) Recyclable commodities

The proposed abandonment will not affect the transportation of recyclable commodities because little to no freight currently moves over the Line. To the extent the sale of waste rock from the Tahawus Mine property can be considered recycling, small quantities of waste rock have been removed from the mine site by truck. SNCR has been unable to negotiate a contract to transport waste rock from Tahawus by rail for the last seven years and it is unlikely to succeed in negotiating such a contract in the future.

²⁰ See *New York State Department of Environmental Conservation – Adverse Abandonment – Saratoga and North Creek Railway in Town of Johnsburg, NY*, AB 1261 (STB served Feb. 27, 2018).

(iii) Energy efficiency

The proposed abandonment will not result in an increase or decrease in energy efficiency. The Line carries little or no traffic; minimal traffic increases, decreases, or diversions can be expected to result from the abandonment.

(iv) Diversions

Because the Line carries little or no traffic, no diversion of traffic from rail to motor carriage will result from the abandonment.

(5) Air

(i) Anticipated effect on air emissions

Because the Line carries little or no traffic, the proposed abandonment will not increase rail traffic or yard activity, nor will it increase truck traffic. Accordingly, the proposed action will not have an effect on air emissions.

(ii) Clean Air Act; state implementation plan

The Line is located in part in Essex County, in part in Warren County, and in part in Hamilton County; these counties are in attainment under the Clean Air Act for all criteria pollutants.²¹

(iii) Ozone-depleting materials

The proposed abandonment will not involve transportation of ozone-depleting materials.

²¹ See United States Environmental Protection Agency Green Book, *available at* <https://www3.epa.gov/airquality/greenbook/ancl.html#NY>.

(6) Noise

None of the thresholds set forth at 49 C.F.R. § 1105.7(e)(5)(i) will be surpassed as a result of the proposed abandonment.

(7) Safety

(i) Effects on public health and safety

The proposed abandonment will not adversely affect public health or safety. The Line currently carries little or no traffic, and will carry none once abandonment is consummated. Likewise, vehicle delay time at at-grade crossings will be reduced to zero in the wake of the abandonment. Indeed, in light of recent accidents involving SNCR, the proposed abandonment could have the effect of *improving* public health and safety.²²

(ii) Hazardous materials

No hazardous materials will be transported on the Line as a result of DEC's proposed abandonment. Indeed, because the abandonment would likely lead to the cessation of oil car storage on the Line, the risk of release of any hazardous material would be reduced.

²² In February 2018, a SNCR locomotive derailed attempting to clear ice and snow from a section of track between North Creek and Saratoga Springs. Unable to re-rail the locomotive, SNCR left the machine idling near an at-grade crossing. SNCR posted no warning sign or otherwise alerted passing motorists to the presence of the locomotive. Caught by surprise, a passing motorist attempted to stop short of the at-grade crossing and lost control of his truck, ultimately sustaining injury and causing property damage. See Don Lehman, *Derailed Train Blamed for Truck Accident, Injury*, Glens Falls Post Star, Feb. 13, 2018, http://poststar.com/news/local/derailed-train-blamed-for-truck-accident-injury/article_ce9d7671-dd4e-58d8-99aa-ef3504481dc7.html.

(iii) Known hazardous waste sites

DEC is the state agency responsible for administering New York's hazardous waste laws.²³ DEC is not aware of any hazardous waste site on the right-of-way or of any spill of hazardous materials along the right-of-way.

(8) Biological resources

(i) Endangered or threatened species

The proposed abandonment is not likely to adversely affect endangered or threatened species or areas designated as critical habitat. On April 9, 2018, DEC sent a letter to the United States Department of the Interior, Fish and Wildlife Service (FWS) to inquire whether the proposed abandonment could adversely affect endangered or threatened species or any area designated as critical habitat.²⁴ FWS replied that it anticipated no such adverse effect.²⁵

To the contrary, the proposed abandonment will likely have a salutary effect on endangered and/or threatened species and critical wildlife habitat. SNCR has stated publicly that it plans to store up to 2,000 obsolete tank cars on the Line. Such tank car storage would in essence create a miles-long steel fence in the middle of the Forest Preserve. Because the proposed abandonment would thwart SNCR's storage plan, it would eliminate what would likely be a barrier to animal movement within the Preserve.

²³ See ECL § 27-0911.

²⁴ See DEC letter to FWS (April 9, 2018), attached hereto as Exhibit E.

²⁵ See Letter from FWS to DEC (May 2, 2018), attached hereto as Exhibit F.

(ii) Effect on protected parklands

The entirety of the Line is located within New York's Adirondack Park, the largest publicly-protected area in the contiguous United States. Of the approximately six million acres comprising the Park, some 2.9 million acres belong to the State of New York and constitute the Forest Preserve, a National Historic Landmark.²⁶ The State holds these lands in trust for all its citizens and is constitutionally obligated to maintain them in a forever-wild state.²⁷ While recreational activities are welcome in the Forest Preserve, industrial pursuits are not. Because the State Constitution bars the sale, removal, or destruction of timber in the Forest Preserve and requires that the Preserve be forever maintained in its wild forest state, the Line would never have been constructed but for the federal condemnation proceeding.²⁸ To the extent the proposed abandonment will put an end to a use that is anathema to the purposes for which the Forest Preserve was established, it will have a salutary effect on protected parklands.

(9) Water

(i) Consistency with water quality standards

As the New York State agency statutorily charged with enforcing water quality standards,²⁹ DEC represents that the proposed abandonment will be consistent with applicable federal, state, and local water quality standards.

²⁶ See National Park Service, Listing of National Historic Landmarks by State, <https://www.nps.gov/nhl/find/statelists/ny/NY.pdf>.

²⁷ See NY Constitution, article XIV, § 1; see also *Association for Protection of Adirondacks v. MacDonald*, 253 N.Y. 234, 237-239 (1930).

²⁸ See NY Constitution, article XIV, § 1.

²⁹ See ECL § 17-0301.

(ii) Clean Water Act § 404 permit

DEC does not believe that the proposed abandonment will require a permit under section 404 of the Clean Water Act. On March 30, 2018, DEC sent a letter to the United States Army Corps of Engineers (Corps) inquiring whether the proposed action would require a section 404 permit or affect any wetland or 100-year flood plain.³⁰ The Corps responded that, while the Line crosses a number of jurisdictional rivers and streams, “abandonment in itself shouldn’t have an immediate impact on jurisdictional resources.”³¹

(iii) Clean Water Act § 402 permit

As the state agency responsible for issuing pollution discharge permits under a state-law program approved by the United States Environmental Protection Agency (EPA),³² DEC does not believe the proposed abandonment would require a state-issued wastewater discharge permit.

(10) Proposed mitigation

Because the proposed abandonment would engender no adverse environmental effect, mitigation measures are unnecessary.

(11) Additional information for rail constructions

Because the proposed abandonment would not involve rail construction, this provision is not applicable.

³⁰ See DEC letter to the Corps (March 30, 2018), attached hereto as Exhibit G.

³¹ See Corps response email (April 13, 2018), attached hereto as Exhibit H.

³² See ECL § 17-0803.

II. Historic Report

As required by 49 C.F.R. § 1105.8(d), DEC submits the following information:

(1) Topographic map

The requisite topographic map is attached hereto as Exhibit I.

(2) Description of the right-of-way

The Line, consisting of only one set of rails, originates in the hamlet of North Creek in the Town of Johnsburg, Warren County, New York and follows the Hudson River in a northwesterly direction for approximately five miles to the hamlet of North River. At North River, the Line turns generally northward and enters public Forest Preserve land, largely following the protected Hudson and Boreas Rivers through the Vanderwhacker Mountain Wild Forest area. After crossing a series of private parcels, the Line re-enters Forest Preserve lands and crosses the protected Opalescent River before arriving at the Tahawus Mine property near Sanford Lake. Much of the Line passes through isolated forest areas and follows protected rivers, including on Forest Preserve lands.

Although the historic depot in the hamlet of North Creek is currently listed on the National Register of Historic Places, the depot does not belong to SNCR and is not a part of the Line.³³ DEC is not aware of any station or other building on the Line. The Line does include a number of bridges, all of which DEC believes were built in the early 1940s, contemporaneously with construction of the Line.

³³ See <http://www.northcreekdepotmuseum.com/about-us/> (noting that the Canadian Pacific Railway acquired the North Creek train depot in 1991 and sold it to its current owner, a not-for-profit entity, in 1993).

(3) Photographic record

Attached hereto as Exhibit J are photographs of the Line and surrounding areas. Because the Line stretches for nearly 30 miles through large tracts of dense forest, these publicly-available photos are meant to be representative only.

(4) Dates of construction

DEC does not possess direct information regarding construction of the Line. DEC believes the Line was built in or about 1942, during or following condemnation of the right-of-way by the United States under the Second War Powers Act of 1942. The Line was placed in service in or about 1944.

(5) Carrier operations on the Line

Following construction of the Line in or about 1942, the United States leased the Line to NL. NL in turn contracted with the Delaware and Hudson Railway (D&H) to haul ilmenite ore from the Tahawus Mine south 30 miles to North Creek. D&H began to move ore on the Line in or about 1944 and continued to do so until the early 1980s. D&H considered the line an industrial siding; all freight was billed from North Creek. NL stopped using the Line in or about 1989.

Also in 1989, NL purchased the easement and rail appurtenances from the United States. In 2011, NL sold the right-of-way and appurtenances to SNCR. In 2012, SNCR obtained Board authority to operate as a common carrier over the Line.³⁴ SNCR has failed, however, to establish regular freight service.

³⁴ *Saratoga and North Creek Ry., LLC – Operation Exemption – Tahawus Line*, FD 35631 (STB served June 1, 2012).

Because the proposed action is an abandonment, further freight service would not be offered.

(6) Documents relevant to historic analysis

DEC does not possess documents responsive to 49 C.F.R. § 1105.8(d)(6).

