TRAIL VS. RAIL

A potential precedent-setting case in New York state turns an ally into an enemy

by Karl Zimmermann
A northbound Adirondack Scenic excursion train is on the move at Holland Patent, N.Y., on Oct. 2, 2014. Trail advocates are trying to close part of the railroad. Richard W. Jahn
This year marks the 30th anniversary of the Washington, D.C.-based nonprofit Rails-to-Trails Conservancy, an organization founded to convert abandoned railroad rights-of-way to hiking and bicycling trails. Most railroad enthusiasts and railroaders embrace the idea. Congress approved the plan, which includes “rail banking” soon-to-be-abandoned lines for future transportation use while serving as trails in the interim. Recently, however, a dark side to this otherwise positive concept has emerged. Battles for control of the routes of two New York State excursion railways, with trail interests advocating the removal of active tracks, may set a dangerous precedent with implications for similar lines across the country.

Though the Rails-to-Trails Conservancy lists 1,937 rail-trails totaling 22,230 miles nationally, and 99 rail-trails totaling 1,015 miles in New York State alone, these numbers are not enough for some trail advocates who want to remove existing, in-service tracks against the operator's wishes. Targeted are the Adirondack Scenic Railroad in central New York and the Catskill Mountain Railroad, about 100 miles north of New York City off the Hudson River. Both railroads are significant excursion lines. A third New York State railroad, Iowa Pacific’s Saratoga & North Creek Railway, appears to have avoided a similar problem in March when its contract was renewed for five years by Warren County in the face of the Upper Hudson Rail Trail’s desire to remove all 100 miles of its tracks from Saratoga Springs to Tahawus, including the 57 miles to North Creek where excursion trains operate.

In the Adirondack Scenic case, trail advocating want 34 miles of track, 10 miles of it active, removed. They really like 119 miles gone — the entire railroad. Meanwhile, a three-year legal battle between the Catskill Mountain Railroad and Ulster County reached a settlement on April 19. The deal requires the tourist railroad to terminate its train operations at the end of May.

As part of the settlement, the tourist railroad will drop its lawsuit against the county, vacate its yard in Kingston, N.Y., by the end of April, and forfeit a $75,000 bond to cover the county’s legal costs. The county agreed to allow the railroad to store its equipment on the county-owned railroad for 60 days.

The lawsuit stems from an announcement in 2012 by Ulster County’s chief executive of plans to convert most of the 38.6-mile railroad into a hiking and biking trail, leaving only about 2.5 miles of the railroad intact. The county had alleged the railroad was in default of its contractual lease.

Since then, the county has sought proposals from qualified tourist railroad operators after the Catskill lease expires on May 31. The new proposal calls for two separate segments of the line to have train operations. Catskill Mountain officials say they intend to submit a new operating proposal.

The line was a branch of the Penn Central that was not included when Conrail was formed in 1976, and it was purchased by Ulster County. It originally ran from Roundout through the Catskill Mountains to Oneonta as the Ulster & Delaware, later becoming a New York Central branch.

The situation with the biggest potential impact, however, is the Adirondack Scenic line, which set an all-time ridership record of 74,000 passengers in 2015. “In 2009, the Adirondack Scenic Railroad carried only 42,655 passengers and was facing a bleak financial outlook,” Executive Director Bethan Maher told TRAINS News Wire. “By partnering with local businesses we’ve been able to expand outdoor recreation programs, canoe and bicycle excursions, shopping trips, and destination dining excursions, in addition to our regularly scheduled departures.”

Adirondack’s railroad was once New York Central’s busy gateway for skiers and other outdoor enthusiasts from New York City and elsewhere (page 46). The railroad last hosted through traffic to the Lake Placid Olympics in 1980 as the short-lived Adirondack Railway. It then fell on the hard times typical of branch lines and secondary passenger routes, and its survival has been anything but easy.

