

# FINAL ENVIRONMENTAL ASSESSMENT

DOCKET NO. FD 36575

## Townline Rail Terminal, LLC – Proposed Construction and Operation of a Line of Railroad

in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY.



### Information Contact:

Andrea Poole, Environmental Protection Specialist

Surface Transportation Board  
Office of Environmental Analysis  
395 E. Street SW  
Washington, DC 20423

202.245.0305





**SURFACE TRANSPORTATION BOARD**

**Washington, DC 20423**

*Office of Environmental Analysis*

June 7, 2024

Re: Docket No. FD 36575, Townline Rail Terminal, LLC Construction and Operation of a Line of Railroad; **Issuance of Final Environmental Assessment**

Dear Reader:

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) is pleased to provide you with this Final Environmental Assessment (Final EA), including a Response to Comments on the Draft EA. The EA assesses the potential environmental impacts of the proposed construction and operation of a new 5,000-foot rail line in Suffolk County, New York (Proposed Action).

OEA prepared an EA under the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321-4370m-11) and related environmental laws for the Proposed Action. OEA provided a 30-day comment period on the Draft EA from January 5 through February 5, 2024. The comments received during the comment period did not require altering the conclusions in the Draft EA. The Final EA addresses minor changes to the Draft EA in response to the comments and sets forth OEA's final recommendations, including recommended mitigation, to the Board. If a comment resulted in a change to the Draft EA, the edits can be seen in red strikethrough for deleted language and blue underlined text for new language present in the Final EA.

Issuance of the Final EA completes the environmental review in this proceeding. The Board will now issue a final decision on whether to authorize the Proposed Action. In making its final decision, the Board will consider the entire record, including the information presented on the transportation merits, the Draft EA, Final EA, and all public and agency comments received. If the Board decides to authorize the Proposed Action, the Board may impose conditions on the applicant as part of its decision, including environmental mitigation conditions.

This Final EA is available for viewing and downloading on the Board's website at [www.stb.gov](http://www.stb.gov). All information that has been filed with the Board can be found on the Board's website (Docket No. FD 36575). OEA appreciates the efforts of all interested parties who have participated in this environmental review.

Sincerely,

Danielle Gosselin

Director

Office of Environmental Analysis

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# Summary

## Introduction

### Proposed Action

On November 17, 2022, Townline Rail Terminal LLC (Townline) filed a petition in Docket No. FD 36575 under 49 U.S.C. § 10502 seeking authorization from the Surface Transportation Board (Board) to construct and operate approximately 5,000 feet of new, common carrier rail line and associated switching and sidetrack in the Hamlet of Kings Park, Town of Smithtown, N.Y. (Smithtown) (Proposed Action). CarlsonCorp, Inc. (Carlson) established Townline in 2021 to be a common carrier railroad. The proposed 5,000-foot line would connect and run parallel to the existing Long Island Railroad (LIRR) mainline.

The proposed line would add two daily New York and Atlantic Railway (NYA) trains (one roundtrip) to the LIRR system five days a week. NYA is a short line railroad that currently operates freight rail service on the LIRR mainline in conjunction with LIRR passenger operations in New York's Suffolk, Nassau, Kings, and Queens Counties. NYA operates over 270 miles throughout the LIRR network and maintains selected sidings and tracks designated exclusively for freight service. If the proposed rail line is authorized and implemented, Townline would interchange its rail traffic with NYA, which would then move the commodities off Long Island by rail.

### Purpose and Need

According to Townline, the Proposed Action is needed to provide a rail option for transporting incinerator ash and construction and demolition (C&D) debris off Long Island for customers located on Carlson property and adjacent properties. ~~Townline states that~~ In ~~2024~~<sup>2027</sup>, Brookhaven landfill (the largest disposal option for incinerator ash and C&D debris on Long Island) is expected to reach maximum capacity and close. Townline notes that the proposed line would offer an alternative to truck transportation off Long Island by providing efficient, direct rail transportation via the LIRR mainline to the interstate network. In addition to serving Carlson, Townline anticipates it would potentially serve Covanta Energy, a waste-to-energy facility located half a mile west of the Proposed Action that converts Smithtown's solid waste into incinerator ash, and other shippers in the area.

The proposed federal action is the Board's decision to authorize, with appropriate conditions, or deny construction and operation of the proposed rail line. The Proposed Action is not being proposed or sponsored by the federal government. Therefore, the purpose and need for the proposed line is informed by the goals of Townline as the project applicant in conjunction with the Board's enabling statutes, 49 U.S.C. 10901 and 10502.

## Draft EA and Final EA Process

The Board is the lead agency for this environmental review. OEA is responsible for conducting the environmental review process, independently analyzing environmental data, and making environmental recommendations to the Board. ~~OEA is issuing this~~ OEA issued a Draft EA for public review and comment for 30 days. Comments ~~are~~ were due by February 5, 2024. OEA read all comment documents and responded to substantive comments in Appendix G of this Final EA. ~~OEA will consider all timely comments received on this Draft EA and will respond to comments in the Final EA, which will include OEA's final recommended environmental mitigation.~~ OEA received a total of 105 comment letters on the Draft EA, approximately half of which were in support of the Proposed Action. Comments came from individuals, citizen associations, and agencies. OEA identified 41 comments that were largely factual but substantive enough to warrant a response in this Final EA. The Board will now consider the entire record, including the Draft EA and Final EA, all comments received, OEA's recommendations, and the transportation merits in making its final decision on whether to authorize the proposed line.

## Alternatives

The regulations implementing the National Environmental Policy Act (NEPA) require that federal agencies consider reasonable alternatives to the Proposed Action, including a No-Action Alternative. A reasonable alternative must meet the project's purpose and need and must be logistically feasible and practical to implement. Based upon the purpose and need, information provided by Townline, agency comments, and OEA's independent analysis, the Proposed Action is the only reasonable and feasible Build Alternative carried forward for detailed analysis in this ~~Final~~Draft EA. Thus, the ~~Final~~Draft EA addresses only the Proposed Action and the No-Action Alternative.

## Summary of Impacts

### No-Action Alternative

Under the No-Action Alternative, the Board would not authorize Townline's proposed construction and operation, and Townline would not construct and operate the proposed line. No rail carrier would operate on the subject site, as under current conditions; therefore, potential environmental impacts associated with the Proposed Action would not occur.

### Proposed Action

Under the Proposed Action, the Board would authorize Townline's proposed rail construction and operation, and Townline would construct and operate the rail line, providing common carrier rail service to a planned truck-rail transloading facility, which it states would be subject to state and local regulation. Carlson would independently construct the transloading facility to handle the transportation of construction and demolition debris and incinerator ash from Long Island.

Townline would also hold itself out to serve other shippers. If the proposed rail line is authorized and implemented, Townline would interchange its rail traffic with NYA, which would then move the commodities off Long Island by rail.

Because the Proposed Action would be built in an existing industrial area, there would be fewer environmental and historic impacts than would be the case with construction on an entirely new right-of-way. As demonstrated in this [FinalDraft](#) EA, the impacts of the Proposed Action range from no adverse effect to minimal impacts. OEA determined that construction of the Proposed Action may affect the northern long-eared bat (NLEB), a federally-listed endangered species, through the clearing of or disturbance to forested habitat, temporary construction noise and lighting, and operational lighting and noise. However, due to the habitat conditions in the project area in combination with mitigation measures, OEA concluded that the Proposed Action may affect but it is unlikely to adversely affect the NLEB.

## Mitigation

Based on the analysis in this [FinalDraft](#) EA, the Proposed Action, with the mitigation recommended in this [FinalDraft](#) EA, would have no or negligible adverse impacts on all resources evaluated. These mitigation measures include certain voluntary mitigation proposed by Townline and additional measures developed by OEA. Townline submitted proposed voluntary mitigation measures to OEA in correspondence dated July 10, 2023, and October 17, 2023, prior to the completion of the environmental analysis. Upon completion of the environmental analysis, OEA incorporated the relevant proposed voluntary mitigation measures into the [FinalDraft](#) EA. [After considering all public comments on the Draft EA, OEA added one new mitigation measure regarding lighting. OEA is recommending that the Board impose all of the voluntary mitigation and OEA's three final recommended mitigation measures on any decision authorizing the proposed rail line. OEA will make its final recommendations on mitigation to the Board in the Final EA after considering all public comments on this Draft EA.](#)

## Conclusion

OEA concludes that the Proposed Action would have negligible impacts to all environmental resource areas, excluding biological resources. For biological resources, OEA concludes that the Proposed Action's impacts can be appropriately minimized with the mitigation recommended in this [FinalDraft](#) EA.

This [FinalDraft](#) EA is available for viewing and downloading on the Board's website ([www.stb.gov](http://www.stb.gov)) by clicking "Search STB Records" near the top of the home page and then searching for "Decisions" using Docket Number "FD 36575." In addition, a hard copy of the [FinalDraft](#) EA is available at the local [libraries library and Town Hall](#) identified in Table 1.7-1 of the [FinalDraft](#) EA, which includes the address, telephone, website, and operating hours for each location.

# 1

## Purpose and Need

### 1.1 Introduction

On November 17, 2022, Townline Rail Terminal LLC (Townline) filed a petition in Docket No. FD 36575 under 49 U.S.C. § 10502 seeking authorization from the Surface Transportation Board (Board) to construct and operate approximately 5,000 feet of new, common carrier rail line and associated switching and sidetrack in the Hamlet of Kings Park, Town of Smithtown, N.Y. (Smithtown) (the Proposed Action) (see **Figure 1.1-1**).<sup>1</sup> CarlsonCorp, Inc. (Carlson) established Townline in 2021 to be a common carrier railroad.<sup>2</sup> The proposed 5,000-foot line would connect and run parallel to the existing LIRR mainline.

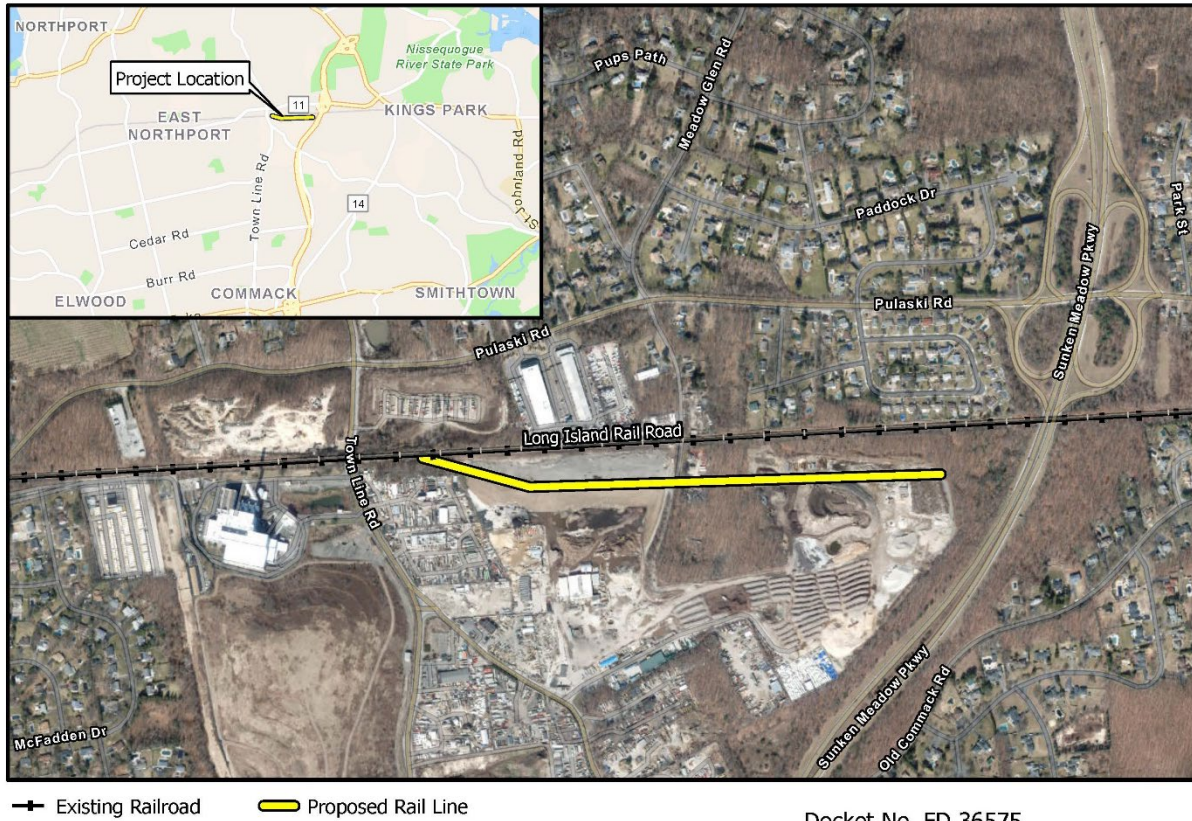
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<sup>1</sup> Under 49 U.S.C. § 10906, Board authorization is not required for construction, acquisition, operation, abandonment, or discontinuance of ancillary switching or sidetrack. Railroads also have the right to increase efficiency by improving, reactivating, and rehabilitating their rail lines, and rerouting their traffic without authority from the Board. In this case, however, Townline asked for authority to construct and operate as a common carrier the 5,000 feet of new rail line. Moreover, the associated switching and sidetrack in the northern portion of Carlson’s 82-acre industrial property are related to Townline’s plans for the proposed construction, and OEA has the information needed to encompass that track in its environmental review at this time. Accordingly, the [Final Draft](#) EA considers both the potential environmental impacts of 5,000 feet of new railroad line and the planned switching and sidetrack as part of the Proposed Action.

<sup>2</sup> Railroads have a common carrier obligation to provide rail transportation or service subject to the jurisdiction of the Board to shippers that request it “on reasonable request.” 49 U.S.C. §11101(a).



**Figure 1.1-1: Project Location**



Docket No. FD 36575

Townline intends to serve a planned truck-rail transloading facility that its affiliated entity, Carlson, would build pursuant to state and local law. Carlson operates a New York State Department of Environmental Conservation (NYDEC) permitted waste transfer facility on a portion of its 82-acre industrial property in Smithtown, where it recycles and processes uncontaminated concrete, asphalt pavement, rock, brick, soil, unadulterated wood, yard waste, and horse manure.<sup>3</sup> If the proposed rail line is authorized and built, Townline plans to transport incinerator ash, construction and demolition (C&D) debris, and aggregates using Carlson’s planned transloading facility.<sup>4</sup> In addition to serving Carlson, Townline anticipates it would potentially serve Covanta Energy, a waste-to-energy facility located half a mile west of the Proposed Action that converts Smithtown’s solid waste into incinerator ash, and other shippers in the area. Townline’s trains would interchange with the New York & Atlantic Railway (NYA). NYA would operate one round-trip train per day, five days a week, in coordination with Townline. Townline explains that the planned rail service and transloading facility would provide more efficient waste disposal, which is needed because

<sup>3</sup> A waste transfer facility is a facility where waste is received, consolidated, and then transported to a subsequent facility for processing, treatment, further transfer, or disposal. (<https://www.dec.ny.gov/chemical/23678.html>)

<sup>4</sup> The C&D debris estimates include steel, wood products, drywall and plaster, brick and clay tile, asphalt shingles, concrete, and asphalt concrete. These materials are used in buildings, roads and bridges, and other sectors (<https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/construction-and-demolition-debris-material>).

the last remaining public landfill on Long Island to accept both incinerator ash and mixed C&D debris is scheduled to close in 2024. (Subsequent to the preparation of the Draft EA, the anticipated closure date was updated to 2027.)

