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BARBARA D. UNDERWOOD  
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
ENVIRONMENTAL PROTECTION BUREAU

August 9, 2018

**By certified mail**  
Surface Transportation Board  
Chief, Section of Administration  
Office of Proceedings  
395 E Street, SW  
Washington, D.C. 20423-0001



Re: *New York State Department of Environmental  
Conservation - Adverse Abandonment - Saratoga and  
North Creek Railway in Town of Johnsburg, NY*

**Notice of Intent To Abandon Service**  
**STB Docket No. AB 1261**

Greetings:

Pursuant to 49 U.S.C. § 10903(a) and 49 C.F.R. part 1152, the New York State Department of Environmental Conservation will apply to the Surface Transportation Board for a determination that the public convenience and necessity require or permit the abandonment by Saratoga and North Creek Railway of a 30-mile section of railroad commonly known as the Sanford Lake Branch or the Tahawus Line, between milepost NC 0.0 at North Creek, New York and the Line's terminus near the former Tahawus Mine at milepost NC 29.71.

In accordance with 49 C.F.R. § 1152.20(a)(1) and (b)(3), enclosed for filing with the Board please find a Notice of Intent to Abandon Service.

Yours truly,

**JOSHUA M. TALLENT**  
Assistant Attorney General

*Attorney for the New York State*  
*Department of Environmental Conservation*  
New York State Office of the Attorney  
General  
Environmental Protection Bureau  
The Capitol  
Albany, NY 12224  
(518) 776-2456  
Joshua.Tallent@ag.ny.gov

enc.

cc: Sandra Allen, Esq. (by e-mail only)

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Docket No. AB 1261**

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

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**NOTICE OF INTENT TO ABANDON SERVICE**

The New York State Department of Environmental Conservation (“Applicant”) gives notice that on or about August 30, 2018, it intends to file with the Surface Transportation Board (“Board”) an application seeking adverse abandonment of the authority of the Saratoga and North Creek Railway, LLC (“SNCR”) to operate over the rail line originating at MP NC 0.0 at North Creek, New York in Warren County and proceeding north a distance of approximately 29.71 miles into Essex and Hamilton Counties to a terminus at MP NC 29.71 near the Tahawus Mine (“Line”). Portions of the Line are situated in U.S. Postal Zip Codes 12843, 12842, 12857, 12853, 12851, and 12852. There are no stations on the Line. The reasons for the proposed abandonment include: (1) the absence of current use of the Line pursuant to the authority granted to SNCR by the Board; (2) the lack of any reasonably foreseeable future need for rail service on the Line; and (3) the prospect for beneficial non-rail use of the property. In addition, there are significant environmental health and safety concerns associated with the current use of the property.

There are no documents in Applicant’s possession indicating that the Line contains federally-granted rights-of-way. Any such documentation coming into Applicant’s possession will be made promptly available to those requesting it. The interests of railroad employees will be protected by the requirements set forth in *Oregon Short Line Railroad and the Union Pacific Railroad Company – Abandonment – Portion of Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, ID*, AB 36, 360 I.C.C. 91 (1979).

The application, when filed, can be viewed on the Board’s webpage, [www.stb.gov](http://www.stb.gov), or a copy can be secured from Applicant’s counsel, whose name and address appear below. The application will include Applicant’s entire case for abandonment. After the application is filed on or about August 30, 2018, any interested person may file with the Board its protest of, or written comments concerning, the proposed abandonment, identifying it by the docket number AB 1261. These filings are due 45 days from the date of filing of the application. All interested persons should be aware that following any abandonment of rail service and salvage of the



Line, the Line may be suitable for other public uses, including interim trail use. Any request for a trail use condition under 16 U.S.C. § 1247(d) (section 1152.29 of the Board's rules) must also be filed within 45 days from the date of filing of the application. Persons who may oppose the abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses containing detailed evidence should file comments. Persons interested only in seeking a trail use condition should also file comments. Persons opposing the proposed abandonment who do wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition, including the following: (1) the protestant's name, address, and business; (2) the protestant's interest in the proceeding, including the protestant's use of the Line or the public interest represented; (3) the protestant's reasons for protesting or commenting on the proposed abandonment, including the protestant's reliance on the involved service; and (4) any rebuttal of material submitted in the application.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding: (1) environmental impact; (2) impact on rural and community development; (3) recommended provisions for protection of the interests of employees; and (4) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29. Protests or comments must be notarized or verified, and an unbound original and ten copies must be filed with the Secretary of the Board at 395 E Street, SW, Suite 100, Washington, D.C. 20423, together with a certificate of service attesting that copies of the comments or protests have been served on Applicant's counsel in this matter, Joshua Tallent, Assistant Attorney General, Office of the New York State Attorney General, Environmental Protection Bureau, The Capitol, Albany, NY 12224. Except as otherwise set forth in 49 C.F.R. § 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. Protests and comments will be considered by the Board in determining what disposition to make of the application.

A commenting party or protestant may participate in the proceeding as its interest may appear. If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed. Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to the Board's rules at 49 C.F.R. § 1152.25.

Persons seeking further information concerning the abandonment procedures may contact the Board or refer to the full text of the abandonment regulations at 49 C.F.R. § 1152.1 et seq.

**An environmental assessment (EA) or, if necessary, an environmental impact statement (EIS) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other person who would like to obtain a copy of the EA or EIS may contact the Section of Environmental Analysis. EAs in 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 or EIS 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.**

## **CERTIFICATE OF SERVICE**

**I hereby certify that on August 9, 2018, I caused the foregoing Notice of Intent to Abandon Service to be served by first class mail on the following:**

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

**Hon. Charles E. Schumer  
Minority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510**

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

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

**Cornell Cooperative Extension  
Attn: Christopher Watkins, Director  
365 Roberts Hall  
Ithaca, NY 14853**

**United States Department of Transportation  
Federal Railroad Administration  
Attn: Office of Chief Counsel  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590**

**United States Department of Defense  
Military Surface Deployment and Distribution Command  
Transportation Engineering Agency  
Railroads for the National Defense Program  
Attn: David P. Dorfman, P.E.**

1 Soldier Way, Room 3129  
Scott AFB, IL 62225-5006

United States Department of the Interior  
National Park Service  
Conservation and Outdoor Recreation Division  
1849 C Street, NW  
Washington, D.C. 20240

United States Railroad Retirement Board  
Attn: Ana M. Kocur, General Counsel  
William O. Lipinski Federal Building  
844 North Rush Street  
Chicago, IL 60611-1275

United States Department of Agriculture  
Forest Service  
Attn: Vicki Christiansen, Interim Chief  
1400 Independence Avenue, SW  
Washington, D.C. 20250-1111

I further certify that on August 9, 2018, I caused a copy of the foregoing Notice of Intent to Abandon Service to be served by first class mail on all parties of record in this proceeding.

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

By: 

**JOSHUA M. TALLENT**  
Assistant Attorney General  
*Attorney for New York State*  
*Department of Environmental Conservation*  
New York State Office of the Attorney General  
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