

# PROTECT THE ADIRONDACKS!

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**Executive Director**

April 24, 2020

Ann D. Begeman, Chair  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

**RE: Docket No. AB-1261**

Dear Ms. Begeman,

In light of recent letters submitted on this matter to the Surface Transportation Board from local governments in northern New York, one of which quoted Protect the Adirondacks, we feel a sense of urgency to inform you that our organization continues to support the adverse abandonment application, filed by the NYS Attorney General's Office on behalf of the NYS Department of Environmental Conservation (DEC), regarding the authority of the Saratoga and North Creek Railway (SNCR) to operate the 30-mile Sanford Lake Rail Line in the central Adirondack Park in northern New York. The rail line runs from the hamlet of North Creek in the Town of Johnsbury, Warren County, 30 miles to the Tahawus Mine in the Town of Newcomb, Essex County.

We request that the Surface Transportation Board (STB) act promptly to approve the application for abandonment, and not allow more unnecessary delay in this proceeding.

On April 22, 2020, the Warren County Board of Supervisors submitted a letter to the STB that states in part:

The Warren County Board of Supervisors wishes to go on the record regarding comments made in correspondence dated April 17, 2020, and entered into the Public Record on the same date by William A. Brandt, Jr., the Chapter 11 Trustee for the bankruptcy estate of the San Luis & Rio Grande Railroad, Inc. ("SLRG"), the parent of Saratoga and North Creek Railway, LLC.

In his letter, in which he argues for the current adverse abandonment proceeding (Docket No. AB 1261) to be placed in abeyance until the end of the year, Mr. Brandt states the following:

### Protect the Adirondacks

PO Box 48, North Creek, NY 12853 518.251.2700

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“The Trustee is opposed to the application to abandon the SNCR railway. He filed the SNCR bankruptcy petition in order to explore a potential sale of SNCR’s assets as an operating railroad. The Trustee has been and is currently having negotiations and discussions with Essex County, Warren County, the Town of Corinth, the Town of Newcomb, the Surface Transportation Board, potential bidders in such a sale, and others as to whether such a sale is possible and the parameters of such a sale process”

Warren County is in no way, shape or form currently negotiating with these parties regarding a sale of our railroad assets. As such, Mr. Brandt’s statement constitutes a false representation to the Surface Transportation Board. We respectfully ask Mr. Brandt to withdraw his mischaracterization of Warren County’s position.

Warren County’s position regarding our railroad assets has been and continues to be that we will commence abandonment proceedings on those assets. Our Board of Supervisors unanimously adopted Resolution Number 585 of 2019, attached hereto, on December 20, 2019, and this remains our official position. It has been our intention to commence said abandonment proceedings when we deem it appropriate to do so. We look in part to the resolution of the current adverse abandonment proceeding (Docket No. AB 1261) to better inform our decision.

Protect the Adirondacks supports commencement of abandonment proceedings for the rail corridor from Saratoga to North Creek that is owned in part by Warren County. We note that, in his capacity as a Trustee appointed to oversee the bankruptcy of Iowa Pacific Holdings, which had previously leased the Saratoga to North Creek rail corridor from Warren County and the Town of Corinth, and currently owns the Sanford Lake Rail Line, Mr. Brandt is obligated to try and recover any assets of the company. We do not believe that there is any viable rail carrier purpose for the entire 30-mile rail corridor from North Creek to the Tahawus Mine (nor from North Creek to Saratoga) and we urge the STB to act to approve the application submitted by the State of New York and the application that will be submitted by Warren County.

The position of the Warren County Board of Supervisors is important because the Sanford Lake Rail Line’s sole connection to the outside world is via the Saratoga to North Creek Rail Line which is also defunct with no current, and no likely, operator. Warren County is expected to seek abandonment of the Saratoga to North Creek rail line in the near future.

Also submitted on April 17, 2020 was a letter from the Essex County Board of Supervisors to the STB, which states support for the continuation of the Sanford Lake Rail Line, also known variously as “The Tahawus Line.” Essex County stated:

The SNCR railroad (the Tahawus line as we know it) is an asset to Essex County not a burden. It possesses sound commercial freight rail prospects and now with the economic consequences the coronavirus has brought to us, it remains invaluable. We urge the Surface Transportation Board to examine the complete record and consider supporting our continued efforts to reactivate the Tahawus Rail line.

The letter by Essex County included a glossy public relations “report” about the Sanford Lake Rail Line “Environmental and Economic Restoration of an Adirondack Mining Village.” This a flimsy document includes many unsubstantiated claims. On one page, this document quotes Protect the Adirondacks:

“It doesn’t seem at this point that the mine itself is [anything] more than an eyesore.”

“Eventually we’d like to see the mine cleaned up, restored to its natural topography as much as possible, and then become part of the Forest Preserve. This process could play out over decades,”

Peter Bauer – Executive Director of Protect the Adirondacks

With a viable rail operator Peter Bauer’s vision will be achieved decades sooner and provide environmental and economic benefits to Essex County and parts of New York Sate. *(typo is included in the document)*

In no way, shape or form, does Protect the Adirondacks support the position of the Essex County Board of Supervisors. We opposed SNCR’s application for common carrier status for the Sanford Lake Rail Line in 2011 and believe that since then the line has been an unqualified failure. Over the last twenty years, numerous private and public parties, including SNCR, Essex County, Warren County and the Town of Corinth, have made significant, repeated attempts to find a viable use of the rail corridor for rail traffic, to no avail. The now-deteriorated physical state of the rail line would require an enormous amount of investment just to make the line minimally usable for freight. The historic purpose of this rail line was to service a mine that has been defunct for more than three decades. It is time to abandon this rail line so that the corridor can be returned to the landowners, including the State of New York and the public Forest Preserve.