(7) National Register listing criteria

The criteria for listing on the National Register of Historic Places are set forth in the regulations of the United States Department of the Interior's National Park Service at 36 C.F.R. § 60.4. DEC does not believe that the Line satisfies the conditions for listing. The Line is not associated with significant historical events or figures, nor does it possess characteristic architectural features or represent the work of a master artist or otherwise possess high artistic value.³⁵ The Line has not yielded and is not likely to yield information important to prehistory or history.³⁶

DEC has consulted with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) regarding the possibility either that the Line is itself of some historic value or that it contains or is proximate to archeological resources or other previously unknown historic properties.³⁷ OPRHP is not of the opinion that the Line is historically significant.³⁸

(8) Prior ground disturbance

DEC has no knowledge of any subsurface disturbance or fill or other natural or manmade environmental condition in the vicinity of the Line that might affect the

³⁵ See 36 C.F.R. § 60.4(a)–(c).

³⁶ See *id.* § 60.4(d).

³⁷ See DEC letter to OPRHP (March 30, 2018), attached hereto as Exhibit K.

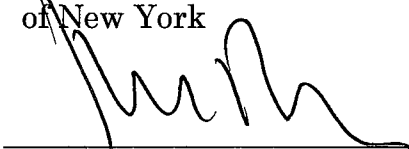
³⁸ See OPRHP letter to DEC (June 6, 2018), attached hereto as Exhibit L.

archeological recovery of historic resources. Much of the terrain surrounding the Line is mountainous and/or heavily forested.

Dated: June 11, 2018
Albany, New York

Respectfully submitted,

BARBARA D. UNDERWOOD
Attorney General of the State
of New York

By: 

Susan L. Taylor
Joshua M. Tallent
Assistant Attorneys General
New York State Office of the
Attorney General
Environmental Protection Bureau
The Capitol
Albany, New York 12224
(518) 776-2456
Susan.Taylor@ag.ny.gov
Joshua.Tallent@ag.ny.gov

CERTIFICATE OF SERVICE

I certify that on June 11, 2018, I caused the foregoing Environmental and Historic Report to be served by first class mail on the following entities, within the timeframes specified in 49 C.F.R. §§ 1105.7 and 1105.8:

U.S. Department of Agriculture, Natural Resources Conservation Service
1400 Independence Avenue SW, Room 5105-A
Washington, DC 20250
Attn: Leonard Jordan, Acting Chief

U.S. Department of Agriculture, Natural Resources Conservation Service
441 S. Salina Street, Suite 354
Syracuse, NY 13202
Attn: Angela VanDyke, Acting Public Affairs Specialist

U.S. Department of the Interior, Fish and Wildlife Service
Office of Public Affairs
5275 Leesburg Pike
Falls Church, VA 22041-3803
Attn: Gavin Shire, Chief

U.S. Department of the Interior, Fish and Wildlife Service
Northeast Region
300 Westgate Center Dr.
Hadley, MA 01035
Attn: Wendi Weber, Regional Director

U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000
Attn: Legal Department

U.S. Army Corps of Engineers
North Atlantic Division
302 General Lee Avenue
Brooklyn, NY 11252
Attn: Department of Public Affairs

New York State Office of Parks, Recreation and Historic Preservation
625 Broadway
Albany, NY 12207
Attn: Commissioner Rose Harvey

New York State Department of Transportation
50 Wolf Road
Albany, NY 12232
Attn: Janice McLachlan, Acting Assistant Commissioner and General Counsel

U.S. Environmental Protection Agency, Region 2
Ted Weiss Federal Building
290 Broadway
New York, NY 10007-1866
Attn: Peter D. Lopez, Regional Administrator

Ronald F. Conover
Chairman of the Warren County Board of Supervisors
Warren County Municipal Center
1340 State Route 9
Lake George, NY 12845

Randy Preston
Chairman of the Essex County Board of Supervisors
7551 Court Street
P.O. Box 217
Elizabethtown, NY 12932

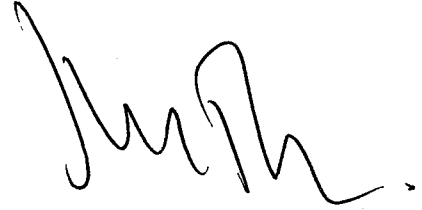
William G. Farber
Chairman of the Hamilton County Board of Supervisors
102 County View Drive
P.O. Box 205
Lake Pleasant, NY 12108

U.S. Department of the Interior, National Park Service
1849 C Street NW
Washington, DC 20240
Attn: Dan Smith, Deputy Director

U.S. Department of the Interior, National Park Service
U.S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106
Attn: Gay Vietzke, Northeast Regional Director

U.S. Department of Commerce, National Geodetic Survey
Communications and Outreach Branch, NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282

I further certify that DEC consulted with all appropriate agencies in preparing
the foregoing environmental and historic report.



Joshua M. Tallent
Assistant Attorney General
New York State Office of the
Attorney General
The Capitol
Albany, New York 12224
(518) 776-2456
Joshua.Tallent@ag.ny.gov

STB Docket No. AB 1261

ENVIRONMENTAL AND HISTORIC REPORT

EXHIBIT LIST

Exhibit A	Map of the Tahawus Line
Exhibit B	Petition in Condemnation
Exhibit C	Letter from DEC to NRCS dated March 30, 2018
Exhibit D	Letter from NRCS to DEC dated April 5, 2018
Exhibit E	Letter from DEC to FWS dated April 9, 2018
Exhibit F	Letter from FWS to DEC dated May 2, 2018
Exhibit G	Letter from DEC to the Army Corps of Engineers dated March 30, 2018
Exhibit H	Letter from the Army Corps of Engineers to DEC dated April 13, 2018
Exhibit I	Topographic maps
Exhibit J	Photographs of the Tahawus Line and surrounding areas
Exhibit K	Letter from DEC to OPRHP dated March 30, 2018
Exhibit L	Letter from OPRHP to DEC dated June 6, 2018

EXHIBIT A



Tahawus Branch Railroad Corridor

Key

Wild, Scenic, and Recreational Rivers
Source: DEC

Railroad
Source: DEC, Bureau of Real Property

Mile Posts
Source: DEC, Bureau of Real Property

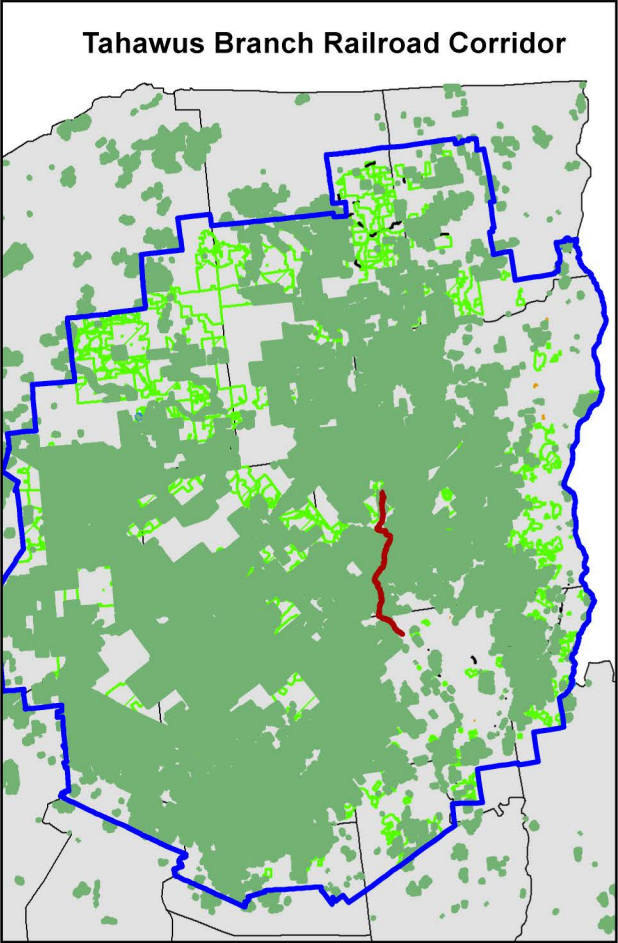
Private Land Classification

- Hamlet
- Moderate Intensity Use
- Low Intensity Use
- Rural Use
- Resource Management
- Industrial Use

State Land Classification

- Wilderness
- Primitive
- Wild Forest
- Intensive Use
- State Administrative

Source: Adirondack Park Agency, 2018 Land Use and Development Plan Map



NEW YORK
STATE OF OPPORTUNITY

Department of Environmental Conservation

This map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forest, Bureau of Real Property. Compiled on Date: 5/24/2018

EXHIBIT B

EX.#1

U. S. District Court

Northern Dist. of N. Y.

Civil #1143

United States of America

Petitioner

- vs -

Certain easement rights in 223.13 Acres
of land in Essex & Hamilton Counties,
State of N. Y., David McIlwain, et. al.

Defendants

Petition in Condemnation

The petition of the United States of America, a sovereign, brought by Ralph L. Emmons, U. S. attorney for the Northern Dist. of New York, acting under the instructions of the Attorney General of the United States of America & at the request of the Secretary of War complains & alleges:

1. That this is a suit of a civil nature, brought by the above-named petitioner under the authority of and pursuant to the provisions of an Act of Congress approved August 1, 1898 (25 Stat. 557), and Acts amendatory thereof; the Act of Congress approved August 18, 1898 (25 Stat. 516), as amended by the Acts of Congress approved July 2, 1917 (40 Stat. 241) & April 11, 1918 (40 Stat. 518; 50 U. S. C. Sec. 171) & March 27, 1942, (Public Law 507 - 77th Congress) which acts authorize the acquisition of land, or interests therein for military purposes.

