

SERVICE DATE – OCTOBER 12, 2018

**SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 1261

**New York State Department of Environmental Conservation – Adverse Abandonment –
Saratoga and North Creek Railway in Town of Johnsbury, N.Y.**

BACKGROUND

In this proceeding, the New York State Department of Environmental Conservation (NYSDEC) filed an application under 49 U.S.C. § 10903 requesting that the Surface Transportation Board (Board) authorize the third-party, or adverse, abandonment of Saratoga and North Creek Railway (SNCR). SNCR extends approximately 29.71 miles from milepost NC 0.0 at North Creek, N.Y. to its terminus at milepost NC 29.71 near the former Tahawus Mine (the Line). Maps depicting the Line in relationship to the area served are appended to this environmental assessment (EA).

DESCRIPTION OF THE LINE

The Line is in northeastern, upstate New York in Warren, Hamilton and Essex counties. The Line is largely single tracked but includes occasional sidings. The width of the right-of-way was not specified by NYSDEC. Areas adjacent to the Line are primarily forested and much of it is within components of New York's Adirondack Forest Preserve including the Vanderwhacker Mountain Wild Forest and the Hudson Gorge Wilderness. Roughly three-fourths of the Line parallels either the Hudson River or Boreas River, portions of which are designated as wild, scenic or recreational waters under the New York's Wild, Scenic and Recreational Rivers System Act. NYSDEC is not aware of any hazardous waste site on the right-of-way or any spills of hazardous materials on the right-of-way.

The Line was originally established by the U.S. government during World War II to move mineral ores from the Tahawus Mine. NYSDEC states that mine operations ceased in 1982 and freight operation by the mine's operator stopped in 1989. Since the Line was acquired by SNCR in 2011, NYSDEC states that total rail traffic has been limited to a few carloads of industrial garnet and approximately 80 carloads of waste rock used as ballast by SNCR.

ENVIRONMENTAL REVIEW

NYSDEC submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the proposed abandonment. NYSDEC served the environmental report on several appropriate federal, state, and local

agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

Because of limited rail traffic on the Line, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

In this proceeding, NYSDEC did not specify the nature or extent of any potential salvaging activities if the abandonment application is granted. However, impacts from salvage and disposal of a rail line typically occur from the removal of tracks and ties, removal of ballast, dismantling of any structures that may be present on the right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way or, if necessary, via the construction of new access points to the right-of-way.

The Natural Resources Conservation Service responded to NYSDEC's proposed abandonment and stated that it is "unlikely to result in significant impacts to farmland of national, state or local importance." NYSDEC also noted that the Line does not cross prime agricultural lands.

The U.S. Army Corps of Engineers – Upstate Regulatory Field Office in Watervliet (Corps) responded to NYSDEC's proposed abandonment and stated that the cessation of rail service should not have an immediate impact on jurisdictional resources under Section 404 of the Clean Water Act (33 U.S.C. § 1344). However, because post-abandonment maintenance activities or salvaging activities have not been specified by NYSDEC, the Corps stated that it cannot assess all potential impacts to jurisdictional resources or permitting requirements. For example, the Corps noted that a lack of culvert and crossing maintenance following the proposed abandonment could lead to culvert or crossing failures. Additionally, the removal of culverts or crossings could require Corps permitting. Therefore, OEA is recommending a condition that requires NYSDEC to consult with the Corps' Upstate Regulatory Field Office regarding planned maintenance activities and culvert or crossing removals. OEA is providing a copy of this EA to the Corps for review and comment.

¹ NYSDEC's combined environmental and historic report is available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 1261.

