

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1311

**Metro-North Commuter Railroad–Adverse Discontinuance
of Trackage Rights–Housatonic Railroad Company**

BACKGROUND

In this proceeding, Metro-North Commuter Railroad (Metro-North) filed an application with the Surface Transportation Board (Board) under 49 U.S.C. § 10903 and 49 C.F.R. § 1152.22 seeking adverse discontinuance of the trackage rights of Housatonic Railroad Company (Housatonic) over a 41.1 mile line of railroad known as the Beacon Line in Dutchess and Putnam Counties, New York (the Beacon Line).¹ The history of the Beacon Line can be found in Metro-North's Application, filed on April 30, 2021, and is available on the Board's web site at <https://www.stb.gov>.

The Beacon Line originates at milepost 0.0 in Beacon, N.Y., and travels northeast toward Beekman, N.Y., and then southeast toward Brewster, N.Y., and terminates at milepost 71.2 at the New York/Connecticut state line. Based on available information, Metro-North states that the Beacon Line does not contain any federally granted rights-of-way. There are no stations on the Beacon Line and affected United States ZIP Codes include: 12508, 12524, 12533, 12582, 12570, 12531, 12564, 12563, and 10509.² A map depicting the Beacon Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA).

¹ Metro-North acquired the Beacon Line in 1995 in a decision by the Board's predecessor agency, the Interstate Commerce Commission (ICC). See Metro N. Commuter R.R.—Acquis. Exemption—Maybrook Line, FD 32639 et al. (ICC served Jan. 13, 1995). Because Metro-North was interested in offering only commuter passenger rail service on the Beacon Line, the ICC's decision also exempted Metro-North from most of the provisions of the Interstate Commerce Act (Subtitle IV of U.S.C. Title 49). This exemption allows Metro-North to abandon the Beacon Line without Board approval. According to Metro-North, the only Board approval needed would be discontinuance of the trackage rights now held by Housatonic. Therefore, Metro-North is not required to seek authorization from the Board to abandon, salvage, or dispose of the Beacon Line.

² Metro-North initially filed for adverse discontinuance of the Beacon Line on April 30, 2021. However, after discovering that it provided incorrect Zip Code information, Metro-North

If adverse discontinuance authority is granted in this proceeding, Housatonic would no longer have Board authority to provide rail service via trackage rights over the Beacon Line. Metro-North, as the owner of the Beacon Line, has been exempted from the requirement to obtain Board approval before abandoning the Beacon Line, as explained above. Therefore, should the Board approve the proposed adverse discontinuance, the Beacon Line would no longer be subject to environmental review by the Board in the event of salvage or disposition of the rail right-of-way.

In rail line abandonments, the Board's Office of Environmental Analysis (OEA) assesses the environmental impacts of abandonment-related salvage of the rail line and diversion of train traffic to other modes that exceed the thresholds set forth in the Board's environmental rules. Under the Board's environmental rules at 49 C.F.R. § 1105.6 (b)(3), discontinuances of service may require the preparation of an environmental assessment. However, when the owner of the rail assets—the tracks, ties, and other appurtenances—is a carrier who would need to seek abandonment authority at a later time from the Board, typically no environmental review at this early stage is deemed necessary. In cases where the owner of the rail line proposed for adverse discontinuance does not need the Board's approval to abandon a rail line (as is the case here), there would be no subsequent abandonment filing with the Board and, therefore, no further opportunity for environmental review by the Board. Accordingly, OEA has prepared this Draft EA to address the potential environmental impacts of planned activities related to the proposed adverse discontinuance.

DESCRIPTION OF THE BEACON LINE

According to Metro-North, there has been no passenger or freight service over any portion of the Beacon Line since at least 2014. Metro-North states that there is no longer a need for passenger service or freight service in the area. Metro-North notes that the Beacon Line was originally constructed as a double-tracked system but was reduced to single-track sometime before Metro-North acquired the Beacon Line. After acquiring the Beacon Line and securing the necessary permits, Metro-North constructed a 23-mile trail known as the Maybrook Trailway in a portion of right-of-way between the Village of Brewster in Putnam County and the Hamlet of Hopewell in Dutchess County.

Metro-North indicates that, despite the absence of train traffic on the Beacon Line, it continues to maintain the right-of-way for grade crossing conditions by removing overhanging branches and trees in danger of falling on the tracks and inspecting the condition of bridges to ensure that they are safe for pedestrian use in accordance with Federal Railroad Administration standards. Metro-North contends that the cost to resume rail service on the Beacon Line, at roughly \$75 million for rehabilitation of track, signals, communications, and structures, would be prohibitive. Therefore, Metro-North now seeks adverse discontinuance of Housatonic's trackage

requested that the Board hold this proceeding in abeyance to allow time for it to file the correct Zip Code information and provide the appropriate notice to the parties. Metro-North's updated notice, filed with the Board on June 7, 2021, provides the corrected information.

rights over the Beacon Line.

ENVIRONMENTAL REVIEW

Metro-North submitted an Environmental and Historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed adverse discontinuance of trackage rights or any post-discontinuance activities. Metro-North served the E&H Report on appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].³ OEA has reviewed and investigated the record in this proceeding.

