



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1261]

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

On September 10, 2018, the New York State Department of Environmental Conservation (the Department) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or adverse, abandonment of Saratoga and North Creek Railway (SNCR) over approximately 29.71 miles of rail line extending between milepost NC 0.0 at North Creek, N.Y., and its terminus at milepost NC 29.71 near the former Tahawus Mine (Tahawus Line or the Line). The Line traverses United States Postal Service Zip Codes 12842, 12843, 12851, 12852, 12853, and 12857.

According to the Department, the Line was built by the United States during the Second World War to facilitate the transportation of strategic materials from a former mine owned and operated by NL Industries. In 2012, SNCR obtained Board authority to operate over the Tahawus Line, which it had purchased from NL Industries the year before. See Saratoga & N. Creek Ry.—Operation Exemption—Tahawus Line, FD 35631 (STB served June 1, 2012). According to the Department, since obtaining Board authority, SNCR has moved at most a few carloads of industrial garnet as well as carloads of ballast purchased by SNCR for its own use. The Department further claims that there is currently no freight service on the Line and there are only two potential

shippers. The Department states that SNCR has resorted to using the right-of-way, which runs through the state-owned Forest Preserve within New York's Adirondack Park, as a storage facility for obsolete railcars. The Department states that it is seeking an adverse abandonment to protect the Forest Preserve.

In a decision served on February 27, 2018, the Department was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that were not relevant to its adverse discontinuance application or that sought information not available to the Department.

According to the Department, there is no documentation in its possession that indicates that the Line contains federally granted rights-of-way. Any documentation in the Department's possession will be made available promptly to those requesting it. The Department's entire case-in-chief for adverse abandonment was filed with the application.

The Department states that the interests of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed adverse abandonment or protests (including protestant's entire opposition case) by October 25, 2018. Persons who may oppose the proposed adverse abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the

proposed adverse abandonment who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. The Department's reply is due by November 9, 2018.

All filings in response to this notice must refer to Docket No. AB 1261 and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Joshua M. Tallent, New York State Office of the Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY 12224-0341.

Any request for an interim trail use/railbanking condition under 16 U.S.C. 1247(d) and 49 CFR 1152.29 must be filed by October 25, 2018, and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application. Each trail use request must be accompanied by a \$300 filing fee. See 49 CFR 1002.2(f)(27).

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR pt.1152, every document filed with the Board must be served on all parties to this adverse abandonment proceeding. 49 CFR 1104.12(a).

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) will be served upon all parties of record and upon any agencies or other persons who commented

during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact OEA by phone at the number listed below. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR pt.1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at www.stb.gov.

Decided: September 25, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

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