NYSDEC concludes that the proposed abandonment would not likely have an adverse effect on threatened or endangered species or designated critical habitat. In response to NYSDEC's inquiry, the U.S. Fish and Wildlife Service – New York Field Office in Cortland (USFWS) acknowledges NYSDEC's no effect conclusion and states that no additional coordination or consultation under the Endangered Species Act (16 U.S.C. § 1531 et seq.) is required (USFWS File No. 18TA1728). However, USFWS advises NYSDEC to check the USFWS website every 90 days to ensure that listed species presence/absence information for the proposed project is current. Therefore, OEA is recommending a condition that requires NYSDEC to review USFWS' website at <http://www.fws.gov/northeast/nyfo/es/section7.htm> every 90 days prior to salvaging activities, if any, to ensure that listed species information is current for the proposed abandonment. OEA is providing USFWS with a copy of this EA for review and comment.

As the state agency charged with enforcing water quality standards, NYSDEC concludes that the proposed abandonment would be consistent with applicable federal, state and local water quality standards.

The U.S. Environmental Protection Agency, Region 2 (USEPA) had not responded to NYSDEC's combined environmental and historic report at the time this EA was prepared. OEA is providing USEPA with a copy of this EA for review and comment.

NYSDEC states that the proposed abandonment would be consistent with existing land use plans.

HISTORIC REVIEW

The railroad submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and provided a copy to the New York State Office of Parks, Recreation and Historic Preservation, Division of Historic Preservation (i.e., the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). As a component of its public outreach, NYSDEC also placed public notices of the proposed abandonment in the Glen Falls Post-Star, Hamilton County Express, Press Republican, and Adirondack Daily Enterprise for three consecutive weeks, appearing August 9, August 16 and August 23, 2018. NYSDEC also notified local governments of the proposed abandonment. Both the combined environmental and historic report and this EA are available on the Board's website, and OEA is providing the SHPO with a copy of this EA.

The U.S. Government began constructing the Line in the early 1940s after it condemned a right-of-way for the Line from the Tahawus Mine generally south to an existing railhead at North Creek. According to the U.S. government, the Line was needed for the transportation of strategic materials vital to the successful prosecution of World War II. After construction was complete, the U.S. government leased the Line to the Tahawus Mine's owner, National Lead. Before the

original 15-year lease for the right-of-way could expire, the U.S. government re-condemned the right-of-way for an additional 100-year term, to expire in 2062.

National Lead mined ilmenite (an ore used to produce titanium and other premium alloys) at the Tahawus Mine until 1982, and from 1982 to 1989 National Lead transported waste rock from the mine over the Line. National Lead ceased using the Line in 1989. The U.S. General Service Administration sold the right-of-way to National Lead as surplus property in 1989. In 2003, National Lead sold 10,050 acres of its 11,250-acre Tahawus property, including the remaining ilmenite deposits. In 2011, National Lead sold the right-of-way and all rail appurtenances to SNCR. SNCR obtained operating authority as a common carrier in 2012. Since 2012, SNCR has moved a few carloads of garnet and approximately 80 carloads of waste rock from the former Tahawus Mine for use as ballast on the Line. SNCR has also used the Line to store railcars.

In its historic report, NYSDEC opines that the Line does not satisfy the conditions for listing on the National Register of Historic Places. It notes that 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. NYSDEC also states that the Line has not yielded and is not likely to yield information important to prehistory or history.

The SHPO responded to the railroad's historic report on June 6, 2018 and agreed that the "industrial rail spur (active 1941-1989) that once serviced the former Tahawus Mine/NL Industries complex (demolished in 2006) does not meet the criteria for inclusion in the New York State or National Register of Historic Places."

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of NYSDEC's combined environmental and historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.gov>.

OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool at <https://egis.hud.gov/tdat/>, to identify federally recognized tribes that may have ancestral connections to the project area. The database identified three tribes for Essex, Hamilton and Warren counties (search date of October 2, 2018): the Delaware Tribe of Indians, Saint Regis Mohawk Tribe, and Stockbridge Munsee Community, Wisconsin. OEA provided each tribe with a copy of this EA for review and comment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to the commencement of any salvage activities, the New York State Department of Environmental Conservation shall review the U.S. Fish and Wildlife Service's website at <http://www.fws.gov/northeast/nyfo/es/section7.htm> every 90 days for to ensure that listed species information is current for the proposed abandonment.
2. The New York State Department of Environmental Conservation shall consult with the U.S. Army Corps of Engineers' Upstate Regulatory Field Office in Watervliet regarding planned or potential right-of-way maintenance and culvert or crossing removals and associated permitting requirements.
3. Saratoga and North Creek Railway shall cooperate as necessary to facilitate the successful and timely completion of the above conditions.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29) 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.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You

may contact this office directly at 202-245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, D.C. 20423.

