

307697

December 21, 2023

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December 21, 2023  
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**VIA ELECTRONIC FILING**

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

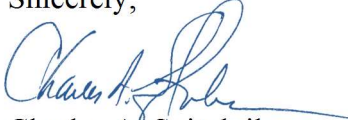
Re: *Metro-North Commuter Railroad Company – Abandonment Exemption – In Dutchess and Putnam Counties, New York*, STB AB 1311 (Sub-No. 1X)

Dear Ms. Brown:

I am attaching for e-filing Metro-North Commuter Railroad Company's Verified Notice of Exemption for Abandonment in 49 C.F.R. § 1002(f)(21)(ii) in the above-captioned proceeding. In addition, please note that the filing fee of \$4,700 has been paid.

Please do not hesitate to contact me with any questions.

Sincerely,

  
Charles A. Spitulnik

Enclosure

FILED  
December 21, 2023  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
December 21, 2023  
SURFACE  
TRANSPORTATION BOARD

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB Docket No. AB 1311 (Sub-No. 1X)**

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**METRO-NORTH COMMUTER RAILROAD COMPANY – ABANDONMENT  
EXEMPTION – IN DUTCHESS AND PUTNAM COUNTIES, NEW YORK**

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**VERIFIED NOTICE OF EXEMPTION OF  
METRO-NORTH COMMUTER RAILROAD FOR ABANDONMENT**

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Communications with respect to this document should be addressed to:

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*Counsel for Metro-North Commuter  
Railroad Company*

December 21, 2023

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
STB Docket No. AB 1311 (Sub-No. 1X)**

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**METRO-NORTH COMMUTER RAILROAD COMPANY – ABANDONMENT  
EXEMPTION – IN DUTCHESS AND PUTNAM COUNTIES, NEW YORK**

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**VERIFIED NOTICE OF EXEMPTION OF  
METRO-NORTH COMMUTER RAILROAD FOR ABANDONMENT**

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Metro-North Commuter Railroad Company (“MNR”) hereby submits this Verified Notice of Exemption of Abandonment pursuant to 49 U.S.C. § 10502 and the Board’s regulations at 49 C.F.R. § 1152.50. This Verified Notice concerns MNR’s planned abandonment of the 41.1 miles of a rail line known as the “Beacon Line” that runs between Milepost 0.0 and Milepost 71.2 in Dutchess and Putnam Counties, New York (“Line”). The Line traverses through United States Postal Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 12564. MNR intends to railbank the Line.

**BACKGROUND**

In 1995, the Interstate Commerce Commission (“ICC”) granted a petition to MNR to acquire the Beacon Line (referred to as the “Maybrook Line” in that proceeding) in Putnam and Dutchess Counties, New York, and to exempt MNR from the provisions of 49 U.S.C. Subtitle IV. *Metro-North Commuter R.R. Co.—Acquisition Exemption—The Maybrook Line*, ICC Finance Docket No. 32639 (Sub-No. 1) (Service Date Jan. 13, 1995) (“1995 Decision”). In the 1995 *Decision*, the ICC approved MNR’s exemption from Subtitle IV, exempted MNR from acquiring a residual common carrier obligation and permitted it to abandon the Line subject only to Danbury

Terminal Railroad Company (“DTRC”), now Housatonic Railroad Company (“HRRC”) seeking authority to discontinue freight service. *See 1995 Decision*, slip op. at 3-4.

HRRC, the sole freight operator on the Line, filed a Notice of Exemption to discontinue its trackage rights over the Line, which the Board accepted on February 14, 2023. *See Housatonic Railroad Company, Inc. – Discontinuance of Service – Dutchess and Putnam Counties, N.Y.*, STB Docket No. AB 733 (Sub-No. 1X) (served Feb. 17, 2023). Subsequently, this Board approved the request of MNR for partial revocation of the exemption issued in 1995 in order to permit MNR to seek abandonment of the Beacon Line. STB Finance Docket No. 32639 (Sub-No. 1), *Metro-North Commuter Railroad Company—Acquisition Exemption—The Maybrook Line* (Service Date November 22, 2023).

