



Essex County Board of Supervisors

P.O. Box 217, 7551 Court Street
Elizabethtown, NY 12932

Telephone: (518) 873-3350

Fax: (518) 873-3356

300544

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

ENTERED
Office of Proceedings
April 17, 2020
Part of
Public Record

Shaun Gilliland,
Chairman
Email: chair@co.essex.ny.us

Robert Politi,
Vice-Chairman

Judith A. Garrison,
Clerk of the Board
Email: judyg@co.essex.ny.us

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Chesterfield

Charles Harrington
Crown Point

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Elizabethtown

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Essex

Archie Depo
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Ticonderoga

Michael K. Tyler
Westport

Shaun Gilliland
Willsboro

Roy Holzer
Wilmington

From: Shaun Gilliland – Chairman Essex County Board of Supervisors
RE: Docket No. AB-1261

Dear Chairman Begeman,

I hope this writing finds you in good health with the extreme challenges that the coronavirus pandemic has brought to all aspects of our lives. On behalf of every member of the Essex County Board of Supervisors, we wish you, your colleagues, your family and loved ones safe and hope the Coronavirus pandemic will soon end.

Chairman Begeman, the Essex County Board of Supervisor reiterates its unanimous opposition to the adverse abandonment application filed by the New York State Attorney General's Office on behalf of the New York State Department of Environmental Conservation, and join the Town of Newcomb, asking the Surface Transportation Board to deny the application for abandonment, while retaining jurisdiction over the track. We do not consider or believe that "public convenience or necessity" require or permit the abandonment of the Sanford Lake Branch or the Tahawus Line and wish the line to remain as a viable freight shipping option for Essex County.

This docket began with the New York State Department of Environmental Conservation's adverse abandonment application for the 30-mile rail line known as the Sanford Lake Line or the Tahawus Line, from North Creek to the former Tahawus Mine, and was entered as public record with the Office of Proceedings on September 10, 2018.

Subsequently, on September 30, 2019, the New York State Department of Environmental Conservation requested that the Surface Transportation Board issue a "certificate of interim trail use" for the subject line of railroad. We understand, the STB is given an administrative role under the National Trails System Act, 16 U.S.C. 1247(d), in assisting carriers who wish to rail-bank their corridors as an alternative to a complete abandonment of the line, thus preserving the rail corridor for possible future use.

On February 18, 2020, William A. Brandt, as chapter 11 trustee for the bankruptcy estate of SLRG (the Trustee) filed a response stating that, as of that date, Saratoga and North Creek Railway, LLC (SNCR) and its assets are not property of SLRG or SLRG's bankruptcy estate and that, accordingly, the automatic stay imposed under 11 U.S.C. § 362(a) by the filing of SLRG's bankruptcy case does not apply to SNCR. The Trustee, however, further states that the Bankruptcy Court has authorized, but not directed, the Trustee to file a bankruptcy petition on behalf of SNCR. The Trustee requests that the Board place the Board proceeding in abeyance for approximately 60 days to allow time for

the Trustee to determine whether to file a bankruptcy petition on behalf of SNCR, and the proceeding was placed in abeyance until April 17, 2020.

On March 4, 2020 upon learning of the potential for the SNCR to be placed into bankruptcy, a committee of the Board of Supervisors met with Jonathan Carman, Regional Director of the Plattsburgh Office of Congresswoman Elise M. Stefanik. We asked Mr. Carman to reach out to Mr. Brandt, to determine the effect of placing the SNCR line into bankruptcy. Upon speaking with Mr. Brandt, he reported to us that Mr. Brandt was 1) in favor of keeping the railroad open if possible, 2) he stressed the concern of removing the easement and the danger that would pose to the line, 3) he is very interested in helping Essex County find a buyer for the SNCR and 4) he would like to get all interested parties together, keep the rail-line intact for the future economic benefits it holds for the county, region and state.

