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LEANORE D. BELLIS
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April 12, 2007
VIA: FEDERAL EXPRESS

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S. W.
Washington, DC 20423-0001

Re: Finger Lakes Railway Corp. -
Abandonment Exemption
STB Docket No. AB1005 (X)
Environmental/Historic Report



Dear Secretary Williams:

Enclosed for filing are the original and ten copies of the Environmental/Historic Report being filed in connection with the above-referenced matter. As indicated in the Report, Finger Lakes Railway Corp. expects to file its verified notice of abandonment exemption on or about May 4, 2007. Please time-stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped, self-addressed envelope provided for your convenience.

Respectfully,

Leanne D. Bellis

Enclosures

cc: Michael V. Smith (FGLK)
Holly L. Thoele (FGLK)
Eric M. Hocky, Esquire
All Parties on Service List

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GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

219075



Before the

SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB 1005 (X)

FINGER LAKES RAILWAY CORP.

ABANDONMENT EXEMPTION

PURSUANT TO

49 C.F.R. §1152.50

YATES COUNTY, NEW YORK

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ENVIRONMENTAL/HISTORIC REPORT

ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
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1600 John F. Kennedy Blvd.
Philadelphia, PA 19103
(215) 563-9400
Attorney for
Finger Lakes Railway Corp.

Dated: April 12, 2007

ENVIRONMENTAL/HISTORIC REPORT

Finger Lakes Railway Corp. ("FGLK" or "Applicant") will be seeking authority to abandon a portion of the line of railroad known as Watkins Glen-Penn Yan Line, which runs in a northerly direction from Milepost 41.35 in the Village of Penn Yan, Township of Benton, in Yates County, New York, through the Township of Benton to Milepost 46.3 (the "Subject Line"). This line traverses through United States Postal ZIP Code 14527. This line includes one station at its most northerly point: Bellona located at Milepost 46.3 – SPLC 183992. FGLK expects to file its notice on or about May 4, 2007. To prepare this report, FGLK consulted with various state and federal agencies. See the letters attached as Exhibit A. Based on the written responses attached as Exhibit B, and the responses (both oral and written) noted in the Response Log attached as Exhibit C, FGLK states as follows:

A. ENVIRONMENTAL REPORT

(49 CFR 1105.7)

1. Proposed action and alternatives

FGLK proposes to abandon the Subject Line which it began leasing and operating in July, 1995. The last local rail service provided on the Subject Line was in April 1995, by the previous owner of the line. FGLK intends to salvage the track and materials following the abandonment, and to re-use them elsewhere on its system.

2. Effects on transportation system

No traffic has been handled on the Subject Line for over thirteen (13) years. Thus, the proposed abandonment will have no effect on regional or local transportation systems or patterns.

3. **Land use**

(i) FGLK is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. FGLK served notices of the proposed abandonment on the following land use agencies: New York State Department of Environmental Conservation (State), New York State Department of Environmental Conservation (Regional), Yates County Legislature (Chairman), Yates County Administrator, Benton Township Supervisor, National Park Service (Northeast Region), US Environmental Protection Agency (Region 2), and United States Department of Commerce, NOAA, N/NGS2 (Spatial Reference System Division). Copies of these letters are attached as part of Exhibit A. Copies of the responses received are attached as part of Exhibit B. Responses received orally are summarized in the Response Log attached as Exhibit C. Responses were not received from all agencies that were notified. The following is a summary of the significant responses (both written and oral), and FGLK's responses:

- New York Department of Environmental Conservation (Regional) ["NYS DEC (Regional)"] responded by mail on March 5, 2007. They stated that:
 - the proposed abandonment is near New York State and Federal wetlands, and a NYS Freshwater Wetlands permit is required for any physical disturbance within the designated wetland area or within 100 ft. of the wetland area. Applicant should contact the US Army Corps of Engineers (Buffalo Office) ("Corps of Engineers/Buffalo") to determine if other permits are necessary.
 - the area around the village of Penn Yan could potentially contain protected species.
 - the streams in the vicinity of the proposed abandonment are Class C and are neither protected nor navigable. No permit is required by the State for performance of work in their vicinity. However, Applicant should verify that this is the case for the Federal government as well through the Corps of Engineers/Buffalo.
 - if the potential of physical disturbance through the proposed salvage operation would trigger "permitting thresholds", Applicant should submit, in writing, a detailed plan describing the salvage operation to the NYS DEC (Regional) and the Corps of Engineers.

- In response to the concerns expressed by the NYS DEC (Regional) (and the US EPA (Region 2) described below, Applicant made the following calls:
- On March 21, 2007, Applicant called the author of the NYS DEC (Regional) letter, and learned that since the salvage operation will be conducted on or from the rail bed and no streams will be disturbed, then no permits will be needed.
 - On March 21, 2007, Applicant contacted the Corps of Engineers/Buffalo (Auburn Field Office) and learned that no permits concerning Federal wetlands were needed as long as the salvage operations are conducted on or from the existing rail bed. Permits may be needed if access roads are to be created. Applicant intends on conducting the salvage operations from the existing rail bed.
 - On March 26, 2007, in a phone conversation, the NYS DEC Division of Fish, Wildlife and Marine Resources informed Applicant that there were no threatened nor endangered species in the area of the proposed abandonment. (Specific concerns related to Bald Eagles and Leedy's Roseroot identified by the US Department of Interior; see section 8 (i) below.) In a subsequent letter received on April 5, 2007, NYS DEC Division of Fish, Wildlife and Marine Resources indicated that there may be some endangered and rare plants in the vicinity that were not considered on the US Department of Interior website. Applicant followed up with the Regional Forester in Bath, NY (NYS DEC Lands & Forests Office).
 - On April 6, 2007, the NYS DEC Lands & Forests' Regional Forester (Bath Office) referred Applicant to the NYS DEC New York National Heritage Program's website: www.dec.state.ny.us/website/dfwmr/heritage/. This site identifies the protected plant species of concern that are potentially in the vicinity of the rail bed, including Mead's Sedge (NYS- Endangered) and False Hop Sedge (NYS - Rare). Applicant then contacted the NYS DEC NY Natural Heritage Program's Albany office.
 - On April 9, 2007, the NYS DEC NY Natural Heritage Program's Chief Botanist (Albany Office) responded to the Applicant's inquiry and stated that the endangered and rare plants in the vicinity of the proposed abandonment are wetland plants and will not be disturbed by the rail bed salvage operation.
- The EPA (Region 2) responded on February 12, 2007 by email. The respondent stated that there may be streams, National Wetland Inventory wetlands, and NYS DEC (Regional) wetlands in the vicinity of the abandonment. Applicant is responsible for contacting the Corps of Engineers/Buffalo (Auburn Field Office) to determine

whether the proposed abandonment will disturb streams or federally regulated wetlands. Applicant's response is detailed above.

- Robert Clark, Supervisor of the Township of Benton, telephoned on February 16, 2007, to inform Applicant that the brush clearing for the salvage operation should not disturb neighboring properties. He requested verification that there would be no environmental impact and was interested in who retained the rights to the property. Further, on March 30, 2007, Mr. Clark inquired how rail removal would occur at crossings where the rails are now under the pavement.
- In response to the concerns expressed by Robert Clark, Supervisor of the Township of Benton, Applicant informed Mr. Clark that the brush clearing will not be disturbing the neighbors' property and that the salvage operation will have no anticipated environmental impact. Applicant further informed Mr. Clark that the Subject Line remains bound by the original lease with the Yates County Industrial Development Agency (IDA) after the abandonment.
- In response to Mr. Clark's inquiry concerning the paved crossings, Applicant informed Mr. Clark that the paving was performed by the Township of Benton without the authority of FGLK. FGLK has indicated that it will notify the Township in advance of the removal of rails from the affected crossings so that the re-paving of the crossing areas can be coordinated with the Township.
- The US Department of Commerce/NOAA, N/NGS2 (Spatial Reference System Division) ("NOAA") responded by email on March 9, 2007 and identified four (4) geodetic markers that may be located within the proposed abandonment. NOAA requires advance notice if these markers will be disturbed. Applicant will not be

disturbing these markers.

(ii) Notice of the abandonment has been served on the USDA Natural Resources Conservation Service and the USDA Natural Resources Conservation Service (NY State), copies of which are attached as part of Exhibit A. No responses were received.

(iii) Notice of the abandonment was served on the New York State Division of Coastal Resources. A copy of this letter is attached as part of Exhibit A. No response has been received. Applicant does not believe that the Subject Line is in a coastal zone.

(iv) FGLK is willing to consider the Subject Line for alternative public use under 49 U.S.C. 10906, subject to satisfaction of any restrictions Applicant's lease with Yates County IDA remain in place. FGLK believes that the Subject Line may be an appropriate candidate for a trail as it is adjacent to a current trail located in Canandaigua, New York.

4. – 7. Energy, Air, Safety, Noise

The Subject Line has not been operated since April 1995, and accordingly, Applicant states the following:

4. Energy:

(i) The proposed abandonment will have no effect on the transportation of energy resources.

(ii) The proposed abandonment will have no effect on recyclable commodities.

(iii) There will be no effect on overall energy efficiency.

(iv) The proposed abandonment will not divert any traffic from rail to motor carriage.