The Adirondack Railroad Preservation Society, operator of the railroad, is a not-for-profit founded in 1992 to preserve the former New York Central Adirondack Division. The Adirondack Scenic traverses the 2.8 million-acre Adirondack Park, created by New York State in 1892 from public and private lands. Trains run for 24 miles from Rensselaer to Utica over the freight-hauling Mohawk, Adirondack & Northern rails to complete their Utica-Thendara runs. As rails over a common carrier, these cannot be removed for a trail unless the railroad files for abandonment with the Surface Transportation Board. The first short excursion ran on July 4, 1992, from Thendara as the Adirondack Centennial Railway (recognizing the anniversary of the Adirondack Park). Two years later the operation became the Adirondack Scenic.

Expansion since has yielded a seasonal operating schedule comprising of trains from Utica to Thendara, Thendara to Otter River, Thendara to Big Moose, and Lake Placid to Saranac Lake. In 1996, a state plan recommended rehabilitating state-owned track between Remsen and Lake Placid that the state bought from Penn Central after its abandonment. The New York State Department of Transportation administered federal and state grant money to rebuild 10 miles from Saranac Lake to Lake Placid for regular excursion service, with 30-mph running, newly installed grade-crossing protection, and renovation of the former Delaware & Hudson station at Saranac Lake — all at a cost of several million dollars.

Preservation Society volunteers have donated some 300,000 hours, much of that time spent securing the state-owned transportation corridor by cutting brush, inspecting track, and controlling beaver activity to minimize washouts. A major breakthrough came in August 2000 when, with major washouts repaired with the help of DOT funds, the entire line was approved for equipment moves.

Adirondack Recreational Trail Advocates, a not-for-profit founded in 2011, is the force behind the plan to remove the rails. Among its 11-member board of trustees are Dick Beamish and Lee Keet, both based in Saranac Lake. Keet is a private equity investor, generous with causes he supports, and Beamish is an experienced and well-credentialed environmental advocate with a public-relations, journalism, and fundraising background. He founded the Adirondack Explorer, a biweekly tabloid with an envi-
THE ADIRONDACK SCENIC POSTED A RECORD YEAR IN 2015 WITH 74,000 RIDERS. 

An Adirondack Scenic Railroad excursion train passes through Minnehaha, N.Y., as it heads north to Big Moose on July 4, 2013. If trail advocates have their way, scenes such as this one could be a thing of the past on portions of this New York state tourist line.

ronmentalist bent. He also wrote “Getting the Word Out to Save the Earth,” a 176-page guidebook about how to recruit members and donors for environmental causes published in 1995 by The Johns Hopkins University Press. A savvy how-to publication filled with sample brochures, press releases, letters and hands-on advice, it no doubt has been the bible for the powerful and well-connected Adirondack Recreational Trail Advocates.

Among the other Recreational Trail Advocates board members are Jim McCully, president of the Lake Placid Snowmobile Association; Jim Rolf, statewide trails coordinator at the New York State Snowmobile Association; and Scott Thompson, owner and operator of Norridgewock Lodge, a major destination for snowmobilers. That snowmobile advocates are a major presence among the trail promoters might seem odd, as snowmobilers have always been welcomed to use the Adirondack Scenic right-of-way. However, with rails and ties in place, more snow is required than on an unencumbered trail, and snow levels have been steadily dropping. There are currently more than 10,500 miles of snowmobile trails in New York state, and some find snowmobilers odd colleagues with the trail advocates’ environmentalists who have vigorously promoted pristine wilderness.

The Adirondack Recreational Trail Advocates’ agenda is based largely on a 2012 Rails-to-Trails Conservancy study that the group commissioned. Conservancy employees, led by Carl Knoch, prepared the study, which claims substantial economic benefits would accrue to the region if a trail replaced the railroad. The study cited examples where this has been done before: Down East Sunrise Trail in Maine; Lamoille Valley Trail in Vermont; Northern Rail Trail in New Hampshire; Pine Creek Rail Trail in Pennsylvania; Heritage Rail Trail County Park from York, Pa., to the Maryland line; and the proposed Merrymeeting rail-with-trail in Maine.

The first five are exceptionally attractive, easily accessible premier trails, finished or in development, planned long after the rails were gone. Since Knoch’s 2012 study, Steam into History rail excursions have begun operations on 10 of the Heritage Rail Trail’s 21 miles and coexists comfortably with hikers and bicyclists, an interesting wrinkle. The Merrymeeting rail-with-trail is estimated to be expensive and may never be built.

