



Eric M. Hocky  
Direct Dial 215 640 8523  
Email: ehocky@thorpreed.com

225551

ATTORNEYS AT LAW SINCE 1895

VIA FEDERAL EXPRESS



August 17, 2009

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

Re: The New York, Susquehanna and Western Railway Corporation  
- Exempt Abandonment -  
In Oneida County, NY  
STB Docket No. AB-286 (Sub-No. 6X)

Dear Secretary Quinlan:

Enclosed for filing please find the original and 10 copies of the Notice of Exempt Abandonment of The New York, Susquehanna and Western Railway Corporation. Also enclosed is our check in the amount of \$3700 representing the filing fee for this Notice.

Please time stamp the extra copy of the Notice to indicate receipt and return it to me in the self-addressed stamped envelope provided for your convenience.

Please let know if there are any questions about the filing. Thank you for your assistance.

Respectfully,

*Eric M. Hocky*  
Eric M. Hocky

EMH/e

Enclosures

cc: NYSW (by email; w/encl.)  
All persons on service list (by mail; w/encl.)

**FEE RECEIVED**  
AUG 18 2009  
SURFACE  
TRANSPORTATION BOARD

Pittsburgh  
Philadelphia  
Princeton  
Wheeling

Thorpe Reed & Armstrong, LLP  
One Commerce Square  
2005 Market Street  
Suite 1000  
Philadelphia, PA 19103-7041  
215 640 8500  
215 640 8501 Fax

ENTERED  
Office of Proceedings

AUG 18 2009

Part of  
Public Record

225551



Before the

**SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-286 (Sub. No. 6X)

**THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION**

**- EXEMPT ABANDONMENT -**

**IN ONEIDA COUNTY, NY**

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**NOTICE OF EXEMPT ABANDONMENT**

**FILED**  
AUG 18 2009  
SURFACE  
TRANSPORTATION BOARD

ERIC M. HOCKY  
THORP REED & ARMSTRONG, LLP  
One Commerce Square  
2005 Market Street, Suite 1000  
Philadelphia, PA 19103  
(215) 640-8500

Attorneys for The New York, Susquehanna  
and Western Railway Corporation

Dated: August 17, 2009

{P0079345}

**FEE RECEIVED**

AUG 18 2009

**SURFACE  
TRANSPORTATION BOARD**

Before the  
**SURFACE TRANSPORTATION BOARD**  
STB Docket No. AB-286 (Sub. No. 6X)

**THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION**  
**- EXEMPT ABANDONMENT -**  
**IN ONEIDA COUNTY, NY**

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**NOTICE OF EXEMPT ABANDONMENT**

The New York, Susquehanna and Western Railway Corporation ("Applicant" or "NYS&W") is seeking an exemption to abandon a segment of its line of railroad, known as the Fay Street Branch, between Milepost 284.80 at or near Oswego Street in Utica, New York, and Milepost 285.22 at or near Warren Street in Utica, New York (the "Line"). NYS&W acquired the Line in 1982; there has been no local or overhead freight service on the Line for over 15 years. Any previous overhead service has long been rerouted.

This Notice of Exempt Abandonment is being filed pursuant to the requirements of 49 C.F.R. §1152.50. In accordance with such requirements, Applicant hereby states as follows:

1. The exact name of Applicant is The New York, Susquehanna and Western Railway Corporation.
2. Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. Applicant acquired the Line from Conrail in 1982.
3. The relief sought is the abandonment of a line of railroad, known as the Fay Street Branch, between Milepost 284.80 at or near Oswego Street in Utica, New York, and Milepost 285.22 at or near Warren Street in Utica, New York.
4. A detailed map of the Line is attached hereto as Exhibit A.

5. The representative of Applicant to whom correspondence should be sent is:

Eric M. Hocky, Esquire  
THORP REED & ARMSTRONG, LLP  
One Commerce Square  
2005 Market Street, Suite 1000  
Philadelphia, PA 19103  
(215) 640-8500

6. The Line to be abandoned traverses United States Postal Service ZIP Code 13502.

7. Applicant believes that the right of way may be suitable for highway use or other public purposes. Information in Applicant's possession regarding any restrictions on title will be made available by Applicant on reasonable request.