COMMENTS

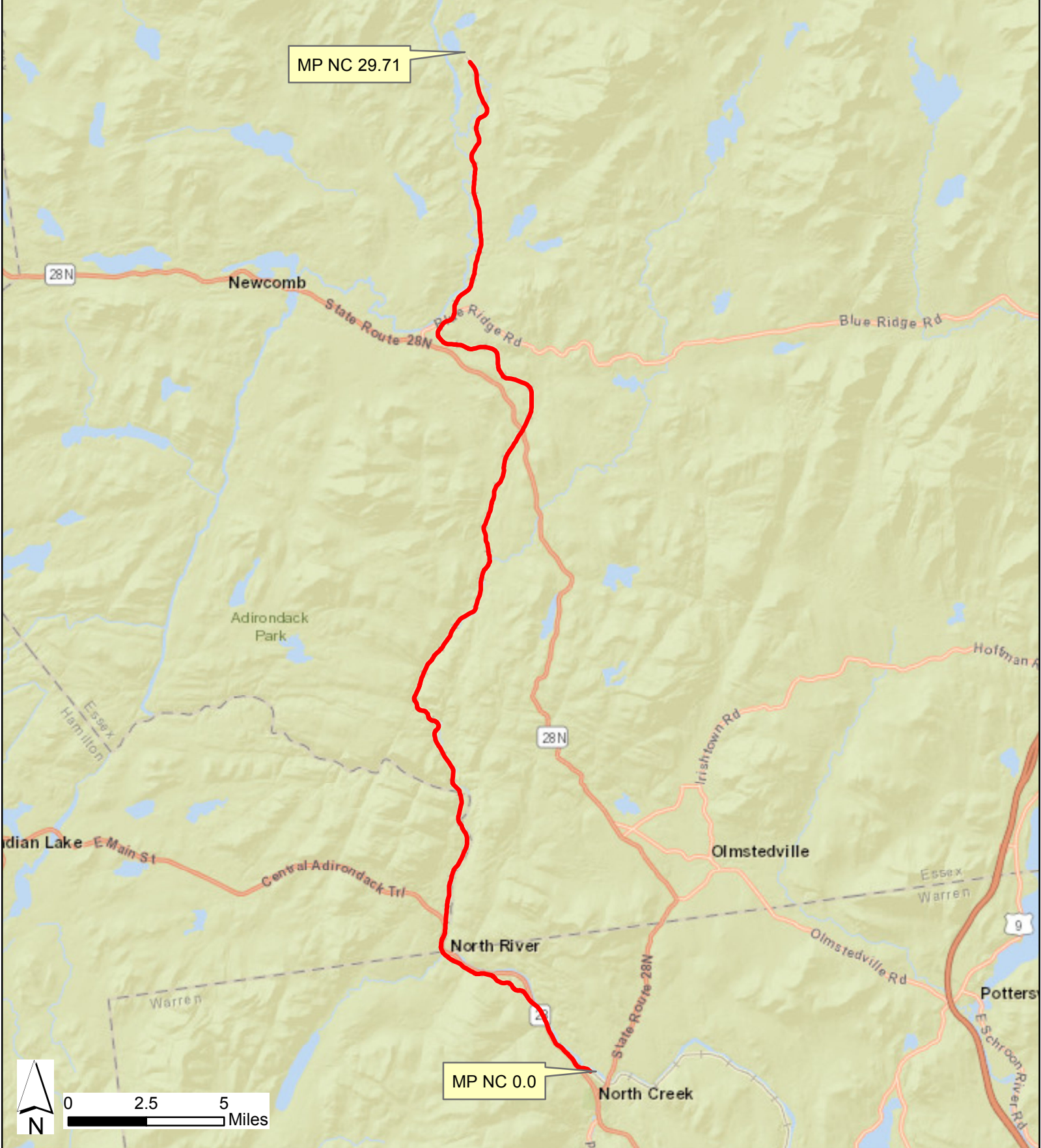
If you wish to file comments regarding this EA, please send your written comments to Surface Transportation Board, Washington, D.C. 20423, to the attention of Dave Navecky, who prepared this document. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 1261 in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Dave Navecky by phone at 202-245-0294 or e-mail at david.navecky@stb.gov.