## Background

Long Island currently has five landfills to handle solid waste. Suffolk County defines solid waste as “municipal and private solid waste; clean C&D debris,<sup>5</sup> yard waste; sewage; sludge; other waste by-products.”<sup>6</sup> There are strict regulations on Long Island landfills (Nassau and Suffolk County regulations) due to the deep flow recharge areas (where water seeps into the ground to refill an aquifer), which provide drinking water on Long Island. The Long Island Landfill Law, ECL 27-0704, places restrictions on new landfills and expansions to existing landfills both in and out of the deep flow recharge areas.<sup>7</sup> Due to these tighter State regulations, Long Island has no active municipal solid waste (MSW) landfills.<sup>8</sup>

The five active landfills on Long Island are:

- Brookhaven [Waste Management Facility landfill](#), Suffolk County – the largest landfill on Long Island, collecting both ash and C&D debris but expected to reach maximum capacity and close in [2027 2024](#).
- Babylon [Southern Ash Fill Monofil](#), Babylon – only accepts incinerator ash.
- [Port Jefferson Village Clean Fill 1-A Hole Golf Course](#), Port Jefferson Country Club, Port Jefferson – less than 2-acre landfill exclusively used by the Village of Port Jefferson for brush, tree stumps and inert materials.
- 110 Sand Company Clean Fill Disposal Site, Melville – accepts only clean fill<sup>9</sup> and C&D debris.
- Blydenburgh Road Landfill Complex, Hauppauge – accepts only clean fill.

Because the Blydenburgh Road Landfill and 110 Sand Clean-fill Disposal Site landfill are located within the deep-flow aquifer recharge area, they can only accept “clean” fill. Babylon’s Ash Monofil, the 1-A Hole Golf Course, and the Brookhaven landfill are located

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<sup>5</sup> According to the EPA, clean C&D debris includes materials that are not contaminated and are separated from different materials. C&D debris is not considered “clean” if it is a mixture of different types of materials (e.g., mixture of bricks, concrete, and wood).

<sup>6</sup> *Suffolk County Solid Waste Management Report and Recommendations*. Suffolk County Solid Waste Commission.

<sup>7</sup> <https://www.dec.ny.gov/chemical/23681.html>

<sup>8</sup> MSW landfills accept garbage from households, institutions, and commercial establishments. C&D debris is not accepted at these landfills unless specifically noted in the facility permit.

<sup>9</sup> Clean fill is free from contaminants and non-water-soluble, non-decomposable, inert solids. Clean fill can include soil, rock, stone, concrete, glass, brick, ceramics, and asphalt paving fragments. Clean fill does not include processed or unprocessed mixed construction and demolition debris.

outside the deep-flow aquifer recharge area. The 1-A Hole Golf Course is exclusively used by the Village of Port Jefferson for brush, tree stumps and inert materials; thus, it cannot be used for incinerator ash or C&D debris.

Brookhaven landfill is the only existing facility on Long Island that collects both ash and C&D debris. The Babylon Ash Monofil in the Town of Babylon (Babylon) only accepts incinerator ash.<sup>10</sup> The Brookhaven landfill, located in Suffolk County, is the largest on Long Island, accepting approximately 500,000 tons of C&D debris a year. The Babylon facility receives 55,000 tons of incinerator ash per year.<sup>11</sup> Brookhaven’s landfill handles around 35 percent of Long Island’s solid waste. Operators expect it to reach maximum capacity in ~~2027~~ 2024 and then close. The Babylon Ash Monofil is also at risk of closing within 10 years.<sup>12</sup>

Researchers continue to study solutions to improve solid waste disposal for Long Island. The solutions that have been studied include increased truck transport, barging, and transporting solid waste off Long Island by rail. Currently, trucks carry approximately 65 percent of Long Island’s solid waste.<sup>13</sup> Long-distance rail transportation would have a lower carbon footprint and solid waste disposal cost when compared to truck transportation.

## Local Plans

As discussed below, state and local agencies have recently taken steps to further their efforts to solve the solid waste disposal problems on Long Island. Local planning units that operate MSW disposal facilities are required to have solid waste management plans for all local planning units.<sup>14</sup>

### Town of Smithtown Comprehensive Master Plan

Smithtown is currently updating its Comprehensive Master Plan to guide future decisions on land use, development projects, and infrastructure investment. Smithtown has conducted extensive public engagement and prepared a generic Environmental Impact Statement as part of the New York State environmental review process for the Comprehensive Master Plan. The Comprehensive Master Plan sets forth the opportunity for a rail connection on Carlson’s existing industrial property by recommending changing a portion of the industrial property to a Heavy Industrial (HI) zoning district “in order to provide necessary and desired

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<sup>10</sup> <https://www.brookhavenny.gov/DocumentCenter/View/24205/Brookhaven-Ash-Fill-Exploratory-Report>

<sup>11</sup> <https://www.wshu.org/long-island-news/2023-05-03/with-a-deadline-looming-long-island-towns-evaluate-how-they-collaborate-on-trash>

<sup>12</sup> <https://www.brookhavenny.gov/DocumentCenter/View/24205/Brookhaven-Ash-Fill-Exploratory-Report>

<sup>13</sup> *Suffolk County Solid Waste Management Report and Recommendations*. Suffolk County Solid Waste Commission.

<sup>14</sup> Environmental Conservation Law (ECL) Article 27-0107(1)(a).

community services.”<sup>15</sup> The recommendations further indicate that a rail siding in this rezoned area would provide alternative access to Carlson’s property and would potentially reduce truck traffic on Old Northport Road. The recommended amendments to the draft Comprehensive Master Plan, presented in June 2021, included amendments stating that the HI zoning district “is an appropriate zone for this location because it is between existing HI-zoned land and the railroad and is more than 500 feet from Townline Road and all residential uses” and that the “railroad [mainline] provides alternate access to the site, and if a rail siding were to be built, access to the railroad could reduce truck traffic on Old Northport Road.”

### Other Local Plans

There also has been extensive analysis of the solid waste challenges and possible solutions in Suffolk County, including:

- Smithtown, New York Local Solid Waste Management Plan, Department of Environment and Waterways, adoption update January 2020;
- Suffolk County Legislature’s Regional Solid Waste Management Commission (Commission); and
- Suffolk County Solid Waste Management Report and Recommendations.

These efforts describe the management, handling, and disposal of solid waste and recyclables, with the goal of implementing the most cost-effective solid waste operation. Currently, in Smithtown, C&D debris generated commercially or by residential contractors is disposed of privately. The Commission is tasked with exploring ways to reduce pollution, traffic congestion, and the financial impact of current solid waste disposal practices. The Commission found numerous benefits of transporting waste by rail when compared to trucks, including:

- Approximately half the cost of truck transport;
- Additional disposal options;
- Traffic congestion reduction;
- Safety (reduction in accidents and fatalities);
- More fuel efficient;
- Reduced reliance on trucks;
- Reduced nitrogen dioxide and particulates;
- Reduced transportation greenhouse gases;
- Additional capacity; and
- Fewer impacts to the roadway infrastructure (pavement, bridges).

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<sup>15</sup> Town of Smithtown Planning Advisory Report, June 2, 2021.

## 1.2 Purpose and Need

Under 49 U.S.C. § 10901, the “Board has exclusive licensing authority for the construction and operation of new railroad lines” and is required to authorize rail line construction and operation proposals unless the Board finds the project to be “inconsistent with the public convenience and necessity.” Further, 49 U.S.C. § 10502(a) directs the Board to exempt a transaction (including a construction proposal) from the prior approval requirements of § 10901 when it finds that (1) regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope or (b) application of the statutory provision is not needed to protect shippers from the abuse of market power.<sup>16</sup> The proposed construction and operation of the new rail line is not a federal government-proposed or sponsored project. The project’s purpose and need is informed by both Townline’s goals and the Board’s enabling statute—sections 10502 and 10901 of the Interstate Commerce Act as amended by the ICC Termination Act, Pub. L. No. 104-188, 109 Stat. 803 (1996). See Alaska Survival v. STB, 705 F.3d 1073, 1084-85 (9th Cir. 2013).

Townline’s purpose is to provide a rail option for transporting incinerator ash and clean C&D debris off Long Island by rail instead of by truck. Townline sees this need as time-sensitive because of the pending closure in 2024 of the Brookhaven Landfill. (Subsequent to the preparation of the Draft EA, the anticipated closure date was updated to 2027.) Once operational, Townline would immediately serve Carlson, and potentially Covanta Energy and other shippers in the area. Covanta Energy currently ships incinerator ash, a by-product of its local waste-to-energy facilities, via Carlson to the Brookhaven Landfill, the last remaining public landfill on Long Island to accept C&D debris. Covanta Energy produces 4,000 freight carloads or 12,000 truckloads of incinerator ash per year. As shown in **Figure 1.2-1**, Covanta Energy is located adjacent to Carlson and the LIRR mainline, with the Brookhaven Landfill located approximately 26 miles southeast of these facilities.

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<sup>16</sup> Lone Star R.R.— Track Constr. & Operation Exemption—in Howard Cnty., Tex., FD 35874, slip op. at 3 (STB served Mar. 3, 2016)

**Figure 1.2-1: Project Location – Regional Context**



Townline would also offer rail service for receiving materials to local customers such as Kings Park Ready Mix, Kings Park Materials (asphalt plant) and Pelkowski Precast Corporation (concrete plant), which are co-located with Carlson in the area currently used for industrial purposes. ~~existing industrially-zoned area of Kings Park.~~ Based on information from Townline, Carlson, Kings Park Ready Mix, Kings Park Materials, and Pelkowski Precast Corporation estimate they currently receive 10,000 truckloads of materials per year that could be shifted over to rail service. Kings Park Ready Mix currently uses trucks to receive cement powder, sand, and gravel and to ship concrete to customers. Kings Park Materials receives aggregates by truck. Additional potential customers could be car dealerships, lumber yards, and concrete and asphalt plants that could use rail for delivery of aggregates needed for production.

### 1.3 Role of the Board

The Board is a nonpartisan, independent federal regulatory agency, composed of five presidentially appointed Members confirmed by the Senate. The Board has jurisdiction over certain rail transportation matters, including the construction and operation of new rail lines. The Board licenses railroads as common carriers, requiring them to accept goods and materials for transport from all customers upon reasonable request (49 U.S.C. § 11101(a)).

On April 4, 2023, Townline Association, Inc. (Association), an association of local residents and property owners, filed a motion to dismiss the petition for exemption, arguing that the Board lacks jurisdiction over the petition, or in the alternative, that the proposal is not appropriate for the exemption process. The Board denied this motion in a decision issued on November 15, 2023.<sup>17</sup>

## 1.4 NEPA and NHPA Process

The Board is required to examine the potential environmental and historic impacts of actions subject to its licensing authority under the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321-4370m-11), Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108), and related environmental laws. The environmental and historic review process identifies and assesses the potential environmental and historic consequences of a proposed action before a decision on that proposal is made. The Board's Office of Environmental Analysis (OEA) is the office within the Board responsible for ensuring the agency's compliance with NEPA, NHPA, and related environmental laws.

In conducting its environmental and historic review, OEA considers the NEPA requirements and the Council on Environmental Quality (CEQ) implementing regulations; the NHPA and the regulations implementing it; the Board's environmental and historic preservation regulations at 49 C.F.R. Part 1105; and other related environmental laws and their implementing regulations.

As part of the environmental and historic review process, OEA makes recommendations to the Board including mitigation to address potential adverse environmental and historic impacts. OEA's recommended mitigation may include voluntary measures developed by railroad applicants and additional measures recommended by OEA. The Board encourages railroad applicants to propose voluntary mitigation. In some situations, voluntary mitigation can replace, supplement, or reach further than mitigation measures the Board might otherwise impose. In letters dated July 10, 2023, and October 17, 2023, Townline submitted voluntary mitigation measures that are discussed in more detail in Chapter 4. After considering all public comments on the Draft EA, OEA added one new mitigation measure regarding lighting. OEA is recommending that the Board impose all of the voluntary mitigation and OEA's three final recommended mitigation measures on any decision authorizing the proposed rail line. ~~OEA will make final recommendations on mitigation in the Final EA that will be issued after the comment period on this Draft EA.~~ In making its final decision in this case, the Board will consider OEA's conclusions regarding environmental and historic impacts and OEA's final recommendations for mitigation.

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<sup>17</sup> Decision on Townline Rail Terminal, LLC— Construction and Operation Exemption, EB 51795, (STB served Nov. 15, 2023).

## Request for Preparation of an Environmental Assessment

Based on the information provided by Townline and comments from the agencies and tribes discussed below, OEA determined that the preparation of an Environmental Assessment (EA), instead of a full Environmental Impact Statement (EIS), is appropriate in this case under 49 C.F.R. §1105.6(d).<sup>18</sup> OEA granted Townline's request for a waiver of the preparation of an EIS on September 29, 2022, for the following reasons:

- OEA conducted agency and tribal consultation and requested formal comments by July 22, 2022, during which minimal concerns regarding the Proposed Action were raised from relevant agencies and tribes.
- OEA visited the project area on August 1, 2022, to understand existing conditions in the project area. The project area is currently disturbed, and there is an existing NYDEC permitted waste transfer facility operating on site.
- Little wildlife habitat remains that could potentially be affected by the proposed rail line. Therefore, the potential for adverse impacts to wildlife species, including federally and state listed threatened and endangered species, is low.
- The proposed rail line would only extend approximately 5,000 feet and would not cross water or wetland areas.
- Due to the small volume of expected rail traffic, the potential for impacts related to air quality, safety, and noise during rail operations is low.
- The proposed rail line would not involve the addition of any new roadway/rail at-grade crossings and therefore would not result in any impacts related to vehicular or pedestrian safety and delay.
- Based on OEA's site inspection and review of available satellite imagery, the presence of the existing operational LIRR mainline and intervening topography further reduce the likelihood that operation of the proposed rail line would result in adverse noise impacts on noise-sensitive receptors, such as residences, schools, nursing homes, hospitals, and places of worship.

