

State backs railroad

■ *Protect the Adirondacks contends reopening the Tahawus line is illegal.*

By Paul Post

THE CUOMO administration has sided with dozens of Adirondack municipalities in support of a rail company's plan to reopen a thirty-mile stretch of tracks from North Creek to Tahawus, the site of an old mine on the edge of the High Peaks Wilderness.

In a March 15 letter to the federal Surface Transportation Board, the state Department of Environmental Conservation and Department of Transportation said the line would spark economic development, create jobs, and reduce truck traffic.

Iowa Pacific Holdings Company, which purchased the line from NL Industries last year, wants to use the tracks to transport waste rock from the closed mine. Trucks are now used to haul the rock.

The state's letter does not address thorny legal questions about the legality of reopening the line, which runs through the forever-wild Forest Preserve. The environmental group Protect the Adirondacks contends that the easement that permitted the construction and use of the line in World War II has expired and so the tracks should be removed.

But DEC spokeswoman Lori Severino asserts that the easement was extended in 1962 for another century. In an e-mail to the *Adirondack Explorer*, she also said that Iowa Pacific's plan to haul waste rock "complies with the broader uses allowed by the easement."

John Caffry, the attorney for Protect the Adirondacks, declined to comment on the state's letter.

The letter also says that Iowa Pacific has agreed to allow snowmobilers to use the rail corridor in winter, when trains aren't in use, and that the line could become a multi-use recreational trail if and when the route is ever abandoned. Such plans have been advocated by the group Friends of the Upper Hudson Rail Trail.

Iowa Pacific owns the scenic Saratoga & North Creek Railway, which began passenger service between Saratoga Springs and North Creek last summer. The Tahawus line would be primarily for freight service, although Iowa Pacific hasn't ruled out the possibility of extending passenger trains to Tahawus, too.

Iowa Pacific contends it already has the right to transport waste rock from the mine. However, it has applied to the Surface Transportation Board for "common carrier" status that would allow the company to haul passengers as well as other types of goods.

Local officials are voicing support for the company's request. The Adirondack Park Local Government Review Board voted unanimously to back Iowa Pacific. The Adirondack Association of Towns and Villages and a number of municipalities also have written to the federal board in support of the application. They see the rail line as an economic boon for the region.

"It's an opportunity for new business to locate near the rail line to get their raw materials in and ship their products out," said Fred Monroe, the Review Board's executive director.

The Review Board was created by the state legislature to advise the Adirondack Park Agency on behalf of the Park's local governments. Caffry, Protect's attorney,



Photo by Phil Brown

The tracks near Tahawus have not been used since 1989.

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—John Caffry, lawyer for Protect the Adirondacks

contends that the board exceeded its jurisdiction in writing letters to the federal government about the rail line. In any case, he added that he didn't think the letters would have much impact. "It's strictly a legal decision," Caffry said.

Protect contends that reopening the rail line would violate Article 14 of the state constitution, which mandates that the Forest Preserve "shall be forever kept as wild forest lands." Shortly before its northern terminus, the line also traverses Adirondack Nature Conservancy land that is slated to become part of the Preserve. In doing so, it crosses the Opalescent River, which has been designated Wild under the state's Wild, Scenic, and Recreational Rivers System. Apart from foot bridges, Wild Rivers are supposed to be free of man-made development. The conservancy has not taken a position in the dispute.

Although the line goes through the Forest Preserve for thirteen miles, the federal government obtained an easement during World War II to operate the line to transport ilmenite from the mine. The mineral was used to make titanium, a light, strong armor material. The easement does not allow Iowa Pacific to transport cargo to and from businesses besides the mine. Nor does it allow passenger service. Ed Ellis, the president of Iowa Pacific, said the railroad has no plans to serve other businesses or move passengers, but it wants to keep its options open.

Caffry argues that the easement has expired and the tracks, which haven't been used since 1989, should be taken out. "We just want the feds to be aware of the fact

that they don't have a legal right to operate the line," Caffry said. "How can you be a common carrier if you don't have a legal right to operate the line?"

Because of the dispute, the Surface Transportation Board last fall rejected Iowa Pacific's request for expedited approval. The company has asked the board to reconsider that decision.

Regardless of the board's action, Ellis said Iowa Pacific will reopen the line to transport waste rock, which can be used in road building and other construction projects. He said the company can do that without the board's permission.

Caffry would not say whether Protect will take the company to court if it reopens the line. "We haven't made any decisions like that," he said. "We're taking it one step at a time."

Monroe not only supports reopening the Tahawus line, but he wants to see other lines in the Park preserved and revitalized. He said reopening the line serving the paper mill in Newton Falls in the northwestern Adirondacks would be a great economic benefit to that part of the Park.

Scotia Investments, of Nova Scotia, owns the mill and is seeking a partner to reopen it. Restoring rail service is essential to the mill's plans, according to Mark Hall, the supervisor of Fine, where the mill is located. Hall said the line also could be used to haul waste rock from the former J&L Steel Company mine. The state recently approved a \$10 million grant to reopen the line.

Monroe also favors keeping in place the tracks between Lake Placid and Tupper Lake. Adirondack Scenic Railroad runs a tourist train between Lake Placid and Saranac Lake and wants to extend the run to Tupper Lake. Critics argue that the train has failed to boost tourism and that the rail bed should be converted into a trail for biking, hiking, skiing, and snowmobiling.

Adirondack Recreational Trail Advocates formed last summer to urge the state, which owns the rail bed, to tear up the tracks. Dick Beamish, the founder of the *Adirondack Explorer*, is one of ARTA's founders. ■