Date made available to the public: October 12, 2018.

Comment due date: November 9, 2018.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachments

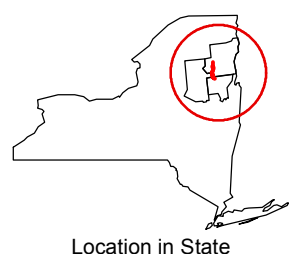


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NY Dept. of Environmental Conservation
Adverse Abandonment
Saratoga and North Creek Railway
Town of Johnsburg
Warren, Essex, and Hamilton Counties, NY

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Location in State



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

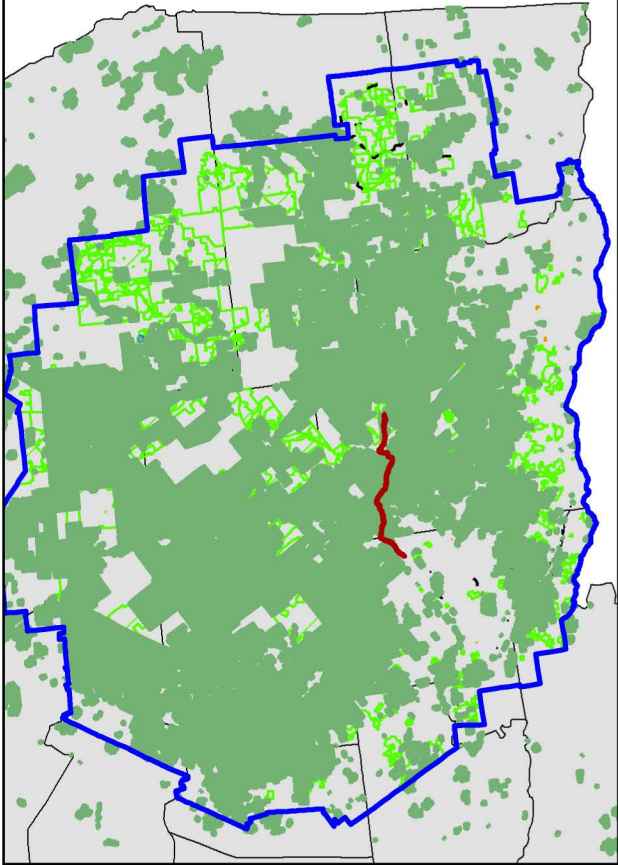
- Hamlet
- Moderate Intensity Use
- Low Intensity Use
- Rural Use
- Resource Management
- Industrial Use