5. Air:

(A) – (C) The proposed abandonment will not result in any increases in rail or truck

traffic or rail yard activity.

6. **Noise:**

The proposed abandonment will not result in any increase in noise levels.

7. **Safety**

The proposed abandonment will not have any effect on public health or safety.

8. **Biological Resources**

(i) FGLK has given notice of the proposed abandonment to the following agencies: NYS DEC (State), NYS DEC (Regional), US Environmental Protection Agency (Region 2), US National Park Service (Northeast Region), US Fish and Wildlife Service (Northeast Regional Office), US Fish and Wildlife Service (New York Field Office), USDA Natural Resources Conservation Service, and USDA Natural Resources Conservation Service (NY State). Copies of these letters are attached as part of Exhibit A. Copies of the responses received are attached as part of Exhibit B. Responses received orally are summarized in the Response Log attached as Exhibit C. Responses were not received from all agencies that were notified. The following is a summary of the significant responses (both written and oral), and FGLK's responses:

- See Section 3(i) above for a summary of the responses from the NYS DEC (Regional) and the EPA (Region 2) and for the actions that Applicant took subsequent to receiving these responses.
- On February 7, 2007, the US Fish & Wildlife Service's New York Field Office responded via fax that the Applicant needed to review the listed website to learn about endangered species that might be affected by the proposed abandonment.
- On February 7, 2007, Applicant accessed the following site: <http://www.fws.gov/northeast/nyfo/es/CountyLists/YatesDec2006.htm> and learned

that there were potentially two protected species within the vicinity of the proposed abandonment commonly named: Bald Eagle and Leedy's Roseroot, a copy of which is attached as Exhibit D.

- See Section 3(i) above, for a summary of Applicant's discussions and correspondence with NYS DEC Division of Fish, Wildlife and Marine Resources.

(ii) FGLK does not believe that there are any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposed abandonment. The relevant agencies that were sent notices were as follows: NYS DEC (State), NYS DEC (Regional), US National Park Service (Northeast Region), USDA Natural Resources Conservation Service, the USDA Natural Resources Conservation Service (NY State), US Fish and Wildlife Service (Northeast Regional Office), and US Fish and Wildlife Service (New York Field Office). Copies of these letters are attached as part of Exhibit A. Copies of the responses received are attached as part of Exhibit B. Responses received orally are summarized in the Response Log attached as Exhibit C. Responses were not received from all listed parties. See Sections 3(i) and 8(i) above for summaries of the responses received from the listed agencies and the Applicant's resulting inquiries. The responses do not include comments directly on this issue.

9. Water

(i) The proposed abandonment will be handled in a manner that is consistent with the applicable local, State and Federal water quality standards. See Sections 3(i) and 8(i) above for a list of the agencies notified by FGLK and for a summary of the responses received and the subsequent actions taken by the Applicant. It was determined that no permits will be needed for the proposed abandonment or salvage since there will be no significant impact on water quality, adjacent streams, or protected Federal and State wetlands.

(ii) FGLK originally sent notice of this proposed abandonment to the Corps of Engineers (Great Lakes & Ohio River Division). See Exhibit A. No response has been received from that Division. At the suggestion of the NYS DEC (Regional) and of the EPA (Region 2), Applicant also contacted the Corps of Engineers/Buffalo and its Auburn Division office. FGLK was advised that as long as the salvage operation occurs as planned along the existing rail bed, the proposed abandonment will have no effect on wetlands or 100-year flood plains.

(iii) FGLK sent notice of this proposed abandonment to the NYS DEC (State), NYS DEC (Regional), and to the Environmental Protection Agency (Region 2). Copies of these letters are attached as part of Exhibit A. Copies of the responses received are attached as part of Exhibit B. Responses received orally are summarized in the Response Log attached as Exhibit C. Responses were not received from all listed parties. See Sections 3(i) and 8(i) above for summaries of the responses received from the listed agencies and the Applicant's resulting actions. As long as the salvaging operations for the proposed abandonment are conducted on and from the existing rail bed as contemplated, the proposed abandonment will have no affect on water resources. If FGLK determines an access road is needed or finds a need to work beyond the existing rail bed, the appropriate agencies will be contacted and any necessary permits will be obtained.

10. **Proposed Mitigation**

Since no adverse environmental impacts are expected, no mitigation is proposed.

11. **Additional Information for Rail Constructions**

Not applicable.

12. **Consultation**

As shown by the copies of letters attached hereto as Exhibit A, FGLK has consulted with the following agencies: New York Department of Environmental Conservation (State), New

York Department of Environmental Conservation (Regional), New York Department of State/Division of Coastal Resources, Yates County Legislature (Chairman), Yates County Administrator, Benton Township Supervisor, Environmental Protection Agency (Region 2), US Fish and Wildlife Service (Northeast Regional Office), US Fish and Wildlife Service (New York Field Office), US Army Engineer Division (Great Lakes & Ohio River Division), US National Park Service (Northeast Region), USDA Natural Resources Conservation Service, USDA Natural Resources Conservation Service (NY State), and United States Dept. of Commerce NOAA, N/NGS2 (Spatial Reference System Div.).

Written responses were received from: New York State Department of Environmental Conservation (Regional), New York State Department of Environmental Conservation (Division of Fish, Wildlife and Marine Resources), Environmental Protection Agency (Region 2), US Fish & Wildlife Service (New York Field Office), and United States Dept. of Commerce NOAA, N/NGS2 (Spatial Reference System Div.). Copies of the written responses are attached hereto as Exhibit B.

Oral responses were received from: Benton Township Supervisor, NYS DEC (Division of Fish, Wildlife and Marine Resources), and NYS DEC Division of Lands and Forests (Natural Heritage Program).

Oral responses are summarized in the Response Log attached hereto as Exhibit C attached hereto.

The Response Log also summarizes the actions initiated by Applicant subsequent to receiving responses from the various agencies.

13. Certifications

FGLK certifies that:

(a) It consulted with the agencies listed in 49 CFR 1105.7(b), as described in paragraph No. 12 above.

(b) On this date, it sent copies of this report to each of the agencies consulted.

(c) Notice of the proposed abandonment were published in the: Chronicle

Express, 138 Main Street, Penn Yan, NY 14527 on March 28, 2007; and Finger Lakes Times, 218 Genesee Street, Geneva, NY 14456 on March 30, 2007. Proofs of publication are attached, see Exhibit F. Notice of the proposed abandonment was published on April 4, 2007 in the Observer, P.O. Box 127, Dundee, NY 14837 in the form specified in 49 CFR 1105.12 and as shown in the form of notice attached Exhibit G. The formal proof of publication will be submitted by FGLK in a supplemental filing.

(d) FGLK will not file its verified notice of abandonment until at least twenty (20) days after the agencies have been served with a copy of this report.

B. HISTORIC REPORT

(49 CFR 1105.8)

The information required by 49 CFR 1105.7(e)(1) is set forth in Section A.1 above.

1. U.S.G.S. Topographic Map

A U.S.G.S. topographic map showing the location of the proposed abandonment is attached hereto as Exhibit E. Along the proposed abandonment, the only structure relevant to the line which is 50 years old or older, is a double, concrete culvert located at Milepost 41.44. The approximate location of the culvert is marked on the topographic map.

2. Description Of Right Of Way

The right of way for this proposed abandonment runs through the Township of Benton, Yates County, New York. This rural land is comprised primarily of farms and related agricultural businesses. The right of way for the proposed abandonment is generally sixty-six (66') feet wide. There are two areas that are approximately one hundred-fifty (150') feet wide at the locations where sidings were removed many years ago. These wider areas are near Benton Center at Milepost 42.8, which runs for approximately four hundred feet (400'), and near Bellona at Milepost 46 near the physical end of the track and runs for approximately six hundred feet (600').

3. Historic Structure(s)

The only structure that is more than 50 years old is a double, concrete culvert located at Milepost 41.44. See Exhibit H for a photograph of this structure. FGLK believes that this structure has no historical value.

4. **Description of Structures**

The culvert located at Milepost 41.44 is constructed of cement and is not believed to have any historic value. See Section B.2. of this Historic Report for a description of the surrounding terrain.

5. **History of Carrier Operations in the Area**

According to the Railroad Valuation Map received when the Subject Line was purchased by FGLK from Consolidated Rail Corporation ("Conrail") in 1995. The original operator was the Elmira and Lake Ontario RR beginning in 1918. Subsequently, the line has been operated in succession by Northern Central Railway Company, Williamsport & Elmira Railroad, Pennsylvania Railroad Company, Penn Central Railroad (1968-1976), Conrail (1976-1995) and Finger Lakes Railway Corp. (1995 - present). The line was serviced approximately twice a month while owned by Conrail with the last service occurring in April 1995. FGLK purchased the line in July 1995, and has never provided service over the line. Because of the lack of use, FGLK proposes to abandon the line and to salvage the track materials for use elsewhere on its system. The double cement culvert will not be disturbed.

6. **Summary of Structure Documentation**

FGLK did not receive any documentation from Conrail concerning the double cement culvert at the time of purchase.