On Wednesday, April 15, 2020 the Board of Supervisors received official notice that Saratoga and North Creek Railway LLC was placed into Chapter 11 bankruptcy protection in the District of Colorado on March 30, 2020. Essex County Treasurer Michael Diskin will file a proof of claim for Essex County as a secured, government creditor with the United States Bankruptcy Court, District of Colorado – case number 20-12313-TBM.

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. Attachment: "Environmental and Economic Restoration of an Adirondack Mining Village" prepared February 28, 2020 for: Senator Charles Schumer, Senator Kirsten Gillibrand, Congresswoman Elise Stefanik, New York Governor Andrew Cuomo, NYS State DEC Commissioner Basil Seggos and Essex County IDA Director Jody Olcott.



Shaun Gilliland – Chairman
Essex County Board of Supervisor



Robin DeLoria – Supervisor Town of Newcomb

CERTIFICATE OF SERVICE

I hereby certify that on April 17, 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,
Zachary G. Sanderson,
1700 Lincoln Street,
Suite 4550 Denver,
Colorado 80203

Party of Record

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, New York

Party of Record
United Rail Inc.
9480 S. Eastern Ave
Las Vegas, Nevada 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
Adirondack Park Local Gov. Review Board
Executive Director
GERALD W DELANEY
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
Mitchell Stone Products
15 Mitchell Lane
Tupper Lake, NY 12986

Party of Record

David L. Michaud
Attorney for Saratoga and North Creek Railway, LLC
118 S. Clinton St. Ste. 400,
Chicago, Illinois 60661

Party of Record

William Kuntz III
P.O. Box 461
Lake Placid, NY 12946-0461

Party of Record

Susan L. Taylor
Joshua M. Tallent - Counsel
New York State Office of the Attorney General
Environmental Protection Bureau
The Capitol Office of the Attorney General
Albany, New York 12224

Party of Record
Thomas S. Berkman
Deputy Commissioner
New York State Department of Environmental Conservation
625 Broadway, 14th Floor
Albany, New York 12233

Party of Record
John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, NW, Suite 717
Washington, DC 20036

Party of Record
FLETCHER & SIPPEL LLC
ATTORNEYS AT LAW
29 North Wacker Drive Suite 800
Chicago, Illinois 60606-3208

Party of Record
Member of Congress:
Schumer, Honorable Charles E
United States Senate
Washington, DC 20510

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



Signed – Robin T. DeLoria
Supervisor Town of Newcomb

Environmental and Economic Restoration of an Adirondack Mining Village



Tahawus New York

"Building off the past, preparing for the future."

"Let's finish what was started."

Town of Newcomb - Mr. Robin DeLoria
Mitchell Stone Products - Paul Mitchell
Essex County Board of Supervisor - Shaun Gilliland
North Country Logistics Solutions, LLC - Steve Potter

Adirondack Park Government Review Board
Essex County Industrial Development Agency

Prepared February 28, 2020 for:
Senator Charles Schumer
Senator Kirsten Gillibrand
Congresswoman Elise Stefanik
New York Governor Andrew Cuomo
NYS State DEC Commissioner Basil Seggos
Essex County IDA Director Jody Olcott

**Adirondack Park, Town of Newcomb
Essex County, New York**



1989

By the time NL Industries ceases its mining operation it had:

- * Employed 4,564 people.
- * Mined 141,109,893 tons of bedrock.
- * Processed 59,911,379 tons of ore.
- * Produce 12,175,147 tons of ilmenite and 17,556,936 tons of magnetite.

The legacy is that an estimated 31 million tons of ilmenite and 21 million tons of magnetite remain.

In 1962, the United States paid a sum of \$6,350.00 to the State of New for an additional 100-year easement preserved the 29.71 miles of track leading from Tahawus to North Creek, whereby; the Sanford Lake Railroad corridor would be reverted to the State on the 15th day of October 2062.

July 4, 1942 through December 31, 1989.