State Land Classification

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

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

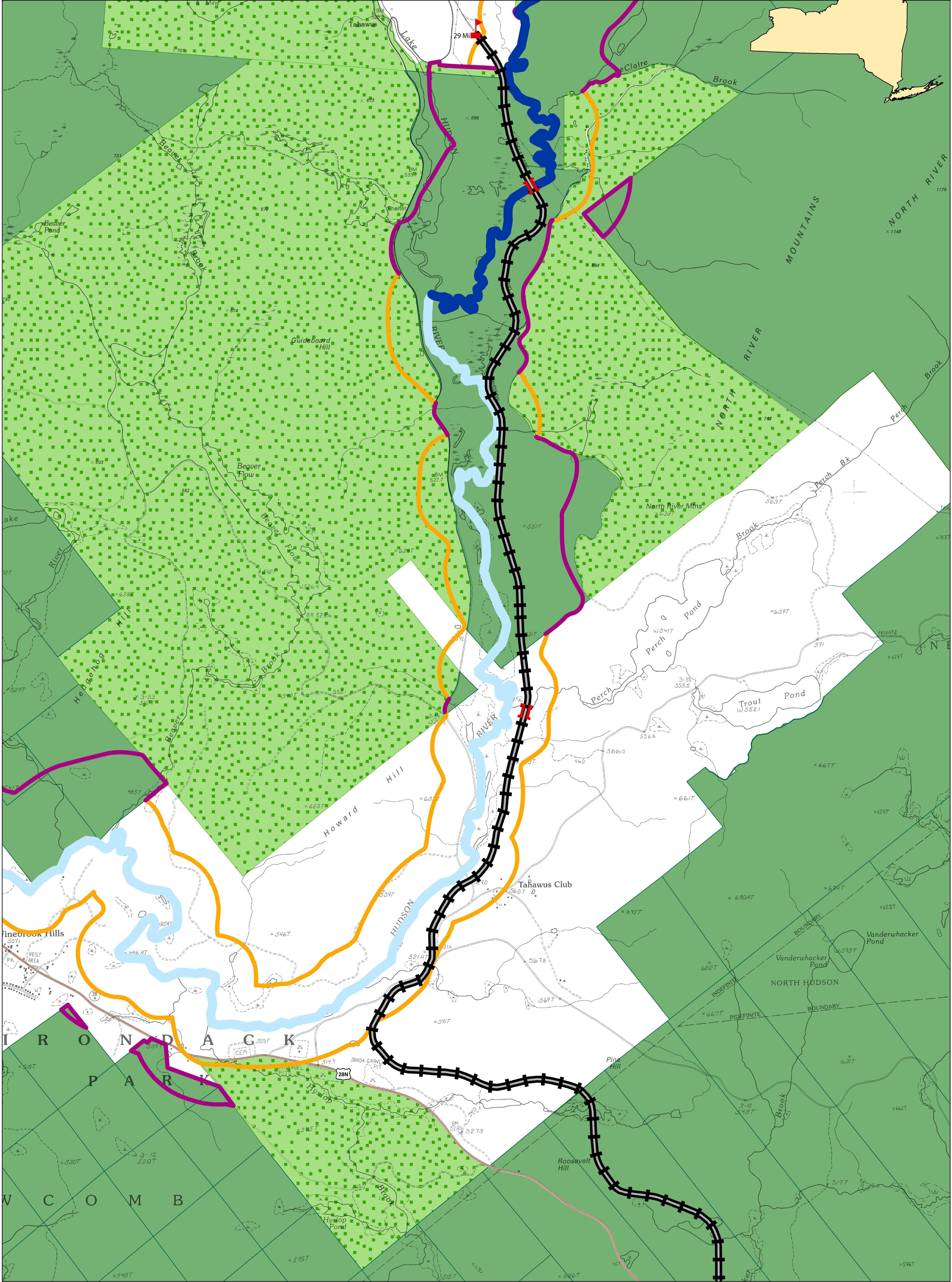
Tahawus Branch Railroad Corridor



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

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