2. That in accordance with said acts, the Secretary of War of the U. S. has found that certain rights & perpetual and/or limited easements in land & appurtenances more particularly described herein are necessary & advantageous in the interest of the U. S. for use in connection with the construction of the North Creek-Sanford Lake, New York, Railroad connection, & has selected for acquisition by the U. S. of America the interests & rights in

* the land hereinafter described & has designated that such interests & rights are suitable & necessary for the purposes of the U. S. & that said selection & designation & determination have been made & are now in full force & effect, & has certified that the interests in said land are required for use in connection with the construction of a railroad from North Creek to Lake Sanford, N. Y., for the transportation of strategic materials vital to the successful prosecution of the War, & it is desirable to exercise the utmost haste in the execution of said project, & an order for the immediate possession, use & improvement of said lands for such purposes is necessary.

3. That there are sufficient funds now available with which the petitioner can & is authorized to pay just compensation for the interests in land as sought to be taken & condemned herein, in whatever sum may ultimately be awarded & adjudged in this proceeding as just compensation, together with damages, if any, incident to the taking & condemnation.

4. That the purposes for which the petitioner is taking the easements & rights in said land & the appurtenances thereto are necessary & constitute a public use, & the use to which said property & interests is to be applied is a use authorized by law, & that its acquisition by the petitioner is and will be of the greatest public benefit & it is vital to the successful prosecution of the War that this project be expedited with the utmost haste & that the U. S. be given the immediate right to the possession & use of the said land, to the extent of the interests being acquired therein.

5. That the estate or interest in or to said land hereinafter described which the petitioner intends & seeks to take, acquire, condemn, hold, & own by this proceeding is the perpetual right & easement to construct, operate & maintain a railroad track in, on and across certain lands, aggregating approximately

↑
private

8.15 acres in Essex & Hamilton Counties, N. Y., more particularly described in Exhibit "B" hereto annexed; & the temporary right & easement to construct, operate & maintain a railroad track in, on & across the lands of the State of N. Y. described & designated "Exhibit C" hereto annexed, being approximately 200 acres (228) in Essex & Hamilton Counties, State of N. Y. for the duration of the existing emergency & for 15 years after the termination of the existing emergency either by Act of Congress or by Executive Order; being the land described in the letter of the Secretary of War dated Oct. 30, 1942 & designated on a map called Exhibit "A" hereto annexed.

6. That the petitioner is informed & believes &, therefore, alleges that the following individuals have or may have or claim to have some interest in the land:

* David McIlwhee, Boston, Mass.

* Finch, Pruyn & Co., Glens Falls, N. Y.

State of N. Y., Albany, N. Y.

Counties of Essex & Hamilton, N. Y., & Towns of Indian

Lake, Hamilton Co., N. Y., & Minerva, Essex County,

N. Y., may be interested in any highways or roads,

if any, crossed by the proposed railroad.

7. That your petitioner shows that it has attempted to set forth the interest or estates of all persons & corporations in the lands herein mentioned as far as the petitioner has been able to ascertain the same, but notwithstanding such statement, all persons or corporations owning, in possession, or having any legal right or interest therein, are made parties to this proceeding generally to the end that all their rights, title interest & estate, whatever it may be, to all & singular the said easements & rights sought to be acquired in the premises above mentioned may be reached & vested out of them & vested in your petitioner.

8. That the purposes for which the petitioner is taking the interests & rights in said land & appurtenances thereto are necessary & suited to the public use & that the use to which said property is to be applied is authorized by law & is necessary to be so taken.

9. That it is the intention of your petitioner, in faith, to complete the work or improvement for which said property is condemned, & that all the preliminary steps required by law have been taken to entitle your petitioner to institute such proceedings.

10. That, upon information & belief, none of the owners of the real property sought to be condemned herein is an infant, idiot, lunatic or habitual drunkard.

Wherefore, the premises considered & to the end that all & singular the interests & rights in said lands described in this petition & sought to be taken may be acquired by the U. S. of America by condemnation in accordance with the several statutes & Acts of Congress in such cases made & provided, as hereinbefore set forth, petitioner prays this Honorable Court.

1. To make an order granting the petitioner the immediate possession, occupancy, improvement & use of the said lands described & all separate parts & parcels thereof to the extent of the interests being acquired therein, for military purposes, as provided in Section 171, Title 50, U. S. C., said application being made in time of War, & provide for the manner of service thereof.

2. To cite & give notice to the owners & other persons interested in the lands described in this petition as provided by law, to appear in this Court at a time to be fixed to answer this petition.

3. To appoint if deemed necessary & expedient 3 qualified & disinterested freeholders to appraise the value of the easements & interests in said property in accordance with the law & statutes

in such cases made & provided & make assessment & award of damages for each parcel hereinabove described, & interest therein which should be paid by the petitioner as just compensation for the taking thereof, & to fix a time & place for their first meeting.

4. To take such action & pass such Orders, Decrees & Judgments as may be necessary or proper fully to effect the objects for which the aforesaid Acts of Congress were passed & to cause the interests in said lands described in this petition to be condemned & taken by the U. S. of America, as hereinbefore set forth, to vest in the U. S. of America.

5. To determine & make proper distribution & payment of said award to and among the interested parties entitled thereto:

6. To grant such other & further relief as the nature of the case may require.

The United States of America

by Ralph L. Emmons

United States Attorney in & for
the Northern Dist. of N. Y.

EXHIBIT C



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

March 30, 2018

Angela VanDyke, Acting Public Affairs Specialist
United States Department of Agriculture
Natural Resources Conservation Service
441 S. Salina Street, Suite 354
Syracuse, NY 13202

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

Dear Ms. VanDyke:

The purpose of this letter is to advise you that the New York State Department of Environmental Conservation (DEC) plans to file an application with the Surface Transportation Board (STB) seeking abandonment of the authority of the Saratoga and North Creek Railway (SNCR) to operate over a line of railroad known as the Sanford Lake Branch or the Tahawus Line (Line). The Line originates in the hamlet of North Creek, New York and continues approximately 30 miles north to its terminus at the site of the former Tahawus Mine. A map of the Line is attached to this letter.

DEC believes the Line should be abandoned because it currently carries no freight and is unlikely to carry freight in the future, and also because the Line—the right-of-way for which was taken by a federal exercise of eminent domain in the 1940s—cuts through and adversely affects constitutionally-protected forest lands in New York's Adirondack Park.

Abandonment of rail operations on the Line requires approval from the STB. STB regulations require consultation with certain governmental entities regarding the potential for environmental impacts stemming from the proposed abandonment. While DEC does not believe the proposed abandonment will result in any adverse environmental impact, we would appreciate your views on this issue. In particular, we request any comment you may have on the following issue:

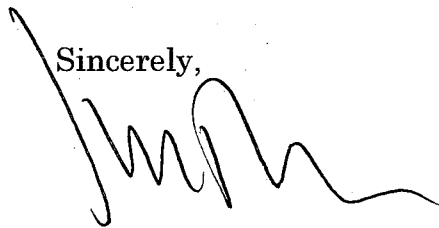
- Describe the effect of the proposed abandonment on prime agricultural land, if any (see 49 C.F.R. § 1105.7e[3][ii]).

DEC will provide you with a copy of its environmental and historic report in the coming weeks. The report will outline the scope of the proposed abandonment and will include reference to any comments you submit. We can send the report to you either by mail or electronically; if you wish to receive the report electronically, please let me know.

Please send your reply by mail to Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY, 12224. Alternatively, feel free to email your response to me at Joshua.Tallent@ag.ny.gov.

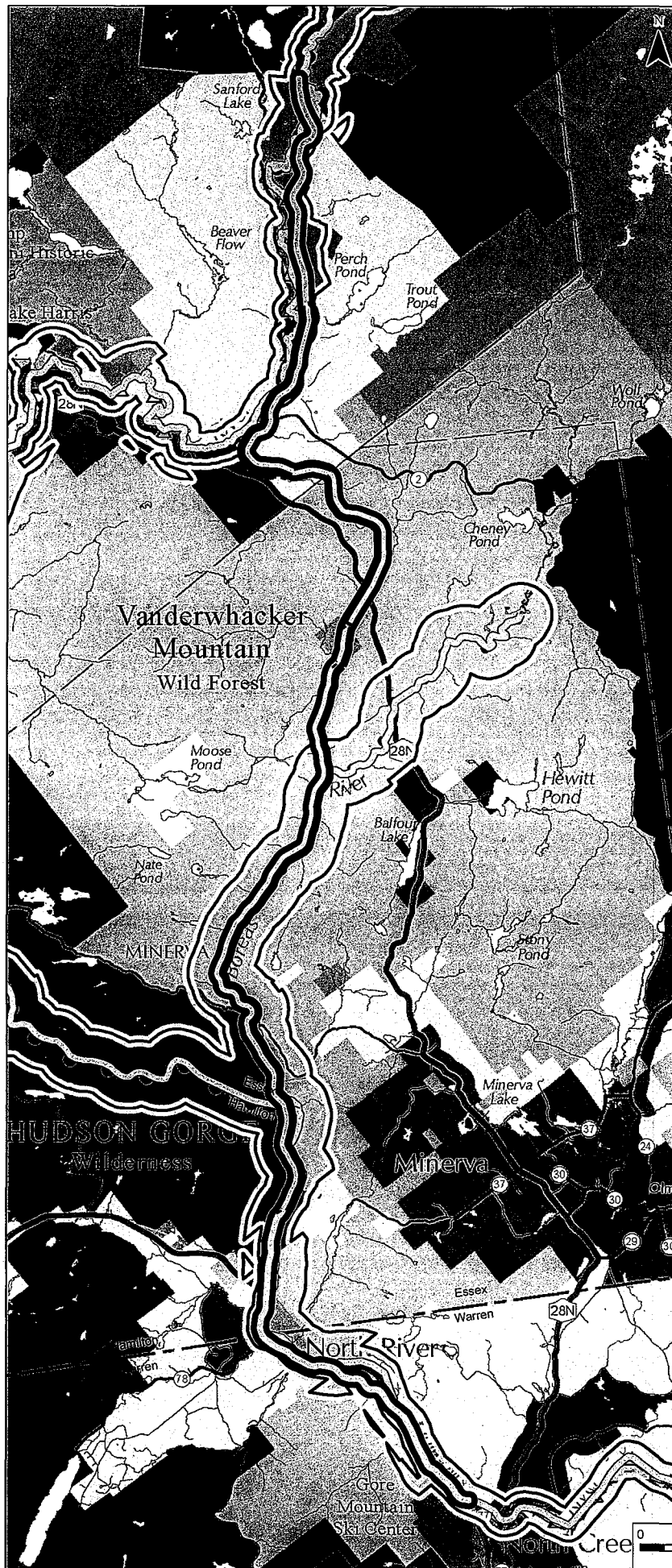
Thank you for your assistance in this matter. If you have any questions or concerns, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to be 'Joshua M. Tallent', written over a horizontal line.