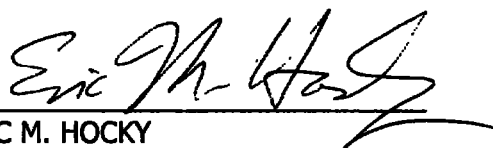
7. **Opinion Regarding Criteria for Listing**

On March 2, 2007, the New York State Historic Preservation Office responded that the proposed abandonment will have "(n)o effect upon cultural resources". A copy of the response is attached as Exhibit I.

8. **Environmental Conditions**

FGLK is unaware of any prior subsurface ground disturbance or fill, or environmental conditions which might affect the archaeological recovery of resources or the surrounding terrain.

Respectfully submitted,

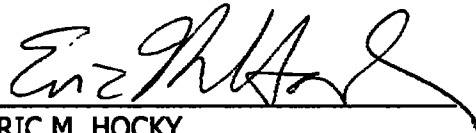
A handwritten signature in black ink, appearing to read "Eric M. Hocky", written over a horizontal line.

ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
Four Penn Center
Suite 200
1600 JFK Blvd.
Philadelphia, PA 19103
(215) 563-9400
Attorney for
Reading Blue Mountain and
Northern Railroad Company

Dated: April 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Environmental/
Historic Report was served on the persons shown on the attached list by first class mail, postage
prepaid.

A handwritten signature in black ink, appearing to read "Eric M. Hocky", written over a horizontal line.

ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
Four Penn Center, Suite 200
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103
(215) 563-9400
Attorney for
Finger Lakes Railway Corp.

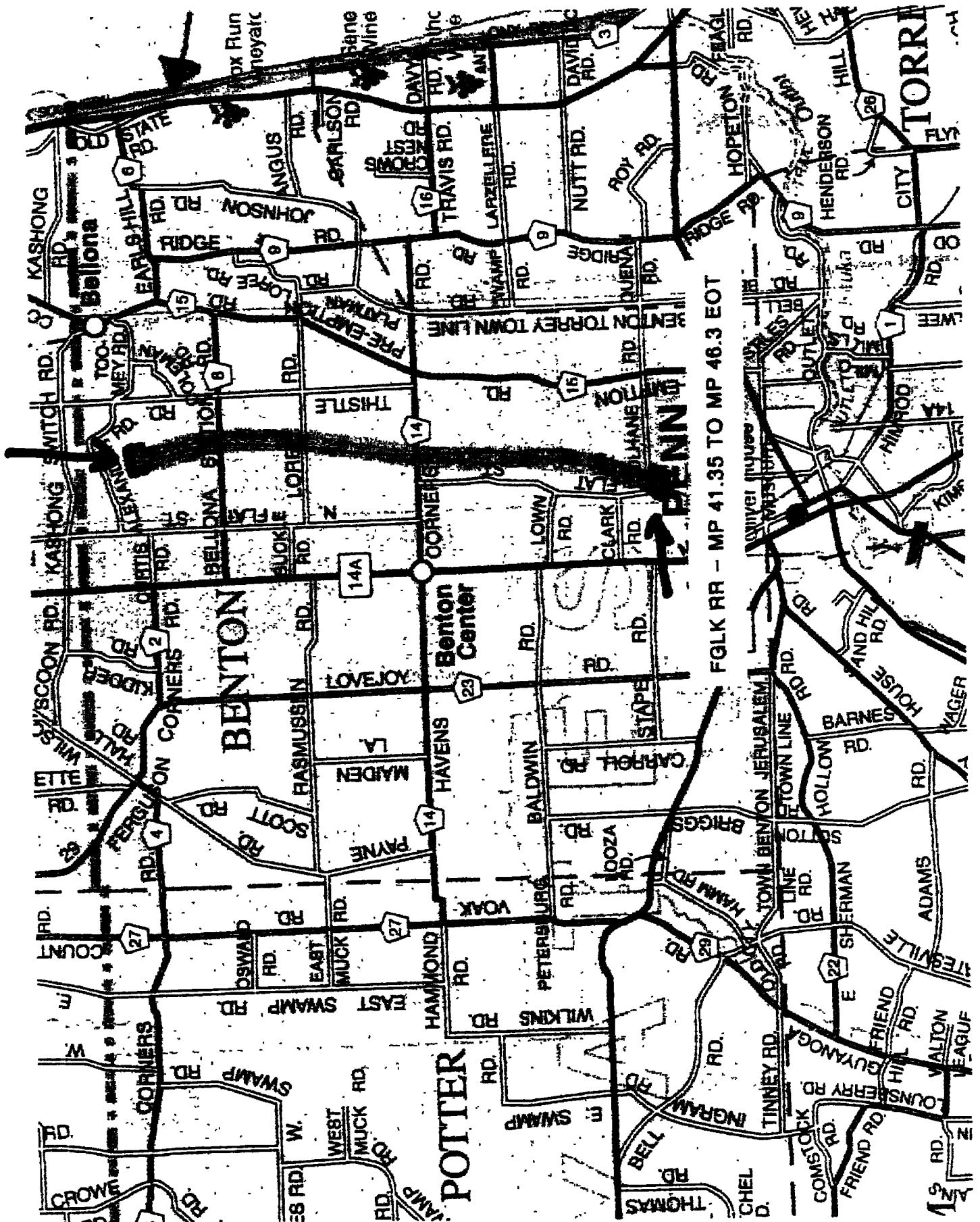
Dated: April 12, 2007

Doug Bernhard
New York State Department of Environmental Conservation
Division of Lands & Forests
Region 8
7291 Coon Road
Bath, NY 14810

Steve Young
New York State Department of Environmental Conservation
Division of Lands & Forests
Region 8
New York Natural Heritage Program
625 Broadway
Fifth Floor
Albany, NY 12233-4757

EXHIBIT A

NORFOLK SOUTHERN CORNING SECONDARY



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ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

New York Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231

RE: Finger Lakes Railway Corp. -
Abandonment Exemption
STB Docket No. AB1005 (X)

Dear Sir or Madam:

This letter is to advise you that Finger Lakes Railway Corp. ("FGLK") proposes to abandon a portion of its line of railroad, known as Watkins Glen-Penn Yan Line, which runs in a northerly direction from milepost 41.35 in the Village of Penn Yan, Town of Benton, Yates County, New York through the Town of Benton to milepost 46.3. This line traverses through United States Postal ZIP Code 14527. A map showing the location of the line is attached.

FGLK plans to seek Surface Transportation Board ("STB") authorization for its abandonment by filing a verified notice of abandonment pursuant to the provisions of 49 C.F.R. §1152.50 on or about April 6, 2007 in Docket No. AB1005 (X).

Based upon information in our possession, the line does not contain federally granted rights of way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

Please advise us whether the line is within New York's coastal zone. If it is within the coastal zone, please advise further (1) if the proposed abandonment is an action listed for review in New York's coastal zone management plan, and (2) if the action is so listed, whether the proposed action is consistent with the coastal zone management plan. We would appreciate a response from you by March 7, 2007

GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

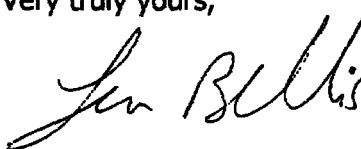
WILMINGTON

Division of Coastal Resources
February 5, 2007
Page 2 of 2

Additionally, we would appreciate an expression from you that, within the area of your authority, you do not perceive that the abandonment of the line will have a significant effect upon the environment. If you have any questions, please call me at (610) 692-9116 (ext. 4322).

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Leanore D. Bellis".

Leanore D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thaelke (FGLK)
Eric M. Hocky, Esquire

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ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

New York State Historic Preservation Office
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

RE: Finger Lakes Railway Corp. -
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Based upon information in our possession, the line does not contain federally granted rights of way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

Based on a review of its records, FGLK believes that the only structure related to the line which is 50 years old or older, is a double concrete culvert located at MP 41.44. This

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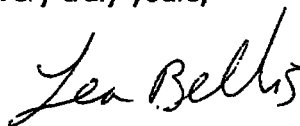
culvert will not be disturbed during the course of the abandonment nor during the salvage of track materials.

This consultation as to any concerns which you may have as to historic preservation effects of the proposed abandonment, is being taken in advance of preparing an historic report as required by applicable regulations.

We would appreciate an expression from you by March 7, 2007 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon historic preservation. If you have any questions about the railroad's proposal, or if you need further assistance, please call me at (610) 692-9116 (ext. 4322).

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Leanore D. Bellis".

Leanore D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thelke (FGLK)
Eric M. Hocky, Esquire

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February 5, 2007
VIA: FIRST CLASS MAIL

New York Department of Environmental Conservation
625 Broadway
Albany, NY 12233

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No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by March 7, 2007 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the

GOLLATZ, GRIFFIN & EWING, P.C.

Department of Environmental Conservation
February 5, 2007
Page 2 of 2

environment. If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (610) 692-9116 (ext. 4322).

Thank you for your cooperation.

Very truly yours,



Leanore D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thaelke (FGLK)
Eric M. Hocky, Esquire

213 WEST MINER STREET
PO BOX 796
WEST CHESTER, PA 19381
TELEPHONE 610.692.9118
FACSIMILE 610.692.9177
WWW.GGELAW.COM

GC&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

New York Department of Environmental Conservation
6274 E. Avon-Lima Road
Avon, NY 14414-9519

RE: Finger Lakes Railway Corporation -
Abandonment Exemption
STB Docket No. AB1005 (X)

Dear Sirs and/or Madam:

This letter is to advise you that Finger Lakes Railway Corporation ("FGLK") proposes to abandon its line of railroad, known as Watkins Glen-Penn Yan Line, which runs in a northerly direction from milepost 41.35 in the Village of Penn Yan, Town of Benton, in Yates County, New York through the Town of Benton to milepost 46.3. This line traverses through United States Postal ZIP Code 14527. A map showing the location of the line is attached.