Diversion of Traffic

As previously noted, there has been no local or overhead traffic over the Beacon Line for several years. Accordingly, the proposed adverse discontinuance would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or require the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage of a rail line typically include the removal of tracks and ties and may include the removal of ballast, dismantling of any bridges or other structures in the rail right-of-way, and regrading of the right-of-way. In this proceeding, however, Metro-North does not have plans to salvage the Beacon Line if the Board authorizes the proposed adverse discontinuance.

The U.S. Army Corps of Engineers, New York District (Corps) previously reviewed the development of the Maybrook Trailway under Section 404 of the Clean Water Act (33 U.S.C. § 1344), but has not provided comments regarding the potential impact that the proposed adverse discontinuance could have on jurisdictional water resources under Section 404. Because Metro-North has indicated that it has no plans to salvage the Beacon Line at this time, OEA has determined that there would be no impact on any water resources, including water resources under the Corps' jurisdiction. OEA is providing a copy of this Draft EA to the Corps for review.

The U.S. Fish and Wildlife Service, New York Ecological Services Field Office (USFWS) has not provided comments regarding the potential impact that salvage may have on protected wildlife, including federally listed threatened and endangered species in the area of the proposed discontinuance. To determine if any protected species occur at this location, OEA

³ The E&H Report is available for viewing on the Board's website at <https://www.stb.gov> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1311" "0" sequentially in the "Docket Number" boxes, and then selecting "Search." The E&H Report was filed with the Application on April 30, 2021.

conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.⁴ The data base indicated that two mammals (the endangered Indiana Bat and the threatened Northern Long-eared Bat); one reptile (the threatened Bog turtle); and one insect (the candidate Monarch butterfly) may be present near the proposed adverse discontinuance. No critical habitat was identified for these species. Because Metro-North has indicated that it has no plans to salvage the Beacon Line at this time, OEA has determined that the proposed adverse discontinuance would have no effect on any of the listed species. OEA is providing a copy of this Draft EA to USFWS for review.

Metro-North provided the E&H Report to the New York State Department of Environmental Conservation (NYSDEC), but NYSDEC has not yet provided comments regarding the potential impact that the proposed discontinuance may have on water resources that are regulated by its various programmatic offices, including whether there would be a need for Metro-North to obtain a general stormwater permit, a water quality certification, or a state coastal zone management consistency determination.⁵ Because Metro-North has indicated that it has no plans to salvage the Beacon Line at this time, OEA believes that the proposed adverse discontinuance would not result in impacts to water resources that would warrant a general stormwater permit, a water quality certification, or a state coastal zone management consistency determination. OEA is providing a copy of this Draft EA to NYSDECs' Division of Fish and Wildlife and Division of Environmental Permits as well as the New York Department of State Coastal Zone Management Program (CMP) for review.

In response to Metro-North's request for comment on its E&H Report, the U.S. Environmental Protection Agency, Region 2 Office (USEPA) stated that USEPA previously reviewed the activities associated with the development of the Maybrook Trailway and that USEPA has no comments on the proposed adverse discontinuance. OEA is providing a copy of this Draft EA to USEPA for review.

Because Metro-North does not intend to salvage the Beacon Line, the proposed adverse discontinuance would not result in any noise impacts or air emissions that could affect air quality related to salvage activities.

Based on all information available to date, OEA does not believe that the proposed adverse discontinuance would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the

⁴ U.S. Fish and Wildlife Service, Information, Planning, and Consultation (IPaC) System, <http://ecos.fws.gov/ipac> (last visited June 7, 2022).

⁵ The statutory boundary describing applicability of the federally approved state coastal program under the federal Coastal Zone Management Act includes Long Island, New York City, the Hudson River and Great Lakes areas. The state's defined coastal area also includes all major inland waters per the following dataset: <http://gis.ny.gov/gisdata/inventories/results.cfm?SWIS=13§orIDs=&themeIDs=13> (last visited June 7, 2022). Based on this information, OEA could not determine if the proposed adverse discontinuance is within any coastal boundaries of major inland waters.

following agencies for review and comment: USFWS; the Corps; USEPA; NYSDEC's Division of Fish and Wildlife; NYSEC's Division of Environmental Permits; and CMP.

HISTORIC REVIEW

Metro-North submitted its E&H Report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on New York Parks, Recreation and Historic Preservation (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁶ The SHPO previously reviewed the development of the Maybrook Trailway and concluded that the trail development would have no effect on cultural resources. However, the SHPO has not yet commented on the proposed adverse discontinuance. Because Metro-North does not intend to salvage the Beacon Line or make any changes to the existing rail corridor related to the proposed adverse discontinuance, OEA finds that the proposed adverse discontinuance would have no potential to affect cultural resources. Therefore, Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800, OEA has determined that no known historic properties listed in or eligible for inclusion in the National Register of Historic Places would be affected as a result of the proposed adverse discontinuance. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of Metro-North's E&H Report, all relevant correspondence, and this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <https://www.stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁷ The database indicates that there are four federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the Beacon Line. The tribes include the Delaware Nation, Oklahoma; the Delaware Tribe of Indians; the Stockbridge Muncie Community, Wisconsin; and the Mohegan Tribe of Indians, Connecticut. OEA is sending a copy of this Draft EA to these tribes for review and comment.