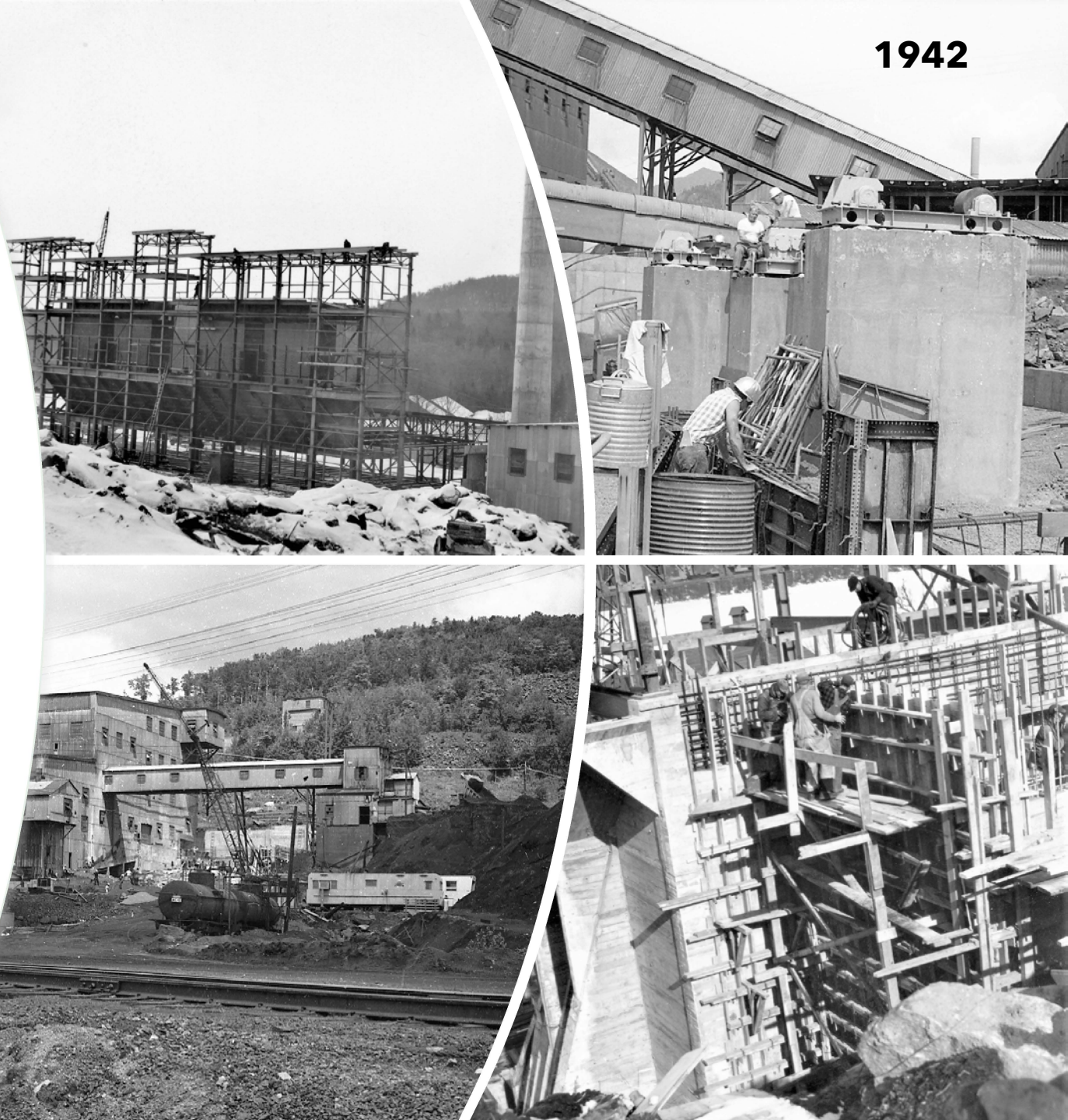
“We are asking for support to ensure an opportunity for Essex County to.....”

Reactivate the Tahawus Rail Line.
Avoid consummated abandonment.
Find a responsible rail operator.
Produce a business plan.
Establish a market and secure grant funding.
Create jobs and remove the aggregate.
Determine adequate disposal of ties and rails.
Restore Tahawus for the forest preserve.