Joshua M. Tallent
Assistant Attorney General
Joshua.Tallent@ag.ny.gov
(518) 776-2456

encl.



Railroad Corridor Overview

Key

Railroad

Source: DEC, Bureau of Real Property

River Buffer

Source: DEC

Wild, Scenic, and Recreational Rivers

Source: DEC

Basemap

Source: Adirondack Park Agency

ADIRONDACK PARK LAND USE AND DEVELOPMENT PLAN MAP AND STATE LAND MAP 2017

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

Andrew M. Cuomo, Governor Sherman Craig, Chairman Terry Watkins, Executive Director

Private Land Classification

Hardwood
 Moderate Intensity Use
 Low Intensity Use
 Rural Use
 Resource Management
 Industrial Use

State Land Classification

Wilderness
 Canoe Area
 Forested
 Wild Forest
 Intensive Use
 Historic
 State Administrative
 Pending Classification
 Some Uses

ADIRONDACK PORTION OF THE NEW YORK STATE
WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

Wild
 Scenic
 National
 Study

Map Scale: 1 inch = 1 mile. Map Date: 1/1/17. Map Data: 1/1/17. Map Legend: 1/1/17. Map Notes: 1/1/17. Map Contact: 1/1/17. Map Copyright: 1/1/17.



This is not a survey. This Map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forests Bureau of Real Property. Compiled on 3/29/2018 by jldibias

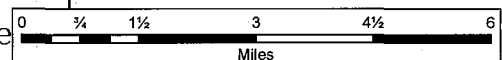


EXHIBIT D

From: [Strause, Karl - NRCS, Syracuse, NY](#)
To: [Tallent, Joshua](#)
Cc: [Duncan, Kathryn - NRCS, Syracuse, NY](#); [Henry, Edward - NRCS, Syracuse, NY](#)
Subject: STB Docket NO AB 1261
Date: Thursday, April 05, 2018 4:59:54 PM
Attachments: [Saratoga_NCreek Railway.pdf](#)

Mr. Tallent:

I'm responding to your letter dated March 30, 2018 (attached) seeking NRCS comment on the NYSDEC's application to seek abandonment of the Saratoga and North Creek Railway line.

Based upon the information in your letter NRCS has determined that the project is unlikely to result in significant impacts to farmland of national, state or local importance located in the vicinity of this project.

The Farmland Protection Policy Act (FPPA) of 1981 requires the NRCS to provide project site review of Federal agency actions (including locally led projects financed either wholly or in-part with Federal Funds) that may adversely impact prime and unique farmlands. Based upon the information in your letter it appears that the abandonment action for the railway is not a recipient of federal financing, management or technical assistance and does not fall within the scope of farmland conversion projects the NRCS is obligated to review under administration of the FPPA.

If the railway is developed for other purposes in the future and the project receives Federal funding, the NRCS will be available to complete the necessary review for potential impacts to agricultural lands as required by the FPPA.

Feel free to contact me if you have any additional questions.

Karl Strause

*Karl D. Strause, Ph.D.
Resource Conservationist
CRP Program Manager
Vice Chair, Civil Rights Advisory Committee*

Natural Resources Conservation Service
441 S. Salina St. Syracuse, NY 13202
Ph: (315) 477-6507 Fax: (855) 477-8518
Email: karl.strause@ny.usda.gov

This electronic message contains information generated by the USDA solely for the intended

recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

EXHIBIT E



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

April 9, 2018

Meagan Racey, Public Affairs Officer
U.S. Fish & Wildlife Service
Northeast Region
300 Westgate Center Dr.
Hadley, MA 01035

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

Dear Ms. Racey:

The purpose of this letter is to advise you that the New York State Department of Environmental Conservation (DEC) plans to file an application with the Surface Transportation Board (STB) seeking abandonment of the authority of the Saratoga and North Creek Railway (SNCR) to operate over a line of railroad known as the Sanford Lake Branch or the Tahawus Line (Line). The Line originates in the hamlet of North Creek, New York and continues approximately 30 miles north to its terminus at the site of the former Tahawus Mine. A map of the Line is attached to this letter.

DEC believes the Line should be abandoned because it currently carries no freight and is unlikely to carry freight in the future, and also because the Line—the right-of-way for which was taken by a federal exercise of eminent domain in the 1940s—cuts through and adversely affects constitutionally-protected forest lands in New York's Adirondack Park.

Abandonment of rail operations on the Line requires approval from the STB. STB regulations require consultation with certain governmental entities regarding the potential for environmental impacts stemming from the proposed abandonment. While DEC does not believe the proposed abandonment will result in any adverse environmental impact, we would appreciate your views on this issue. In particular, we request any comment you may have on the following issue:

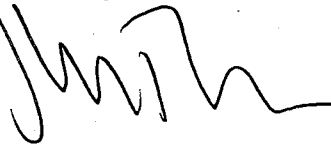
- State whether the proposed abandonment is likely to adversely affect endangered or threatened species or areas designated as a critical habitat and, if so, describe the effects (*see* 49 C.F.R. § 1105.7e[8][i]).

DEC will provide you with a copy of its environmental and historic report in the coming weeks. The report will outline the scope of the proposed abandonment and will include reference to any comments you submit. We can send the report to you either by mail or electronically; if you wish to receive the report electronically, please let me know.

Please send your reply by mail to Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY, 12224. Alternatively, feel free to email your response to me at Joshua.Tallent@ag.ny.gov.

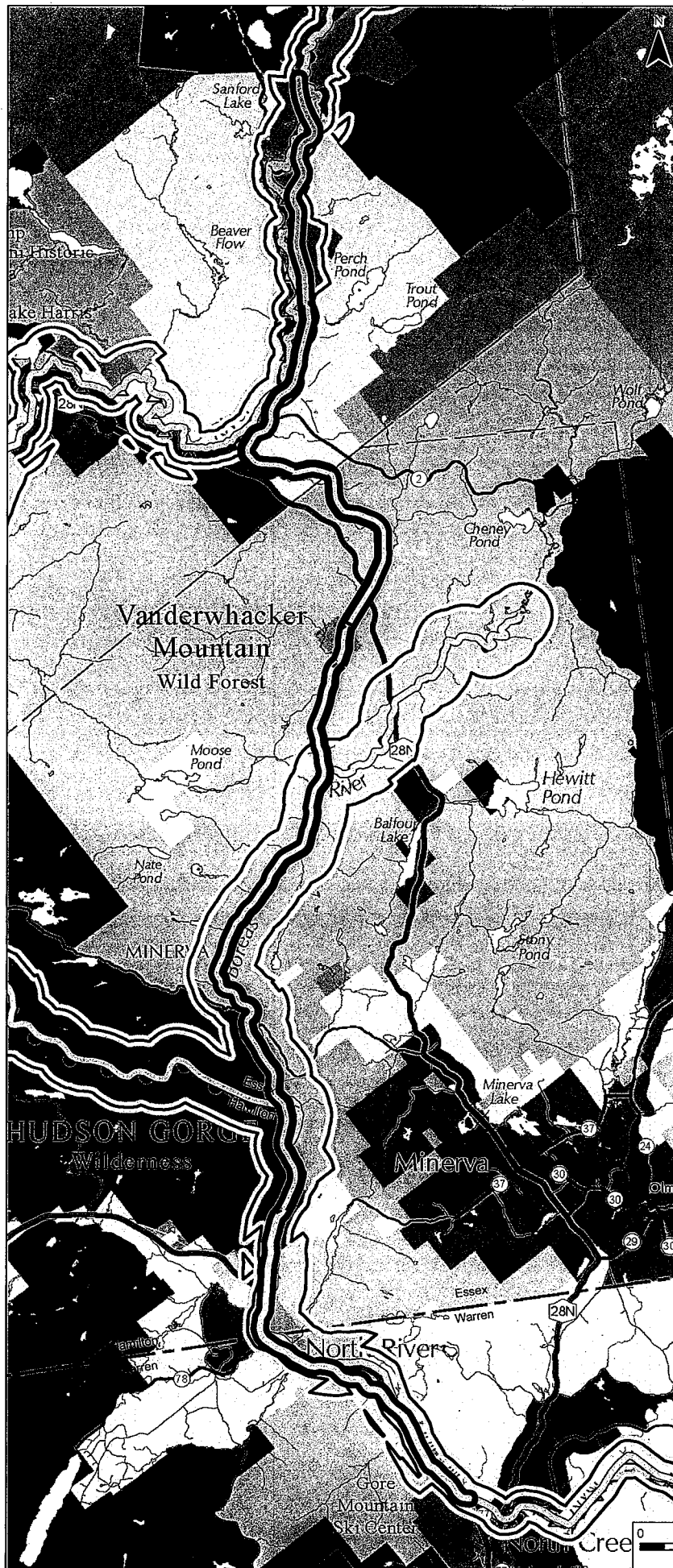
Thank you for your assistance in this matter. If you have any questions or concerns, please contact me at your convenience.