CONDITIONS

OEA is not recommending that the Board impose any environmental conditions in this proceeding.

⁶ Applicants seeking authority from the Board to abandon railroad lines (in this case, adversely discontinue trackage rights) may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at <https://www.stb.gov/resources/environmental/historic-preservation-overview/>.

⁷ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last visited June 7, 2022).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, adverse discontinuance of the Beacon Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed adverse discontinuance would include denial (and therefore no change) and possibly resumption of trackage rights operations. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://www.stb.gov>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

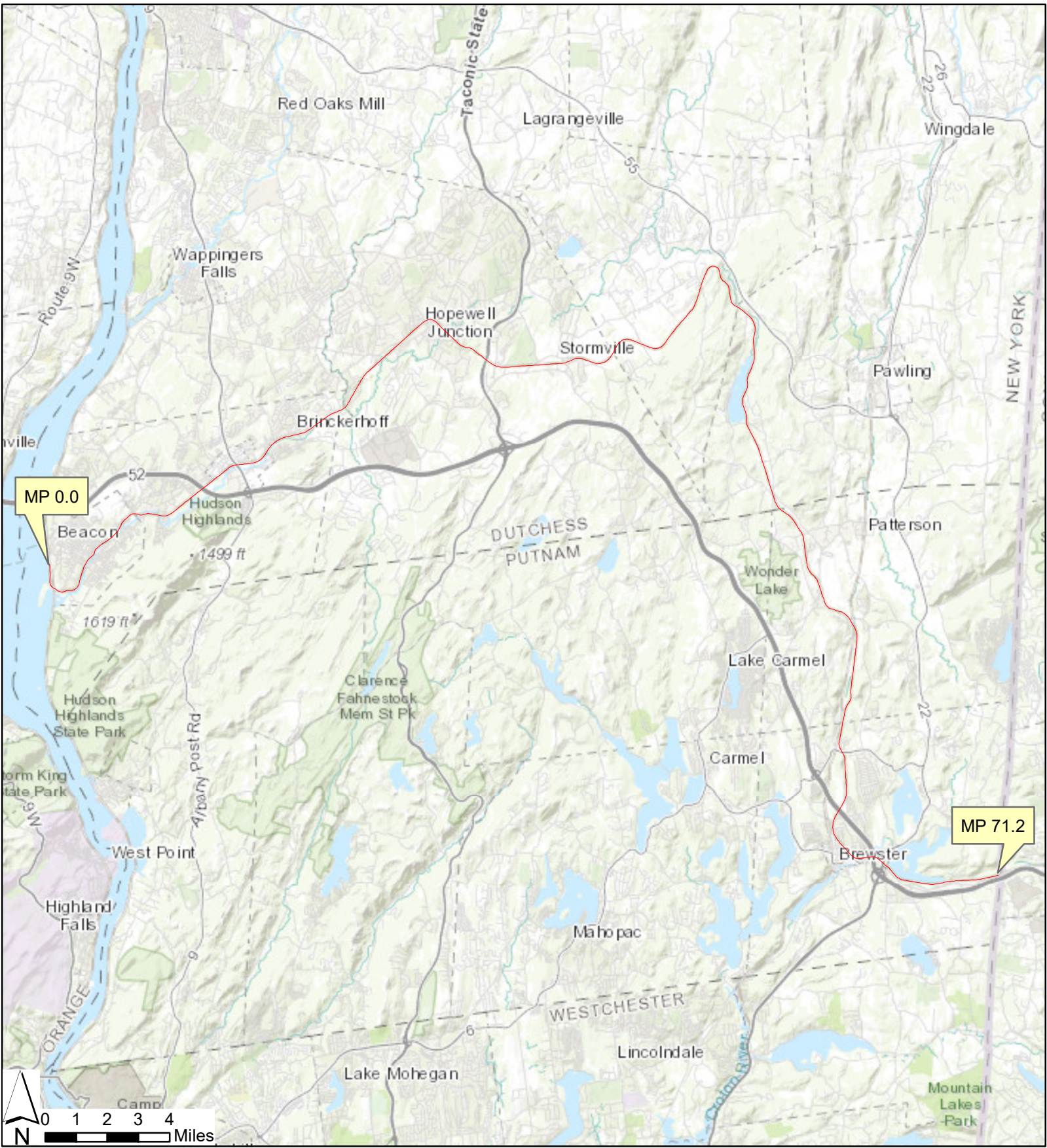
Alternatively, comments submitted by mail should be addressed to: Diana Wood, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 1311. If you have any questions, please contact Diana Wood by email at Diana.Wood@stb.gov or by phone at 202-245-0302.

Date made available to the public: August 5, 2022

Comment due date: September 5, 2022

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Attachment

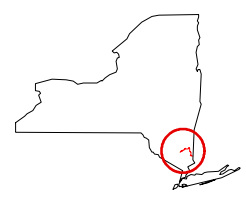


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Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.

Legend

— AB-1311



New York