*There are more than 160,000 **creosote**-treated wood ties.

The World Trade Center debris totaled **1.8 million tons**.

In Tahawus there are **80 million tons remaining**.



What happened and why was Saratoga & North Creek Railway LLC unsuccessful?

May 30, 2018 - The Saratoga and North Creek Railway (S&NCR) started storing empty tank cars on the Tahawus Line but removed them in the spring of 2019, in the face of public controversy.

2011 - 2020

- **2011** S&NCR purchase of the 29.71-mile rail line from Kronos.
- **2012** S&NCR paid \$144,000 to W.J. RIEGEL RAIL SOLUTIONS LLC to clear the Tahawus Line.
- **2013** S&NCR preformed track inspection and replaced ties/rails necessary.
- **2013** S&NCR established a rail car storage business through a non-exclusive easement.
- **2013** S&NCR - Sanford Line is ready for removal of aggregate from the Tahawus.
- **2014** **Kronos informs Iowa Pacific Holdings it is no longer in the stone business.**
- **2015** S&NCR without a supplier selling out of Tahawus, there is no potential for freight.
- **2017** S&NCR stores clean empty cars on the sidings along the Sanford Rail Line for revenue.
- **2018** NYS files for adverse abandonment even though cars have been removed.
- **2019** **S&NCR files for bankruptcy in 2019**
- **2020** Interim trail use and abandonment proceedings held at abeyance.
- **Today:** Essex County seeking conference call with Bankruptcy Trustee.



What has changed since S&NCR's failure to establish a freight business?

2018

Essex County is owed \$172,000 in **delinquent taxes**.

Mitchell Stone Products became the **sole owner of the Tahawus mine** in 2018, with a 75-year renewable permit from the NYS Department of Environmental Conservation.

Mitchell Stone Products **has the financial resources to establish markets and meet the demands of rail car volume.**

OminTRAX, although withdrawing its purchase offer of the Tahawus Line determined *that "the Tahawus Line possesses sound commercial prospects for the right operator."*

Essex County, the Town of Newcomb, Essex County IDA and other supporters of the 2012 S&NCR purchase are focusing on the **economic and environmental benefits** of using the Tahawus Rail Line and **are committed to finding a solution.**

The Town of Newcomb continues discussion with short-line rail operators interested in the removal of the aggregate.



What has not changed since 2012?

There is an estimated **80 million tons** of already mined aggregate **ready to be processed and moved today.**

The railroad easement *“for the location, relocation, construction, maintenance, operation and removal of railroad facilities,”* **does not expire until 2062.**