In February 2016, the Adirondack Park Authority dealt a severe blow to the railroad’s ambition to restore the entire line to service in a complex bureaucratic ruling. The park authority determined that a State Department of Environmental Conservation and Department of Transportation proposal to remove rails from Lake Placid to Tupper Lake does not conflict with the State Land Master Plan. In the fall, the two state agencies called for a compromise that would repair the tracks from Big Moose to Tupper Lake and remove them east of there. As part of this plan, the transportation department announced its intention to issue a new request for proposals for the rail operation. (Adirondack Scenic has always operated on 30-day revocable permits.)

Adirondack Park Trail Advocates support the plan, saying on their website that they expect removal of the 34-mile segment from Lake Placid to Tupper Lake will be so successful that the remaining section from Tupper Lake to Remsen (Old Forge) will follow. “We believe that the idea of running the train north to Tupper Lake is a nonstarter; it won’t happen,” Adirondack Park Trail Advo-
The railroad was placed on the “Seven to Save” list in New York.

That would make it the longest tourist train in the United States, and it ends up in a community that doesn’t have the facilities to host almost anything.

In the Adirondack debate, a group called Trails with Rails Action Committee has a plan, which it presented to the state, complete with maps and GPS coordinates, that could accommodate the need for a Saranac Lake-Tupper Lake trail without disturbing the railroad. It would link existing trails, seasonal roads, and abandoned logging roads.

Adding another element to the stew, during the 2015 summer season Rail Explorers, in partnership with the Adirondack Scenic, offered pedal-powered rail bike tours over the 6 miles of line west of Saranac Lake to Lake Clear. This included access to historic Lake Clear Junction, where predecessor railroad Mohawk & Malone headed toward Montreal. (The contested trackage east of there was the Lake Placid Branch.) Last year its two- and four-person rail bikes carried 11,000 riders. “The tracks will remain at least until Dec. 1, 2016,” the railroad company said in a Facebook post. “This is a loooong way from over. Let’s build ridership numbers that the state cannot ignore.” Rail Explorers’ presence doesn’t please the trail advocates’ Beamish. “The goal of the rail bike entrepreneurs,” he wrote as one of more than 50 letters to a local newspaper, “is to appropriate a public asset (our railroad corridor) for their own profit. In so doing they would deny free and full use of the corridor to the general public, just as the tourist train operators have been doing for the past 20 years.”

A boost to Adirondack Scenic’s hopes came shortly after the Adirondack Park Authority’s decision when the Preservation League of New York named the railroad as one of “Seven to Save.” This is a listing, annual since 1999, of endangered historic sites in the state, akin to the National Trust for Historic Preservation’s “Eleven Most Endangered Historic Places” list begun in 1988.

This leads to the question of precedent. In 2013, David Link, a cofounder of the Adirondack Railroad Preservation Society, says this may be the first time the Rails-to-Trails Conservancy has prepared a study that advocates destruction and removal of an active railroad. “If the trails gang wins in the Adirondacks, the victory could spur new fights anywhere a group can justify destroying rails,” he says.

The Department of Environmental Conservation contends that local choice has been considered in its decision-making but that does not reflect reality, says railroad preservation society President Bill Branson. Railroad supporters include the Franklin County legislature and industrial development agency, the town of Harrietstown (Saranac Lake), the Oneida County legislature, and the city of Utica. Those entities called for the rail-with-trail proposal as well as track rehabilitation.

Some have seized on the questions of future mobility and what will be irretrievably lost if the rails are lifted. As late as the mid-1960s, vacationers could board a sleeping car at New York’s Grand Central Terminal in late evening and be in Lake Placid early the next morning. That’s a long time ago, and much has changed in passenger railroading since then, but in October 2012 Adirondack Scenic and Iowa Pacific Holdings said they planned to operate high-end excursions between New York City and Lake Placid using Pullman sleepers.