8. Applicant proposes to consummate the abandonment on or after October 7, 2009.

9. Applicant certifies that:

(a) No local or overhead traffic has moved over the Line for over 15 years; any previous overhead service has long been rerouted.

(b) No formal complaint by a user of rail service on the Line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two year period.

10. Although no employees of Applicant will be affected by the proposed discontinuance, Applicant recognizes that this abandonment will be made subject to the employee protective conditions in *Oregon Short Line Railroad Co.--Abandonment--Goshen*, 360 I.C.C. 91 (1979).

11. Applicant filed an Environmental/Historic Report with the Board on July 25, 2009. Applicant provided supplemental information regarding responses received since the

original Report was filed, in a letter filed with the Board on August 14, 2009.

12. Applicant has complied with the notice requirements of 49 C.F.R. §1105.11. Notice was published on *The Utica Observer-Dispatch* on July 21, 2009. A copy of the proof of publication is attached as Exhibit B.

13. Applicant has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). A copy of the notice dated August 4, 2009, sent to governmental agencies is attached hereto as Exhibit C.

For the reasons set forth above, the Board should find that Applicant's proposed abandonment satisfies the exemption requirements of 49 C.F.R. §1152, and should issue the appropriate notice.

Respectfully submitted,



ERIC M. HOCKY  
THORP REED & ARMSTRONG, LLP  
One Commerce Square  
2005 Market Street, Suite 1000  
Philadelphia, PA 19103  
(215) 640-8500

Attorneys for The New York, Susquehanna  
and Western Railway Corporation

Dated: August 17, 2009

**VERIFICATION**

I hereby verify on behalf of The New York, Susquehanna and Western Railway Corporation, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

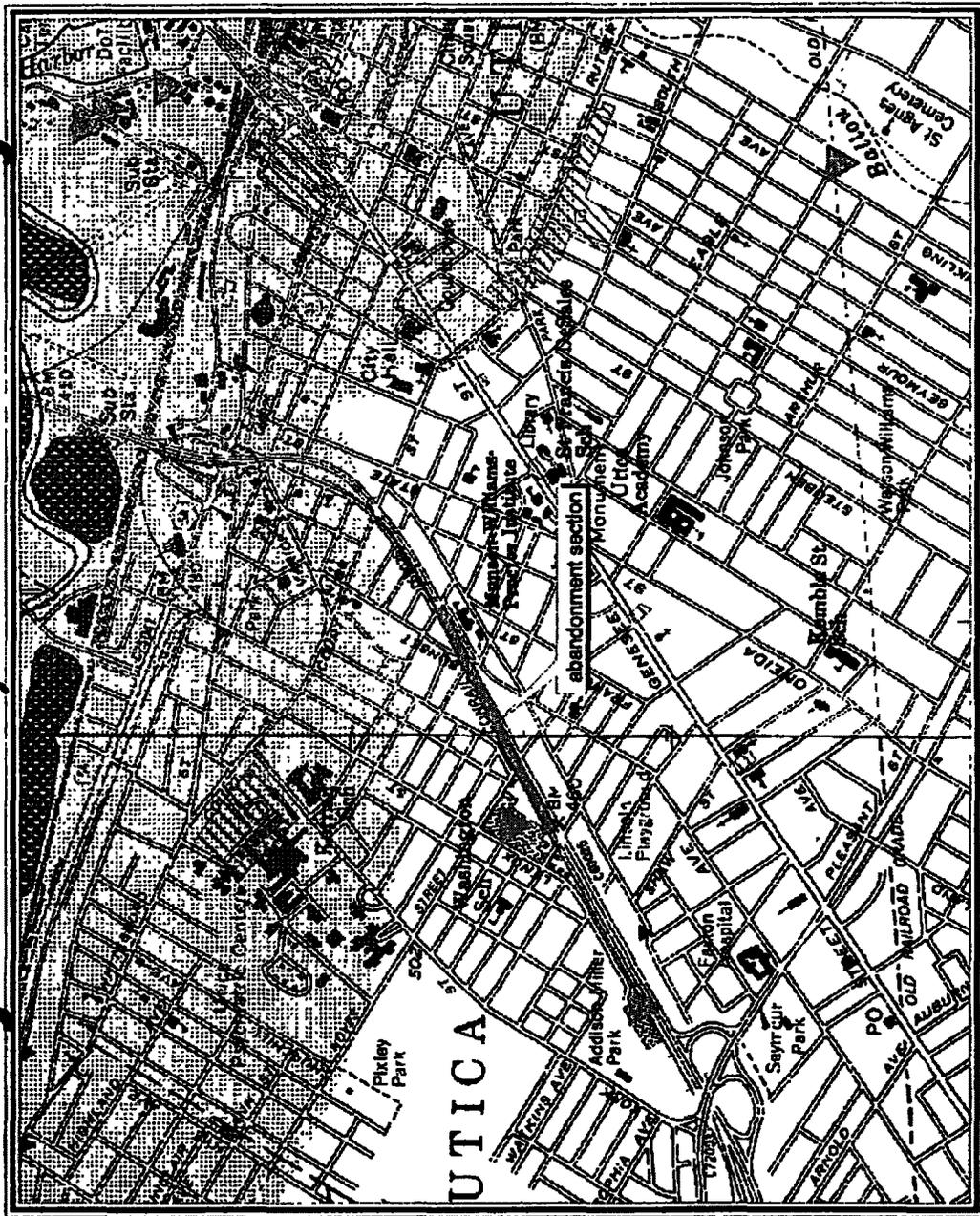
Executed on August 12, 2009.