## 1.5 Other Agency Roles and Reviews

### Other Agency Roles and Reviews

Carlson is pursuing local review and approval of various improvements to its 82-acre industrial property in Smithtown, including a planned truck-rail transloading facility. Carlson intends for the transloading facility to handle the transfer of C&D debris and incinerator ash between trucks and rail cars. Carlson will be required to comply with the

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<sup>18</sup> While the Board's regulations under 49 C.F.R. §1105.6(a) state that EISs will normally be prepared for rail construction projects, under 49 C.F.R. §1105.6(d), the Board may reclassify or modify these requirements for individual proceedings. In practice, and consistent with the CEQ regulations and 49 C.F.R. §1105.6(d), OEA prepares EAs for construction projects where it does not expect environmental impacts to be significant.

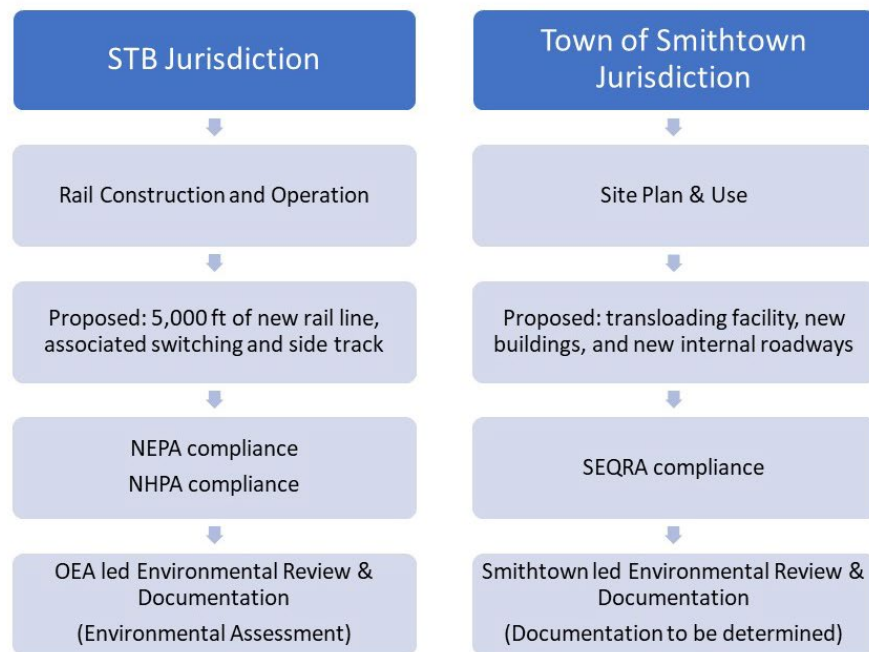


New York State Environmental Quality Review Act (SEQRA)<sup>19</sup> and applicable local laws for the facility; however, the transloading facility is not subject to the Board’s jurisdiction because it is not part of Townline’s proposal to construct and operate this 5,000-foot rail line. The Board only has jurisdiction over “transportation by rail carrier,” 49 U.S.C. § 10501(a), and thus is limited to Townline’s request for authority to construct and operate the proposed rail line, not the transloading facility.

Before Carlson’s planned transloading facility can be constructed, revisions to Smithtown ordinances, adoption of changes to the Town’s Comprehensive Master Plan, and rezoning of the Proposed Action property will be required. The site plan for the transloading facility will then be submitted to Smithtown, and site improvements will be reviewed under SEQRA, including New York State and local agency consultation and public involvement. This Final Draft EA includes an assessment of the transloading facility and associated improvements as a reasonably foreseeable cumulative impact of the Proposed Action (see Chapter 3), but it is not part of the Proposed Action.

As detailed below, there also will be separate environmental review processes under state and local law for the full build-out of Carlson’s 82-acre industrial property (see **Figure 1.5-1**).

**Figure 1.5-1: Federal and State Review Process for the Carlson Site**



<sup>19</sup> 6 NYCRR Part 617.

## 1.6 Agency & Tribal Consultation

In June 2022, OEA consulted with relevant federal, state, local agencies, and tribes with jurisdiction or interest in potentially affected resources associated with the Proposed Action (see Agency Consultation List in Appendix A). OEA sent letters to 30 agency and tribal contacts providing background information on the Proposed Action and how to participate in the Board's environmental and historic review process including participating as a cooperating agency or Section 106 consulting party. Agency comments were requested to assist in identifying potential impacts and interest in serving as a cooperating agency. OEA received eight comment letters from agencies during this consultation. The comments received were primarily from local and state agencies requesting that the EA evaluate specific resources and providing input on zoning and land use (see Appendix A). This ~~Final~~<sup>Draft</sup> EA incorporates the requested resource topics into the environmental and historic analysis in Chapter 3. There were no cooperating agency requests (see Appendix A).

### Section 106 Consultation

OEA has assessed the potential effects of the Proposed Action on historic properties that are listed in or are eligible for listing in the National Register of Historic Places (National Register), as required by Section 106 of the NHPA. In a letter dated June 22, 2022, OEA initiated consultation with the New York State Historic Preservation Office (SHPO), Tribal Historic Preservation Officers (THPOs), and tribal governments with a possible interest in the Proposed Action. OEA consulted and coordinated with the Shinnecock Indian Nation, Unkechaug Indian Nation (Poospatuck Reservation), and Setalcott Indian Nation. In a letter dated July 15, 2022, OEA received a response from the New York SHPO concluding that the Proposed Action would have No Effect on historic properties located within the Area of Potential Effect for the Proposed Action. Appendix A provides detailed information on efforts to reach out to potential Section 106 consulting parties and their responses.

### Section 7 Consultation

U.S. Fish and Wildlife Service (USFWS) is the federal agency with primary expertise in fish, wildlife, and natural resource issues. USFWS is responsible for implementing the Endangered Species Act (ESA) (16 U.S.C. §§ 1531-1544), and it is also responsible for implementing the Migratory Bird Treaty Act (16 U.S.C. §§ 703-712) and the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668d). Under Section 7 of the ESA, OEA initiated consultation with USFWS regarding the potential effects of the Proposed Action on ESA-listed species that may occur in the project area. OEA assessed the Proposed Action's potential effect on federally listed threatened and endangered species and determined the Proposed Action *may affect but is not likely to adversely affect* the endangered northern long-eared bat (NLEB). USFWS concurred with OEA's determination on November 7, 2023. OEA also determined that the Proposed Action would have *no effect* on the threatened piping plover and red knot. See Appendix A for OEA's Section 7 Consultation assessment and USFWS' concurrence correspondence.

## 1.7 ~~Requests for Comments & Next Steps~~ Public Outreach

The ~~Final~~Draft EA examines the existing environmental conditions of the study area and potential environmental and historic impacts associated with the Proposed Action and the No-Action alternative, consistent with NEPA, Section 106 of the NHPA, and other relevant environmental laws. The Draft EA was available to the public for a 30-day comment period between January 5, 2024 and February 5, 2024. ~~This Draft EA is being made available to the public for a 30-day comment period ending February 5, 2024.~~ Interested agencies, tribes, individuals, and other stakeholders ~~were~~are encouraged to submit detailed and substantive comments ~~on this Draft EA during the 30-day comment period.~~ A physical copy of the Draft EA ~~was~~is available for review at the locations identified in Table 1.7-1 below. The Final EA will also be made available here.

**Table 1.7-1. Draft EA and Final EA Hard Copy Locations**

Town of Smithtown Town Hall 99 W. Main Street Smithtown, New York 11787
Smithtown Library – Kings Park Building 1 Church Street Kings Park, New York 11754

During the comment period for the Draft EA, OEA received a total of 105 comment letters, with approximately half of the comment letters in support of the Proposed Action. Comments came from individuals, citizen associations, and agencies. OEA identified 41 comments that were largely factual but substantive enough to warrant a response in this Final EA. OEA responded to the substantive comments received in Appendix G and made appropriate changes to the Draft EA in this Final EA. When a comment resulted in a substantive revision (addition, deletion, correction, etc.) to the Draft EA text, the change in this Final EA is indicated in blue text for new language added and red, strikethrough text for deleted language.

This Final EA considers and responds to all substantive comments received on the Draft EA and concludes the environmental review process. Next the Board will issue a final decision on the merits, based on the entire record, including the record on the transportation merits, the Draft EA, the Final EA, and all public and agency comments received. In its final decision, the Board will decide whether to authorize construction and operation of the proposed rail line and, if so, what, if any, environmental mitigation conditions to impose.

~~Interested parties are encouraged to file their written comments electronically through the Board's website, [www.stb.gov](http://www.stb.gov), by clicking on the "File an Environmental Comment" link. Please refer to Docket No. FD-36575 in all correspondence, including E-filings, addressed to the Board. Comments submitted by mail should be addressed to:~~

~~Andrea Poole  
Surface Transportation Board  
Environmental Filing, Docket No. FD-36575  
395 E. Street SW  
Washington, DC 20423~~

~~It is not necessary to mail written comments that have been filed electronically. Comments on this Draft EA must be received or postmarked by **February 5, 2024**. All comments received—written or electronically filed—will carry equal weight. If you require an accommodation under the Americans with Disabilities Act in order to submit comment, please call (202) 245-0245.~~

~~Following the close of the comment period on the Draft EA, OEA will issue a Final EA that will consider and respond to all comments received on the Draft EA and make any modifications necessary to the existing analysis. The Final EA will set forth OEA's final recommended mitigation measures to the Board, including both Townline's voluntary mitigation and the mitigation developed by OEA. The Board will then consider the record on the transportation merits, the Draft EA, the Final EA, all public comments received, and OEA's final recommended mitigation measures in making its final decision in this proceeding. In its final decision, the Board will decide whether the Proposed Action should be authorized and, if so, what conditions, including environmental mitigation conditions, to impose.~~

# 2

## Proposed Action and Alternatives

This chapter provides a detailed discussion of the Proposed Action (the proposed rail line and associated switching and sidetrack) and a No-Action Alternative. The NEPA implementing regulations (40 C.F.R. Parts 1500–1508) require that agencies critically evaluate alternatives to a proposed action, including a no-action alternative. Based on the purpose and need for the Proposed Action, information provided by Townline, comments received to date, and OEA’s independent analysis, OEA has carried forward the Proposed Action and the No-Action Alternative for detailed analysis in this [FinalDraft](#) EA.

### 2.1 Overview of Existing Operations

#### Existing Operations

Carlson currently uses its 82-acre industrial property as an NYDEC-permitted waste transfer facility, which allows for outdoor recycling operations on over 66 acres of the property and limits the total processing capacity of the facility to 365,000 tons per year at a rate not to exceed 1,500 tons per day. Carlson is the main transporter of incinerator ash by truck for Covanta Energy to its final destination at the Brookhaven Landfill (approximately 26 miles away, as shown in **Figure 1.2-1**). **Table 2.1-1** summarizes the transport of materials associated with Carlson’s existing operations. There are no existing rail operations on the property.

**Table 2.1-1: Existing Site Operations and Transport (Annually)**

<b>Material</b>	<b>Amount (tons)</b>	<b>Origin/Destination</b>	<b>Distance (miles)</b>	<b>Trips (truck)</b>	<b>Lane Miles</b>
Incinerator ash	80,000	Covanta Huntington/Brookhaven Landfill	26	4,444	231,000
C&D debris	60,000	Kings Park Industrial Area/Brookhaven Landfill	26	4,600	239,000
Residuals and byproducts from recycling operation	30,000	Carlson/Brookhaven Landfill	26	1,050	54,600

### LIRR Operations

The Metropolitan Transportation Authority’s (MTA) LIRR is a 24-hour, seven-day a week commuter rail service provider connecting Manhattan with Long Island. The LIRR system includes over 700 miles of track on 11 different branches connecting New York Penn Station and Grand Central Terminal in Manhattan east throughout Long Island. NYA is a short line railroad that currently operates freight rail service on the LIRR mainline in conjunction with the LIRR passenger operations in New York’s Suffolk, Nassau, Kings, and Queens Counties. NYA was established 20 years ago as a collaborative approach between LIRR and Anacostia Rail holdings to privatize rail freight services operating over the LIRR. NYA operates over 270 miles throughout the LIRR network and maintains selected sidings and tracks designated exclusively for freight service. NYA operates approximately 14 freight trains per weekday and six freight trains per weekend day exclusively on Long Island on tracks owned by the LIRR.<sup>20</sup> If the proposed rail line is authorized and implemented, Townline would interchange its rail traffic with NYA, which would then move the commodities off Long Island by rail.

<sup>20</sup> <https://limba.net/wp-content/uploads/2022/01/NYA-Railway-LIMBA-010721.pdf>

## 2.2 Description of the Proposed Action

The Proposed Action includes the construction and operation of approximately 5,000 feet of new, common carrier rail line and associated ancillary switching and sidetrack in the northern portion of Carlson's 82-acre industrial property as shown in **Figure 2.2-1**. The conceptual layout (see Appendix B) illustrates the proposed rail line and associated switching and sidetrack offset from the existing LIRR mainline. OEA has included the ancillary track in this [FinalDraft](#) EA.<sup>21</sup>

Townline would construct the Proposed Action on an embankment to be consistent with the elevation of the adjacent LIRR mainline. Based on plans provided by Townline, the current elevation of the LIRR mainline ranges from 150 feet to 170 feet moving from west to east. The elevation of the Proposed Action would follow a similar pattern, ranging from 150 feet in the western portion of the property to 155 feet in the eastern portion of the property. This configuration of the proposed rail line adjacent to the LIRR mainline would allow for efficient operations of trains moving into and out of the property. Townline evaluated several other site configurations but determined that they would not meet the operational objectives of NYA and Smithtown.

Carlson would construct and operate roads and buildings independently of the Proposed Action, all of which would be subject to state and local regulations and permitting. These roads and buildings include a planned indoor 200-foot (ft) x 400-ft truck-rail transloading facility and a semi-enclosed 100-ft x 200-ft material storage building. The buildings would be accessed by approximately 5,675 feet of new roads on the property to facilitate transloading between railcars and trucks. The construction and operation of these roads and buildings are not within the Board's jurisdiction but have been analyzed as cumulative impacts in this [FinalDraft](#) EA.

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<sup>21</sup> Under 49 U.S.C. § 10906, Board authorization is not required for construction, acquisition, operation, abandonment, or discontinuance of ancillary switching or sidetrack. Railroads also have the right to increase efficiency by improving, reactivating, and rehabilitating their rail lines, and rerouting their traffic without authority from the Board. In this case, however, Townline asked for authority to construct and operate as a common carrier the 5,000 feet of new rail line. Moreover, the associated switching and sidetrack in the northern portion of Carlson's 82-acre industrial property are related to Townline's plans for the proposed construction, and OEA has the information needed to encompass that track in its environmental review at this time. Accordingly, the [FinalDraft](#) EA considers both the potential environmental impacts of 5,000 feet of new railroad line and the planned switching and sidetrack as part of the Proposed Action.