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Based upon information in our possession, the line does not contain federally granted rights of way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by March 7, 2007 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the

GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

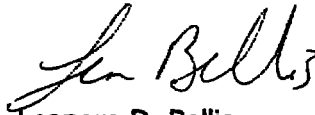
WILMINGTON

Department of Environmental Conservation
February 5, 2007
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February 5, 2007
VIA: FIRST CLASS MAIL

Robert N. Multer
Chairman
Yates County Legislature
417 Liberty Street
Penn Yan, New York 14527

RE: Finger Lakes Railway Corporation -
Abandonment Exemption
STB Docket No. AB1005 (X)

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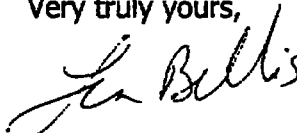
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GOLLATZ, GRIFFIN & EWING, P C.

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Leanore D. Bellis
Paralegal

Enclosure (Map)

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lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

Sarah Purdy
County Administrator
417 Liberty Street
Penn Yan, New York 14527

RE: Finger Lakes Railway Corporation -
Abandonment Exemption
STB Docket No. AB1005 (X)

Dear Ms. Purdy:

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GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

County Administrator
February 5, 2007
Page 2 of 2

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Very truly yours,



Leanne D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thelke (FGLK)
Eric M. Hocky, Esquire

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LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

Robert Clark
Benton Town Supervisor
1000 Route 14A
Penn Yan, New York 14527

RE: Finger Lakes Railway Corporation -
Abandonment Exemption
STB Docket No. AB1005 (X)

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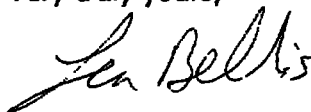
GOLLATZ, GRIFFIN & EWING, P.C.

Benton Town Supervisor
February 5, 2007
Page 2 of 2

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Thank you for your cooperation.

Very truly yours,

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Leanore D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thelke (FGLK)
Eric M. Hocky, Esquire

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DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

Region 2
Environmental Protection Agency
Jacob K. Javits Federal Building
290 Broadway
New York, NY 10007

RE: Finger Lakes Railway Corporation -
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WEST CHESTER

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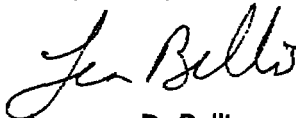
WILMINGTON

Environmental Protection Agency
February 5, 2007
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Leanore D. Bellis
Paralegal

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LEANORE D. BELLIS
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February 5, 2007
VIA: FIRST CLASS MAIL

US Fish and Wildlife Service
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035-9589

RE: Finger Lakes Railway Corporation -
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WEST CHESTER

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WILMINGTON

US Fish and Wildlife Service
February 5, 2007
Page 2 of 2

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LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

US Department of the Interior
Fish and Wildlife Service
New York Field Office
3817 Luker Road
Cortland, NY 13045

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STB Docket No. AB1005 (X)

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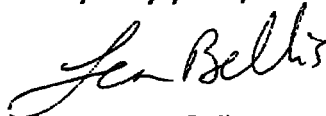
WILMINGTON

US Department of the Interior
February 5, 2007
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Leanore D. Bellis
Paralegal

Enclosure (Map)

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February 5, 2007
VIA: FIRST CLASS MAIL

U.S. Army Engineer Division
Great Lakes & Ohio River Division
550 Main Street
Room 10,032
Cincinnati, Ohio 45202-3222

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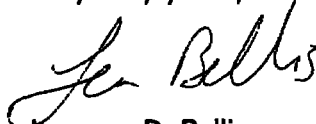
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Paralegal

Enclosure (Map)

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February 5, 2007
VIA: FIRST CLASS MAIL

Northeast Region
Regional Director
National Park Service
U.S. Custom House
200 Chestnut St., Fifth Floor
Philadelphia, PA 19106

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February 5, 2007
VIA: FIRST CLASS MAIL

USDA Natural Resources Conservation Service
East Regional Office
5601 Sunnyside Ave.
Mailstop 5410, Room 1-1290A
Beltsville MD 20705-5410

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Paralegal

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LEANORE D. BELLIS
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February 5, 2007
VIA: FIRST CLASS MAIL

Natural Resources Conservation Service
USDA
441 Salina Street
The Galleries of Syracuse
Suite 354
Syracuse, NY 13202

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No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

GOLLATZ, GRIFFIN & EWING, P.C.

We would appreciate an expression from you by March 7, 2007 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment. If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (610) 692-9116 (ext. 4322).

Thank you for your cooperation.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Leanne D. Bellis".

Leanne D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thelke (FGLK)
Eric M. Hocky, Esquire

213 WEST MINER STREET
PO BOX 796
WEST CHESTER, PA 19381
TELEPHONE 610.692.9116
FACSIMILE 610.692.9177
WWW.GGELAW.COM

G&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

LEANORE D. BELLIS
DIRECT DIAL 610.350.4132
lbellis@ggelaw.com

February 5, 2007
VIA: FIRST CLASS MAIL

Mr. Richard A. Snay
Chief, Spatial Reference System Div.
United States Dept. of Commerce
NOAA, N/NGS2
SSMC3, Room 8828
1315 East-West Highway
Silver Spring, MD 20910

RE: Finger Lakes Railway Corporation -
Abandonment Exemption
STB Docket No. AB1005 (X)

Dear Mr. Snay:

This letter is to advise you that Finger Lakes Railway Corporation ("FGLK") proposes to abandon its line of railroad, known as Watkins Glen-Penn Yan Line, which runs in a northerly direction from milepost 41.35 in the Village of Penn Yan, Town of Benton, in Yates County, New York through the Town of Benton to milepost 46.3. This line traverses through United States Postal ZIP Code 14527. A map showing the location of the line is attached.

FGLK plans to seek Surface Transportation Board ("STB") authorization for its abandonment by filing a verified notice of abandonment pursuant to the provisions of 49 C.F.R. §1152.50 on or about April 6, 2007 in Docket No. AB1005 (X).

Based upon information in our possession, the line does not contain federally granted rights of way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

No local service has been provided on the line since April 1995. FGLK does not believe that there are any reasonable alternatives to the proposed action. At this time, FGLK plans to salvage the track for reuse elsewhere in their system. FGLK believes that the abandonment will not have a significant effect upon the environment.

GOLLATZ, GRIFFIN & EWING, P C.

WEST CHESTER

PHILADELPHIA

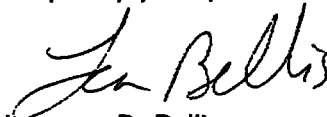
WILMINGTON

In advance of preparing an environmental report as required by applicable regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by March 7, 2007 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment. If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (610) 692-9116 (ext. 4322).

Thank you for your cooperation.

Very truly yours,



Leanore D. Bellis
Paralegal

Enclosure (Map)

cc: Holly L. Thoeke (FGLK)
Eric M. Hocky, Esquire

EXHIBIT B

**New York State Department of Environmental Conservation
Division of Fish, Wildlife and Marine Resources, Region 8
Michael L. Allen - Bureau of Wildlife
Regional Office: 6274 East Avon-Lima Road, Avon, New York 14414-9519
Home Office: 4043 Flint Road, Stanley New York 14561-9503
Phone: (585) 226-5456 • FAX: (585) 226-3009 Website: www.dec.state.ny.us
Home Office: (585) 526-6596 Mobile: (585) 705-3579**



April 3, 2007

Finger Lakes Railway Corporation
Attn: Holly Thaelke
P.O. Box 1099
Geneva, NY 14456

Dear Holly,

I am sending you this letter as a confirmation regarding our conversation regarding the abandonment of the section of railway in the Town of Benton, Yates County New York. To the best of my knowledge there are no resident bald eagles or Leedy's Rosehroot present in that area. However I have been informed by our Customer Service Technician in Avon that there is historical documentation of two separate plant species of concern adjacent to the rail bed. The first is Mead's Sedge (New York State - Endangered) and at secondly, False Hop Sedge (New York State - Rare). To the best of my knowledge endangered plants are administered by our Lands and Forests office out of the Bath sub office. My suggestion at this point would be to contact Bath at 607-776-2165. I believe the individual you will want to speak to is the Regional Forrester Doug Bernhard, and if my directory is still accurate his extension is 36. Hopefully he can fill you in on the procedure from there.

I know this is a wrinkle you weren't expecting but I certainly don't want to leave this part out if it will affect your outcome. Have any other questions please let me know.

Sincerely,

Michael L. Allen
Sr. Wildlife Technician

Lea Bellis

From: Bobbi [clerk@townofbenton.us]
Sent: Friday, March 30, 2007 9:51 AM
To: Lea Bellis
Subject: Finger Lakes Abandonment/PY Lease

You answered many of my questions in February about the abandonment of the Watkins Glenn-Penn Yan RR line by finger Lakes Railway Corp. Progress seems to be going along as planned.