A handwritten signature in black ink, appearing to read 'Nathan R. Fenno', written over a horizontal line.

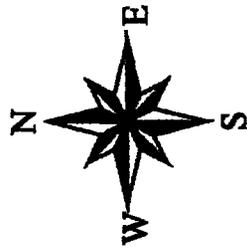
Nathan R. Fenno, President

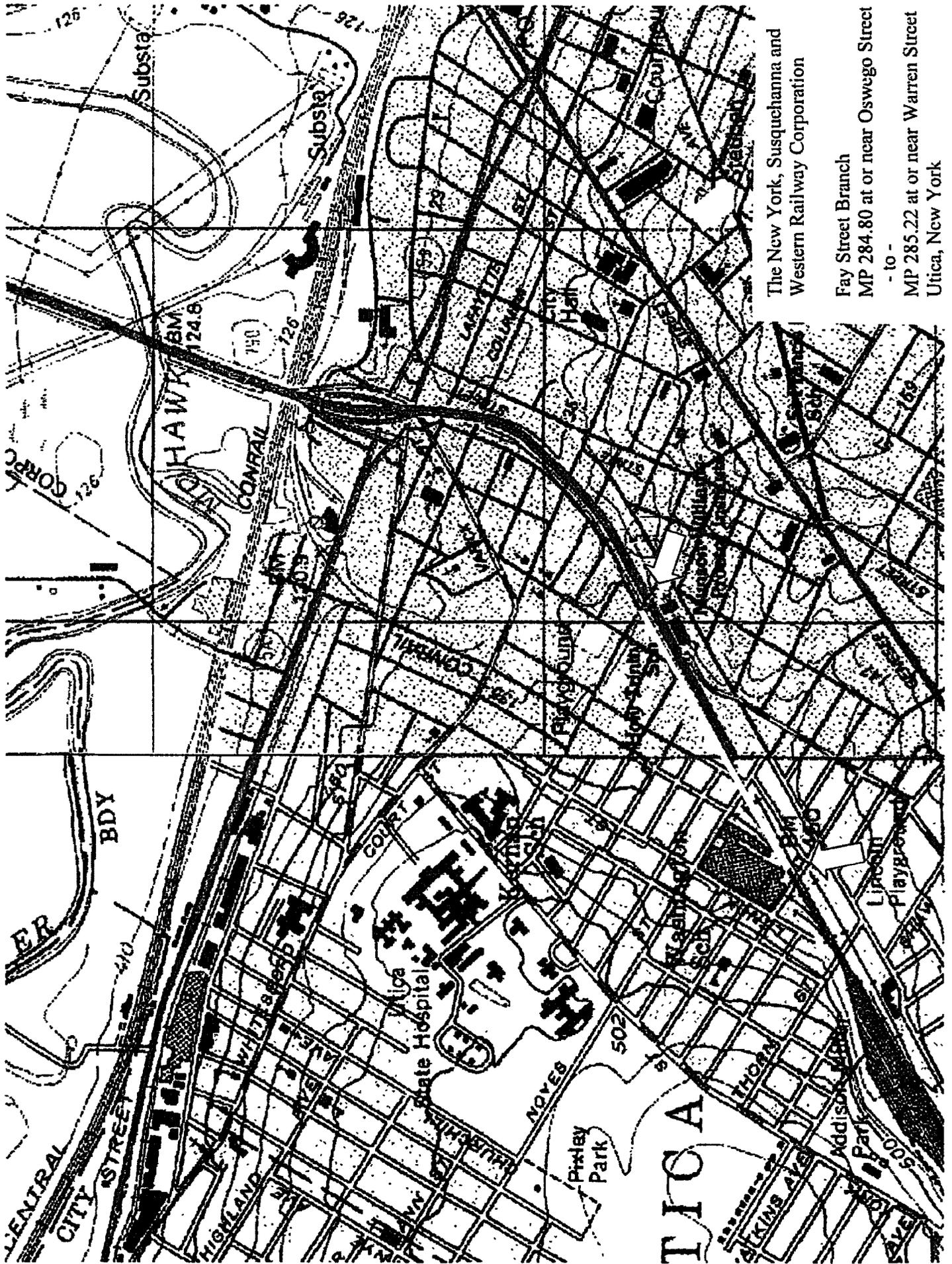
**EXHIBIT A - MAP**

# Susquehanna & Western Railway City of Utica, Oneida County



- Remediation Sites**  
 ▼ Brownfield Cleanup Program  
 ▼ Environmental Restoration Program  
 ▼ States Superfund Program  
 ▼ Voluntary Cleanup Program  
 ▨ Archeological Sites  
 ▨ Inconsistent Water Class Points  
 ▨ Stream with Inconsistent Water Class  
 ▨ Stream with Water Classification  
 ▨ NYS Regulatory Freshwater Wetland  
 Class 1  
 Class 2  
 Class 3  
 Class 4  
 Unencoded  
 State Historic Site  
 National/State Register Site





The New York, Susquehanna and  
Western Railway Corporation  
Fay Street Branch  
MP 284.80 at or near Oswego Street  
- to -  
MP 285.22 at or near Warren Street  
Utica, New York

**EXHIBIT B – NEWSPAPER NOTICE**



**EXHIBIT C – 10 DAY NOTICES**



Eric M. Hocky  
Direct Dial 215 640 8523  
Email: ehocky@thorpreed.com

ATTORNEYS AT LAW SINCE 1895

TO ALL AGENCIES PER THE ATTACHED  
SERVICE LIST:

August 4, 2009

RE: The New York, Susquehanna and Western Railway Corporation  
Exempt Abandonment - Oneida County, NY  
STB Docket No. AB-286 (Sub. No. 6X)

Dear Sir or Madam:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that The New York Susquehanna & Western Railway Corporation ("NYS&W") plans to seek authorization from the Surface Transportation Board ("STB") for its proposed abandonment of the line of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 CFR 1152 Subpart F. NYS&W expects to file the notice of exemption with the STB on or about August 17, 2009, under STB Docket No. AB-286 (Sub-No. 6X).

NYS&W will be seeking an exemption to abandon the line of railroad, known as the Fay Street Branch between milepost 284.80 at or near Oswego Street in Utica, NY and milepost 285.22 at or near Warren Street in Utica, NY ("the Line") for a distance of 0.42 miles. This segment is located in Oneida County. The Line traverses through United States ZIP Code 13502. A map of the Line is enclosed with this letter.

NYS&W understands that 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.

NYS&W plans to remove and sell the track and believes that the right of way could be used for highway other public purposes.