**Figure 2.2-1: Proposed Action**



Note: Carlson would construct and operate access roads and facilities illustrated in this figure independently of the Proposed Action.

## Construction

The Proposed Action would involve new rail construction within the project area illustrated in **Figure 2.2-1**. Townline anticipates that the temporary construction footprint would be approximately 25 feet on either side of each track roadbed.

Townline expects the duration of construction to be 12 months and states that construction would occur only during daytime hours. Construction materials would be delivered to the site by truck. Equipment needed for the construction of the Proposed Action includes dump trucks, excavators, backhoes, bulldozers, rollers/soil compactors, grapple/boom trucks, welding trucks, track surfacing equipment (tamper, ballast regulator, stabilizer), and truck-mounted cranes. Appropriate erosion and stormwater control measures would be installed for the duration of the construction period.

## Operation and Maintenance

Once constructed, the Proposed Action would immediately serve Carlson and potentially Covanta Energy by transporting incinerator ash and clean C&D debris off Long Island by rail. Townline would also market its rail service to other potential customers for importing goods and commodities, such as aggregate and construction materials to supply local Huntington and Smithtown businesses (e.g., an asphalt plant, cement ready-mix plant, and



precast producer).<sup>22</sup> Carlson is not planning to request an increase in the permitted capacity of its existing waste transfer facility under the NYSDEC permit (gross outbound volume of 365,000 tons per year at a maximum rate of 1,500 tons per day).<sup>23</sup> Gross inbound volumes of material are estimated to be 260,000 tons per year, or 1,000 tons per day. Actual volumes of outbound and inbound material would be variable based on market conditions.

NYA provides freight rail service on the LIRR mainline and has entered into an agreement for the installation of a new rail switch to access the Proposed Action.<sup>24</sup> NYA would operate one round-trip train per day, five days a week to the subject site, in addition to the existing NYA trains. Materials would be shipped in sealed containers or on open rail cars pursuant to industry standards for the commodity being transported.

NYA trains delivering and picking up cars under the Proposed Action would be an average of 1,900 feet long and would consist of two locomotives per train, with a maximum of 27 cars per train. The proposed 5,000 feet of new rail line would hold 54 rail cars at one time. Twenty-seven cars per train is the maximum the site could support for interchange with NYA without interfering with NYA and LIRR rail operations on the LIRR mainline. Townline expects that train length would average 16 cars but would not exceed 27 cars per train.

### **Daytime Operations**

Townline anticipates conducting its daytime rail operations from 6:00 a.m. to 6:00 p.m., Monday through Saturday. These are the permissible hours of operation for Carlson under Carlson's existing NYSDEC facility permit. Daytime operations would include crews switching incoming trains to service various yard operations and building the outgoing train at the end of the day to interchange with the NYA. Internal switching would occur throughout the day as needed based on the makeup of the incoming trains. With respect to shipments involving Carlson, incoming aggregates and construction materials would be shipped via rail and stockpiled at the existing Carlson facility. During normal operation hours, Carlson would load the aggregates and construction materials and ship them locally using one tractor trailer.

### **Nighttime Operations**

NYA would serve the Proposed Action at night during off-peak periods when adequate slots are available for freight movement along the LIRR mainline. Nighttime operations would be limited to inbound trains pulling in, dropping cars on one or more-yard tracks, picking up cars from other tracks, and departing. The Proposed Action would use lighting poles not to exceed 25 feet in height and would provide lighting with 2.0 footcandles at the east and west

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<sup>22</sup> Using estimates from Townline, these businesses use approximately 125,000 tons of aggregate and 10,000 tons of bulk portland cement per year.

<sup>23</sup> Pursuant to NYSDEC correspondence, a modification to the existing NYSDEC permit would be required due to the "physical space reduction and new waste streams proposed for the facility."

<sup>24</sup> The existing agreement with NYA and LIRR allows for a single right-hand No. 10 turnout at Milepost 41.7 on the LIRR mainline.

ends of the yard and along the pathway between the east and west end of the yard in accordance with AREMA recommendations for illumination of flat switching yards.

Townline states that NYA train idling would be minimal. Idling would be limited to waiting for a slot for NYA to operate on the LIRR mainline between scheduled passenger trains. NYA operations are estimated to last approximately two hours depending on the number of cars to be dropped off and picked up.

### Switching Operations

Townline anticipates using a Trackmobile® locomotive to move railcars during rail operations (see details on equipment in Appendix C). Trackmobile is a manufacturer of bi-modal railcar movers that optimize railcar switching and reduce oil and fuel usage. Trackmobile is a diesel-powered engine capable of handling four to five car cuts at a time.<sup>25</sup> Daily carloads would vary depending on demand, but Townline anticipates moving approximately:

- Four to five incinerator ash cars, which would be switched from the planned truck-rail transloading facility.
  - Incinerator ash would be received at the planned truck-rail transloading facility by truck. The planned transloading facility would be equipped with dust suppression, a negative air system with filtration, and high-speed, roll-up doors.
  - Incinerator ash would be transferred indoors to railcars that have steel lids, which would then be moved onto the railcar storage tracks.
- Three to four C&D debris cars, which would switch and load within the future transloading facility.
  - C&D debris would be transported into the planned truck-rail transloading facility and transferred to railcars that are covered with a tarp.
- Four to five aggregate cars, which would be switched to the aggregate unloading track for unloading; and
- One to two material cars (including commodities such as equipment and lumber), which would be switched to the freight unloading track where material would be unloaded and stored in the enclosed material storage closure.

The Proposed Action would reduce the truck trips associated with incinerator ash transport to one truck with an approximate one-mile round trip from Covanta in Huntington to the existing Carlson facility for a total of 4,444 lane miles per year. Based on information provided by the Applicant, transporting incinerator ash by the Proposed Action would require approximately 800 railcars per year. If the C&D debris moves by rail, it would require approximately 1,250 railcars per year and would reduce truck trips to one truck traveling a five-mile round trip for a total of 23,000 lane miles per year.

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<sup>25</sup> Refueling is anticipated to be direct-to-vehicle on site. Townline is open to using an electric Trackmobile vehicle dependent on market availability, which would be charged on site.

With the Proposed Action, truck trips associated with transporting residual materials from processing recyclables and other non-recyclable materials would be fully eliminated. This material would be moved onsite to the planned truck-rail transloading facility and loaded into a C&D debris railcar. Moving these residual materials by rail would require one railcar per day or a total of 50 railcars per year.

## 2.3 No-Action Alternative

Under the No-Action Alternative, the Board would not authorize the Proposed Action, and Townline would not construct or operate the proposed rail line. Potential environmental impacts associated with the Proposed Action would not occur, and freight rail traffic would remain the same on the LIRR mainline as under current conditions.

The No-Action Alternative would not provide a rail transportation option for the shipment of incinerator ash and clean C&D debris off of Long Island and therefore, would not meet Townline's purpose and need.

## 2.4 Alternatives Considered but not Carried Forward

For proposed licensing and permitting actions, CEQ guidance provides that the range of reasonable alternatives can focus on the “[p]rimary [o]bjectives of the permit applicant.”<sup>26</sup> Moreover, CEQ regulations require that an EA briefly discuss alternatives (40 C.F.R. §1501.5I(2)) and that agencies “[s]tudy, develop, and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of NEPA” (40 C.F.R. § 1501.2(3)). OEA's preliminary review of the Proposed Action, agency consultation, and OEA's site visit did not identify any impacts that would warrant the consideration of additional build alternatives.<sup>27</sup> More specifically, no federal, state, and local agencies raised concerns regarding additional alternatives that warranted consideration beyond the Proposed Action and No-Action. ~~any concerns regarding potential environmental impacts.~~ Nor did they suggest any rail alternatives during agency consultation. Therefore, OEA determined that the No-Action and Proposed Action constituted a reasonable range of alternatives to carry forward for detailed analysis.

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<sup>26</sup> Guidance Regarding NEPA Regulations, Memorandum For: Heads of Federal Agencies, From: A. Alan Hill, Chairman, Council on Environmental Quality, 1983.

<sup>27</sup> As discussed earlier in this Chapter, Townline, NYA, and Smithtown coordinated on several track configurations prior to starting the environmental review process here. Those track configurations were submitted to OEA as EO No. 3785 as background information.

# 3

## Affected Environment and Environmental Consequences

### 3.1 Introduction

This chapter describes the affected environment and analyzes the potential environmental consequences for each resource that the Proposed Action and the No-Action Alternative could affect. OEA determined the scope of its analysis based on the resources set forth in the Council on Environmental Quality (CEQ) regulations, the Board's environmental regulations at 49 C.F.R. Part 1105 and on agency, tribal, and stakeholder consultation and comment. OEA reviewed relevant regulations and guidance for each resource, defined a study area to evaluate for each resource, reviewed the existing conditions of the resource in the study area, and determined the level of potential impact that construction and operation of the proposed line could have on each resource. For cumulative impacts, OEA analyzed the impacts of the Proposed Action when combined with impacts of other past, present, and reasonably foreseeable future projects and actions.

OEA recommended preliminary mitigation based on the results of its environmental analysis and agency consultation. Because the proposed construction and operation of this 5,000-foot rail line in an industrial area would have minimal or negligible impacts to all environmental resource areas, a number of the mitigation conditions set forth in Chapter 4 of this [FinalDraft](#) EA are best management practices. The mitigation includes relevant voluntary mitigation conditions proposed by Townline (identified by a prefix of VM followed by a number) and two additional mitigation measures developed by OEA (identified by a prefix of MM and a number). OEA will make its final recommendations to the Board on mitigation measures in the Final EA, after considering all comments received on the [FinalDraft](#) EA. The Board will consider OEA's final recommended mitigation when deciding whether to approve Townline's request for construction and operation of the proposed rail line.

## 3.2 Transportation

This section addresses rail and vehicle transportation in the project area and the potential impacts of the Proposed Action and No-Action Alternative, particularly on truck-to-rail diversion. The Proposed Action could result in impacts on traffic and roadway systems by diverting the transportation of materials from truck to rail transportation, which would have certain environmental benefits by decreasing the number of trucks on the surrounding roadway network. Overall, based on the evaluation below, OEA anticipates the Proposed Action would not have adverse impacts on transportation.

### Approach

Townline estimates that the Proposed Action would reduce truck transportation on the transportation network because waste and other commodities would be moved by rail instead of truck. Townline provided information on the trucks necessary for existing and proposed transportation of waste and other commodities and associated miles travelled. OEA qualitatively evaluated the impact of trucks associated with the Proposed Action and No-Action Alternative on the roadways around the Proposed Action property, particularly those that currently travel to and from the Brookhaven Landfill. This ~~Final~~Draft EA did not analyze grade crossing safety and delay, as there are no roadway crossings within the study area (defined below). The existing at-grade LIRR mainline crossing of Meadow Glen Road into the Proposed Action property has been permanently closed.

### Affected Environment

The study area for OEA's evaluation includes the transportation network of Townline Road / Old Northport Road, Greenwood Road, Meadow Glen Road, and Sunken Meadow Parkway. Some of these roads can be used for other industrial traffic in the area and to access the Brookhaven Landfill. However, Townline Road is not paved in some areas, and Greenwood Road has weight restrictions. It is also important to note that parkways in New York State are closed to all industrial traffic. ~~which can all be used to travel to other industrial properties in the area and the Brookhaven Landfill. Greenwood Road, off Old Northport Road, provides direct vehicular access to the Proposed Action site.~~ There was an at-grade LIRR crossing at Meadow Glen Road that crossed the LIRR mainline into the Proposed Action site, but it has been permanently closed to vehicular traffic.

As detailed in Section 2.1 of this ~~Final~~Draft EA, current operations on the Proposed Action property result in more than 10,000 tractor trailer trips per year to the Brookhaven Landfill on the surrounding roadway network. With the Brookhaven Landfill located approximately 26 miles from the Proposed Action site, these trips result in approximately 524,600 lane miles per year. Furthermore, the current operations on the Proposed Action site include additional trucks that service contracts across Long Island.

## Environmental Consequences

### Proposed Action

As detailed in Section 2.2 of this [Final Draft](#) EA, the Proposed Action would substantially reduce much of the existing truck traffic that travels to and from the Proposed Action site. It would also fully eliminate truck trips associated with transporting residual materials from processing recyclables and other non-recyclable materials.

OEA determined that the Proposed Action would have beneficial impacts to the local transportation network by diverting freight from trucks to rail. As detailed in Section 2.2 of this [Final Draft](#) EA, under the Proposed Action, freight would be carried by rail that otherwise would be carried by trucks.

During project-related construction, there could be an increase in local vehicle traffic to the project area transporting construction materials, equipment, and workers; these impacts would be temporary. Furthermore, as detailed in Section 3.3 below, most of the area around the project area is industrial in nature, and the transportation network is adequately connected and maintained for truck traffic.

If the proposed rail line is authorized and constructed, Carlson expects that it would continue operating the existing waste transfer facility within the capacity limits of its existing NYSDEC permit, and that some truck traffic would continue to occur supporting local waste transportation to the existing facility.

In total, once operational, Townline estimates that the Proposed Action has the potential to save a conservatively estimated 496,600 lane miles traveled per year on area roads, because the 10,094 truck trips currently to the Brookhaven landfill for incinerator ash, C&D debris, and recyclable by-products would be diverted to rail (detailed in Chapter 2 of this [Final Draft](#) EA).<sup>28</sup> Some truck trips would still occur but there would be fewer trips going shorter distances as outlined in Section 2.2. This diversion of trucks to rail would result in long-term beneficial impacts to area roads by reducing lane miles traveled on them, leading to less congestion related to truck traffic.

### No-Action Alternative

Under the No-Action Alternative, short-term impacts to the surrounding roadways associated with moving construction equipment and workers by truck would not occur. However, the beneficial impacts of truck-to-rail diversion would also not occur under the No-Action Alternative. Therefore, the truck trips and associated lane miles under the No-Action Alternative would be similar to the current conditions.

## Conclusion

The Proposed Action would result in short-term impacts to the roadways surrounding the Proposed Action site due to the construction equipment and workers that would travel to the

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<sup>28</sup> Townline would also market rail service to other potential customers for importing goods and commodities, such as aggregate and construction materials to supply local Huntington and Smithtown businesses (e.g., an asphalt plant, cement ready-mix plant, and precast producer).

project area by truck during the construction period. The diversion of trucks from the highway network system to rail as a result of the Proposed Action would result in long-term beneficial impacts to the highway system by reducing congestion on area roads. Because the Proposed Action would not result in any adverse impacts to traffic and roadway systems as a result of the anticipated truck-to-rail diversions, OEA is not recommending any mitigation related to traffic and roadway systems.