Protect the Adirondacks supports the abandonment application by the State of New York. In a March 30, 2018 letter to the STB, the NYS Attorney General wrote:

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

Protect the Adirondacks agrees with the NYS Attorney General that the line should be abandoned. On July 23, 2018, the NYS DEC stated in an environmental and historic report submitted to the STB its continued firm support for its request for abandonment.

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

In the July 2018 correspondence, the DEC argued that there is no viable alternative to abandonment, the loss of the line will have no effect on the regional or local transportation system, abandonment will have no impact on prime agricultural land, abandonment will have no impact on the transportation of energy resources, and abandonment will have no impact on the transportation of recyclable commodities. There will be no diversion of rail traffic because the line has been dormant. There will be no effect on air emissions or energy emissions, parklands, endangered or threatened species, public health and safety, noise, clean water and water quality standards, historical resources, among other considerations. Protect the Adirondacks finds the state’s “Environmental and Historic Report” to adequately make the case for abandonment.

As part of the report submitted by the NYS DEC, the NYS Office of Parks, Recreation, and Historic Preservation, which is the state’s SHPO, submitted a letter about the lack of historic significance of the Tahawus Railway. The Office wrote:

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

The State of New York provided additional information to the STB in October 2019:

This office represents the New York State Department of Environmental Conservation in the above-captioned proceeding. On September 30, 2019, the Department requested that the Board issue a certificate of interim trail use for the subject line of railroad. I have discussed the Department’s trail use request with David Michaud, counsel for Saratoga and North Creek Railway (SNCR), and we write jointly to inform the Board that SNCR is willing to negotiate an interim trail use agreement with the Department.

In addition, SNCR has no objection to proceeding with the pending abandonment on a voluntary basis. Accordingly, SNCR irrevocably represents that it does not now and will not in the future oppose the Department’s abandonment application, and that the public convenience and necessity favor abandonment of the subject line.

Protect the Adirondacks strongly urges the STB to act to authorize the abandonment of the defunct 30-mile Sanford Lake Rail Line, or Tahawus Line, in the central Adirondack Park in northern New York. We request that the STB act promptly to approve the State of New York’s application for abandonment.

On behalf of the Board of Directors of Protect the Adirondacks, please let me express our gratitude for the opportunity to share our views on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with the first name "Peter" being more prominent than the last name "Bauer".

Peter Bauer,  
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2020, I caused the foregoing filing with the Surface Transportation Board. New York State Department of Environmental Conservation Abandonment Application Docket #: AB\_ 1261 0 to be served by first class mail on the following Parties of Record:

Case Title: NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION ADVERSE ABANDONMENT vs SARATOGA AND NORTH CREEK RAILWAY IN TOWN OF JOHNSBURG, N.Y.

Party of Record

Robert W. Terwilliger  
Assistant Warren County Attorney  
Office of the County Attorney  
1340 State Route 9  
Lake George, NY 12845

Party of Record

Philip L Gallos  
33 Baker Street  
Saranac Lake, NY 12983

Party of Record

James T. Markus,  
Jennifer Salisbury,  
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Suite 4550  
Denver, CO 80203

Party of Record

Claudia Braymer  
Braymer Law  
PO Box 2369  
Glens Falls NY 12801

Party of Record

Revolution Rail Co.  
3 Railroad Place  
PO Box 202  
North Creek, NY 12853

Party of Record

Steven A. Potter  
North Country Logistics Solutions, LLC  
Long Lake, NY 12847

Party of Record  
United Rail Inc.  
9480 S. Eastern Ave  
Las Vegas, NV 89123

Party of Record  
Robert Wimbish - Attorney for Omnitrax  
Fletcher & Sippel LLC  
29 North Wacker Dr. Suite 800  
Chicago, IL 60606~ 3208

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

Party of Record  
Berkman, Thomas S.  
New York State Department of Environmental Conservation  
625 Broadway, 14Th Floor  
Albany, NY 12233,1010

Party of Record  
GERALD W DELANEY  
Adirondack Park Local Gov. Review Board  
Executive Director  
326 Downs Rd  
Cadyville, NY 12918

Party of Record  
ESSEX COUNTY IN THE PARK  
INDUSTRIAL DEVELOPMENT AGENCY  
7566 Court Street, P.O. Box 217  
Elizabethtown. NY 12932

Party of Record  
William C. Janeway, Executive Director  
Adirondack Council  
103 Hand Ave, Suite 3 PO Box D-2  
Elizabethtown, New York 12932-0604

Party of Record  
New York State Department of Public Service  
Attn: John J. Sipos, Deputy General Counsel  
Empire State Plaza, Agency Building 3  
Albany, NY 12223-1350

Party of Record:  
Mitchell, Paul J  
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Party of Record  
David L Michaud  
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118 S. Clinton St. Ste. 400,  
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Party of Record  
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Party of Record  
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Party of Record  
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New York State Department of Environmental Conservation  
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Party of Record  
Member of Congress  
Honorable Charles E Schumer  
United States Senate  
Washington, DC 20510



Party of Record  
Mr. Robin Deloria  
P.O. Box 405  
Newcomb, New York 12852

A handwritten signature in black ink, appearing to read "Peter Bauer". The signature is fluid and cursive, with the first name "Peter" being more prominent than the last name "Bauer".

Signed – Peter Bauer, Executive Director  
Protect the Adirondacks