The Rails-to-Trails Conservancy says it supports active rail lines. “That’s why we’ve been involved with railbanking and trails with rails,” says Tom Sexton of the organization’s northeast regional office. “However, we don’t have policies that guide local development. It’s up to what the local people want.” In the case involving the Adirondack Scenic, “we were asked to come in and show the community the options,” Kevin Mills, senior vice president of policy at the national office in Washington, says. “Rails-to-Trails Conservancy does not support (or oppose) initiatives to replace operating rail lines with...
trails. We stay out of local decision-making about discontinuation of rail service.”

Unquestionably the issue in the Adirondacks has become contentious. On Oct. 9, 2013, at Lake Placid, wires in Adirondack Scenic GP9 No. 6076’s electrical cabinet were found severed and incorrectly reattached. “This most recent act of sabotage was intended to damage Adirondack Scenic Railroad property and render the company unable to carry passengers and contribute to the economy of the region,” Link told Railway Age, noting that previously a fire had been set on the right-of-way and crossing gates destroyed.

“The Adirondack Scenic Railroad is in the difficult position of operating an expanding tourist attraction while fighting an uphill political battle,” Maher says. “In 2015, the railroad saw the highest ridership in the organization’s history, while at the same time, New York state proposed to remove 34 miles of active rail line due to supposed lack of interest and economic impact.” This case, she says, “sets a dangerous precedent as, for the first time, active rail line is slated for demolition in order to construct a trail, and the state is choosing to willfully ignore historic preservation concerns by destroying a significant portion of the line.”

Some 150 miles to the south, the all-volunteer, for-profit Catskill Mountain Railroad faced different though related issues, in this case antagonism from both Ulster County and the city of Kingston. Catskill Mountain operated two pieces of the former Ulster & Delaware, a 2.7-mile stretch from Kingston Plaza to Hurley, and a line along Esopus Creek from Phoenicia to milepost 23.3, 1 mile west of Boiceville, where the railroad had terminated prior to a washout caused by Hurricane Irene.

“We’re a unique group in the industry,” says Ernie Hunt, a pension fund manager with a real estate background and the railroad’s president since 2013. He took over from Earl Pardini, who’s been involved since 1973 in saving the railroad and remains operations superintendent. “Any railroad that’s losing its line and isn’t a freight hauler protected by federal regulations is vulnerable to losing its lease or having zoning laws changed.” In this case, a zoning change was forcing the railroad to vacate its Kingston yard. “The Catskill Mountain’s equipment is not like a Lionel trainset you can pick up and put back in the box,” Hunt says, “then bring out next Christmas.”

Christmas is an apt image, since the success in recent years of Catskill Mountain’s Kingston-based Polar Express trains, and also Thomas the Tank Engine, have been primarily responsible for substantial growth in ridership and revenue. “We’ve built this company up — from 15,000 to 40,000 passengers annually, from $100,000 to $1 million — under the most unimaginably difficult circumstances,” Hunt says. “Ulster County has done everything they can to keep us from operating.

“It has to do with the Ashokan Reservoir trail, on the easement that the railroad has from New York City, the owner of the reservoir,” Hunt says. “We believe the trail supporters sold Ulster County Executive Mike Hein on the idea that connecting the successful Walkway Over the Hudson, across the burned and abandoned Poughkeepsie Bridge, with the reservoir as a trail for hikers and bicyclists would be a boon for the local economy.” A study commissioned by trail supporters suggested that.

However, Catskill Mountain Railroad feels that Kingston-area businesses recognize that it’s bringing in revenue at least equal to what that study claimed a trail would do. Zip-code analysis of credit card receipts from last season show that 79 percent of riders on the Kingston trains came from outside Ulster County. In cooperation with area merchants, the railroad gives its passengers “Railroad Dollars,” coupons redeemable at participating shops and restaurants. “We wanted to prove to businesses that they were making money because of us,” Hunt said. “Pajama-clad children, part of the Polar Express experience, and Thomas T-shirts are seen all over town.” (A December 2015 study commissioned by the county legislature held that rails and trails would be the best outcome.)

Beyond the inherent challenges of its crosstie-by-crosstie volunteer-driven effort to extend the operational railroad west to-
ward the Ashokan Reservoir, Catskill Mountain Railroad’s problems began in October 2012. That is when Hein, previously a railroad supporter, announced in a budget speech — without consulting with the railroad — plans to convert all of the 38.6-mile rail corridor to a trail. The county owns the right-of-way from Kingston (except a 6-mile stretch between Boiceville and Phoenicia). Then the county issued the railroad a default notice for nine deficiencies it claimed violated its lease, which it then planned to cancel in 30 days. Catskill Mountain Railroad addressed the nine defaults.

