June 8, 2016

Town of Caroline Board
P.O. Box 136
Slaterville Springs, NY 14881

Re: proposed trail on abandoned rail bed

Dear Board,

My name is Scott Van Gaasbeck and I live at 58 Middaugh rd. I expressly deny any permission for construction of any trail on the old railroad bed which abuts and travels through 3,427' of my farm. I would like to draw attention to the events of October 2008, when this matter was resolved in my, and other landowners favor by the Town Board after a number of meetings and evidence presented. There seems to be some lingering misunderstanding about ownership issues, or perhaps they are well understood by trail advocates but they are trying again with a new, uninformed Board. In the interest of preventing litigation and disharmony between the Town and landowners, I am providing you with an overview of the ownership history and some legal cases to consider. I encourage the Town to consult its attorney and research the matter further yourselves, not just take the trail advocates word for it, as they have proven to be somewhat dishonest in the past.

In 1828, the Ithaca and Owego railroad was incorporated, laid track, and compensated James Bates, the owner of the land currently owned by myself and the land of Virginia Miller, 119 Middaugh, for damages to 12/100 acre of his property. At 1,429', this is a strip about 3.6' wide, or the width of the tracks which he could no longer cultivate. This was recorded with the county clerk, book 64, pg 376. No title to property was granted to the railroad.

On October 25, 1956, the railroad officially abandoned the line, Interstate Commerce Commission docket #19118, filed book 429, pg 220. At this point, per well-established law, full unencumbered ownership reverted to the owners of the land, and the railroad's easement ceased to exist. (the 1962 case Marytland and Pennsylvania RR v. Mercantile-Safe Deposit and Trust is a similar and often-cited case where the courts clearly defined railroad easement reversion to landowners, and the Supreme Court of the US in the recent 2014 case US v. Brandt, ruled 8-1 that railroad easements revert as long as they were legally abandoned)

On June 21, 1960, the railroad, insolvent, deeded by Quitclaim Deed all of its rights-of-way and lands to NYSEG. Since the railbed had been legally abandoned, in our case there was nothing left to transfer, and indeed this quitclaim does not mention our property or any right of way or easement on it. The railroad did actually own title to some other properties which were transferred to NYSEG at this time.

At this point an error occurred which has caused confusion and false hopes for trail advocates. A survey was done of the old cattle fences along the abandoned line, and the county assessor's tax maps were drawn as if these were property lines. The deed to our farm at that time clearly includes this land, however, and only mentions a right-of-way, with no boundaries, for the railroad. (almost exactly the same mapping error happened in the case Ohio ex rel. Coles v. Granville, which was decided in 2007, in which the municipality went ahead and built a trail on the disputed strip of land, but were forced by the court to remove it and pay damages to the landowners)

NYSEG is well aware of railroad abandonment and easement reversion law, and the fact that they do

not hold any title to the strip of land shown on the tax map. This is why they have been so reluctant to enter into discussions on the trail, and it is why, in the letter dated 1/30/2008 to the Caroline Town Board, they required *written approval* from *all adjoining landowners* (the real owners of the railroad grade), even including farmers leasing land.

The Town's failure to obtain this permission, despite members of the Trails Committee lying outright to the Town Board that we had all been contacted and all given verbal permission, resulted in the Board rescinding its support for the trail in October 2008.

I have not received any communication from anyone representing the Town in the intervening 7 ½ years, and as far as I knew the trail idea had been laid to rest forever. At this point, after the facts that came to light in 2008 resulted in a resolution of no support by the Board, to attempt again to seize our land for a trail would be a knowingly unlawful act by the Town.

The prospect of legally defending ourselves and our farm for a second time feels like harassment and intimidation. It is a truly undue burden for my family. However the legal precedents are clear and resounding, and we will defend ourselves vigorously against any attempts by the Town to take our land, and we will seek damages and legal fees from the Town if we are forced to file suit. (I would like to draw your attention to the 2002 case Preseault v. US, in which the landowner was awarded over $1.5 million in damages and legal fees for a 1,200' trail built on the abandoned rail grade on their property)

I hope the Town Board will take the time to further research the legality of this trail, and drop the matter once and for all, to save all of us time and money, and focus on projects the Town can do on land it actually owns.

Sincerely,
Scott Van Gaasbeek