Sincerely,



Joshua M. Tallent
Assistant Attorney General
Joshua.Tallent@ag.ny.gov
(518) 776-2456

encl.



Railroad Corridor Overview

Key

Railroad
Source: DEC, Bureau of Real Property

River Buffer
Source: DEC

Wild, Scenic, and Recreational Rivers
Source: DEC

Basemap
Source: Adirondack Park Agency

ADIRONDACK PARK LAND USE AND DEVELOPMENT PLAN MAP AND STATE LAND MAP 2017

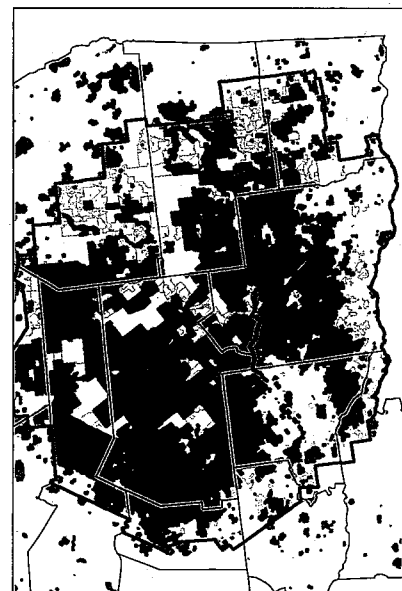
STATE OF NEW YORK
ADIRONDACK PARK AGENCY

Andrew H. Cuomo, Governor Thomas C. Coughlin, Chairman Tom M. Mott, Executive Director

Private Land Classification	State Land Classification
Hardwood	Wilderness
Moderate Intensity Use	Canoe Area
Low Intensity Use	Private
Rural Use	Wild Forest
Resource Management	Intensive Use
Industrial Use	Historic
Park Boundary	State Administrative
	Pending Classification
	Scenic Use

ADIRONDACK PORTION OF THE NEW YORK STATE
WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

Wild
 Scenic
 Recreational
 Study



This is not a survey. This Map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forests Bureau of Real Property. Compiled on 3/29/2018 by jldibias

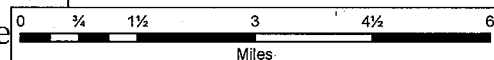


EXHIBIT F



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo>



To: Joshua Tallent

Date: May 2, 2018

USFWS File No: 18TA1728

Regarding your: ☒ Letter ☐ Fax ☐ Email

Dated: April 9, 2018

For project: Saratoga and North Creek Railway Abandonment

Located: _____

In Town/County: Town of Johnsburg / Warren and Essex Counties

Pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service:

☒ Acknowledges receipt of your "no effect" and/or no impact determination. No further ESA coordination or consultation is required.

☐ Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.

☐ Is taking no action pursuant to ESA or any legislation at this time, but would like to be kept informed of project developments.

As a reminder, until the proposed project is complete, we recommend that you check our website (<http://www.fws.gov/northeast/nyfo/es/section7.htm>) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

USFWS Contact(s): Tim Sullivan

Supervisor: Anned. Secord Date: 5/2/18

EXHIBIT G



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

March 30, 2018

U.S. Army Corps of Engineers
North Atlantic Division
302 General Lee Avenue
Brooklyn, NY 11252
ATTN: Department of Public Affairs

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

Greetings:

The purpose of this letter is to advise you that the New York State Department of Environmental Conservation (DEC) plans to file an application with the Surface Transportation Board (STB) seeking abandonment of the authority of the Saratoga and North Creek Railway (SNCR) to operate over a line of railroad known as the Sanford Lake Branch or the Tahawus Line (Line). The Line originates in the hamlet of North Creek, New York and continues approximately 30 miles north to its terminus at the site of the former Tahawus Mine. A map of the Line is attached to this letter.

DEC believes the Line should be abandoned because it currently carries no freight and is unlikely to carry freight in the future, and also because the Line—the right-of-way for which was taken by a federal exercise of eminent domain in the 1940s—cuts through and adversely affects constitutionally-protected forest lands in New York's Adirondack Park.

Abandonment of rail operations on the Line requires approval from the STB. STB regulations require consultation with certain governmental entities regarding the potential for environmental impacts stemming from the proposed abandonment. While DEC does not believe the proposed abandonment will result in any adverse environmental impact, we would appreciate your views on this issue. In particular, we request any comment you may have on the following issue:

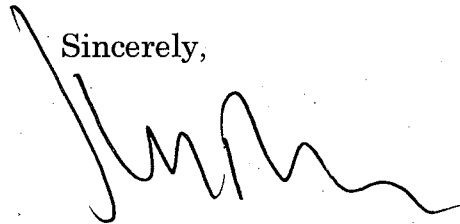
- State whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. If so, please describe the effects (*see see* 49 C.F.R. § 1105.7e[9][ii]).

DEC will provide you with a copy of its environmental and historic report in the coming weeks. The report will outline the scope of the proposed abandonment and will include reference to any comments you submit. We can send the report to you either by mail or electronically; if you wish to receive the report electronically, please let me know.

Please send your reply by mail to Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY, 12224. Alternatively, feel free to email your response to me at Joshua.Tallent@ag.ny.gov.

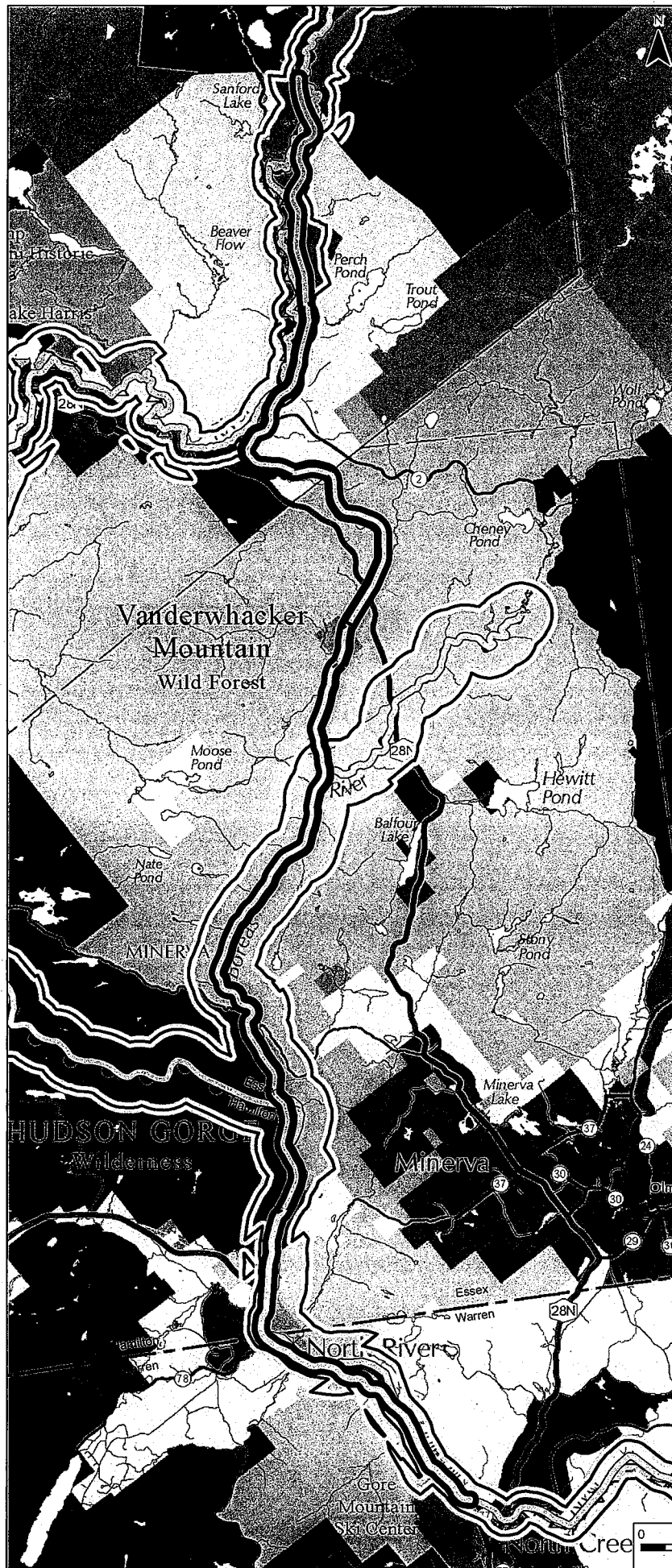
Thank you for your assistance in this matter. If you have any questions or concerns, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua M. Tallent', with a long, sweeping horizontal line extending to the right.

Joshua M. Tallent
Assistant Attorney General
Joshua.Tallent@ag.ny.gov
(518) 776-2456

encl.



