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STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
ALBANY, N.Y. 12232  
www.nysdot.gov

ASTRID C. GLYNN  
COMMISSIONER

DAVID A. PATERSON  
GOVERNOR

September 30, 2008

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 L Street, SW  
Washington, DC 20024

Dear Secretary Quinlan:

Re The New York, Susquehanna and Western Railway Corporation  
- Discontinuance of Service Exemption -  
In Broome and Chenango Counties, NY  
STB Docket No. AB-286 (Sub-No. 5X)

Dear Secretary Quinlan:

By letter dated September 8, 2008, the New York State Department of Transportation (NYSDOT) submitted a Petition requesting a stay of the above-listed subject matter. Subsequent to that letter being sent, we have had extended conversations with interested parties, including the New York, Susquehanna and Western Railway Corporation (NYS&W) and the County of Chenango Industrial Development Agency. Based upon those conversations and correspondence we have received from the NYS&W, NYSDOT hereby withdraws its request for a stay. We are attaching a copy of NYS&W's September 25, 2008 letter and would request that it be made a part of the record of this proceeding.

I am serving a copy of this letter on all interested parties.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert A. Rybak".

ROBERT A. RYBAK  
Division of Legal Affairs

Cc: Eric M. Hocky, Esq. (Sent via e-mail)  
John D. Heffner, PLLC (Sent via e-mail)

**THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION**  
**1 Railroad Avenue**  
**Cooperstown, NY 13326**  
**607-547-2555**  
**607-547-5658 fax**

**Nathan E. Fenno**  
**President**  
[nfenno@nyvw.com](mailto:nfenno@nyvw.com)

September 25, 2008

**Karen Rae, Deputy Commissioner**  
**New York State Dept of Transportation**  
**50 Wolf Road, 5-4**  
**Albany, NY 12232**

**Maurcen Carpenter, EDP**  
**President & CEO**  
**Chenango County Industrial Development Agency**  
**19 Eaton Avenue**  
**Norwich, NY 13815**

**RE: *Utica Line***

**Dear Ms. Rae and Ms. Carpenter:**

**Thank you for taking the time to meet to discuss the out-of-service portion of the NYS&W's Utica Line (Chenango Forks to Sherburne).**

**During the NYS&W's over 25 year involvement in this line, it has consistently sought ways to preserve and enhance rail service, and we have enjoyed NYSDOT's long-term support of those efforts. Since the June, 2006 flooding and resulting significant damage to the line, NYS&W has sought to work with NYSDOT as well as other state and local officials to reach a rational and sustainable resolution that will preserve the option of rail service on the line if and when the need arises in the future. NYS&W remains committed to those efforts and we look forward to working with NYSDOT and Chenango County IDA to explore options for the line, including re-establishment of rail service on part or all of the line**

**NYS&W's recent filing of a Notice of Discontinuance with the Surface Transportation Board is consistent with those efforts. Currently, there is no economic justification for operation of the line, much less the investment of scarce resources in track rehabilitation. Filing of the Notice of Discontinuance was necessary to satisfy NYS&W's obligations under Surface Transportation Board regulations and federal law, doing so maintains the status quo on the line while interested parties continue to explore options for the line. In that spirit of cooperation, NYS&W is prepared to commit to forego seeking abandonment authority for at least 12 months, and to give**

both NYSDOT and Chenango County IDA not less than 60 days advance notice of any such filing, if NYSDOT and Chenango County IDA withdraw their respective opposition to the current Notice of Discontinuance, and Chenango County IDA foregoes any action to terminate the existing arrangements with NYS&W during such time. The withdrawal of opposition would, of course, be without prejudice to any position NYSDOT or Chenango County IDA may take in the event abandonment is sought, moreover, withdrawal of opposition would maintain the status quo and allow all involved to direct their attentions to cooperative efforts to attract new customers to the line.

Finally, please be assured that NYS&W acknowledges the various provisions of several grant agreements which provide for reimbursement of state moneys in certain circumstances. NYS&W looks forward to addressing any concerns NYSDOT may have in that regard by clarifying, in a mutually acceptable manner, when, how much and under what conditions such reimbursement may become due. We believe that such a resolution should include NYS&W's acknowledgment that the amount that may ultimately be required to be repaid is not depreciating.

Again, thank you for taking the time to discuss this with us.

Respectfully,

A handwritten signature in black ink, appearing to read 'N. Fenno', with a long horizontal flourish extending to the right.

Nathan R. Fenno  
President

NRF:ksp