New question.

When they come to a paved county or town highway crossing, do they remove the rails which are under the paved road? If they rip up or damage the existing paved road, does FGLK repair it to its original condition?

Thanks for your help.

Robert Clark

FREE Animations for your email - by IncrediMail! [Click Here!](#)



Lea Bellis

From: Simon Monroe [Simon.Monroe@noaa.gov]
Sent: Friday, March 09, 2007 11:54 AM
To: Lea Bellis
Cc: Surface Transportation Board; National Society of Professional Surveyors; Gilbert Mitchell
Subject: [Fwd: [Fwd: NGS Response, STB Docket AB-1005X]]

Thank you for sharing your railroad abandonment environmental report for Yates County, Benton Center, New York.

Approximately 04 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

Dist	PID...	H V	Vert_Source	Approx.	Approx..	Stab	Designation
----	-----	- -	-----	-----	-----	----	-----
....	NB0827	. 2	88/ADJUSTED	N424303	W0770235	D...	119
....	NB0830	. 2	88/ADJUSTED	N424258	W0770235	C...	X 101
....	NB0831	. 2	88/ADJUSTED	N424107	W0770257	D...	Y 101
....	NB0832	. 2	88/ADJUSTED	N424104	W0770301	D...	PRR 117

NYS Department of Environmental Conservation

Region 8 - Division of Environmental Permits

6274 East Avon-Lima Road
Avon, New York 14414-9519

Phone: (585) 226-5400

Fax: (585) 226-2830

Website: www.dec.state.ny.us

3/5/2007



2935

GOLLATZ GRIFFIN & EWING ATTORNEYS AT LAW
LEANORE BELLIS, PARALEGAL
213 WEST MINER STREET
WEST CHESTER, PA 19381-

Re: PERMIT JURISDICTION/RESOURCE SCREENING

Dear LEANORE BELLIS,

The following comments are based upon the location information provided in your inquiry of:
FINGER LAKES RAILWAY CORPORATION ABANDONMENT EXEMPTION WATKINS GLEN-PENN YAN LINE

State Wetlands

Your project/site is near or in mapped NYS Freshwater Wetland ST-1. The actual wetland boundary must be field verified by a qualified wetland professional. A NYS Freshwater Wetlands permit is required for any physical disturbance within the designated wetland or within the 100 foot adjacent area of the wetland. The application form is available on the NYS DEC web page: <http://www.dec.state.ny.us/>.

401 Water Certification

Work in certain waters and wetlands of the United States may require a permit from the U. S. Army Corps of Engineers (Corps). If a Corp permit is required, the Corps may request that the DEC make a determination (Water Quality Certification, pursuant to Section 401 of the Federal Clean Water Act) that discharges from the proposed activities, for which an applicant is seeking a Corps permit approval, will comply with the applicable effluent limitations, water quality standards, and any other applicable conditions of the State Law. The Buffalo Office of the Corps should be contacted regarding permit jurisdictions. Their address is Chief Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo NY 14207. Their phone number is (716) 879-4330. Documentation in support of a 401 Water Quality Certification would include demonstration of compliance with the Department's Stormwater SPDES General Permit for Construction Activities (GP-02-01). This documentation would include Stormwater Management Plans for the project and a completed Self Assessment Stormwater Management Checklist, submitted and signed by a licensed professional engineer. The checklist can be obtained from the Division of Environmental Permits, NYSDEC-Region 8 Headquarters, 6274 East Avon - Lima Road, Avon NY 14414 or by phone at (585) 226-5400.

Federal Wetlands

While the Department asserts jurisdiction over NYS regulated freshwater wetlands, the U. S. Army Corps of Engineers regulates federally protected wetlands. For questions regarding federal wetlands, and the federal permitting process, contact the U. S. Army Corps of Engineers at: Chief, Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, NY 14207 or (716) 879-4330.

there are both state and federal wetlands in the vicinity of the old RR bed.

There is potential presence of protected species in the vicinity of the village of PennYan which should be investigated.

NYS Protection of Waters Permit NOT Required/Potential for Army Corps Of Engineers Approval

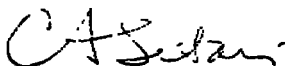
The stream(s) near/in the project area has (have) a NYS Stream Classification of Class C and is therefore not considered a NYS protected water body. A determination has been made that the stream would not be considered a navigable stream as defined in the Protection of Water Regulations (6NYCRR Part 608). As this section of stream is not navigable or protected, disturbance of the stream's channels and banks will not require a permit from the DEC. Standard sedimentation and erosion controls should be employed to avoid contravention of the water quality standards. However, your project may be subject to Federal regulations. You should contact the United States Army Corps of Engineers' staff at the Buffalo District Office, 1776 Niagara Street, Buffalo NY 14207. They can also be reached by phone at (716) 879-4330.

Additional Comments:

permits are only required for the physical disturbance of areas within state and federal jurisdiction. Abandonment of the line would not require a permit, however, the removal of the railsystem may trigger permitting thresholds. Prior to salvaging the railsystem, the applicant should submit, in writing, to the NYSDEC and Army Corps of Engineers a detailed plan describing the salvage operation. Review of the operation should clarify the need for any state or federal permits.

Thank you for the opportunity to review this project. Forms may be obtained on the DEC Website at: www.dec.state.ny.us. If you have questions regarding the information provided in this letter, please don't hesitate to contact me at (585) 226-5396.

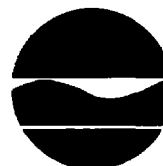
Sincerely,



Chris Setari
Division Of Environmental Permits

NYS Department of Environmental Conservation

3/5/2007



Region 8 - Division of Environmental Permits

6274 East Avon-Lima Road

Avon, New York 14414-9519

Phone: (585) 226-5400 Fax: (585) 226-2830 Website: www.dec.state.ny.us**Project Name: FINGER LAKES RAILWAY CORPORATION ABAND****The following Uniform Procedures Permits are needed:**

- ☒ Protection of Waters, Article 15 Title 5
- ☐ Stream Disturbance
Stream Name:
- ☐ Excavation/Fill in Navigable Waters
Name:
- ☐ Dam
- ☐ Dock/Mooring
- ☒ Water Quality Certification
- ☒ Class C Stream
- ☐ Water Supply, Article 15 Title 15
- ☐ Long Island Wells, Article 15 Title 15
- ☐ Wild, Scenic, and Recreational Rivers Article 15 Title 27
Name:
Status:
- ☐ Mined Land Reclamation Article 23
- ☒ Freshwater Wetlands Article 24 nearby
ID Number. ST-1
Wetland Class: 2
- ☒ Federal Wetlands
- ☐ Coastal Erosion Hazard Area Article 34
- ☐ Wastewater Discharge (SPDES), Article 17
- ☐ Industrial
☐ (GP-0-05-001) ☐ (GP-95-01)
- ☐ Municipal
- ☐ Private, Commercial, Institutional
- ☐ Stormwater - Construction
- ☐ Stormwater - Industrial
- ☐ Air Pollution Control, Article 19
- ☐ Title V Facility
- ☐ State Facility
- ☐ Prevention of Significant Deterioration (PSD)
- ☐ New Source Review
- ☐ National Emission Standards for Hazardous Air Pollutants (NESHAPS)
- ☐ Waste Transporter, Article 27 Title 3
- ☐ Solid Waste Management, Article 27 Title 7
Facility Type:
- ☐ Haz Waste Management, Article 27 Title 9
- ☐ Treatment
- ☐ Storage
- ☐ Disposal

Other DEC authorizations/notifications that are needed:

- ☐ Sewer Extension Approval
- ☐ Oil/Gas Well
- ☐ Underground Storage
- ☐ Temporary Revocable Permit (State Forest Lands)
- ☐ Bulk Storage
- ☐ Aquatic Pesticides

Reviews Needed:

- ☐ Agricultural District Number:
- ☐ Coastal Consistency

- ☐ Approved LWRP

Community Name:

- ☐ Significant Coastal Fish/Wildlife Habitat

Name Of the Area:

Species:

- ☐ State Historic Preservation Act
- ☐ Archeological Sites (circles/squares)
- ☐ Historical Structures
- ☐ State Owned Lands Underwater Location:
- ☐ SRF Project, SERP
- ☐ Design Approval

Reviews Needed by Other Agencies:

- ☐ US Army Corps Of Engineers
- ☐ NYS Department Of State
- ☐ NYS Office of Parks, Recreation, and Historic Preservation
- ☐ NYS Office of General Services
- ☐ Adirondack Park Agency
- ☐ State Health Department
- ☐ Local Government
- ☐ County Health Department
- Government Name:
- ☐ Town Coastal Hazard Review
- ☐ River Basin Commission Name:
- ☐ NYS Canal Corps

Resources/Potential Impacts:

- ☐ SEQR Critical Environmental Area
- ☐ Environmental Justice Community
- ☒ Natural Heritage Site
- ☐ Significant Coastal Fish Wildlife Habitat Area
- ☐ Visually Significant Resources
- ☐ Protected/Endangered Species
- ☐ Lands Owned by NYS
- ☐ Principal/Primary Aquifer
- ☐ Wildlife Management Area
- ☐ Scenic Roads
- ☐ State Forest Lands
- ☐ Public Parks, Recreation Area, Open Spaces
- ☐ Flood Way
- ☐ Flood Plain
- ☐ State Maintained Flood Control Lands
- Control Lands Name:
- ☐ Inactive Hazardous Waste Site
- ☐ Groundwater Contamination
- ☐ Erosion/Sedimentation
- ☐ Aesthetics
- ☐ Air Quality Non-Attainment Area
- ☐ Noise/Odors
- ☐ Traffic
- ☐ Energy Use
- ☐ Record Of Compliance
- ☐ Public Health

Lea Bellis

From: Cantilli.John@epamail.epa.gov
Sent: Monday, February 12, 2007 4:00 PM
To: Lea Bellis
Cc: bridget.brown@usace.army.mil
Subject: Finger Lakes Railway Corp.