### 3.3 Land Use and Zoning

This section addresses land use, zoning, and special land use designations and the potential impacts of the Proposed Action and No-Action Alternative. Overall, based on the evaluation detailed below, OEA anticipates the Proposed Action would not create impacts associated with land use and zoning.

#### Approach

To evaluate the potential impacts related to land use and zoning associated with the Proposed Action and the No-Action Alternative, OEA reviewed the existing land use and zoning categories as well as local land use plans. The study area for land use and zoning includes the Proposed Action site, and the parcels located along the LIRR mainline in the project vicinity from Townline Road to Sunken Meadow State Parkway. OEA reviewed local zoning maps and documented existing land uses through field observations and land use maps.

#### Affected Environment

The Proposed Action would be located in a developed area of Kings Park (a hamlet within Smithtown) that is primarily used for industrial purposes ~~industrial~~. The project area is zoned Light Industry (LI) with nearby zoning classifications of Heavy Industry (HI); Residential (R21); and Residential (R43). The project footprint is entirely contained in an area classified as LI by Smithtown (see **Figure 3.3-1**).<sup>29</sup>

However, according to local planning documents, Smithtown's draft Comprehensive Plan update, which has yet to be adopted, recommends that the project area be rezoned as HI. The HI District is intended to accommodate locations for safe and efficient heavy industrial activities necessary to serve the needs of the community, per Smithtown's GS § 322-7 *Intent of Districts*. The HI District zoning would permit by special use a rail siding and rail connection on Carlson' property. The draft Comprehensive Plan states that there are few areas in the Town zoned as HI, with the majority of heavy industrial property located along Northport Road in Kings Park. The Plan states:

“This area of Town is well-suited for heavy industry since it is located south of the LIRR/Port Jefferson rail line, west of Sunken Meadow State Parkway, north of Old

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<sup>29</sup> <https://www.smithtownny.gov/DocumentCenter/View/2209/zoning-map-color-for-web?bidId=>



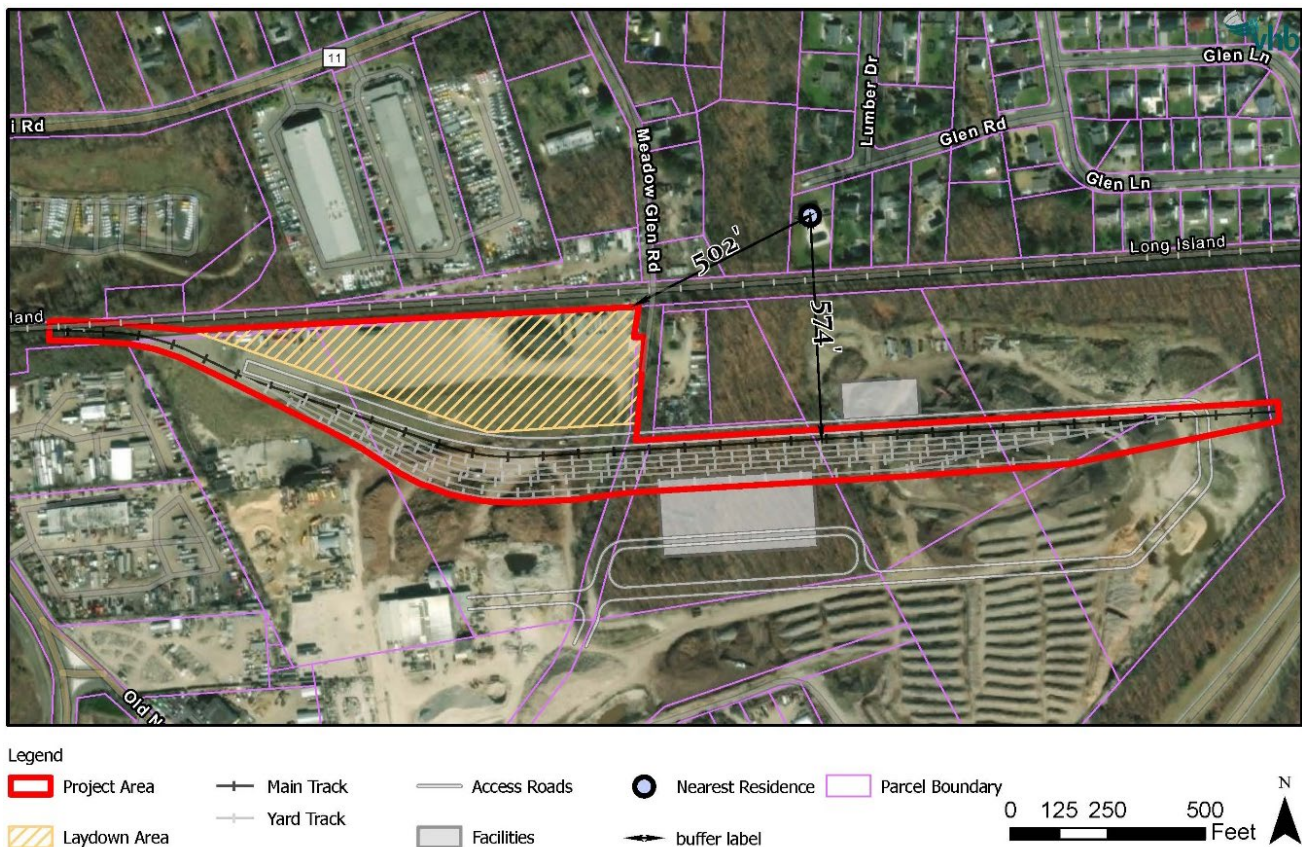


## Environmental Consequences

### Proposed Action

The Proposed Action would be located south of the existing LIRR mainline, fully contained on an industrial site. The nearest residence located on Meadow Glen Road is 400 feet or more ~~approximately 500 feet~~ north of the Proposed Action site and is separated by the existing LIRR mainline corridor (see the 500-foot residential buffer on the Concept Plan in Appendix B). **Figure 3.3-2** illustrates the nearest residential neighborhood.<sup>31</sup> There are no at-grade crossings associated with the Proposed Action.<sup>32</sup> The nearest recreation site, Memorial Park, is approximately 1 mile from the project area, separated from the Proposed Action site by the LIRR mainline corridor and the Sunken Meadow State Parkway.

**Figure 3.3-2: Proximity to Nearest Neighborhood**



<sup>31</sup> Townline plans to construct an approximately 16.4 acre of landscaped berm as part of a separate project. The berm would be 150 – 190 feet wide and 25’ high. Townline states that it would continue to coordinate with Smithtown on buffer needs for a heavy industrial use.

<sup>32</sup> As noted above, the at-grade crossing of the LIRR mainline on Meadow Glen Road has been permanently closed.

There would be no residential or business displacements associated with construction and operation of the Proposed Action. Moreover, Townline has proposed voluntary mitigation requiring it and its contractor(s) to consult, as necessary, with directly abutting landowners for coordination of construction schedules and temporary access during project-related construction (**VM-Land Use-01**). The proposed rail use on the property would have to go through the rezoning process with Smithtown, as detailed in Chapter 1 of this [FinalDraft](#) EA. The surrounding land uses are not anticipated to change due to the Proposed Action.

### No-Action Alternative

Under the No-Action Alternative, Townline would not construct and operate the Proposed Action. The land use in the area would continue as industrial. The local comprehensive planning process would continue, which includes the planned rezoning of Carlson's property to Heavy Industrial (HI).

## Conclusion

OEA concludes that the Proposed Action would result in negligible impacts to zoning and land use because it is consistent with the Town's direction for growth in the area, located on industrial property, and would not change the character of the community. [The Town's Comprehensive Plan generally supports the industrial zoning of the Proposed Action's location.](#) Therefore, OEA is not itself recommending any mitigation measures for land use and zoning. Nonetheless, to involve abutting landowners in the construction process, Townline proposed voluntary mitigation requiring it and its contractor(s) to consult, as necessary, with directly abutting landowners for coordination of construction schedules and temporary access during project-related construction (**VM-Land Use and Zoning-01**).

## 3.4 Energy

The Board's environmental regulations, 49 C.F.R. § 1105.7e(4), require environmental reviews to evaluate the potential impacts on transportation of energy resources, recyclable commodities, and the increase or decrease in energy efficiency. This section describes the existing conditions and environmental consequences for energy under the Proposed Action and the No-Action Alternative. Overall, based on the evaluation below, OEA anticipates the Proposed Action would have negligible impacts on energy.

### Approach

OEA qualitatively evaluated proposed railroad operations and truck to rail diversions that could occur under the Proposed Action and the No-Action Alternative. Specifically, OEA evaluated changes in energy use due to the operation of the Proposed Action as well as its potential impact on energy efficiency. OEA did not analyze energy effects from construction, as CEQ regulations require that energy analyses address a proposed action's capacity to increase or decrease in energy efficiency, and this increase or decrease does not occur during construction. OEA defined the study area for energy similarly to the study area for the transportation analysis (Section 3.2). OEA does not expect the Proposed Action to result in the transport of energy resources by rail, so that was not evaluated. OEA does not expect the Proposed Action to result in a change in volume of recyclable commodities

transported nor does OEA expect the Proposed Action to cause the diversion of freight from rail to trucks, so these actions were also not evaluated.

## Affected Environment

The affected environment for energy includes the energy now used to move the incinerator ash and clean C&D debris off Long Island. This energy use is limited to primarily diesel fuel for trucks. As there is not currently freight rail service on the Proposed Action site, there is no energy use associated with rail operations.

## Environmental Consequences

### Proposed Action

The Proposed Action would require the consumption of diesel fuel for the operation of locomotives. Additionally, during rail operations, vehicle and system-wide equipment directly related to moving commodities via rail would consume energy. OEA estimates that fuel consumption would decrease under the Proposed Action compared to the No-Action Alternative. OEA expects that the Proposed Action would have an overall beneficial impact on energy efficiency due to the greater efficiency of rail, which is up to 4-5 times more energy efficient than the largest trucks for the movement of goods.<sup>33</sup>

### No-Action Alternative

Under the No-Action Alternative, Townline would not construct and operate the Proposed Action. Truck-to-rail diversion of incinerator ash and clean C&D debris and any associated reduction in fuel consumption would not occur. Instead, all of the rail traffic Townline might handle would continue to be moved by truck off Long Island.

## Conclusion

OEA concludes that the Proposed Action, with the anticipated truck-to-rail diversions, would improve energy efficiency over the No-Action alternative and is therefore not recommending any mitigation related to energy.

## 3.5 Air Quality and Climate Change

This section describes the existing conditions and environmental consequences for air quality and greenhouse gas (GHG) emissions under the Proposed Action and the No-Action Alternative. Under the Proposed Action, increases in rail activity and construction could have potential impacts on air quality and greenhouse gas emissions. Air quality is an area of concern because air pollutants, such as emissions from locomotives, can affect human health and the environment. GHG emissions are also a concern because they contribute to climate change. Based on the analysis below, OEA concludes that the Proposed Action would have de minimis impacts on air quality and no impacts on climate change.

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<sup>33</sup> <https://www.sciencedirect.com/science/article/abs/pii/S1361920913000898>

## Approach

OEA reviewed the Clean Air Act (CAA), as amended, and the EPA guidelines. The air quality and GHG study area includes the county in which the increase in rail activity potentially generated by the Proposed Action exceeds the Board's thresholds for environmental analysis. EPA classifies each county in the U.S. as being in "attainment" or "nonattainment" for each criteria pollutant. A county is in attainment for a specific pollutant when the pollutant concentration is below the National Ambient Air Quality Standards (NAAQS). A county is in nonattainment for a specific pollutant when the pollutant concentration exceeds the NAAQS. Some nonattainment pollutants are further classified by the degree to which they exceed the NAAQS. For ozone, these classifications rank in severity in the order of "Marginal," "Moderate," "Serious," "Severe," and "Extreme." A county can be in attainment for some pollutants and in nonattainment for other pollutants. A third category, "maintenance area," is an area that was formerly in nonattainment but has reduced pollutant concentrations to be in attainment of the NAAQS. EPA bases its attainment status designations on ongoing air monitoring studies and the number of times specific criteria pollutants exceed NAAQS. Appendix D contains further information on the NAAQS. EPA uses a fourth category, "unclassifiable," for areas with insufficient data to make an attainment determination. EPA treats unclassifiable areas like attainment areas.

EPA uses the term *de minimis* across a variety of contexts to describe matters that are too small or trivial for regulating authority consideration. Air quality analyses compare the total estimated annual changes in these operational emissions of each pollutant with the *de minimis* emissions thresholds provided under 40 C.F.R. Part 93, Subpart B. The Board does not exercise continuing program control over rail operations and would not exercise such control over operation of the Proposed Action. Accordingly, the Proposed Action is not subject to the General Conformity Rule,<sup>34</sup> and no assessment of the *de minimis* thresholds is required. However, OEA used the *de minimis* emissions thresholds in its air quality analysis to provide context for the estimated operational emissions (presented in Appendix D). The Board would exercise control over the construction of the Proposed Action; thus, emissions during construction of the Proposed Action would be subject to a General Conformity Determination if emissions were estimated to exceed the *de minimis* thresholds. Because construction emissions are below *de minimis* thresholds here, there is no General Conformity Determination or mitigation required.

## Pollutant Descriptions and Effects

OEA identified pollutants and summarized their effects on human health and the environment based on applicable regulations and EPA databases. Appendix D describes the various pollutants OEA analyzed and their potential effects on human health or the environment. These descriptions include criteria pollutants, hazardous air pollutants (HAPs), and GHGs.

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<sup>34</sup> Under the General Conformity rule, federal agencies must work with state, tribal and local governments in a nonattainment or maintenance areas to ensure that federal actions conform to the air quality plans established in the applicable state or tribal implementation plan.

## Emissions Inventory Methodology

OEA evaluated the expected consequences of the Proposed Action, including both rail operations and construction, by comparing predicted air emissions against the No-Action Alternative. OEA estimated emissions for nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOC), particulate matter 10 microns or less in diameter (PM<sub>10</sub>), particulate matter 2.5 microns or less in diameter (PM<sub>2.5</sub>), Sulfur Dioxide (SO<sub>2</sub>), Carbon Monoxide (CO), Carbon Dioxide Equivalent (CO<sub>2e</sub>), Methane (CH<sub>4</sub>), Nitrogen Dioxide (N<sub>2</sub>O), and HAPs. OEA calculated CO<sub>2e</sub> by deriving CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O emissions and applying global warming potentials (EPA 2021a). Appendix D presents additional information on the methodology used to estimate both operational and construction emissions.