#### **VERIFIED NOTICE**

As noted below, MNR anticipates that a request for interim trail use will be made pursuant to the Board’s regulations so that the Line will be rail banked.

In accordance with the requirements of 49 C.F.R. § 1152.50, MNR submits the following:

1. Written notification of filing for abandonment exemption - 49 C.F.R. § 1152.50(d)(1).

Notification was served on the appropriate parties on November 30, 2023.

2. Proposed consummation date - 49 C.F.R. § 1152.50(d)(2).

MNR intends to consummate the proposed abandonment of the Line subject to this Notice on or after February 9, 2024.

3. Carrier certification regarding local and overhead traffic and status of no complaints required by 49 C.F.R. §§ 1152.50(b) and (d)(2).

MNR hereby certifies that no local traffic or overhead traffic has moved over the Line for over two years, or that no formal complaint filed by a user of rail service on this section (or a state or local government entity acting on behalf of such user) regarding

cessation of service over this section either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.

4. Information required by 49 C.F.R. § 1152.22(a)(1)-(4), (7) and (8), and (e)(4) (incorporated by reference in 49 C.F.R. § 1152.50(d)(2)).

a. Section 1152.22(a)(1) – Exact name of applicant.

Metro-North Commuter Railroad Company

b. Section 1152.22(a)(2) – Whether the applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

Applicant is a common carrier that, as a result of the decision of this Board on November 22, 2023, in STB Finance Docket No. 32639 (Sub-No.1), is subject to the jurisdiction of the Board as a result of the partial removal of the exemption previously granted with respect to MNR's acquisition of the subject line.

c. Section 1152.22(a)(3) – Relief sought (abandonment of line or discontinuance of service).

MNR is seeking abandonment of the Line. Housatonic Railroad Company, previously the freight carrier with the exclusive right to operate freight service on the Line, has already received authority from this Board to discontinue freight operations on the Line.

d. Section 1152.22(a)(4) – Detailed map.

A detailed map of the subject line is attached as **Exhibit A**.

e. Section 1152.22(a)(7) – Applicant's representative.

Applicant's representative in this proceeding is:

Charles A. Spitulnik  
Kaplan, Kirsch & Rockwell, LLP  
1634 I (Eye) Street NW  
Suite 300  
Washington, DC 20006  
(202) 955-5600  
[cspitulnik@kaplankirsch.com](mailto:cspitulnik@kaplankirsch.com)

f. Section 1152.22(a)(8) – Zip codes traversed by the Line.

The zip codes traversed by the Line are: 12508, 12524, 12533, 12582, 12570,  
12531, 12563, 10509, and 12564.

g. Section 11.52.22(e)(4) - Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation.

The line proposed for abandonment is suitable for use as a recreational trail, and will be the subject of a request for a Notice of Interim Trail Use in this proceeding.

### **ENVIRONMENTAL AND HISTORIC REPORTING**

In its decision issued on July 13, 2022, in STB Docket No. AB 733 (Sub-No.1X), *Housatonic Railroad Company, Inc.—Discontinuance of Service—Dutchess and Putnam Counties, N.Y.* and STB Finance Docket No. FD 366811, *Metro-North Commuter Railroad Company—Acquisition Exemption—Housatonic Railroad Company*, this Board stated the following at pp. 3-4 fn.10, with respect to compliance with environmental and historic reporting requirements in the event of MNR’s abandonment with respect to this line:

On September 9, 2022, the Board’s Office of Environmental Analysis (OEA) issued a Final Environmental Assessment (Final EA) covering the Line in Docket No. AB 1311. No environmental or historic preservation issues were raised by any party or identified by OEA in that Final EA. In Docket No. AB 733 (Sub-No. 1X), a finding of no significant environmental impact under 49 C.F.R. § 1105.10(g) was made pursuant to 49 C.F.R. § 1011.7(a)(2)(ix), noting that OEA had recently conducted an appropriate environmental review concerning the Line. *Housatonic R.R.*, AB 733 (Sub-No. 1X), slip op. at 2 n.4. If Metro-North follows the procedure in Caldwell and seeks authority to abandon the Line within a reasonable amount of time so as not to render the existing environmental review

stale, no further environmental review will be required, assuming no significant changes affecting the Line have taken place since the Final EA.