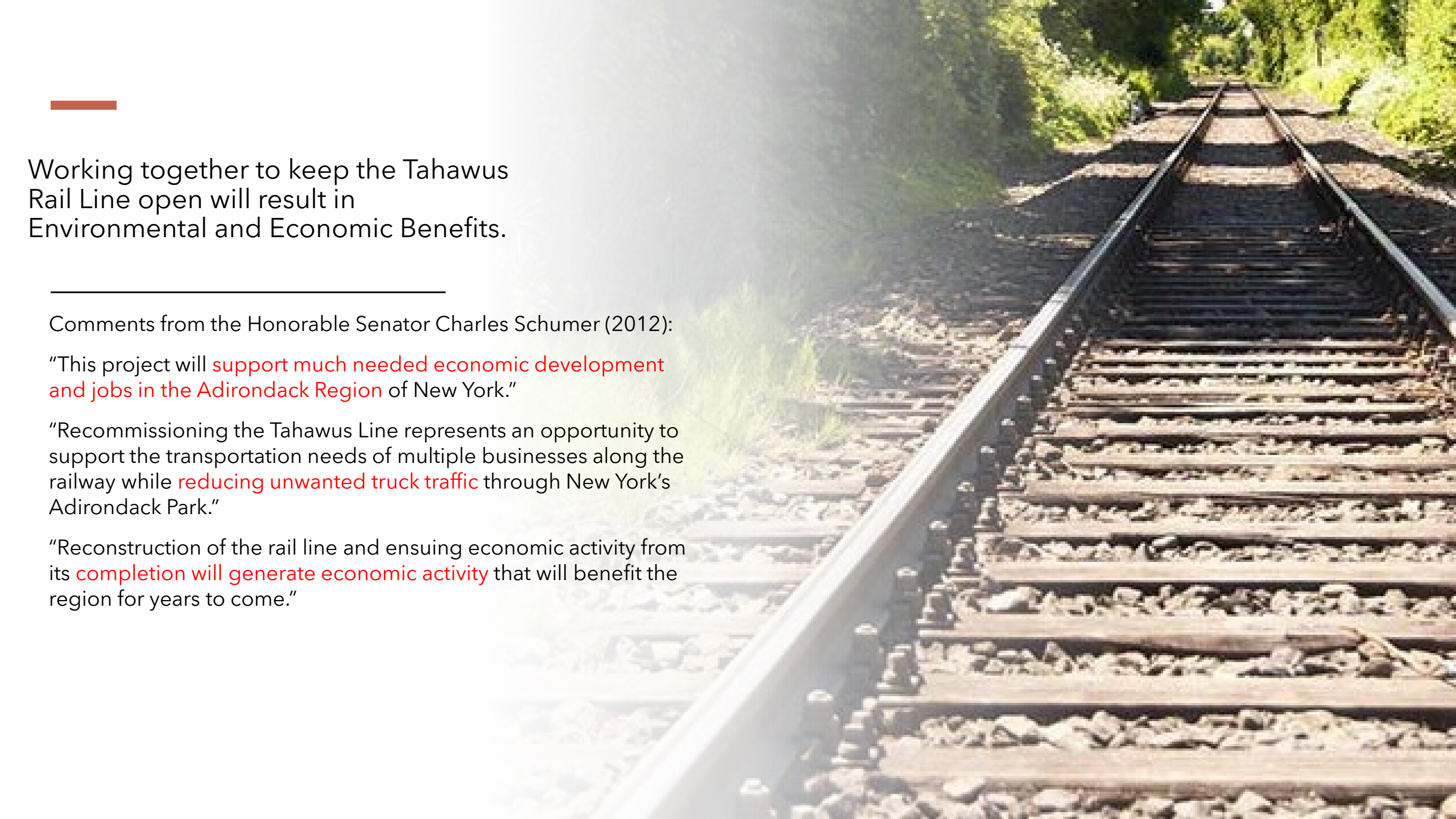
Other short line rail operators are still interested in removing the aggregate from Tahawus.

Using the Tahawus line to remove $\frac{1}{2}$ of the aggregate **would keep 2 million trucks off the road** during the life of its available resources.

If only 40 million tons were removed by rail, rather than by truck, there would **800,000 fewer tons of CO2 emitted**, the equivalent of 160,000 acres of pine forest extracting CO2 for a year.

Mitchell Stone Products materials **meets the DOT specs** for highway paving in New York, New Jersey and Pennsylvania.





Working together to keep the Tahawus
Rail Line open will result in
Environmental and Economic Benefits.

Comments from the Honorable Senator Charles Schumer (2012):

“This project will **support much needed economic development and jobs in the Adirondack Region** of New York.”

“Recommissioning the Tahawus Line represents an opportunity to support the transportation needs of multiple businesses along the railway while **reducing unwanted truck traffic** through New York’s Adirondack Park.”

“Reconstruction of the rail line and ensuing economic activity from its **completion will generate economic activity** that will benefit the region for years to come.”

Environmental Benefits

*"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 State.



Tahawus Mine

Paul Mitchell – Mitchell Stone Products.