Railroad Corridor Overview

Key

Railroad

Source: DEC, Bureau of Real Property

River Buffer

Source: DEC

Wild, Scenic, and Recreational Rivers

Source: DEC

Basemap

Source: Adirondack Park Agency

ADIRONDACK PARK LAND USE AND DEVELOPMENT PLAN MAP AND STATE LAND MAP 2017

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

Andrew M. Cuomo, Governor Thomas C. Cray, Chairman Tom Harkin, Senator & Director

Private Land Classification

Hardwood

Moderate Intensity Use

Low Intensity Use

Rural Use

Resource Management

Industrial Use

Part Boundary

State Land Classification

Wilderness

Canoe Area

Primitive

Wild Forest

Intensive Use

Pasture

State Administrative

Pending Classification

Science Use

ADIRONDACK PORTION OF THE NEW YORK STATE
WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

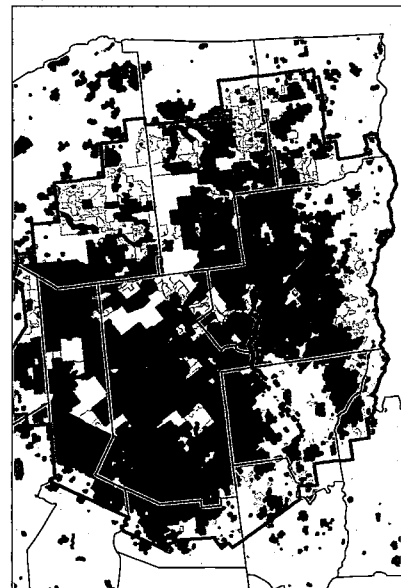
Wild

Scenic

Recreational

Study

ADIRONDACK PARK AGENCY



This is not a survey. This Map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forests Bureau of Real Property. Compiled on 3/29/2018 by jldibias

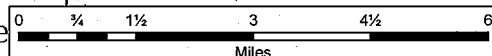


EXHIBIT H

From: [Gitchell, Amy L CIV USARMY CENAN \(US\)](#)
To: [Tallent, Joshua](#)
Subject: FW: NY Dept. of Envir. Conservation: abandonment of Sanford Lake Branch/Tahawus Line
Date: Friday, April 13, 2018 12:06:09 PM
Attachments: [scannedDoc.pdf](#)

Good Morning Mr. Tallent:

I was forwarded the attached letter regarding your solicitation of comments from the U.S. Army Corps of Engineers regarding the abandonment of the Sanford Lake Branch/Tahawus Line. I am a Section Chief in the Upstate Regulatory Field Office located in Watervliet. Here are my comments based on the limited information that has been provided to us at this time:

- the Saratoga & North Creek Railway (SNCR) crosses many jurisdictional wetlands and streams
- SNCR also appears located within the 100-year floodplain at least in portions of the corridor (I didn't check the entire line but briefly reviewed the North Creek location of the railroad on FEMA firm maps at <https://msc.fema.gov/> and it appeared to be in for portions of the line at this location)
- abandonment in itself shouldn't have an immediate impact on jurisdictional resources if abandonment means just walking away from the existing rail bed, but if SNCR has been maintaining culverts and crossings under the railroad that currently keeps tributaries connected to streams, lack of maintenance after abandonment, may result in culvert and crossing failures over time which may also lead to detrimental impacts wetlands and streams both upstream and downstream from the failure site. The letter makes reference to getting an environmental and historic report in a few weeks that will "outline the scope of the proposed abandonment". It would be helpful to make better comments, if we had at least a bit more detail on what the abandonment entails and information on the history of the maintenance of the tributary and wetland crossings associated with the current railroad line. It's not clear to me if there are any decommissioning requirements for abandonment that require removal of the line
- If there are plans for removal of the railroad or conversion of the railroad to trails, similar projects have required Corps Regulatory permits for the discharge of fill material within jurisdictional areas for work associated with widening of the trails or with equipment and material access (even if only temporary) to and from the railroad line and/or staging areas, but this comment may be pre-emptive if none of these plans are within the current scope of the proposed abandonment.

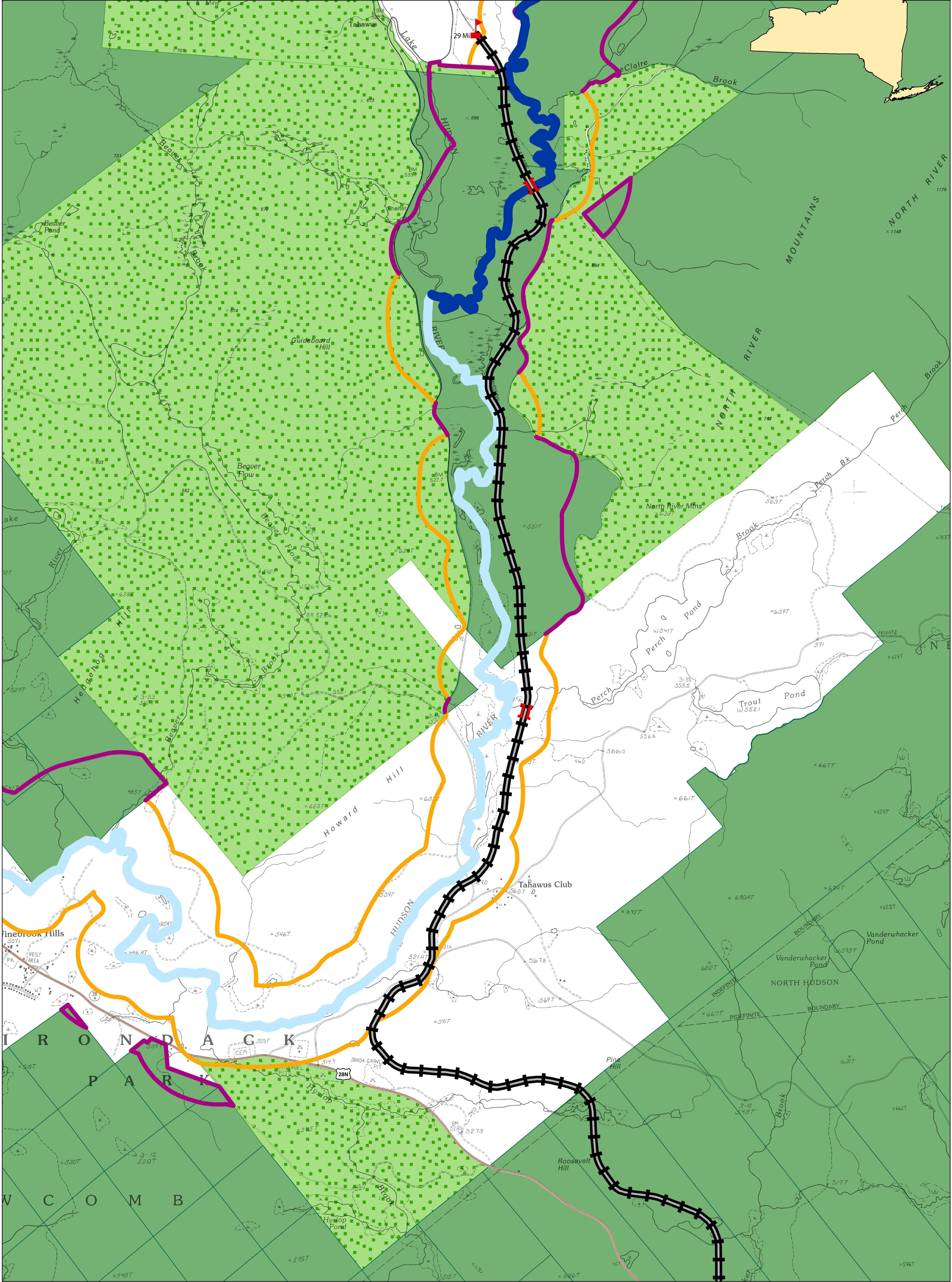
I hope these preliminary comments are helpful. If you have any follow-up questions, let me know. I'm on travel this week but I'll be back in my office on Monday, April 16, if you wish to discuss this further.

Sincerely,

Amy L. Gitchell
Chief, Upstate Regulatory Field Office
U.S. Army Corps of Engineers, ATTN: CENAN-OP-RU
1 Buffington Street, Bldg 10, 3rd Fl. North
Watervliet, New York 12189-4000
(518) 266-6364

EXHIBIT I

Tahawus Branch Railroad Corridor Map 1



Key

- Bridges
- Railroad
- Half Mile Buffer
- Quarter Mile Buffer
- Highway
- Adirondack Forest Easement
- Adirondack Forest Preserve
- Private Parcels
- Scenic River
- Recreational River
- Wild River
- DOT Planimetric Images
- Mile Posts

Bridge Source: NYS DEC,
Railroad Source: NYS DEC Bureau of Real Property,
Half Mile Buffer Source: NYS DEC Bureau of Real Property,
Quarter Mile Buffer Source: NYS DEC Bureau of Real Property,
Adirondack Forest Easement Source: NYS DEC Bureau of Real Property,
Adirondack Forest Preserve Source: NYS DEC Bureau of Real Property,
Private Parcels Source: Essex, Hamilton, and Warren County,
Wild, Scenic, and Recreational Rivers Source: NYS DEC Bureau of Real Property,
Highways Source: NYS GIS Program Office,
DOT Planimetric Images Source: NYS DOT,
and Mile Posts: NYS DOT