Very truly yours,

Eric M. Hocky

EMH/cdl

Enclosure

cc: NYS&W

Pittsburgh  
Philadelphia  
Princeton  
Wheeling

Thorpe Reed & Armstrong, LLP  
One Commerce Square  
2005 Market Street  
Suite 1000  
Philadelphia, PA 19103-7041  
215 640 8500  
215 640 8501 Fax



August 4, 2009

Page 2

**SERVICE LIST:**

Office of the Commissioner  
New York State Department of  
Transportation  
50 Wolf Road  
Albany, NY 12205

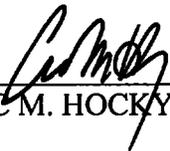
U.S. Department of the Interior -  
National Park Service  
RTCA Program (Org code 2240)  
1849 C Street, NW  
Washington, DC 20240

Office of Chief of Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250-003

United States Department of the Army  
Military Surface Deployment and Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National Defense)  
709 Ward Drive, Building 1990  
Scott AFB, IL 62225-5357

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a copy of the foregoing Notice of Exempt Abandonment was served on the following persons shown on the attached list by first class mail, postage prepaid.

  
\_\_\_\_\_  
ERIC M. HOCKY

Dated: August 17, 2009

**Service List**  
**STB Docket No. AB-286 (Sub. No. 6X)**

Office of the Governor  
State of New York  
State Capitol  
Albany, NY 12224

NYS Department of Transportation  
50 Wolf Road  
Albany, NY 12232

Michael A. Shamma, Regional Director  
NYS Department of Transportation  
Region 6  
Utica State Office Building  
207 Genesee Street  
Utica, NY 13501

Jack McKeon, Deputy Commissioner  
Office of Administration  
New York State Department of  
Environmental Conservation  
625 Broadway  
Albany, New York 12233-0001

Judy Drabicki, Region 6 Director  
NY Dept. of Environmental  
Conservation  
317 Washington Street  
Watertown, NY 13601

NY Dept. of Environmental  
Conservation  
Fish, Wildlife and Marine Resources  
625 Broadway  
Albany, NY 12233-4750

John R. Kent, Commissioner  
Oneida County Planning  
Department  
Boehlert Center at Union Station  
321 Main Street  
Utica, NY 13501-1229

US EPA Region 2  
290 Broadway  
New York, New York 10007-1866

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

U.S. Fish and Wildlife Service  
New York Field Office  
3817 Luker Road  
Cortland, NY 13045

U.S. Army Corps of Engineers  
North Atlantic Division  
302 General Lee Avenue  
Brooklyn, NY 11252

Civil Works Office  
U.S. Army Corps of Engineers  
New York District  
26 Federal Plaza  
New York, NY 10278-0090

NY Dept. of Environmental  
Conservation , Region 6  
Bureau of Wildlife  
317 Washington Street  
Watertown, NY 13601

Regional Director, National Park  
Service  
Northeast Region  
U.S. Custom House  
200 Chestnut Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19106

NY Dept. of Environmental  
Conservation  
Lands and Forests  
625 Broadway, 5<sup>th</sup> Floor  
Albany, NY 12233

USDA, Natural Resources  
Conservation Service  
New York State Office  
Ron Alvarado, State Conservationist  
441 E. Salina Street, Room 520  
Syracuse, NY 13202-2450

NY Dept. of Environmental  
Conservation  
Lands and Forests, Region 6  
317 Washington Street  
Watertown, NY 13601

USDA, Natural Resources  
Conservation Service  
Finger Lakes Team Office  
Bruce Hopkins, Area  
Conservationist  
9025 River Road  
Marcy, NY 13401-2301

NY Dept. of Environmental  
Conservation  
NY Natural Heritage Program  
625 Broadway, 5th Floor  
Albany, NY 12233-4757

Mr. Ronnie Taylor  
NOAA, N/NGS I  
National Geodetic Survey  
SSMC-3, #9202  
1313 East-West Highway  
Silver Spring, MD 20910-3282

Office of Coastal, Local Government  
and Community Sustainability  
NY Department of State  
One Commerce Plaza  
99 Washington Ave.  
Albany, NY 12231-0001

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

Office of the Commissioner  
New York State Department of Transportation  
50 Wolf Road  
Albany, NY 12205

U.S. Department of the Interior -  
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1849 C Street, NW  
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