NL originally mined the site for titanium to be used in the WWII war effort and for industrial uses. As a by-product of their mining operation, more than 80 million tons of tailings were stockpiled on the property. Those stockpiled materials are 100% virgin stone, will be 100% recycled, and are well suited for use in the asphalt and concrete business. **The quality specifications of Tahawus products meet NYS DOT standards for road paving projects and are viewed favorably by construction companies as distant as New York City and Long Island.**

With a viable rail transportation option, the market reach for Tahawus products could be expanded well beyond the local trucks serving the Adirondack area. In addition to direct benefits to Mitchell Stone Products, this could help us **increase our local workforce and deliver valuable environmental benefits.**





Tahawus Mine hosts the US Army 10th Mountain Division Fort Drum New York

- Paul Mitchell, owner of Mitchell Stone Productions and the Tahawus Mine, was honored at the 10th Mountain Division's briefing of its Falcon's Peak exercise.
- The exercise utilized the mine, sending soldiers in by road and by air to set up camp, train and defend against aggressors probing the base. At the briefing, Col. Clair Gill, Commander of 10th Mountain Division, presented Mitchell with a plaque and pins thanking him for letting them use his property to train on.



History of Tahawus

- The following pages are provided for informational and historical purposes only.

Robin DeLoria
Supervisor Town of Newcomb
February 28, 2020



The Village of Tahawus 1954

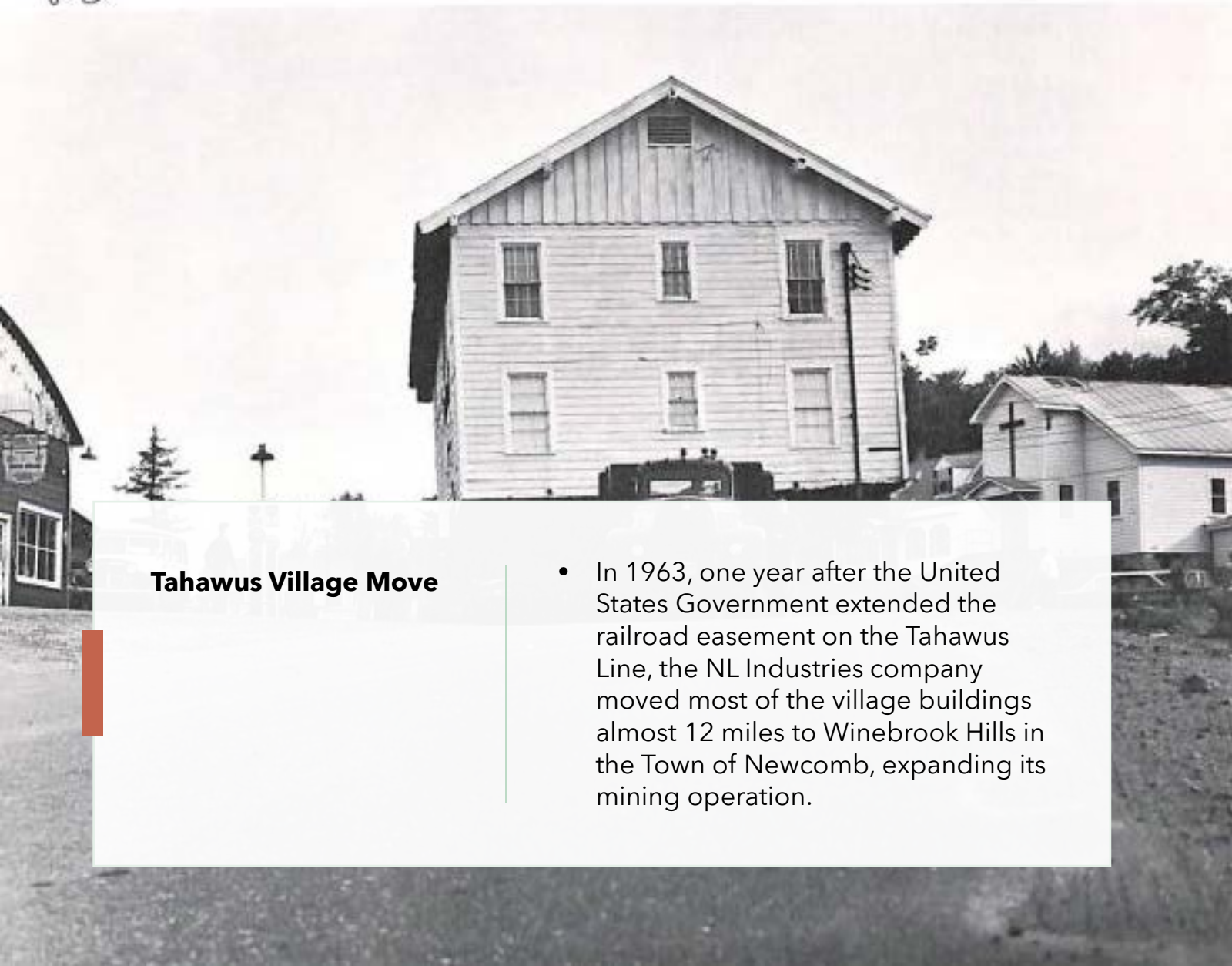
Tahawus (pronounced tuh-HAWS) mining village was built in the early 1940s for a mining operation which produced titanium and magnetite for the war effort. A bi-product was ilmenite.