Map 1

Map 2

Map 3

N

NEW YORK
STATE OF
OPPORTUNITY

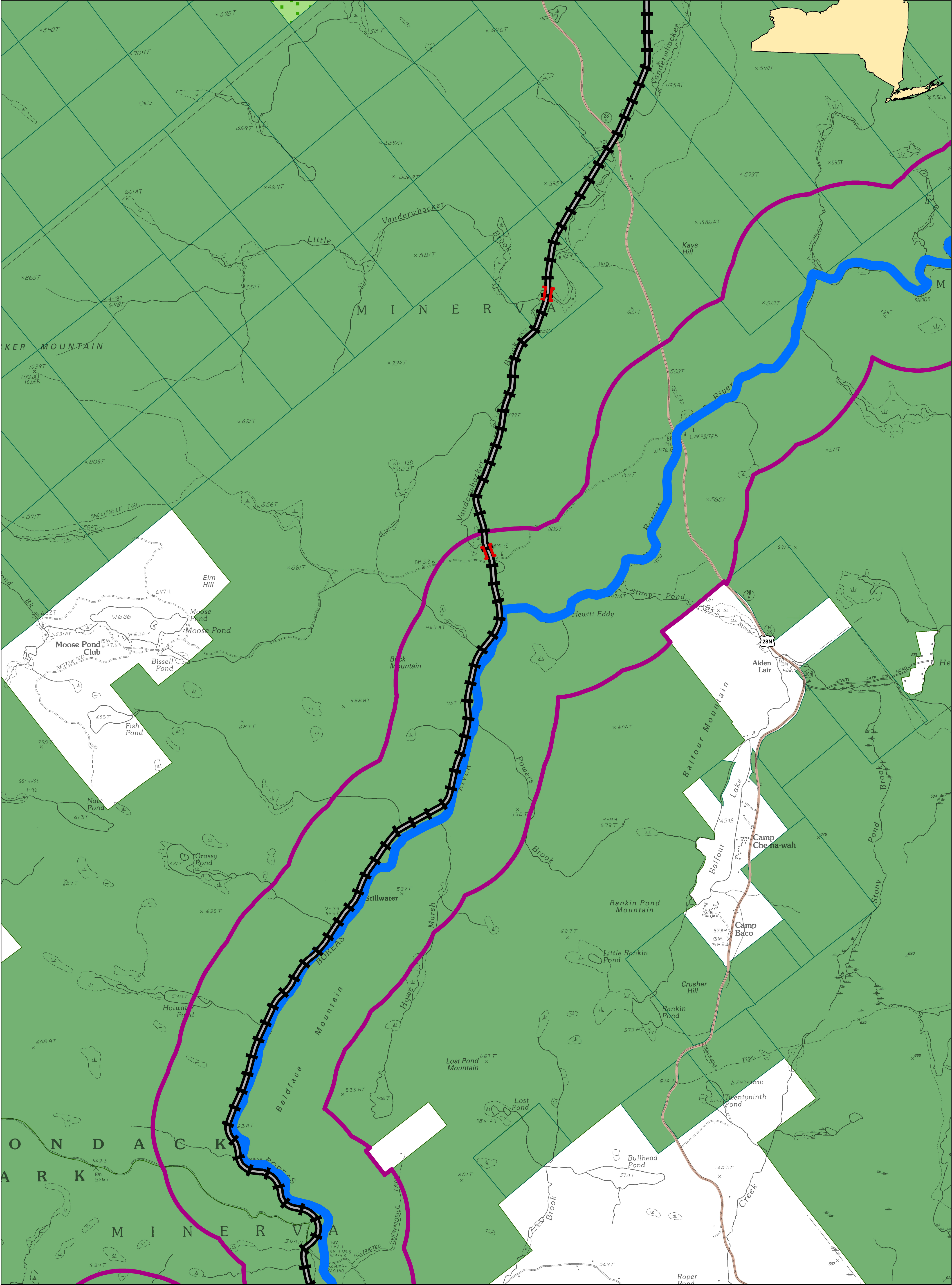
Department of
Environmental
Conservation

0 1/4 1/2 1

Miles

This map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forest, Bureau of Real Property. Compiled on Date: 5/25/2018

Tahawus Branch Railroad Corridor Map 2



Key

Bridges

Railroad

Half Mile Buffer

Quarter Mile Buffer

Highway

Adirondack Forest Easement

Adirondack Forest Preserve

Private Parcels

Scenic River

Recreational River

Wild River

DOT Planimetric Images

Mile Posts

Bridge Source: NYS DEC,
Railroad Source: NYS DEC Bureau of Real Property,
Half Mile Buffer Source: NYS DEC Bureau of Real Property,
Quarter Mile Buffer Source: NYS DEC Bureau of Real Property,
Adirondack Forest Easement Source: NYS DEC Bureau of Real Property,
Adirondack Forest Preserve Source: NYS DEC Bureau of Real Property,
Private Parcels Source: Essex, Hamilton, and Warren County,
Wild, Scenic, and Recreational Rivers Source: NYS DEC Bureau of Real Property,
Highways Source: NYS GIS Program Office,
DOT Planimetric Images Source: NYS DOT,
and Mile Posts: NYS DOT

Map 1

Map 2

Map 3

NEW YORK

STATE OF OPPORTUNITY

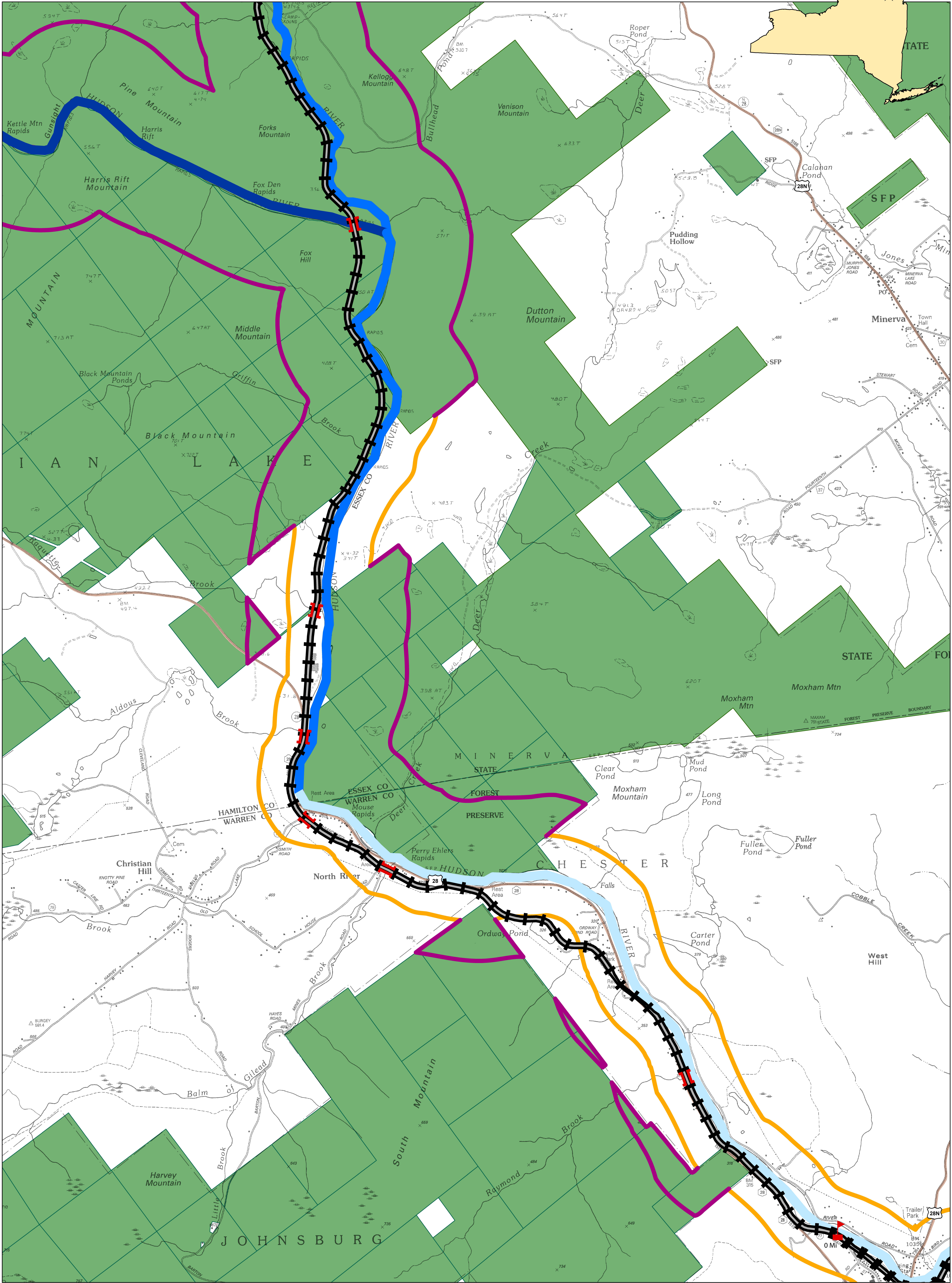
Department of Environmental Conservation

0 1/4 1/2 1

Miles

This map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forest, Bureau of Real Property. Compiled on Date: 5/25/2018

Tahawus Branch Railroad Corridor Map 3



Key

Bridges

Railroad

Half Mile Buffer

Quarter Mile Buffer

Highway

Adirondack Forest Easement

Adirondack Forest Preserve

Private Parcels

Scenic River

Recreational River

Wild River

DOT Planimetric Images

Mile Posts

Bridge Source: NYS DEC,
Railroad Source: NYS DEC Bureau of Real Property,
Half Mile Buffer Source: NYS DEC Bureau of Real Property,
Quarter Mile Buffer Source: NYS DEC Bureau of Real Property,
Adirondack Forest Easement Source: NYS DEC Bureau of Real Property,
Adirondack Forest Preserve Source: NYS DEC Bureau of Real Property,
Private Parcels Source: Essex, Hamilton, and Warren County,
Wild, Scenic, and Recreational Rivers Source: NYS DEC Bureau of Real Property,
Highways Source: NYS GIS Program Office,
DOT Planimetric Images Source: NYS DOT,
and Mile Posts: NYS DOT

Map 1

Map 2

Map 3

N

0 1/4 1/2 1
Miles

NEW YORK
STATE OF
OPPORTUNITY

Department of
Environmental
Conservation

This map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forest, Bureau of Real Property. Compiled on Date: 5/25/2018

EXHIBIT J

















Balm of Gilead Brook, Johnsburg, Warren County,
NC 2.4



13th Lake Brook, Indian Lake, Hamilton County, NC 4.52



Aldous Brook (Roaring Brook), Indian Lake, Hamilton County NC 5.10



Raquette Brook, Indian Lake, Hamilton County, NC 5.89



Hudson River at junction with Boreas River,
Indian Lake, Hamilton County, NC 8.49



Vanderwacker Brook, Minerva, Essex County NC-15.3



Stillwater Brook, Minerva, Essex County, NC-171



Perch Brook, Newcomb, Essex County, NC 24.42



Opalescent River , Newcomb, Essex County NC 27.96

Exhibit K



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

March 30, 2018

Commissioner Rose Harvey
NYS Office of Parks, Recreation and Historic Preservation
625 Broadway
Albany, NY 12207

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

Dear Commissioner Harvey:

The purpose of this letter is to advise you that the New York State Department of Environmental Conservation (DEC) plans to file an application with the Surface Transportation Board (STB) seeking abandonment of the authority of the Saratoga and North Creek Railway (SNCR) to operate over a line of railroad known as the Sanford Lake Branch or the Tahawus Line (Line). The Line originates in the hamlet of North Creek, New York and continues approximately 30 miles north to its terminus at the site of the former Tahawus Mine. A map of the Line is attached to this letter.