When rebuffed, the railroad obtained an injunction designed to protect tenant businesses from being shut down until a judge could consider the merits of the defaults. This required railroad supporters to raise funds for a $75,000 bond while footing, all told, $600,000 in legal costs. The county countersued for $1 million in damages; then Catskill Mountain made a non-monetary counterclaim to recover an undistributed $2.3 million in Federal Emergency Management Administration funds to repair washouts and to force the county to stop speaking ill of the railroad. The case was settled in April before it was scheduled to be heard.

The county pressed the railroad with track and bridge inspections, Hunt says. The county claimed bridge C9 — a 200-foot truss flanked by 50-foot girder bridges — wasn’t safe, but a railroad-hired bridge engineer proved that it was. “We joke that we must be the most inspected railroad in the country,” Hunt says.

Meanwhile, in April 2013, the city of Kingston was granted a temporary restraining order blocking the railroad from bringing four passenger and two freight cars into its yard, citing lead paint, pesticides, asbestos — “an environmental disaster,” in the city’s words. This led to the most dramatic confrontation of all when the mayor placed one of the city’s dump trucks on the right-of-way for three days to block operations. Then in June 2014, the city found the railroad in violation of zoning laws for failing to file a site approval plan for its yard. It thus was an illegal use, though the railroad had been issued a certificate of occupancy in 2008.

In December 2015, the Ulster County legislature settled on a compromise. It included rail operations and a trail. The trail’s route veers off in Kingston to use a stretch of New York, Ontario & Western right-of-way, sometimes runs along the Catskill Mountain Railroad, then traveled the stripped railroad right-of-way along the Ashokan Reservoir, available through an easement from the New York City Department of Environmental Protection. This
section raises an interesting question about railbanking, since rails would be removed nearly 40 years after the line was abandoned as a common carrier.

Andrea Ferster, counsel for Rails-to-Trails Conservancy but working independently for Ulster County, says this can be done. In a letter to the county’s attorney, she said the “legal procedures established by federal law are available to ensure the preservation of the Ulster & Delaware Railroad corridor for future transportation use, which includes conversion for public trail use. ...”

“We believe,” Hunt says, “that the STB would never reassert jurisdiction on a line that has been abandoned for 39 years to permit railbanking and thus trade a railroad easement, which the line has from New York City, for a trail easement.”

Who will run the railroad next is an issue. On March 17, Ulster County sent requests for proposals to, in addition to Catskill Mountain, the Association of Tourist Railroads & Railway Museums, the National Railway Historical Society, rail-bike operator Rail Explorers (on the Adirondack Scenic), Railmark Holdings (a company that provides products and services to the rail-road industry), the Trolley Museum of New York, and the Delaware & Ulster. The latter two, like the Catskills Mountain, currently operate on portions of the old Ulster & Delaware. Deadline for proposals was May 6. The county is offering a five-year contract. Prospective operators may bid on the western portion, the eastern portion, or both, but all improvements to the railroad, including a new yard to replace the one in Kingston, must be paid for by the operator.

“I’ve put in 40 years on this, and if it’s done, it’s done,” says Pardini, 74. “But I’ve seen it fall and rise before, and I believe we’ll prevail. I’ve tried to help volunteers enjoy railroading hands-on,” he adds. “There are so few things like this that a young person can do today. And 15 engineers I’ve trained have moved on to jobs with Class I railroads.”

“You all should be proud for the rest of your lives of what you’ve done,” Hunt told a meeting of Catskill Mountain Railroad volunteers in January. “Even if this is the last year of the Catskill Mountain Railroad, you are part of a team that fought against all odds and succeeded.”  

This feature story marks author KARL ZIMMERMANN’s 50th Trains byline. His association as a writer and photographer for this magazine spans 40 years. His other bylines include VIA Rail Canada, South Africa, art, and recently, in Colorado Railroads, a piece on Denver Union Station.