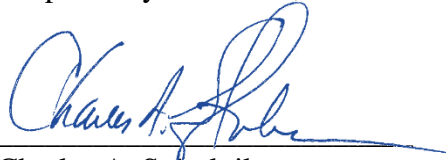
MNR hereby confirms that no significant changes affecting the Line have taken place since the Final EA was issued. Because MNR is relying on the previously circulated environmental reporting and on the Office of Environmental Analysis's finding of no significant environmental impact under 49 C.F.R. § 1105.10(g) that was made pursuant to 49 C.F.R. § 1011.7(a)(2)(ix), MNR did not re-circulate the environmental reporting on which the Board relied in the previous proceedings.

**LABOR PROTECTION**

The interests of the employees of HRRC, the railroad that previously had the right to conduct freight operations on the line, have been addressed in the proceedings in Docket No. AB 733 (Sub-No. 1X). MNR has not previously conducted rail operations on the Line and none of its employees will be adversely affected by the abandonment.

Dated December 21, 2023.

Respectfully submitted,



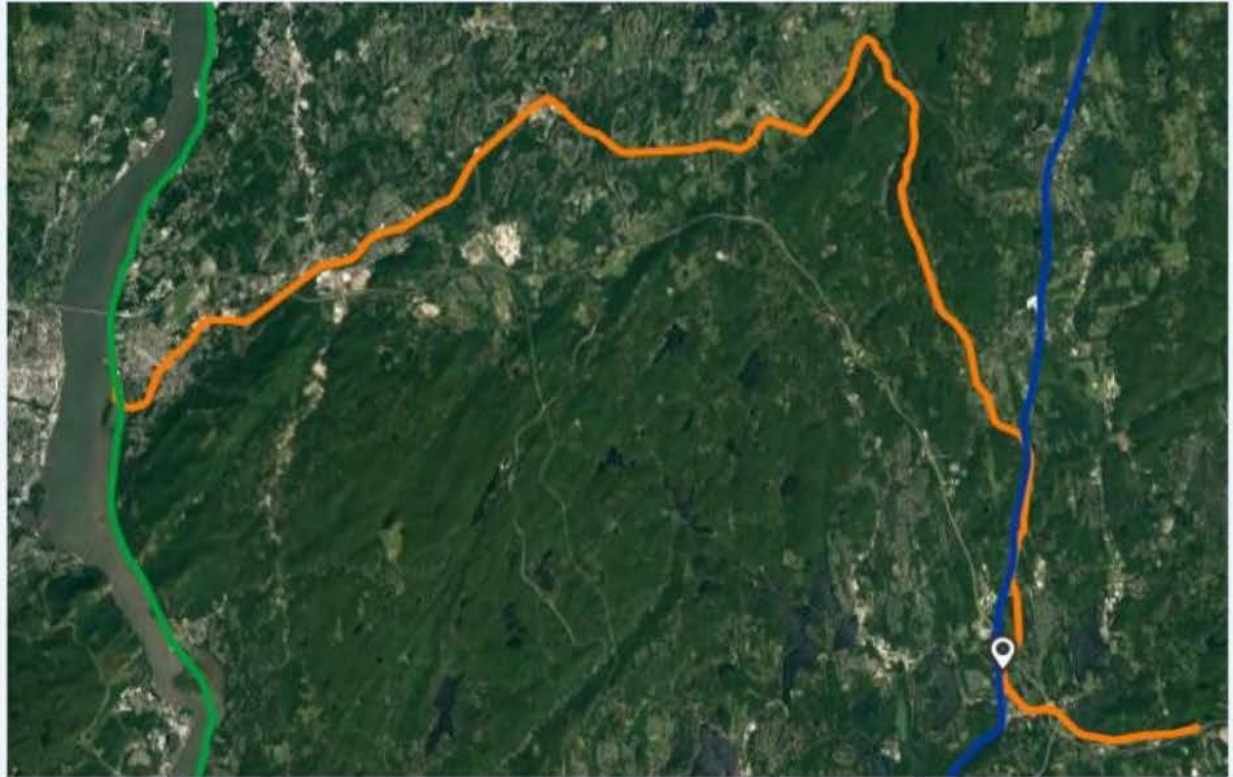
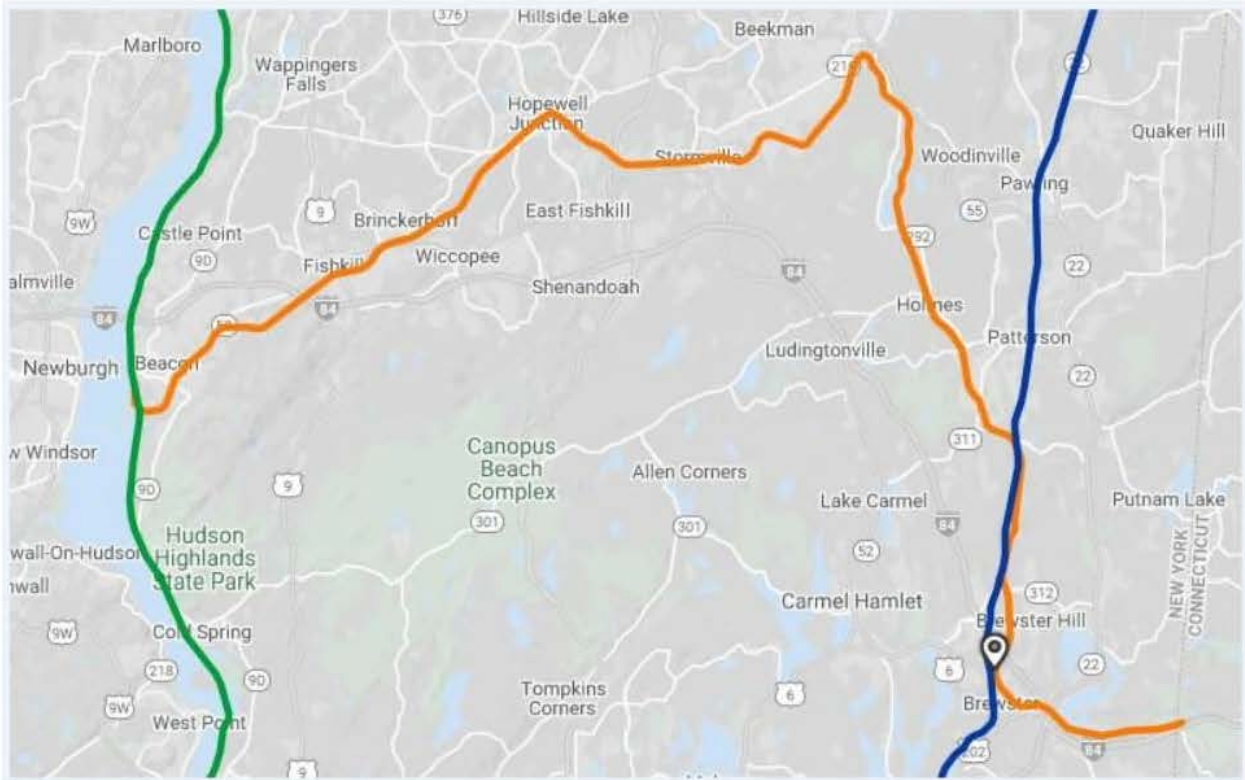
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**EXHIBIT A**