DEC believes the Line should be abandoned because it currently carries no freight and is unlikely to carry freight in the future, and also because the Line—the right-of-way for which was taken by a federal exercise of eminent domain in the 1940s—cuts through and adversely affects constitutionally-protected forest lands in New York's Adirondack Park.

Abandonment of rail operations on the Line requires approval from the STB. STB regulations require consultation with certain governmental entities regarding the potential for environmental impacts stemming from the proposed abandonment. While DEC does not believe the proposed abandonment will result in any adverse environmental impact, we would appreciate your views on this issue. In particular, we request any comment you may have on the following issues:

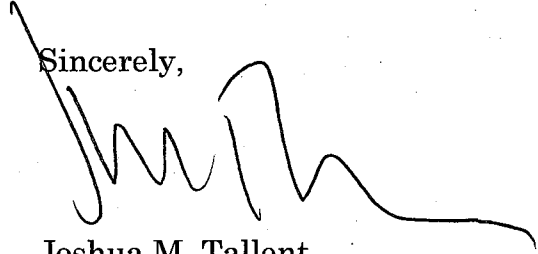
- Whether the Line and/or structures on the Line meet the criteria for listing on the State and National Registers of Historic Places (*see* 49 C.F.R. § 1105.8[d][7]). Please note that the historic North Creek rail station (which is already listed on the State and National Registers) is not part of the Line and will not be affected by the proposed abandonment.
- Whether there is a likelihood that there are archeological resources or other previously unknown historic properties in the project area (*see id.*).

DEC will provide you with a copy of its environmental and historic report in the coming weeks. The report will outline the scope of the proposed abandonment and will include reference to any comments you submit. We can send the report to you either by mail or electronically; if you wish to receive the report electronically, please let me know.

Please send your reply by mail to Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY, 12224. Alternatively, feel free to email your response to me at Joshua.Tallent@ag.ny.gov.

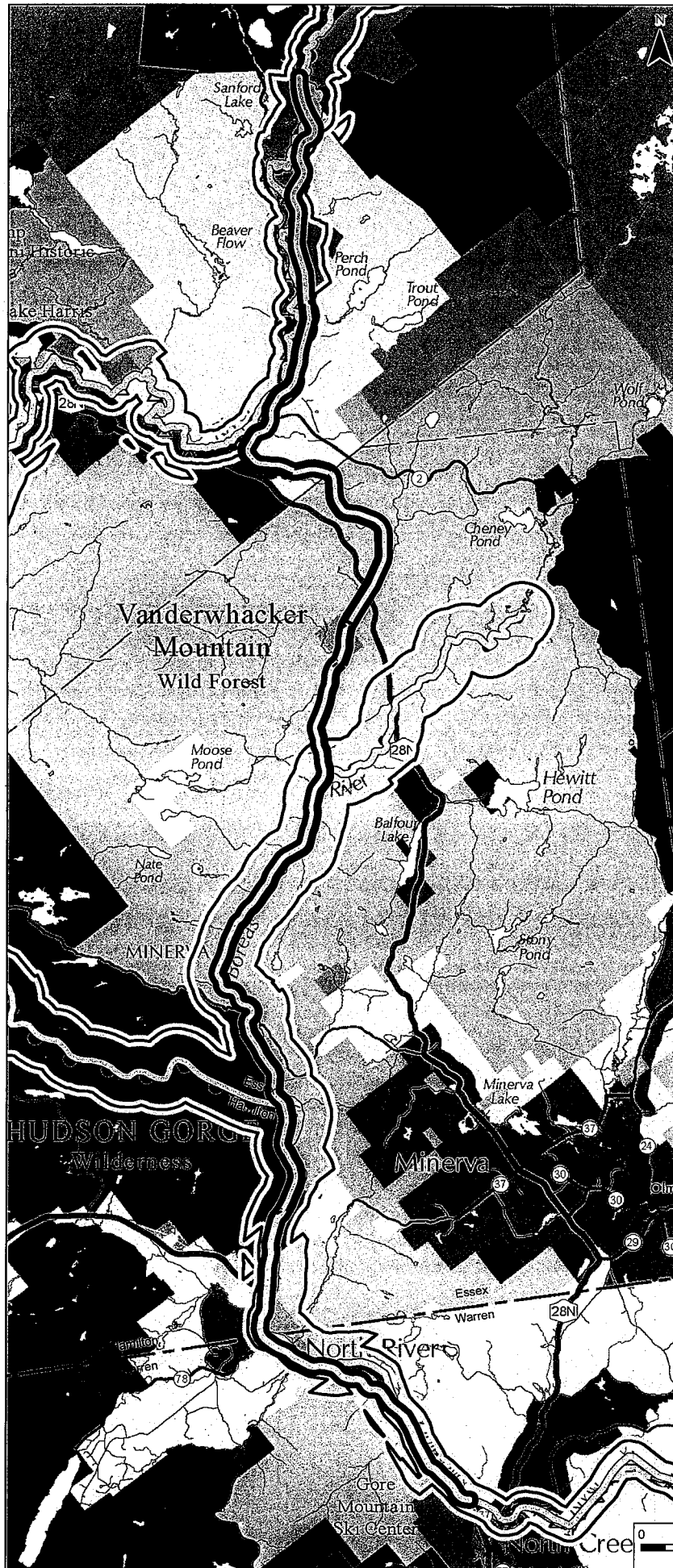
Thank you for your assistance in this matter. If you have any questions or concerns, please contact me at your convenience.

Sincerely,



Joshua M. Tallent
Assistant Attorney General
Joshua.Tallent@ag.ny.gov
(518) 776-2456

encl.



Railroad Corridor Overview

Key

Railroad
Source: DEC, Bureau of Real Property

River Buffer
Source: DEC

Wild, Scenic, and Recreational Rivers
Source: DEC

Basemap
Source: Adirondack Park Agency

ADIRONDACK PARK LAND USE AND DEVELOPMENT PLAN MAP AND STATE LAND MAP 2017

STATE OF NEW YORK
ADIRONDACK PARK AGENCY

Andrew M. Cuomo, Governor Sherman Chang, Chairman Tom Hironaka, Executive Director

Private Land Classification	State Land Classification
Hardwood	Wilderness
Moderate Intensity Use	Cutover Area
Low Intensity Use	Forested Wetland
Rural Use	Wild Forest
Resource Management	Intermittent Use
Industrial Use	State Administrative
Park Boundary	Pending Classification
	Scenic View

ADIRONDACK PORTION OF THE NEW YORK STATE
WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM

Wild
 Scenic
 Recreational
 Study

This map was prepared by the Adirondack Park Agency for the State of New York. It is not a survey. It is based on publicly available GIS data and real property land records. It is not to be used for legal purposes. The Adirondack Park Agency is not responsible for any errors or omissions. The Adirondack Park Agency is not responsible for any damages or losses resulting from the use of this map. The Adirondack Park Agency is not responsible for any claims or liabilities resulting from the use of this map. The Adirondack Park Agency is not responsible for any claims or liabilities resulting from the use of this map.



This is not a survey. This Map was compiled from publicly available GIS data and real property land records. Created by the Division of Lands and Forests Bureau of Real Property. Compiled on 3/29/2018 by jldibias

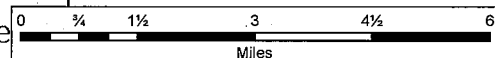


EXHIBIT L



Parks, Recreation and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

June 6, 2018

Joshua Tallent
Assistant Attorney General
New York State Office of the Attorney General
The Capitol
Albany, New York 12224
(via email)

Re: Saratoga and North Creek Railroad/Tahawus Mine/NL Industries Rail Spur
North Creek (Johnsburg), Warren County

Dear Mr. Tallent:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation's Division for Historic Preservation. I have reviewed the material that you submitted regarding the National Register eligibility status of the former NL Industries rail spur.

Based on this review, the Division concurs with recommendations found in the Draft Environmental and Historic Report (2018) prepared for the adverse abandonment of the Saratoga and North Creek Railroad in Johnsburg, Warren County. We agree that the industrial rail spur (active 1941-1989) that once serviced the former Tahawus Mine/NL Industries complex (demolished 2006) does not meet the criteria for inclusion in the New York State or National Registers of Historic Places.

If I can be of any further assistance I can be reached at john.bonafide@parks.ny.gov or (518) 268-2166.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Bonafide".

John A. Bonafide
Director,
Technical Preservation Services Bureau
Agency Historic Preservation Officer

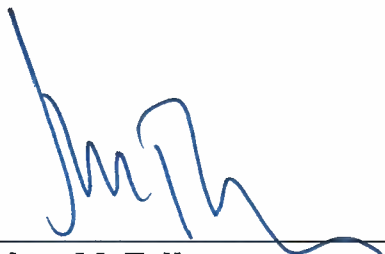
cc: Charles E. Vandrei, DEC (via email)

CERTIFICATE OF SERVICE

I certify that on July 23, 2018, I caused a paper copy of this Environmental and Historic Report to be served by first class mail upon all parties of record in this proceeding.

I further certify that, although no counsel has appeared in this proceeding on behalf of Saratoga and North Creek Railway, on June 11, 2018 I caused a paper copy of this Environmental and Historic Report to be served by first class mail upon counsel for Saratoga and North Creek Railway at the following address:

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



Joshua M. Tallent
Assistant Attorney General
New York State Office of the
Attorney General
The Capitol
Albany, NY 12224
(518) 776-2456
Joshua.Tallent@ag.ny.gov