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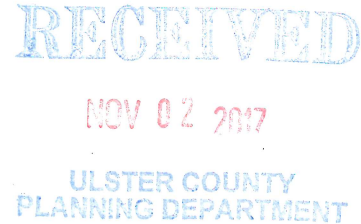
MEMORANDUM

TO: Christopher White, Deputy Director
Ulster County Planning Department

FROM: Beatrice Havranek, Esq. *BH*
County Attorney

DATED: November 1, 2017

RE: Opinion – Concurrent Rail Use of the Ashokan Trail Easement



This is in response to your request for an opinion from my office regarding the Ashokan Trail Easement and possible concurrent rail use on a part of that easement as proposed by the Catskill Mountain Railroad Company, Inc. ("CMRR") in correspondence from Ernest Hunt to you dated October 18, 2007, a copy of which is attached for reference.

As I have discussed previously at committee meetings of the Ulster County Legislature ("Legislature") earlier this year, the Ashokan Trail Easement established a new permanent easement for recreational trail development while protecting Ulster County's ("County") original Railroad Easement from Milepost 10 to Milepost 21.6, where the County's Ulster & Delaware ("U&D") Corridor runs over Department of Environmental Protection ("DEP") Watershed Lands. Protecting the County's rail easement was the subject of intense and deliberate negotiations with the City of New York (the "City") and its DEP. The Ashokan Trail Easement was approved by the Ulster County Legislature and the County Executive. Per its terms, should the County choose to restore rail uses in the future, the Ashokan Trail Easement would be terminated. While the new Ashokan Trail Easement ensures that the County's perpetual Railroad Easement will not be modified or extinguished in any manner, it does not allow for the concurrent use for both railroad and trail on the Ashokan Trail Easement.

There is also no provision in the negotiated Ashokan Trail Easement that would allow even a small portion of the track across DEP Watershed Lands (e.g., to Glenford Dike or Woodstock Dike) to be used for railroad operations. Simply stated, the Ashokan Trail Easement provides for either trail or rail, but not both, along all of the property owned by the City and the DEP.

The Ashokan Trail Easement also stipulates that the plans for the Ashokan Rail Trail are subject to final approval by the DEP, and the DEP has been clear that it will not approve a trail design that allows rail use west of Basin Road in West Hurley. Further, the DEP has required that the track and ties be removed as part of the final design in order to remove approximately 35,000 creosote treated wooden ties from its Watershed.

In conclusion, the proposal by CMRR to utilize some of the U&D Corridor along the Ashokan Trail Easement is contrary to the provisions within the trail easement, and if allowed, would effectively terminate the Ashokan Trail Easement and block any construction of the Ashokan Rail Trail. As such, the County cannot allow rail operations along the Ashokan Reservoir without surrendering and compromising its hard fought right to construct a public recreational trail on the Corridor while preserving future rights for rail use should the trail easement cease to exist.

If you have any further questions on this matter, please don't hesitate to contact me.

BH:kpc
Enclosure

s\CMRR\Opinion on Ashokan Rail Operations by CMRR.103017.docx



Catskill Mountain Railroad Company, Inc.
P. O. Box 1415
Kingston, NY 12401
(845) 688-7400
www.catskillmtrailroad.com

RECEIVED

OCT 23 2017

October 18, 2017

ULSTER COUNTY
PLANNING DEPARTMENT

Chris White
Deputy Planning Director, Ulster County
244 Fair Street, 3rd Floor
Kingston, NY 12401

RE: U&D Corridor

Dear Chris,

As you know from our May 12th letter to you, the CMRR believes that it is extremely important to its future for it to access the Glenford Dike running to MP 11.1. We articulated the reasons in that letter.

Since then we have learned that the County is actively bidding out rail removal from MP 10 to a point 400 feet east of the end of the easement at MP 21.59. We have also learned that the County plans to leave the 1,000 foot siding and switch at West Hurley, but remove all other rail there.

We are pleased that you have responded to Rail Explorer's request to extend their track into the DEP area by 400 feet to allow them to access the Boiceville Trailhead, even if it is not consistent with Resolution 488.

However, we are not happy with the fact that you are unwilling to grant a similar short extension of the CMRR to the West Hurley Trailhead, only 1500 feet away from MP 10. We believe this is discriminatory against the CMRR in favor of Rail Explorers. What is even more puzzling is that you are leaving the 1,000 foot railroad siding in place, which is 1700 feet away from MP 10, and therefore can't be used by the CMRR.

Accordingly, we ask that although we prefer to leave all track infrastructure in place to MP 11.1, the Glenford Dike, that the County at least consider leaving approximately 1500 feet of mainline track from MP 10 west to allow the CMRR to access the West Hurley Trailhead. As you know the easement is very wide at West Hurley, and there is plenty of room for rail and trail in this area. Otherwise we will have to detrain passengers at MP 9.95, which will be especially awkward for handicapped passengers who will still have to climb a 2% grade to get to the West Hurley trailhead.

We also noted that you plan to remove rail to MP 10, which is east of Basin Road. Resolution 488 states that the boundary is Basin Road. You should not be removing any rail east of Basin Road.

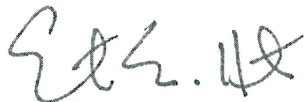
Separately, some time ago we asked that the County keep one mile of rail if any track was to be dismantled so that the CMRR could use the rail for replacement rails, passing sidings and yard tracks. We did not see this provision in the bid specifications. This would include all the 105 lb Dudley Rail and the balance 90 lb AAS rail. The 90 lb rail is dated 1912 in the easement area, and is newer than the other 90 lb rail in our permit area which is dated 1899. We would also need joint bars and tie plates for this rail, plus some additional joint bars to make up for breakage of the existing joint bars, which are no longer manufactured. We especially want to preserve the transition bars for 105lb to 90lb rail, which are very rare and hard to find. There are at least a dozen sets of these in the Easement area. We ask that you have the bidder set aside this material for future use in the permit area.

We are distressed that the County has not elected to accommodate the CMRR in even the smallest way to reach our goals of bringing passengers from Kingston to the West Hurley Trailhead. As a Deputy Planning Director, we are puzzled as to why you do not see that having multi-modal access to the trailhead at West Hurley is not beneficial to the public or Ulster County. We also have seen no effort by the Planning Department to independently determine the optimal terminal for the railroad before taking the irrevocable act of removing the rail.

I remind you that the County has full rights to leave rail in place under the recent Easement agreement with New York City. Additionally, the fact that you are already leaving 1,400 feet of rail in place in the NYCDEP easement suggests that the NYCDEP is open to leaving some rail in place as part of the overall trail design.

Please get back to us as soon as you can as the bids I believe are due on the 19th.

Sincerely,



Ernest E. Hunt
President, Catskill Mountain Railroad

Cc: Hon. Ken Ronk, Chairman, Ulster County Legislature
Hon. Jim Maloney, Chairman, UC TRAC Committee
Thomas Jackson, UC DPW Commissioner