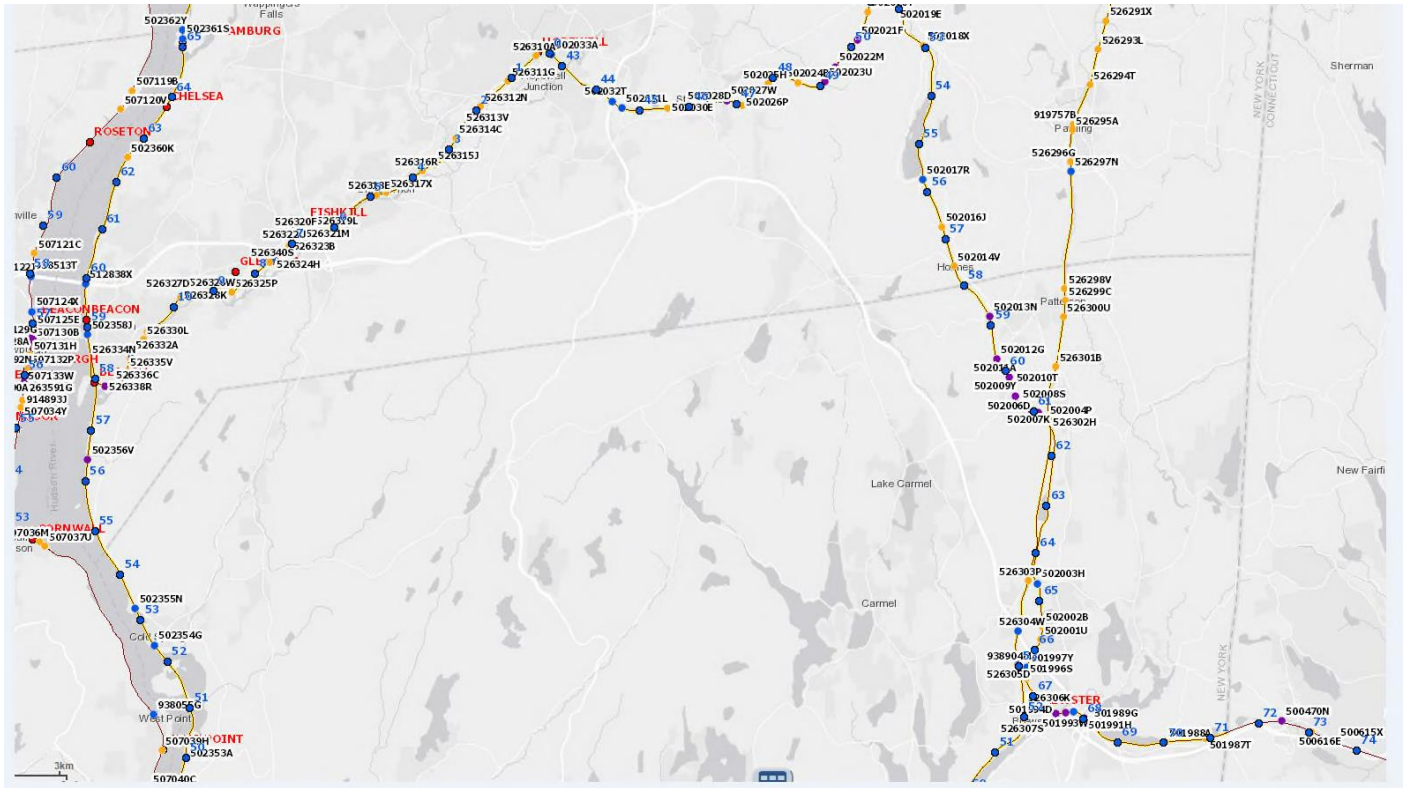
Maps of the Beacon Line



Maps of the Beacon Rail Line (Beacon Line Highlighted in Orange)



# FRA Rail Map Displaying the Beacon Line in New York



**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of December 2023, I caused the foregoing Verified Notice of Exemption of Metro-North Commuter Railroad Company to be served on the following parties by email:

Edward J. Rodriguez  
Vice President and General Counsel  
Housatonic Railroad Company  
4 Huntley Road  
P.O. Box 687  
Old Lyme, Connecticut 06371-1448  
[e.rodriquez@hrrc.com](mailto:e.rodriquez@hrrc.com)



Charles A. Spitulnik