Macintyre Development built housing for 180 families and 160 single men, plus other accommodations, including schoolhouse for elementary students, a YMCA with a bowling alley, a movie theater, barber shop, coffee shop, churches, garages and stores.

1954

Tahawus On The Move

1963



Tahawus Village Move

- In 1963, one year after the United States Government extended the railroad easement on the Tahawus Line, the NL Industries company moved most of the village buildings almost 12 miles to Winebrook Hills in the Town of Newcomb, expanding its mining operation.



NL Industries 1963 to 1989 25 Years

- The railroad provided for the distribution capabilities that allowed National Lead Industries to successfully run the mine for 25 years after the 1962 acquisition of the railroad.
- Under NL Industries ownership, **40 million tons of titanium were extracted and shipped by the Sanford Rail before operations ceased in 1989.**



Reactivation of the Tahawus Line received support from NYS Environmental and Transportation Departments.

March 8, 2012

NYS Department of Environmental Conservation

“Assuming that NL moves 50% of this traffic by rail, that translates into approximately 500,000 rail cars equivalents over the life of the resource. Further assuming the diversion to rail of a typical truck payload, use of rail to move NL’s traffic would divert some 2,000,000 truck off the road during the life of this resource.”

March 15, 2012

NYS Department of Transportation

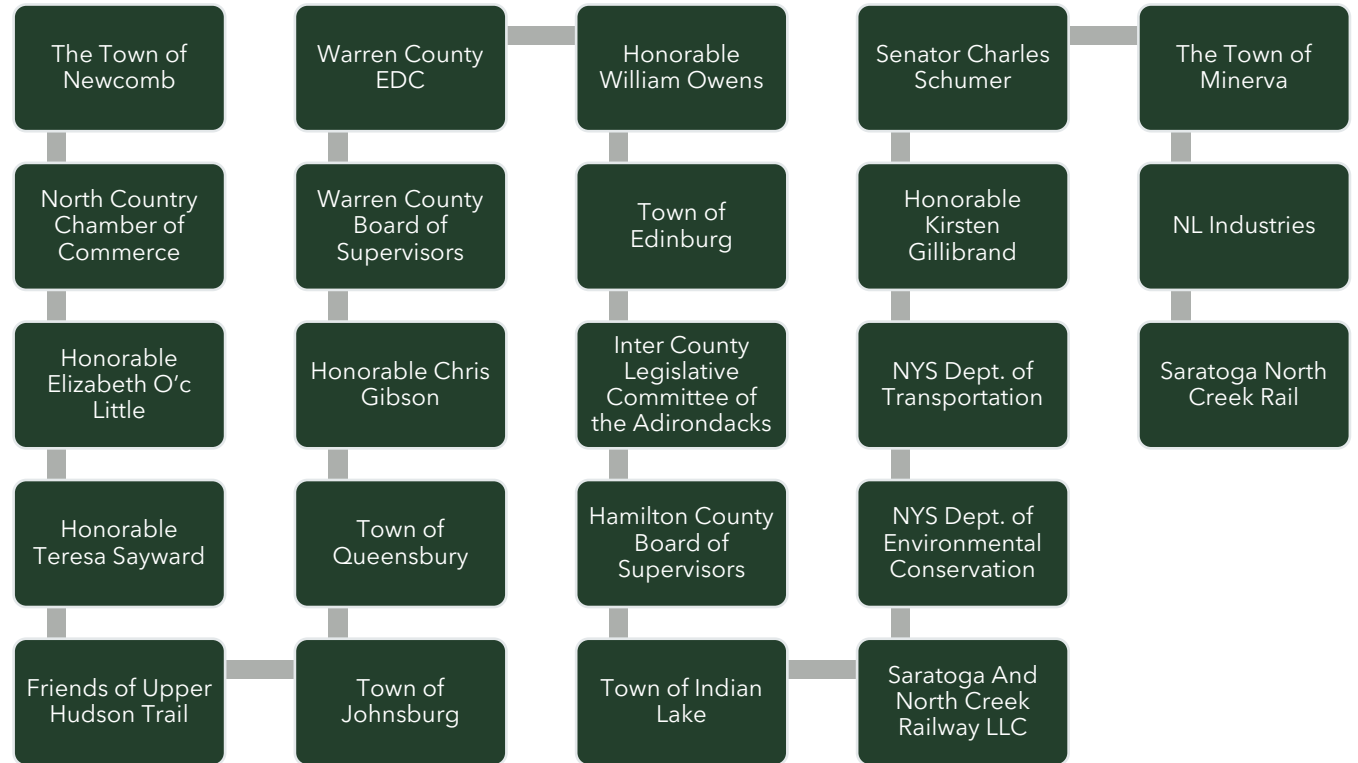
“From an environmental perspective, the resumption of the rail line can result in the dramatic reduction of truck traffic in this sensitive area of the Adirondack Park, thereby reducing harmful emissions, lowering the region’s carbon footprint and *greatly diminishing dust and noise, while unsightly piles of aggregate are removed.*”