To analyze the impacts of GHG emissions on climate change in the U.S. that would occur under the Proposed Action, OEA used CEQ's *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews*, which provides direction on how to apply NEPA to the analysis of GHG emissions and climate change (2016). Per CEQ's guidance, OEA considered GHG emissions as a proxy for assessing the Proposed Action's impact on climate change.

## Affected Environment

Potential impacts from the Proposed Action were assessed at the county level with regard to attainment status of previously described criteria pollutants. Suffolk County, where the Proposed Action is located, is designated as a severe nonattainment area for the 2008 8-hour ozone standard and a moderate nonattainment area for the 2015 8-hour ozone standard. Both designations are part of the larger New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment areas. Suffolk County was also designated as a maintenance area for the 2006 PM<sub>2.5</sub> standard as of April 18, 2014. Suffolk County is in attainment for all other criteria pollutants (CO, lead [Pb], NO<sub>2</sub>, PM<sub>10</sub>, and SO<sub>2</sub>).

Specific to climate conditions, the Northeast has already begun to experience the effects of climate change throughout the region. The U.S. Global Change Research Program's (USGCRP) *Fourth National Climate Assessment* (NCA4) projects that by 2035, the Northeast will warm more than 3.6 degrees Fahrenheit on average (with New York projected to increase 3.11 degrees) as compared to the pre-industrial era, which typically refers to the years 1850-1900 and is the greatest increase in the contiguous U.S. The Northeast is also particularly susceptible to threats from sea level rise and has experienced some of the highest rates of sea level rise and ocean warming in the country. Sea level rise, as well as storm surges, recurrent coastal flooding, and erosion threaten marshes, fisheries, ecosystems, and coastal infrastructure in the Northeast.

NCA4 also projects a continuation of the recent trend in intense precipitation throughout the Northeast. Projections expect increases in precipitation during the winter and spring and extending into the summer season, with New York anticipating +0.15 inches per month.

## Environmental Consequences

The following section describes the potential environmental impacts of the Proposed Action and the No-Action Alternative.

## Proposed Action

### *Construction Emissions*

OEA anticipates some short-term air quality impacts for GHGs and HAPs associated with equipment necessary for construction of the Proposed Action. OEA compared emissions in nonattainment areas to the *de minimis* thresholds, as presented in **Table 3.5-1**, and determined that construction of the Proposed Action would result in criteria pollutant emissions below the applicable *de minimis* thresholds. Therefore, OEA is not itself recommending any air quality mitigation. Nonetheless, Townline proposed voluntary mitigation requiring it to properly maintain construction equipment, and to ensure that mufflers and other required pollution-control devices are in working condition to limit construction-related air pollutant emissions (**VM-Air Quality-02**). OEA is including this voluntary best practice mitigation in the mitigation recommended in Chapter 4.

OEA's analysis expects relatively larger emissions of PM from earthwork activity and fugitive dust emissions. The use of industry-standard control measures during construction would minimize emissions of PM from fugitive dust. OEA conservatively assumed in its analysis that the fugitive dust assessment used no control measures and estimated HAPs emissions from construction in Appendix D. Townline proposed voluntary mitigation requiring it to work with its contractors to implement appropriate dust control measures to reduce fugitive dust emissions created during project-related construction in accordance with Suffolk County, Smithtown, and New York State Department of Environmental Conservation dust control permitting requirements (**VM-Air Quality-01**). Also, Townline proposed voluntary mitigation requiring its construction contractor(s) to regularly operate water trucks on haul roads to reduce dust generation (**VM-Air Quality-01**). OEA has included this best practice voluntary mitigation in the mitigation recommended in Chapter 4.

**Table 3.5-1: Summary of Construction Emission Estimates**

Pollutant	Construction Activity	
	Estimated Emissions	<i>de minimis</i> <sup>1</sup> Threshold
<b>Criteria Pollutants (tons/year)</b>		
NO <sub>x</sub>	3.27	25
VOC	0.11	25
PM <sub>10</sub>	30.28	-
PM <sub>2.5</sub>	3.10	100
SO <sub>2</sub>	0.00	-
CO	0.44	-
<b>Greenhouse Gases (tons/year)</b>		
CO <sub>2</sub> e <sup>2</sup>	1,364	-

Notes:

Values of zero indicate emissions were smaller than 0.05 or 0.005 tons per year, respective to the number of decimal places presented.

1. *de minimis* values are only shown for criteria pollutants for which Suffolk County is in nonattainment or maintenance.
2. CO<sub>2</sub>e values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

**Operational Emissions**

OEA analyzed air quality effects from forecasted rail operations under the Proposed Action. Operations would result in increased pollutant emissions from rail activity on the newly constructed rail line and associated yard activities. However, truck-to-rail diversions would partially offset emissions from increased rail activity associated with the Proposed Action. The Proposed Action would cause the total number of required trucks that service neighboring facilities (as detailed in Section 2.1 of this [Final Draft EA](#)) to drop from 15 to three, therefore decreasing both emissions and traffic from trucks in the area.

Specifically, the Proposed Action would result in an increase of all criteria pollutant emissions (as shown in **Table 3.5-2**) due to the new locomotives on the rail line and car switching in the yard. These increases would occur across 5,000 feet of track in Kings Park, New York, and in the yard. However, OEA estimated the increases in criteria pollutant emissions to be below the respective *de minimis* thresholds for Suffolk County. Appendix D presents emissions estimates of HAPs.

GHG emissions have effects at the regional and global scale. OEA has provided an estimate of GHG emissions associated with the Proposed Action based on CEQ guidance in **Table 3.3-2**. OEA expects the Proposed Action to have locomotive GHG emissions of approximately 222 tons of CO<sub>2</sub>e relative to the No-Action Alternative.

**Table 3.5-2: Summary of Operational Emissions Estimated from Proposed Action**

Pollutant	Operational Activity	
	Estimated Emissions	<i>de Minimis</i> <sup>1</sup> Threshold
<b>Criteria Pollutants (tons/year)</b>		
NO <sub>x</sub>	0.711	25
VOC	0.109	25
PM <sub>10</sub>	0.015	-
PM <sub>2.5</sub>	0.015	100
SO <sub>2</sub>	0.000	-
CO	0.961	-
<b>Greenhouse Gases (tons/year)</b>		
CO <sub>2</sub> e <sup>2</sup>	221.91	-

Notes:

Values of zero indicate emissions were smaller than 0.05 or 0.005 tons per year, respective to the number of decimal places presented.

1. *de minimis* values are only shown for criteria pollutants for which Suffolk County is in nonattainment or maintenance.
2. CO<sub>2</sub>e values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

While locomotive emissions would increase on the newly proposed rail line, a reduction in truck traffic would partially (or wholly) offset regional emissions. Under the Proposed Action, rail would carry the same freight that moves by truck under the No-Action Alternative. These truck-to-rail diversions would result in reduced truck vehicle miles travelled (VMT) under the Proposed Action. The estimates used by OEA show that rail transportation is approximately four times more fuel efficient on average compared to truck. Thus, the resulting reduction in truck travel and fuel use would consequentially result in a

decrease of truck-related emissions.<sup>35</sup> According to Townline, the proposed rail line has the potential to save a conservatively estimated 496,600 lane miles traveled per year for incinerator ash, construction and demolition debris, and recyclable byproducts; 488,600 lane miles traveled for aggregate and construction materials; and 23,000 lane miles traveled for cement. This totals an estimated 1,008,200 lane miles eliminated per year if the proposed rail line is authorized and implemented.

**Table 3.5-3** summarizes the truck-to-rail diversion analysis results for criteria pollutants and GHGs. Appendix D contains rail diversions for HAPs. The reductions in truck emissions are a benefit of the Proposed Action and could provide a nine ton per year reduction in NO<sub>x</sub> emissions, a 0.4 ton per year reduction in VOC emissions, and a 0.4 ton per year reduction in PM<sub>2.5</sub> emissions, pollutants of particular concern due to their nonattainment or maintenance status. The corresponding reduction in truck VMT would result in an 1,880 ton per year reduction in CO<sub>2e</sub> emissions. It should be noted that the truck-to-rail diversion emissions in **Table 3.5-3** are not directly comparable to the locomotive emissions presented in **Table 3.5-2** as the truck emissions are representative of a regional reduction in VMT, while the locomotive emissions are limited to emissions from the new rail line.

**Table 3.5-3: Summary of Regional Estimated Emissions Reductions due to Truck to Rail Diversions**

<b>Criteria Emissions (tons/year)</b>	
NO <sub>x</sub>	-9.25
VOC	-0.42
PM <sub>10</sub>	-0.60
PM <sub>2.5</sub>	-0.36
SO <sub>2</sub>	-0.01
CO	-3.61
<b>Greenhouse Gas Emissions (tons/year)</b>	
CO <sub>2e</sub> <sup>2</sup>	-1,880.23

Notes:

Values of zero indicate emissions were smaller than 0.05 or 0.005 tons per year, respective to the number of decimal places presented.

1. *de minimis* values are only shown for criteria pollutants for which Suffolk County is in nonattainment or maintenance.
2. CO<sub>2e</sub> values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

### No-Action Alternative

Under the No-Action Alternative, the Board would not authorize the proposed rail line, and Townline would not construct the new rail line and associated switching and sidetrack. Potential environmental impacts associated with the Proposed Action would not occur, and rail traffic would remain the same on the LIRR mainline as under current conditions. The No-Action Alternative would not result in providing for rail transportation for solid waste disposal and other commodities off Long Island. Incinerator ash, C&D debris, recyclable byproducts, aggregate and construction materials, cement and other commodities that might

<sup>35</sup> Association of American Railroads, 2021, <https://www.aar.org/facts-figures#2-fuel-efficiency>



move by rail under the Proposed Action would likely continue to be transported off Long Island by truck.

Compared to the Proposed Action, the No-Action Alternative would likely result in an increased amount of pollutant emissions as rail would not be used for transport under this alternative. Instead, the waste would be transported with the 15 trucks currently in use, which have less carrying capacity. Truck-to-rail diversion of waste and any associated reduction in fuel consumption would also not occur. Given that the amount of waste and other commodities needed to be transported is the same between the No-Action Alternative and Proposed Action and that freight transport by rail is generally four times more fuel efficient than truck transport, the emissions under the No-Action Alternative would be larger than under the Proposed Action.<sup>36</sup> Under the No-Action alternative, the emissions reductions quantified in **Table 3.5-3** associated with truck-to-rail diversions would be emitted into the atmosphere. However, the changes to the affected environment resulting from climate change would occur under both the Proposed Action and the No-Action Alternative.

## Climate Change and Adaptation

Climate models predict that New York will experience increases in precipitation, including more intense and frequent heavy rain events in the future due to climate change. Increased precipitation tends to increase the potential for soil erosion. Erosion can wash away sediment around piers and abutments during storm events, compromising the structural integrity of features. The erosion of supporting systems (such as ballast and other nearby ground) can threaten track stability. Loss of embankment support due to gradual or sudden inundation-related erosion is also a risk.<sup>37</sup> Erosion rates vary greatly but tracks on gravel ballast are less likely to erode nearby substrate since the gravel itself is a permeable surface and allows water and other liquids to pass through it.

### Proposed Action

Based on climate models, OEA anticipates an increased risk of flooding as a result of climate change on Long Island where the Proposed Action would be constructed. However, the Proposed Action would not be located in low-lying or flood-prone areas. The area would also experience increased temperatures and heat events, potentially impacting the proposed rail line. Heat index values at or greater than 105 degrees Fahrenheit and ambient temperatures above 90 degrees Fahrenheit exacerbate the risk of rail expansion and increase the risk for derailment. The best practice for rail operations is typically to reduce speeds when ambient temperatures exceed the normal limits for that particular track, resulting in decreased efficiency. Under current climate modeling scenarios, changes to the affected environment resulting from climate change would be the same under both the Proposed Action and the No-Action Alternative.

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<sup>36</sup> Association of American Railroads, 2021, <https://www.aar.org/facts-figures#2-fuel-efficiency>

<sup>37</sup> Rossetti, M.A., Potential Impacts of Climate Change on Railroads

## Conclusions

OEA expects unavoidable pollutant emissions to occur as a result of the construction of the Proposed Action. However, because pollutant emissions would be concentrated at the Proposed Action construction site, emissions from construction activities would be temporary. Emissions associated with construction also would be well below any applicable *de minimis* thresholds. Therefore, OEA concludes that construction of the Proposed Action would have a temporary impact on air quality, but it would be well below *de minimis* thresholds. OEA also concludes that construction of the Proposed Action would not adversely affect climate change. Nonetheless, Townline proposed voluntary mitigation measures (**VM-Air Quality-01**) and (**VM-Air Quality-02**), related to construction and operational air quality.

During rail operations, the primary sources of air emissions would be from locomotives traveling along the proposed rail line and rail cars switching in the rail yard. The Proposed Action would result in minor increases of criteria pollutants, HAP, and GHG emissions, but truck-to-rail diversions would substantially offset emissions from increased rail activity associated with the Proposed Action. OEA expects operations under the Proposed Action to have emissions below the *de minimis* thresholds, where applicable.

## 3.6 Noise and Vibration

This section describes the existing conditions and environmental consequences for noise and vibration under the Proposed Action and the No-Action Alternative. Overall, based on the evaluation below, OEA anticipates the Proposed Action would create negligible impacts on noise and vibration.

### Approach

OEA used well-established noise and vibration methods to analyze noise and vibration impacts. See Appendix E, which sets forth OEA's noise and vibration methodology and equations. OEA defined the study area for the noise and vibration analysis to be the area within approximately one mile to either side of the centerline of the proposed rail line. OEA determined that this study area distance, based on prior OEA experience, is sufficient to properly identify potential noise and vibration impacts from the construction and operation of the Proposed Action. Regulations, statutes, and guidelines that specify requirements and provide guidance on the noise and vibration analysis and impact assessment for the Proposed Action include:

- The Board’s environmental regulations at 49 C.F.R. §1105.7
- Noise Control Act of 1972 (42 United States Code [USC] 4910)
- National Environmental Policy Act (42 USC 4321-4370m-11.)
- Federal Railroad Administration (FRA) Guidelines (Report Number 293630-1, December 1998)
- Occupational Safety and Health Administration (OSHA) Occupational Noise Exposure; Hearing Conversation Amendment (Federal Register [FR] 48 (46), 9738—9785)
- EPA Railroad Noise Emission Standards (40 C.F.R. Part 201)
- FRA Railroad Noise Emission Compliance Regulations (49 C.F.R. Part 210)
- FRA Final Rule on the Use of Locomotive Horns at Highway-Rail Grade Crossings (49 C.F.R. Parts 222 and 229)
- Federal Transit Administration (FTA) Transit Noise and Vibration Impact Assessment (FTA-VA-90-1003-06, May 2006)

**Day-night average noise level (DNL):** The energy average of A-weighted decibels (dBA) sound level over a 24-hour period; includes a 10-decibel adjustment factor for noise between 10 p.m. and 7 a.m. to account for the greater sensitivity of most people to noise during the night. The effect of nighttime adjustment is that one nighttime event, such as a train passing by between 10 p.m. and 7 a.m., is equivalent to 10 similar events during the daytime.