NEW YORK
STATE OF OPPORTUNITY

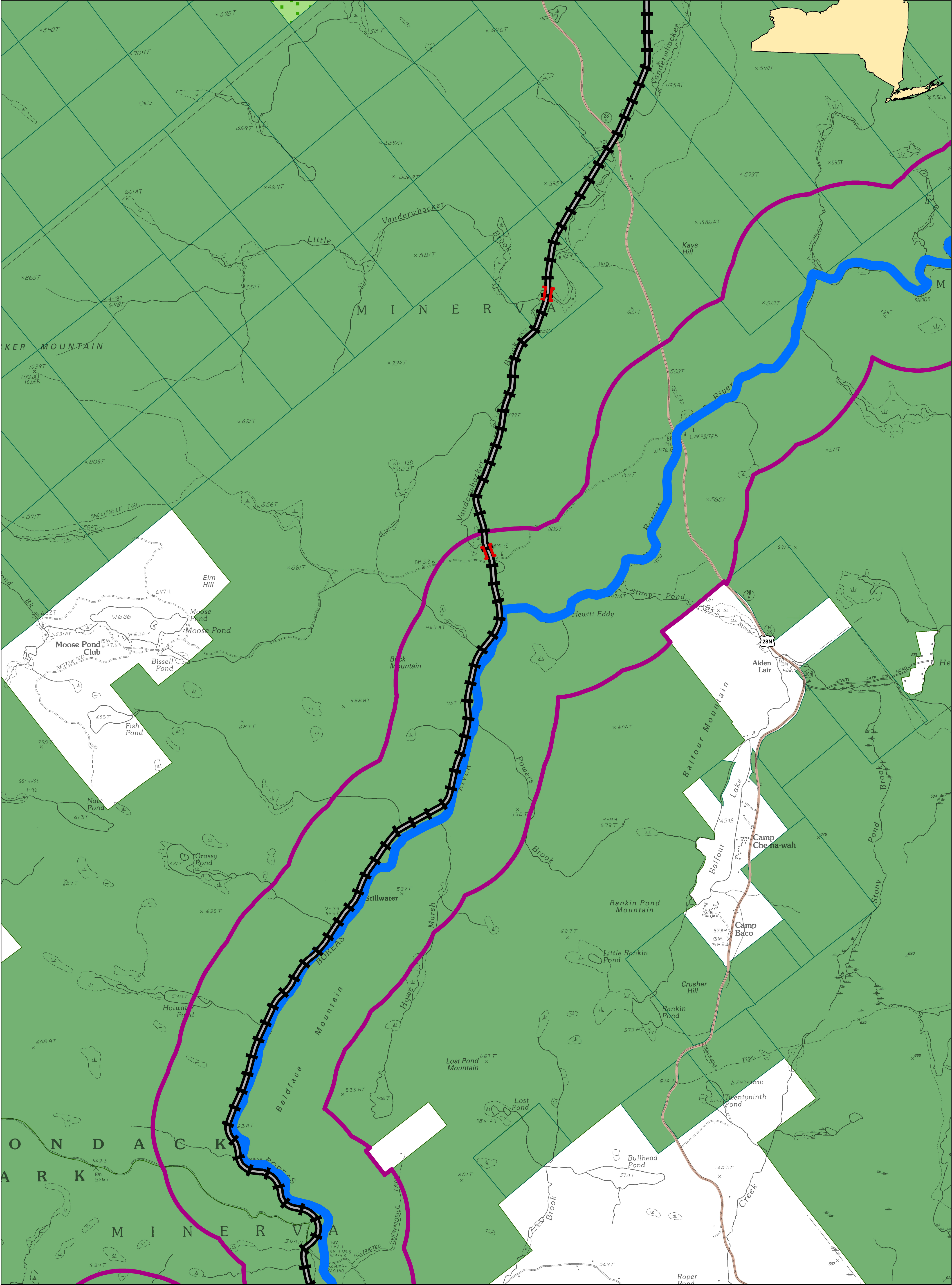
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Miles

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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,
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Map 1