In June of 2012 - the Surface Transportation Board

Provided Notice of Exemption for SNCR to operate the Tahawus Line (or Sanford Lake Branch) as a common carrier.



2012 Supporters of the Tahawus Reclamation Project





S&NCR



2017

Tanker Car Storage

This continued to fuel the debate, resulting in the NYS DEC filing for adverse abandonment of the line even though the cars had been removed.

- In December of 2017, Governor Andrew Cuomo objected to the storage of tanker cars on the Tahawus Line by Saratoga and North Creek Railway, LLC.



2018

In May of 2018 - the rail cars were removed from the line.

The Town of Newcomb, opposing the adverse abandonment application filed by the State of New York, has been involved in promoting and finding a suitable rail operator for the Tahawus Line since January of 2018. The Town was successful in bringing OmniTRAX to the table in 2019, but negotiations with the NYS DEC and Warren County were unsuccessful.

This was not due to either the State or OmniTRAX. The financial mess that S&NCR created, embroiled in controversy over the car storage and bankruptcy, presented far too many obstacles for OmniTRAX to continue its pursuit.

- **STB AB-1261 - June 14, 2019**

*“OmniTRAX hereby informs the Board that it has decided to discontinue negotiations for the purchase of the Tahawus Line assets, has advised SNCR and NYSDEC of its decision, and, accordingly, has ended related discussions with SNCR and NYSDEC. OmniTRAX continues to believe, however, **that the Tahawus Line possesses sound commercial prospects for the right operator**, but it has concluded that continued pursuit of **this opportunity is not right for OmniTRAX at this time.**”*

**(The OmniTRAX conclusion establishes the economic potential of the Tahawus Line).*