**A-weighted decibels (dBA):** A measure of noise level used to compare noise from various sources.

A-weighting approximates the frequency response of human hearing.

The Board’s environmental regulations for noise analysis (49 C.F.R. §1105.7e(6)) have the following criteria:

- An increase in noise exposure as measured by a day-night average noise level (DNL) of 3 A-weighted decibels (dBA) or more.
- An increase to a noise level of 65 DNL or greater.

If the estimated noise level increase at a location exceeds either of these criteria, OEA estimates the number of affected receptors (e.g., schools, libraries, residences, retirement communities, nursing homes) and quantifies the noise increase. The two components (3 dBA increase, 65 DNL) of the Board’s criteria are implemented separately to determine an upper bound of the area of potential noise impact. However, noise research indicates that both criteria components must be met to cause an adverse noise impact (Coate, 1999,<sup>38</sup> STB 1998b<sup>39</sup>).<sup>40</sup> That is, noise levels would have to be greater than or equal to 65 DNL and increase by 3 dBA or more for an adverse noise impact to occur.

**Ambient noise:** The sum of all noise (from human and naturally occurring sources) at a specific location over a specific time is called ambient noise.

For this analysis, “Noise” is considered unwanted sound. Human perception of and response to a new noise source is based in part on how loud it is compared to existing/ambient noise levels. **Figure 3.6-1** shows typical community noise levels expressed in terms of DNL.

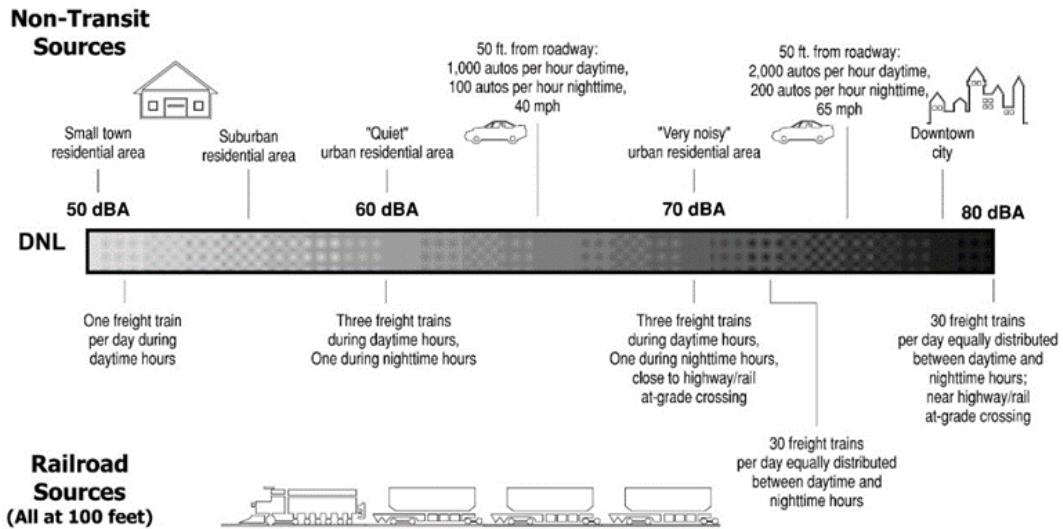
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<sup>38</sup> Coate, D. 1999. Annoyance Due to Locomotive Warning Horns. Transportation Research Board Noise and Vibration Subcommittee A1FO4. August 1–4. San Diego, CA.

<sup>39</sup> Surface Transportation Board (Board). 1998a. Final Environmental Impact Statement No. 980194, Conrail Acquisition (Finance Docket No. 33388) by CSX Corporation and CSX Transportation, Inc., and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS).

<sup>40</sup> Although the Board’s regulations at 49 C.F.R. § 1105.7(e)(6) indicate that either an increase of 3 dBA or an increase to an Ldn of 65 dBA would be an adverse impact, research indicates that both of these conditions must be met or exceeded for an adverse noise impact from rail operations to occur.

**Figure 3.6-1: Typical day-night average noise levels (DNL) for Residential Areas**



Source: EPA, 1974.

## Affected Environment

The study area, as demonstrated in **Figure 3.6-2**, has a relatively high concentration of existing noise sources including the LIRR mainline, highways, and an industrial area. Industrial uses and roadways exist on all sides of the Proposed Action property. There is a residential neighborhood to the northeast of the property on the northern side of the LIRR mainline. Existing LIRR passenger rail traffic volumes are high and dominate the noise exposure in this area. Accordingly, OEA's noise analysis used long-term average railroad data to compute train noise levels.

Using Computer Aided Noise Abatement (CADNA), the leading environmental noise software application, OEA computed existing noise levels in the study area. OEA inputted site-specific data, such as one-meter elevation contours, into the model. OEA also incorporated LIRR mainline source noise data input into the model, assuming 37 existing trains per day with average train lengths of 415 feet, consisting of a locomotive (75 feet), four passenger cars (85 feet), and average speed of 65 mph. The equations used to calculate LIRR mainline rail noise levels are shown in Appendix E.

**Figure 3.6-2** below shows the results of the existing noise level computations along the LIRR mainline. The outer red contour lines are at 65 DNL. This noise contour map understates existing noise levels to some extent because traffic noise from highways, ancillary roadways, and other noise sources in the area were not included in the model. Based on this data, existing noise levels in the residential area to the northeast range from approximately 69 to 72 DNL depending on proximity to the existing rail line. Based on EPA standards shown in **Figure 3.6-1**, this range results in this area being classified as a "very noisy urban residential area."

*Figure 3.6-2: Existing 65 DNL Contour Levels in Red along the LIRR Mainline*



## Environmental Consequences

The following section describes the environmental impacts of the Proposed Action and the No-Action Alternative. As a result of the analysis, OEA concludes that noise generated during construction or operation of the Proposed Action would have minimal, if any, impacts to adjacent land uses.

### Proposed Action

During construction of the Proposed Action, noise levels along the study area would increase temporarily as a result of increased truck traffic and use of heavy equipment to construct the proposed line and other project-related improvements. Noise generated during construction of the Proposed Action would have minimal, if any, impacts to adjacent land uses because of the relatively high concentration of existing noise sources including the rail LIRR mainline, highways, and industrial land uses. Nonetheless, Townline proposed voluntary mitigation that would require its contractor(s) to make sure that project-related construction vehicles are maintained in good working order with properly functioning mufflers to control the noise that is generated (**VM-Noise-02**).

OEA also employed CADNA to calculate 65 DNL noise contours for rail operations. This modeling software calculates train noise effects for moving trains (after trains are assembled) as they move from the siding to the LIRR mainline. Operational assumptions about train movements from siding to the LIRR mainline made by OEA include average train length of one mile, 15 mph train speed, and two trains (one-roundtrip) per day. OEA also modeled the noise associated with assembling the trains in the siding area, including car coupling noise and Trackmobile (a small rail car mover) noise.

The analysis logarithmically combined moving train, car coupling, and Trackmobile noise. **Figure 3.6-3** shows the results of this analysis with the outer red contours at 65 DNL.

Primarily because of the low number of trains per day, car coupling, and Trackmobile activity, the 65 DNL contour is contained within the project area, south of the LIRR mainline and, therefore, does not affect any residences.

**Figure 3.6-3: Proposed Action 65 DNL Noise Contours in Red**



Comparing the data from **Figure 3.6-2** to **Figure 3.6-3** shows the 65 DNL noise contour from the Proposed Action is contained within the Proposed Action property, south of the noise contours associated with the existing LIRR operations, and therefore would imperceptibly increase existing noise levels at the closest residential locations to the north. These increases would range from 0.03 to 0.07 dBA, so existing noise levels in terms of DNL would essentially be unchanged as a result of the Proposed Action. Nevertheless, Townline proposed a voluntary mitigation measure that would require Townline to comply with Federal Railroad Administration regulations (49 C.F.R. Part 210) establishing decibel limits for train operation (**VM-Noise-01**).

Because the Proposed Action 65 DNL contours do not touch noise sensitive receptors (residences), and increases in existing noise levels are negligible, OEA does not expect adverse noise effects. Additionally, the at-grade crossing at Meadow Glen has been permanently closed and therefore, locomotive horn sounding was not modeled.

Train operation vibration levels, due to wheel/rail interaction, increase as a function of train speed. FTA guidance for assessing annoyance due to infrequent trains per day is 80 vibration decibels (VdB). Assuming 15 mph trains, the 80 VdB vibration contour line would be 25 feet from the tracks.

Residential areas to the north are much farther away (approximately 400 feet) than this distance, and therefore increased annoyance due to vibration from siding train passbys is not expected.

### No-Action Alternative

**Figure 3.6-2** represents the noise environment associated with the No-Action Alternative. If the Proposed Action does not occur, noise levels in the area would remain unchanged, i.e., it would remain a “very noisy urban residential area.”

## Conclusions

OEA concludes that noise generated during construction or operation of the Proposed Action would have minimal, if any, impacts to adjacent land uses. Relatively high existing noise levels caused by the existing LIRR mainline operations, nearby highways, and existing industrial land uses are anticipated to overwhelm construction and operation noise related to the Proposed Action. Nonetheless, Townline proposed voluntary mitigation measures that consist of best practices for limiting noise related to construction operations (**VM-Noise-01** and **VM-Noise-02**).

OEA does not anticipate increased annoyance associated with ground-borne vibration from train movements associated with the Proposed Action.

## 3.7 Biological Resources

This section describes the affected environment and the potential environmental consequences to biological resources that would result from the Proposed Action and the No-Action Alternative. The subsections that follow also describe the biological resource study areas for the Proposed Action, data sources, and the approach that OEA used to analyze potential impacts. The biological resource categories discussed in this section include vegetation, wildlife habitat, threatened and endangered species (including critical habitats, candidate species; bald and golden eagles; and sensitive species listed by New York State), and natural areas. Overall, based on the evaluation below, OEA anticipates the Proposed Action would create minor adverse impacts to biological resources.

### Approach

The study area for biological resources includes the Proposed Action site and the proposed construction laydown area, as shown in **Figure 2.2-1** in Chapter 2 of this **FinalDraft** EA. OEA consulted with federal and New York State agencies regarding biological resources within the study area. In addition, to determine the biological resources known to exist or expected to occur within the study area, OEA performed affected environment evaluations of vegetation, wildlife habitat, threatened and endangered species, and natural areas. The evaluations included desktop reviews of aerial imagery and publicly available natural resource databases and maps, including the U.S. Geological Survey (USGS) topographic maps, U.S. Fish and Wildlife Service (USFWS) Threatened and Endangered Species Active Critical Habitat Report GIS files, USFWS Information for Planning and Consultation (IPaC) database, USFWS National Wetland Inventory (NWI) Maps, and New York State



Department of Environmental Conservation (NYSDEC) databases. OEA also submitted a records request to the NYSEC's New York Natural Heritage Program (NYNHP).

OEA also performed field surveys on August 1, 2022, and July 14, 2023, to identify and assess existing vegetative communities, wildlife habitat potential, and to assess the potential for threatened and endangered species or species habitat to occur within the study area. Finally, OEA evaluated the potential environmental consequences of the Proposed Action and the No-Action Alternative on each of the biological resources categories identified below.

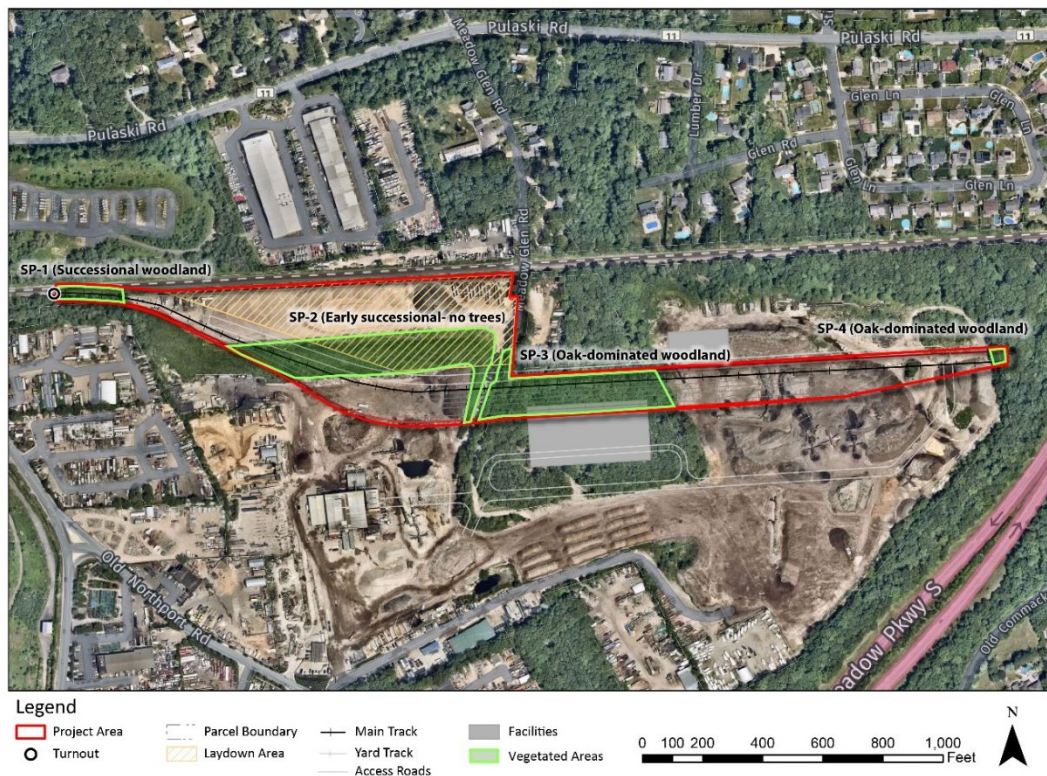
## Vegetation

Vegetation is a general term that encompasses the plant life or total plant cover of an area, including trees, shrubs, woody vines, and herbaceous plants. Vegetation provides habitat and food sources for wildlife, improves air quality, filters stormwater, contributes to flood control, and provides many other ecological functions.

### Affected Environment

The project area is predominantly disturbed, with most of the area cleared for industrial use. Over 80 percent of the subject property is used for the current industrial operations, including operation of the existing waste transfer facility. The study area for the Proposed Action is approximately 14.40 acres, as detailed in **Figure 3.7-1** and **Table 3.7-1**.

