



Should the rail line to Tahawus reopen?



Yes By Fred Monroe

By Charles C. Morrison **No**

ARE RAILROADS STILL NEEDED? Do they benefit our communities and our environment? I think most Adirondackers would say yes.

The Saratoga & North Creek Railway's ski and sightseeing trains are generating interest and income. The railway is asking the federal Surface Transportation Board to grant it common-carrier status on the North Creek-to-Tahawus branch to serve freight customers on that line.

By resuming traffic on the line, the railway can serve two large customers: NL Industries in Tahawus and Barton International in North River. Waste rock from the two mines can be used in road construction.

Even without common-carrier status, the company maintains it has the right to service NL under an easement granted to the federal government during World War II and sold to NL in 1989. NL sold the line with the easement to the Saratoga & North Creek Railway last year. Those who contend the easement has expired are not correct.

The railroad's efforts to resume operations on the line—now called the Sanford Lake Branch—fit well into Governor Cuomo's "New York Open for Business," his New York Works Task Force, and the state's plans to invest \$1.2 billion to repair roads and bridges.

Fixing and repaving state and local roads means an increased demand for aggregate that makes up the road base—something the tailings in Tahawus can be used for. This not only would remove the large piles of rock at the mine, but it also would enable road crews to obtain cost-competitive aggregate from a local source.

Rehabilitating the line would employ fifteen to twenty people. Once the line is operational, officials estimate there would be four to six new jobs for people manning the trains and more jobs at the mine for moving, crushing, and loading the tailings.

Using trains instead of trucks to haul rock from Tahawus would reduce wear and tear on local roads and reduce pollution. The company says the trains would move the equivalent of more than 2 million truckloads of tailings. A study by the American Association of Railroads showed moving freight by rail instead of trucks reduces exhaust emissions by 75 percent, on average.

Trains ran through the forest on the Tahawus line for fifty years. Though the rail line has been dormant for a number of years, the presence of the mine's industrial area and the environmental benefits of using rail to remove the tailings weigh heavily in favor of granting common-carrier status.

Saratoga & North Creek Railway's bid to resume operations on the line has garnered the support of organizations that represent local residents and of two state agencies:

- North Country Regional Economic Development Council, representing the interests of 320,800 people in six counties;
- Essex County's Board of Supervisors, representing 40,000 people;
- Warren County's Board of Supervisors, representing 65,000 people;
- The Adirondack Park Local Government Review Board, representing 129,000 residents;
- The state Department of Environmental Conservation and the state Department of Transportation.

The state's letter in support of Saratoga & North Creek Railway's proposal states: "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."

We work best when we work together on projects that benefit the communities, the residents, and the environment. We believe this proposal for common-carrier status, and resuming traffic on the dormant line, falls into the "benefit" side for all three.

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THE RAIL LINE TO TAHAWUS is thirty miles long, and for thirteen of those miles it crosses Adirondack Forest Preserve. The line was built in 1942 by the federal government after it took, by eminent domain, right-of-way easements during the national emergency of World War II. It was built for the sole purpose of transporting a strategic material—ilmenite, an ore of titanium dioxide. After the war, ilmenite was no longer strategic. Mining at Tahawus stopped entirely in 1982.

The federal taking of the Forest Preserve was a major violation of Article 14 of the state constitution. It is still a violation today, seventy years later. Saratoga & North Creek Railway's plan to reopen the line raises the same constitutional issue.

The railway has asked the federal Surface Transportation Board (STB) for an exemption from filling out a full application for common-carrier status—a designation that would give it flexibility in hauling goods and passengers. STB, recognizing the Forest Preserve question as controversial, said that the railway would have to complete a full application. The railway has appealed and mean-

while has mounted a major lobbying campaign to pressure STB into approving the exemption. At the same time, Saratoga & North Creek states that because this is a private rail spur the STB has no jurisdiction and so it does not need the board's approval to use the line to haul waste rock and magnetite ore from the mine.

For a few years in the late 1980s, some waste rock that came from the open pits before 1982 was hauled by rail for use as road material. This is a very low-value product, however, and it can be obtained in many places other than at the foot of the High Peaks Wilderness Area. As to the stockpiled magnetite ore, originally an impurity to be separated from the ilmenite, NL Industries said recently that in only a few years it will be gone. The piles are frozen solid, and the ore can only be scraped off and loaded into trucks a little at a time, a shoestring operation.

These are not things for which the Forest Preserve should be sacrificed further or for which the state constitution should continue to be violated.

For some years, there has been a widespread understanding that if the rails are removed the easements will be considered abandoned and will immediately terminate and revert to the owners of the land. True, but abandonment does not result from rail removal alone. Under Section 18 of state Transportation Law, abandonment results from disuse for two or more years, or even from an expression of intent to abandon. The state Department of Transportation has said the Tahawus line is abandoned under the law. Furthermore, Adirondack Park Agency regulations stipulate that a land use, such as a railroad, is considered abandoned after five years of disuse, after which a permit must be obtained to renew the use.

Under state common law, easements are terminated automatically following abandonment and all rights revert to the property owner. The Tahawus rail line has been legally abandoned at least since 1989, when NL sold off its rolling stock.

In fact, because the easements have expired, Saratoga & North Creek appears to have purchased only the rails from NL last November. The rails constitute an illegal occupancy of both state and private land that should be removed by enforcement by DEC and the state attorney general.

CHARLES C. MORRISON is a board member of Protect the Adirondacks and a member of the Adirondack Committee of the Sierra Club's Atlantic Chapter.



Photo by Nancie Battaglia

The old mine in Tahawus closed decades ago.