Attachments: pic00041.jpg



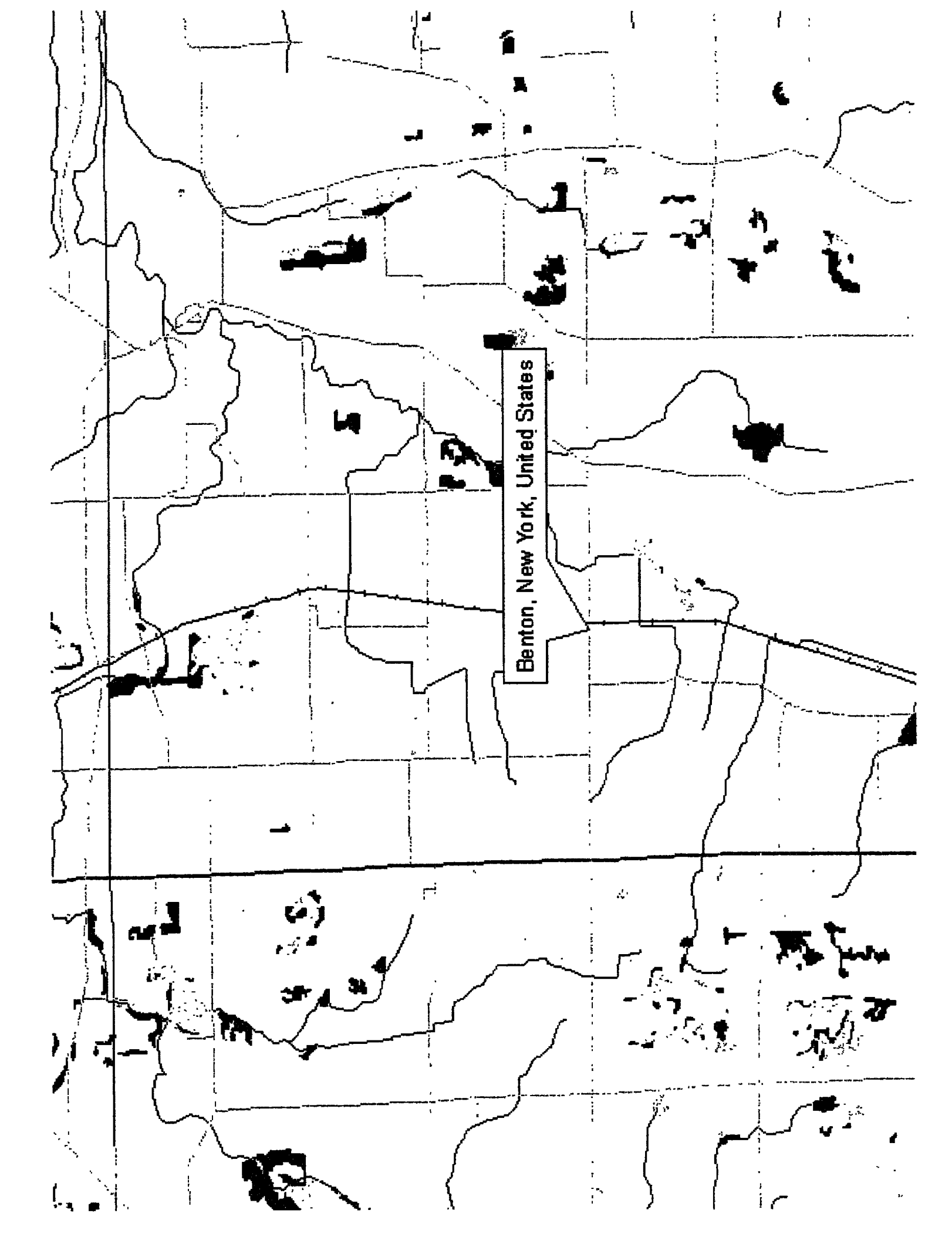
pic00041.jpg (131 KB)

Ms. Bellis:

This note is in reply to your letter of February 5 regarding railroad abandonment and track removal in Benton, New York. Attached is a GIS map depicting streams, National Wetland Inventory (NWI) wetlands, and NYSDEC wetlands. Please note that NWI mapping may be imprecise and is not for official regulatory purposes. If there is any chance that track removal activities will disturb streams or federally regulated wetlands (e.g., temporary access roads?), you must contact the US Army Corps of Engineers (e.g., the Auburn Field Office of the Corps' Buffalo District). You may contact Bridget Brown of the Auburn office at (315) 255-8090.

John Cantilli
Wetlands Protection Section
U.S. Environmental Protection Agency
290 Broadway, 24th Floor
New York, NY 10007-1866

(Embedded image moved to file: pic00041.jpg)



A map of Benton, New York, United States. The map features a grid of roads, with major roads shown as solid lines and minor roads as dashed lines. Several areas are blacked out, likely representing redacted information or specific locations of interest. A label 'Benton, New York, United States' is positioned vertically in the center of the map.

Benton, New York, United States



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>



Project Number: 70433

To: Leonore Bellis

Date: 2-7-07

Regarding: FGLK abandonment of Watkins Glen Quarry Line

Town/County: Benton / Yates

We have received your request for information regarding occurrences of Federally-listed threatened and endangered species within the vicinity of the above-referenced project/property. Due to increasing workload and reduction of staff, we are no longer able to reply to endangered species list requests in a timely manner. In an effort to streamline project reviews, we are shifting the majority of species list requests to our website at <http://www.fws.gov/northeast/nyfo/es/section7.htm>. Please go to our website and print the appropriate portions of our county list of endangered, threatened, proposed, and candidate species, and the official list request response. Step-by-step instructions are found on our website.

As a reminder, Section 9 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) prohibits unauthorized taking* of listed species and applies to Federal and non-Federal activities. Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (Service), to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take"* any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. If you have any questions or require further assistance regarding threatened or endangered species, please contact the Endangered Species Program at (607) 753-9334. Please refer to the above document control number in any future correspondence.

Endangered Species Biologist: Robyn A. Niver RAN

*Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to *take* (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.

EXHIBIT C

**ENVIRONMENTAL/HISTORICAL/COASTAL CONTACT LIST
FOR THE PENN YAN ABANDONMENT**

Finger Lakes Railway Corporation

Abandonment Exemption
STB Docket No. AB1005 (X)

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
New York Department of Environmental Conservation 625 Broadway Albany, NY 12233		2/5/2007 - Env. Notice Mailed 2/9/2007 - Rec'd Call from NYS DEP	2/9/2007 - Call from Office of Operations seeking information as to proper recipient of the Env. Notice within the Dept. Of Env. Cons.

AGENCY	CONTACT	DATE SENT / RESPONSE DATE	FORM OF RESPONSE / SUMMARY
New York Department of Environmental Conservation 6274 E. Avon-Lima Road Avon, NY 14414-9519	Chris Setari Division of Environmental Permits (585) 226-5400 Fax (585) 226-2830	2/5/2007 - Env. Notice Mailed 3/1/2007 - Call from DOT 3/5/2007 - Letter from NYS DEP. 3/21/2007 - Filer telephoned NYS DEC	3/1/2007 - Received call from DOT who was passed letter from NYS DEC. DOT determined it was not the correct authority to respond to letter. Letter returned to NYS DEC. 3/5/2007 - NYS DEP determined that project is near NYS and Federal Wetlands and provides requirements and suggestions for proceeding with the abandonment and salvage of the rail line in light of same. Contacting the US Army Corps of Engineering's Buffalo District Office is highly recommended to determine what permits are required. Filer should investigate the possible presence of protected species in the area of Penn Yan. Filer should provide a written statement detailing the salvage operation to the US ACE and the NYS DEP due to potential for disturbance of permitting thresholds. In response to the potential for protected species, Filer contacted the NYS DEC F&W, see NYS DEC FW&MR below. (Continues next page)

AGENCY	CONTACT	DATE SENT / RESPONSE DATE	FORM OF RESPONSE / SUMMARY
New York Department of Environmental Conservation (Continued)			3/21/2007 - In response to the NYS DEC's letter of 3/5/2007, Filer called the regional NYS DEC office and the US Army Corps of Engineers regional office. Both offices stated that as long as the salvaging operations remain on the rail bed, no streams are at issue. A written statement is not deemed necessary.
New York State Department of Environmental Conservation Division of Fish, Wildlife & Marine Resources, Region 8 6274 E. Avon-Lima Road Avon, NY 14414-9519	Michael ("Mike") L. Allen Senior Wildlife Technician (585) 226-5456	3/21/2007 - Filer left telephone message 3/26/2007 - NYS DEC returned call 4/3/2007 - NYS DEC Letter	3/21/2007 - In response to the US Fish and Wildlife Service's fax of 2/7/2007, Filer contacted NYS DEC FW&MR 3/26/2007 - NYS DEC FW&MR informed filer that there are no threatened or endangered species in the area of the intended abandonment, specifically Bald Eagle or Leedy's Roseroot. 4/3/2007 - Letter confirmation from NYS DEC FW&MR that reiterates no Bald Eagles nor Leedy's Roseroot in area of abandonment. However, there are two plant species of concern adjacent to the rail bed: Mead's Sedge (NYS- Endangered) and False Hop Sedge (NYS - Rare). Please contact Lands and Forests Office (Bath, NY).