Map 2

Map 3

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Miles

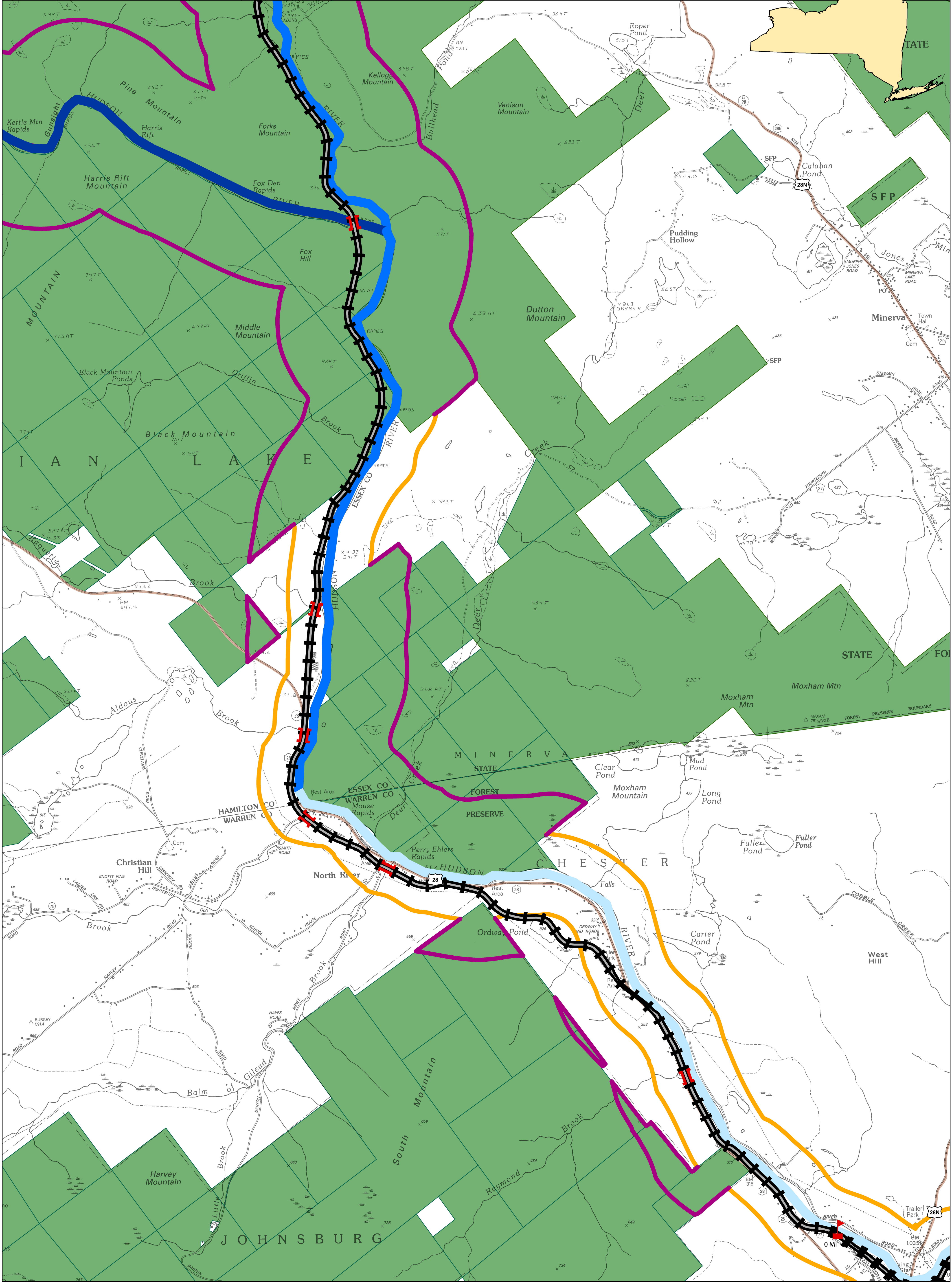
NEW YORK

STATE OF OPPORTUNITY

Department of Environmental Conservation

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Tahawus Branch Railroad Corridor Map 3



Key

 Bridges

 Railroad

 Half Mile Buffer

 Quarter Mile Buffer

 Highway

 Adirondack Forest Easement

 Adirondack Forest Preserve

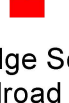
 Private Parcels

 Scenic River

 Recreational River

 Wild River

 DOT Planimetric Images

 Mile Posts

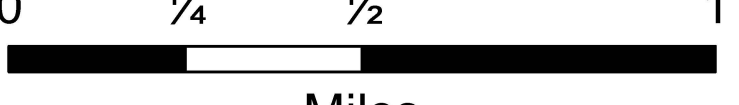
Bridge Source: NYS DEC,
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Map 1

Map 2

Map 3


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Miles


NEW YORK
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