AGENCY	CONTACT	DATE SENT / RESPONSE DATE	FORM OF RESPONSE / SUMMARY
New York State Department of Environmental Conservation Division of Lands & Forests Region 8 7291 Coon Road Bath, NY 14810	Doug Bernhard Regional Forester Bath, NY	4/5/2007 - Filer called NY DEC Div. of L&F Regional Forester 4/6/2007 - NY DEC Div. of L&F Regional Forester responded to Filer	4/5/2007 - In response to NYS DEC FW&MR's request, Filer contacted the Lands and Forests Division's Bath office. 4/6/2007 - Filer spoke with the NYS DEC Lands & Forests' Regional Forester (Bath Office). Filer was referred to the following website: www.dec.state.ny.us/website/dfwmr/heritage/. This site identifies the rare and endangered plant species of concern in the vicinity of the rail bed, including: Mead's Sedge (NYS-Endangered) and False Hop Sedge (NYS-Rare). Filer was asked to contact the NYS DEC NY Natural Heritage Program's Albany Office.
New York State Department of Environmental Conservation Division of Lands & Forests Region 8 New York Natural Heritage Program 625 Broadway Fifth Floor Albany, NY 12233-4757	Steve Young Chief Botanist 518-402-8951 syoung@tnc.org	4/6/2007 - Filer called NY DEC NY NHP 4/9/2007 - NY DEC NY NHP returned call	4/6/2007 - Filer contacted the NY Natural Heritage Program's Albany office. 4/9/2007 - The Chief Botanist responded to the Filer's inquiry and stated that the endangered and rare plants at issue are wetland plants and will not be disturbed by the rail bed salvage operation. A written response is expected.

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
New York Department of State Division of Coastal Resources 41 State Street Albany, NY 12231		2/5/2007 - Coastal Notice Mailed	
Robert N. Multer Chairman Yates County Legislature 417 Liberty Street Penn Yan, New York 14527		2/5/2007 - Env. Notice Mailed	
Sarah Purdy County Administrator 417 Liberty Street Penn Yan, New York 14527		2/5/2007 - Env. Notice Mailed	

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
Robert Clark Benton Town Supervisor 1000 Route 14A Penn Yan, New York 14527	Benton Township: 315-536-7236 Personal Office: 585-526-6207 supervisor@townofbenton.us	2/5/2007 - Env. Notice Mailed 2/16/2007 - Call from RC 2/16/2007 - Email resp. by Filer 3/1/2007 Email resp. by Filer 3/30/2007 - Email from RC's office 4/11/2007 - Email resp. by Filer	2/16/2007 - Township telephoned Filer to learn ownership of property and to express concerns over clearance of brush, removal process and resulting abandonment. Letter forthcoming. (Not rec'd as of 4/12/2007) Township also wanted verification that there would be no environmental impact and was interested in who retained the rights to the property. 2/16/2007 - E-mail - Township informing that brush clearing will not be disturbing to neighbors or site, property ownership to be verified, and no environmental impact anticipated. 3/1/2007 - Filer informed Township that the abandoned line remains subject to the lease after the abandonment. 3/30/2007 - Inquiry from Township re handling of rail removal at paved crossings. 4/11/2007 - Filer informed Township that it will coordinate work with the Township when it is time to remove the rails.

AGENCY	CONTACT	DATE SENT / RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
Region 2 Environmental Protection Agency Jacob K. Javits Federal Building 290 Broadway New York, NY 10007	John Cantilli Wetlands Protection Section US EPA 290 Broadway, 24th Floor NY, NY 10007-1866 Contact if there may be disturbance: Bridget Brown (315-255-8090) w/ Auburn Office of the US Army Corps. Of Engineers, Auburn Field Office in Buffalo District.	2/5/2007 - Env. Notice Mailed 2/12/2007 - Email resp. from US EPA	2/12/2007 - Email response includes GIS map depicting streams and wetlands. If any waterway or wetland might be disturbed, contact US Army Corps of Engineers, Auburn Field Office. Contact information provided. See US ACE (Auburn Field Office), NYS DEC FW&MR and NYS DEC DLF above.
US Fish and Wildlife Service Northeast Regional Office 300 Westgate Center Drive Hadley, MA 01035-9589 413-253-8200		2/5/2007 - Env. Notice Mailed	

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
US Fish and Wildlife Service New York Field Office 3817 Luker Road Cortland, NY 13045	Robyn A. Niver 607-753-9334 Endangered Species Program. Reference Project No. 70433	2/5/2007 - Env. Notice Mailed 2/7/2007 - Fax resp. from US FWS	2/7/2007 - Fax form rec'd from New York Field Office that due to insufficient staffing, must locate endangered species via internet. Filer did so at: <a href="http://www.fws.gov/northeast/nyfo/es/CountyLi
sts/YatesDec2006.htm">http://www.fws.gov/northeast/nyfo/es/CountyLi sts/YatesDec2006.htm and learned that there are two threatened species in the county of the abandonment. List printed. Also <u>see</u> US ACE (Auburn Field Office), NYS DEC FW&MR and NYS DEC DLF above.
U.S. Army Engineer Division Great Lakes & Ohio River Division 550 Main Street Room 10,032 Cincinnati, Ohio 45202-3222		2/5/2007 - Env. Notice Mailed	
U.S. Army Engineer Division U.S. Army Corps of Engineers- Buffalo District Auburn Field Office 7413 County House Road Auburn, New York 13021	Bridget Brown	3/21/2007 - Telephone Call from Filer	3/21/2007 - In response to the request of the NYS DEC, Filer contacted this field office and learned that a permit is not needed in relation to their wetland requirements as long as the salvage operations remain on the existing rail bed.

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
--------	---------	--------------------------------	------------------------------

Northeast Region Regional Director National Park Service U.S. Custom House 200 Chestnut St., Fifth Floor Philadelphia, PA 19106 215-597-7013		2/5/2007 - Env. Notice Mailed	
USDA Natural Resources Conservation Service 5601 Sunnyside Ave. Mailstop 5410, Room 1-1290A Beltsville MD 20705-5410 301-504-2300		2/5/2007 - Env. Notice Mailed	
USDA Natural Resources Conservation Service 441 Salina Street The Galleries of Syracuse Suite 354 Syracuse, NY 13202		2/5/2007 - Env. Notice mailed	

AGENCY	CONTACT	DATE SENT/ RESPONSE DATE	FORM OF RESPONSE/ SUMMARY
Mr. Richard A. Snay Chief, Spatial Reference System Div. United States Dept. of Commerce NOAA, N/NGS2 SSMC3, Room 8828 1315 East-West Highway Silver Spring, MD 20910	Simon Monroe simon.monroe@noaa.gov	2/5/2007 - Env. Notice mailed 3/9/2007 Email response from US DEC NOAA, N/NGS 2	3/9/2007 - Respondent states that there are 4 geodetic markers along abandonment and lists them. If marks to be disturbed, NGS requires 90-day advance notice. More information on markers at http://geodesy.noaa.gov/marks/railroads.
New York State Historic Preservation Office Peebles Island Resource Center P.O. Box 189 Waterford, NY 12188-0189	Nancy Todd	2/5/2007 - Historic Notice mailed 3/2/2007 - Telephone call from NYSHPO 3/2/2007 - Letter from NYSHPO.	3/2/2007 - Respondent's mailed response returned to them. Respondent called to inform Filer that the abandonment was not a concern to their office. 3/2/2007 - Respondent's letter states that the abandonment will have "No Effect upon cultural resources".

Yates County

Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Bald eagle	<i>Haliaeetus leucocephalus</i>	T
Leedy's roseroot	<i>Sedum integrifolium</i> ssp. <i>Leedyi</i>	T

E=Endangered T=Threatened P=Proposed C=Candidate

Information current as of: 2/8/2007

Watkins Glen-Penn Yan Line

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS

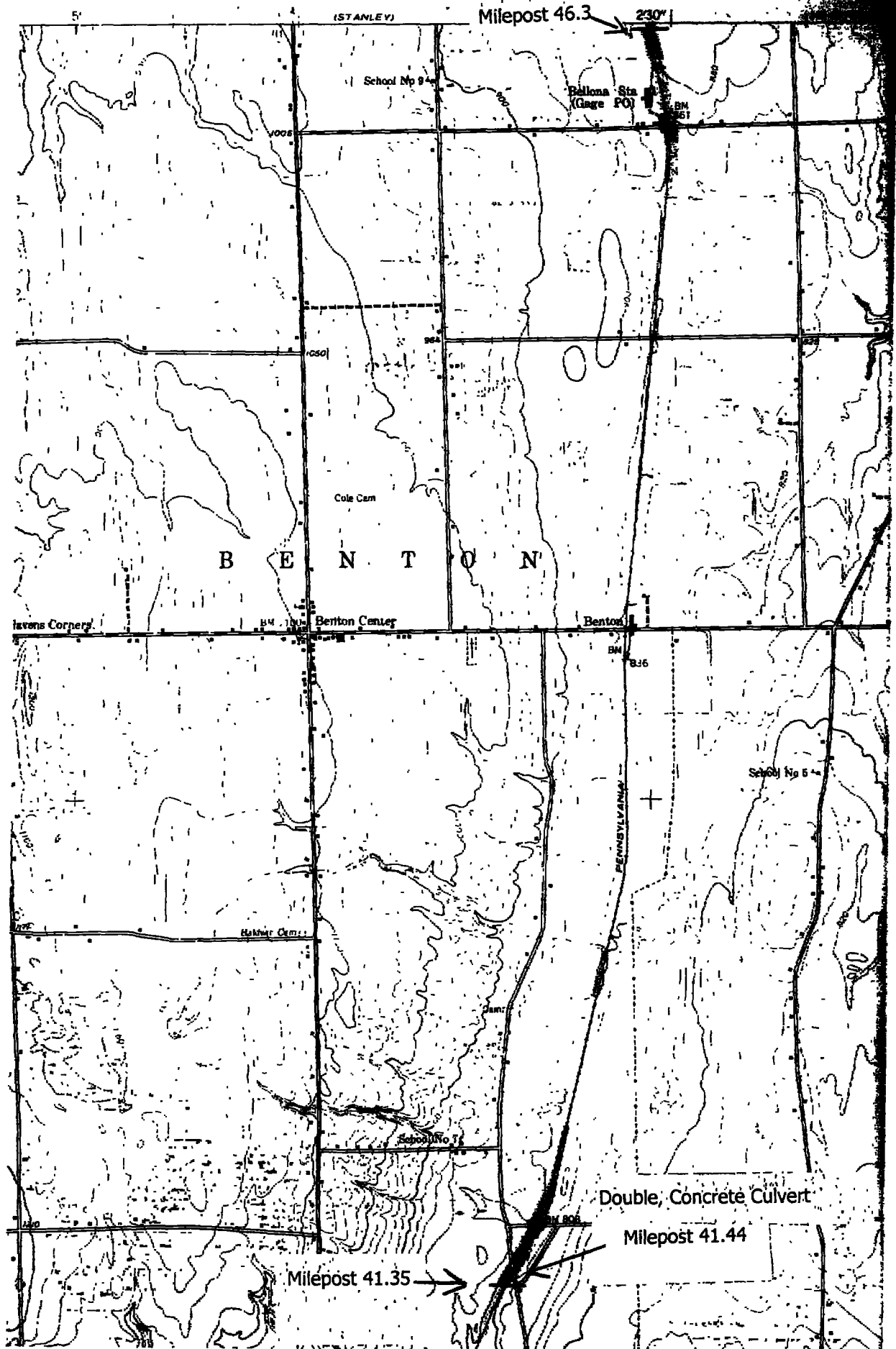


EXHIBIT F

Notice

COUNTY OF ONTARIO

Finger Lakes, Railway Corp. ("FGLK") gives

notice that on or about April 25, 2007, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152. Subpart F - Exempt Abandonments permitting the abandonment of [redacted] (202)245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any plead-

Charles Brundell

of the City of Geneva, County of Ontario,
is Arthur David Pearson

being duly sworn, doth depose and say that he is William A. Lawrence
Finger Lakes Publishing, Inc., publishers of THE FINGER LAKES TIMES a Daily
Newspaper, published in Geneva, in said County: and that the notice of which the
annexed, is a printed copy, cut from said newspaper, was printed and published in the
regular edition and issue of said newspaper Finger Lakes Times

for 1 tank

Successive

beginning March 31 20 07

and ending

March 30 2007

Cheryl Buwall

Subscribed and sworn to before me)

this 4 day of April 2007)

SUEANN M. STRONG
Notary Public, State of New York
Ontario County No. 0181 6135617
Commission Expires October 24, 20

Notary Public, Ontario County, N.Y.

LEO4687

AFFIDAVIT

STATE OF NEW YORK

SS

YATES COUNTY

Karen L. Morris

being duly sworn, deposes and says that she resides in the **Town of Starkey, County of Yates, and State of New York**, that she is the **Publisher** of *The Chronicle-Express*, a public newspaper, published weekly in the **Village of Penn Yan**, by **Liberty Group New York Holdings, Inc.**, and that a notice, of which the annexed is a printed copy, was published in said weekly newspaper.

Said publication therein being on the following date(s):

March 28, 2007

Karen L. Morris Publisher

Subscribed and sworn to before me on this *29th*

day of March, 2007

PATRICIA L. CHRISTENSEN
Notary Public, State of New York
Qualifier in Yates County
No. U1CH6042773
Commission Expires 06-05-2010

Patricia L. Christensen
NOTARY PUBLIC

3-29-2007
DATED

PUBLIC NOTICE

PUBLIC NOTICE DEADLINE NOON MONDAYS.

NOTICE

Finger Lakes Railway Corp. ("FGLK") gives notice that on or about April 26, 2007, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F - *Exempt Abandonments* permitting the abandonment of a 4.95 mile line of railroad known as Watkins Glen - Penn Yan Line, which runs in a northerly direction from milepost 41.35 in the Village of Penn Yan, Town of Benton, Yates County, New York through the Town of Benton to milepost 46.3. This line traverses through United States Postal ZIP Code 14527. The proceeding will be docketed as AS1005 (X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environ-

Washington, DC 20423-0001 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (202) 245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative: Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, PC, Four Penn Center, Suite 200, 1600 John F. Kennedy Boulevard, Philadelphia, PA 19103.

LE04887-13PN1

EXHIBIT G

Notice

Finger Lakes Railway Corp. ("FGLK") gives notice that on or about April 25, 2007, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F – *Exempt Abandonments* permitting the abandonment of a 4.95 mile line of railroad known as Watkins Glen - Penn Yan Line, which runs in a northerly direction from milepost 41.35 in the Village of Penn Yan, Town of Benton, Yates County, New York through the Town of Benton to milepost 46.3. This line traverses through United States Postal ZIP Code 14527. The proceeding will be docketed as AB1005 (X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (202) 245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative: Eric M. Hocky, Esquire, Gollatz, Griffin & Ewing, PC, Four Penn Center, Suite 200, 1600 John F. Kennedy Boulevard, Philadelphia, PA 19103.

EXHIBIT H



DOUBLE CONCRETE CULVERT
Milepost 41.44

EXHIBIT I

Rec'd
3/8/07



New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

March 02, 2007

Leanne D. Bellis
GG & E
213 West Miner Street
PO Box 796
West Chester, 19381

Re: STB
Finger Lake Railway Corp, track abandonment
Penn Yan (MP 41.35) to Benton (MP 46.3)/
BENTON, Yates; PENN YAN, Yates County
07PR00742

Dear Ms. Bellis:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966.

Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont
Director

SERVICE/ADDRESS LIST

New York Department of Environmental Conservation
625 Broadway
Albany, NY 12233

New York Department of Environmental Conservation
6274 E. Avon-Lima Road
Avon, NY 14414-9519

New York Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231

Robert N. Multer
Chairman
Yates County Legislature
417 Liberty Street
Penn Yan, New York 14527

Sarah Purdy
County Administrator
417 Liberty Street
Penn Yan, New York 14527

Robert Clark
Benton Town Supervisor
1000 Route 14A
Penn Yan, New York 14527

Region 2
Environmental Protection Agency
Jacob K. Javits Federal Building
290 Broadway
New York, NY 10007

US Fish and Wildlife Service
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035-9589

US Fish and Wildlife Service
New York Field Office
3817 Luker Road
Cortland, NY 13045

U.S. Army Engineer Division

Great Lakes & Ohio River Division
550 Main Street
Room 10,032
Cincinnati, Ohio 45202-3222

Northeast Region
Regional Director
National Park Service
U.S. Custom House
200 Chestnut St., Fifth Floor
Philadelphia, PA 19106

USDA Natural Resources Conservation Service
5601 Sunnyside Ave.
Mailstop 5410, Room 1-1290A
Beltsville MD 20705-5410

USDA Natural Resources Conservation Service
441 Salina Street
The Galleries of Syracuse
Suite 354
Syracuse, NY 13202

Mr. Richard A. Snay
Chief, Spatial Reference System Div.
United States Dept. of Commerce
NOAA, N/NGS2
SSMC3, Room 8828
1315 East-West Highway
Silver Spring, MD 20910

New York State Historic Preservation Office
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

U.S. Army Engineer Division
U.S. Army Corps of Engineers- Buffalo District
Auburn Field Office
7413 County House Road
Auburn, New York 13021

Michael L. Allen
New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources, Region 8
6274 E. Avon-Lima Road
Avon, NY 14414-9519