**Figure 3.7-1: Project Area Vegetation**



**Table 3.7-1: Vegetation Summary**

<b>Project Area</b>	<b>Acres</b>
<b>Unvegetated, existing site operations</b>	9.05
<b>Early successional – no trees</b>	3.13
<b>Forested</b>	2.22
<b>Total</b>	14.40

As shown in **Figure 3.7-1** and quantified in **Table 3.7-1**, the majority of the study area is comprised of unvegetated land associated with existing site operations (9.05 acres). Vegetated habitat is limited to four habitat areas consisting of 3.13 acres of early successional habitat (see Area “SP-2” in **Figure 3.7-1**) in a single area and 2.22 acres of forested habitat occurring within three separate areas (Areas “SP-1,” “SP-3,” and “SP-4”). Early successional habitats are treeless habitats dominated by pioneering herbaceous plants and shrubs that represent the initial stage in ecological succession, which is the process by which areas that have been cleared or otherwise disturbed progress through stages over time from unvegetated conditions to a mature forest.

The forested habitat within the study area includes a successional woodland, as well as two forested habitats dominated by mature oaks. As compared to the early successional habitat described above, the successional woodland represents a later stage in the process of ecological succession, where opportunistic tree species colonize and outcompete the pioneering herbaceous vegetation to form a woodland habitat. As illustrated in the representative photo below, the two oak-dominated forested habitats support a canopy of mature trees and understory vegetation that are common within the general surrounding area of the study area and in Suffolk County. As observed during OEA’s field surveys, all the vegetated habitats within the study area exhibit substantial evidence of historical and ongoing disturbance, including clearing, grading, and storage of materials and equipment.

## Environmental Consequences

The Proposed Action would require clearing, excavating, filling, and other disturbance to the existing vegetated habitats for construction of the proposed rail line, which would result in temporary and permanent loss or alteration of vegetation. While some natural vegetation regrowth would occur, project-related construction would remove vegetative cover, and regrowth would likely be sparse in areas that would be continually disturbed by railroad operation and maintenance. In addition, the movement of heavy equipment and supplies during construction could compact the soil, affecting vegetation growth. OEA's recommended mitigation measure (**MM-Biological-01**) regarding BMPs for soil compaction would reduce and minimize soil compaction.

OEA anticipates that approximately 5.35 acres of existing vegetated areas would be subject to clearing or disturbance, including 2.22 acres of forested habitat.



Source: VHB, August 2022.

## Wildlife Habitat

### Affected Environment

Land uses and habitat types within the study area include 9.05 acres of cleared, industrial area and 5.35 acres of vegetated habitat, including early successional, successional woodland, and oak-dominated forest. As noted previously, all the vegetated habitats within the study area exhibit substantial evidence of historical and ongoing disturbance, including clearing, grading, and storage of materials and equipment. Moreover, due to ongoing industrial site operations in the areas adjacent to the vegetated habitats, including operation of an existing waste transfer facility, the vegetated habitats are subject to high levels of human presence, activity, and noise, including constant operation of industrial machinery and equipment. Based on these factors, the overall wildlife habitat quality of the vegetated areas is substantially degraded. The observed and expected wildlife of these areas is restricted to a limited number of local species adapted to disturbed conditions and elevated levels of human activity.

## Environmental Consequences

Clearing and other disturbance to existing wildlife habitat during project-related construction would result in permanent and temporary displacement of existing wildlife species that may be in the project area, resulting in increases in species population densities within surrounding habitats. Subsequently, it is anticipated that inter- and intra-specific competition for available resources within these surrounding habitats would result in minor

net decreases in local population sizes for most species, until equilibrium between wildlife populations and available resources is achieved. Considering the substantial areas of vegetated habitat beyond the study area that would remain unaltered, OEA expects minimal effects on habitats and decreases in individual species densities within the general surrounding area. As noted previously, the observed and expected wildlife within the study area is restricted to a limited number of local species adapted to disturbed conditions and elevated levels of human activity. Following project-related construction, similar conditions would exist within the study area. Therefore, OEA expects that most existing resident wildlife species would reoccupy the study area, though at reduced individual species population densities, due to the overall decrease in available vegetated habitat. To avoid and minimize impacts on migratory birds and to comply with the Migratory Bird Treaty Act, Townline has proposed voluntary mitigation (**VM-Biological-05**) that OEA recommends be imposed in Chapter 4.

In conclusion, OEA expects that the Proposed Action, in combination with OEA mitigation and Townline's voluntary mitigation, would result in minor adverse impacts to wildlife.

## Threatened & Endangered Species

Endangered Species Act (ESA) Section 7(a)(2) requires federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat. According to the USFWS, critical habitat is defined as “the specific areas within a geographic area, occupied by the species at the time it was listed, that contain the physical or biological features that are essential to the conservation of endangered and threatened species and that may need special management or protection.”<sup>41</sup>

### Affected Environment

#### *ESA-Listed Species*

To identify federally listed threatened and endangered species potentially present in the study area, OEA obtained an Official Species List from the USFWS IPaC database on July 24, 2023 (see Attachment B of OEA's Section 7 Consultation assessment in Appendix A). The species list generated included three federally listed species and one candidate species with potential to occur in the study area, including the threatened piping plover and red knot, endangered northern long-eared bat (NLEB), and candidate monarch butterfly.<sup>42</sup> No designated critical habitat is mapped in the study area. Based on the 2023 field survey, piping plover and red knot habitat is not present in the project area and the species are not anticipated to be present. The monarch butterfly was not observed within the project area nor were its milkweed genus host plants; other flowering plants represent potential habitat for monarch butterfly adults. OEA performed NLEB habitat assessments of the study area and documented potential NLEB habitat. More detailed and supporting information on federally listed species in study area, including details on NLEB habitat, can be found in OEA's ESA Section 7 Consultation assessment in Appendix A.

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<sup>41</sup> <https://www.fws.gov/sites/default/files/documents/critical-habitat-fact-sheet.pdf>

<sup>42</sup> Note that candidate species are provided no statutory protection under the ESA.

### *State-Listed and Sensitive Species*

In correspondence dated August 25, 2022, and July 17, 2023, the NYNHP indicated that there are currently no records of rare or state-listed animals or plants, or significant natural communities for the project area or in its immediate vicinity.

## **Environmental Consequences**

### *ESA-Listed Species*

The effects of the Proposed Action on federally listed threatened and endangered species is detailed in OEA's Section 7 Consultation assessment in Appendix A. In summary, the Proposed Action would have *no effect* on piping plover and red knot due to lack of habitat in or around the study area. The monarch butterfly, as a candidate species, is provided no statutory protection under the ESA; thus, no determination of effect was made.

Because OEA identified potential NLEB habitat in and around the study area, the Proposed Action could potentially affect NLEB through permanent habitat removal, temporary construction noise, temporary construction lighting, and operational noise and lighting. However, OEA anticipates NLEB presence in and around the study area to be low due to degraded habitat conditions, fragmented habitat conditions in the surrounding area, and the developed nature of the surrounding area (i.e., residential and industrial). Townline proposed four voluntary mitigation measures to avoid and minimize any potential NLEB impacts (**VM-Biological-01, -02, -03, -04**). Furthermore, in response to comments received on the Draft EA requesting mitigation specifying lighting levels, the Final EA recommends mitigation requiring that permanent lighting consist of 2.0 footcandles at a height not to exceed 25 feet (MM-Biological-02). If this ~~voluntary~~ mitigation is imposed and implemented, OEA determines that, the Proposed Action *may affect, but is not likely to adversely affect* NLEB, and in correspondence dated November 7, 2023, UFSWS concurred with OEA's determination (see Appendix A). Additional details and supporting information on OEA's NLEB determination can be found in OEA's Section 7 Consultation assessment in Appendix A.

### *Bald and Golden Eagles*

Bald eagles tend to avoid areas with human activities and are typically found near large bodies of water, (i.e., bays, rivers, and lakes) that support healthy populations of fish and waterfowl, which are their primary food sources. The species will perch in either deciduous or coniferous trees and build large, heavy nests near water in tall pine, spruce, fir, cottonwood, oak, poplar, or beech trees.<sup>43</sup> The study area is not located on or proximate to any large water body, and, as detailed previously, is subject to high levels of human activity and noise associated with industrial site operations. Based on these factors, the study area does not represent suitable foraging, perching, or nesting habitat for bald eagle. Moreover, based on correspondence from the NYNHP, dated August 25, 2022, and July 17, 2023, there are currently no records of bald eagle at or in the vicinity of the study area. Accordingly, the Proposed Action would not occur within 660 feet of any bald eagle nests, which is the USFWS' distance threshold for determining if proposed activities might impact species

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<sup>43</sup> New York Natural Heritage Program. Bald Eagle Conservation Guide. Available at: <https://guides.nynhp.org/bald-eagle/#range>. Accessed September 2023.

nesting locations or behavior. Therefore, OEA anticipates the Proposed Action would have no impact on bald eagles.

Habitat for golden eagle is characterized by wild, remote mountainous areas with open areas where small game is abundant, and cliffs are available for nesting. The known range of golden eagle in New York State is restricted to the Adirondack Mountains and other upstate locations.<sup>44</sup> Accordingly, the study area does not provide suitable golden eagle habitat and is located well beyond the known range of this species. Moreover, based on correspondence from the NYNHP, dated August 25, 2022, and July 17, 2023, there are currently no records for golden eagle at or in the vicinity of the study area. Therefore, OEA anticipates the Proposed Action would have no impact on golden eagles.

## No-Action Alternative

Under the No-Action Alternative, the study area would continue to be characterized by largely unvegetated conditions and industrial site operations, including the operation of an existing waste transfer facility. As such, the existing vegetated habitats within the study area would continue to be subject to physical disturbance and high levels of human presence, activity, and noise. As a consequence, wildlife in the study area would continue to be restricted to a limited number of local species adapted to the disturbed conditions and elevated levels of human activity. The possibility exists that the remaining vegetated habitat within the study area would be cleared as part of ongoing site operations of other potential development that is not related to the Proposed Action under the No-Action Alternative.

## Conclusions

Following construction, OEA expects that most existing resident wildlife species would reoccupy the study area, though at reduced individual species population densities, due to the overall decrease in available vegetated habitat. Similar to existing conditions, the expected wildlife within the study area would be restricted to a limited number of local species adapted to disturbed conditions and elevated levels of human activity. Therefore, OEA expects that the Proposed Action would result in minor adverse impacts to vegetation or wildlife.

With respect to federally listed species, OEA has determined that the Proposed Action would have *No Effect* on the threatened piping plover and red knot because habitat for these species does not exist within the study area. Given the lack of larval host plants, the study area does not represent a significant habitat area for the candidate species monarch butterfly. Forested habitat removal and noise and lighting related to construction and operations may affect the threatened NLEB, but the degraded habitat conditions of the project area, OEA's recommended mitigation measures, and Townline's voluntary measures would avoid potential adverse impacts. Therefore, OEA determined the Proposed Action *may affect, but is not likely to adversely affect* the NLEB, and the USFWS concurred with OEA's determination (see OEA's Section 7 Consultation assessment and USFWS' concurrence letter in Appendix A for more detail on federally listed species). Finally, OEA does not

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<sup>44</sup> New York Natural Heritage Program. Golden Eagle Conservation Guide. Available at: <https://guides.nynhp.org/golden-eagle/#range>. Accessed September 2023.

anticipate the Proposed Action would impact bald eagles or golden eagles due to lack of habitat in the study area.

## 3.8 Water Resources

This section describes the affected environment and the environmental consequences to water resources (surface waters and wetlands, floodplains, and groundwater) from the Proposed Action and the No-Action Alternative. The subsections that follow describe the study area, data sources, and approach used to analyze potential impacts. Overall, based on the analysis below, OEA anticipates the Proposed Action will have little to no impacts on water resources.

### Approach

The study area for water resources includes the Proposed Action site and the proposed construction laydown area, as shown in **Figure 2.2-1** in Chapter 2 of this [FinalDraft](#) EA. OEA consulted with local, regional, state, and federal agencies regarding water resources in the project area, as detailed in Section 1.6 and included in Appendix A of this [FinalDraft](#) EA and performed both desktop analysis and field review. OEA reviewed both the USFWS National Wetlands Inventory (NWI) and NYSDEC's Environmental Resource Mapper and conducted a site visit to identify the presence of wetlands.

### Surface Water and Wetlands

Surface waters and wetlands are important features in a landscape that provide numerous beneficial services for people, fish, and wildlife. Some of these services or functions include protecting and improving water quality, providing fish and wildlife habitats, storing floodwaters, providing aesthetic value, ensuring biological productivity, filtering pollutant loads, and maintaining surface water flow during dry periods.

The U.S. Army Corps of Engineers (USACE) administers Clean Water Act (CWA) Section 404, 33 U.S.C. §1344, which regulates discharge of fill into waters of the United States, including wetlands. State environmental departments administer CWA Section 401, 33 U.S.C. § 1341, which requires a water quality certification prior to discharging fill in waters of the United States to ensure water quality standards are not exceeded. Wetlands are defined at 33 C.F.R. § 328.3(c) as “those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.” Executive Order (EO) 11990, “Protection of Wetlands,” discourages direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative.

### Affected Environment

Based on review of the USFWS NWI and NYSDEC's Environmental Resource Mapper, there are no surface waters or wetlands located in or adjacent to the study area, and no such features were observed during the field surveys of the study area.

## Environmental Consequences

Because there are no surface waters or wetlands located within or adjacent to the project area, the Proposed Action would not result in impacts to these resources. Thus, OEA does not anticipate the need for permitting under CWA Sections 401 and 404. However, Townline would need to obtain a State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity from New York Department of Environmental Conservation. This permit is required for any project involving one or more acres of soil disturbance.<sup>45</sup>

## Floodplains

Floodplains are any land area susceptible to being inundated by water from any source (44 C.F.R. § 59.1) and are often associated with surface waters and wetlands. Floodplains are valued for their contribution to natural flood and erosion control, enhancement of biological productivity, and socioeconomic benefits and functions.

## Affected Environment

Based on review of the FEMA Flood Maps, the study area is not located within any designated floodplains.

## Environmental Consequences

Because the study area is not located within a designated floodplain, authorization and implementation of the Proposed Action would not result in any impacts to floodplains.

## Groundwater

Groundwater is the subsurface water that saturates the pores and cracks in soil and rock and is transmitted via geologic layers called aquifers. The infiltration of precipitation or surface water directly recharges an unconfined aquifer. Confined aquifers are overlain by low-permeability material (e.g., clay or rock) that limits the vertical flow of water into or out of the aquifer. Landowners, municipalities, and industries access groundwater from wells that tap into an aquifer. The primary objective in protecting the quality of groundwater is to maintain the regional water supply.<sup>46</sup>

## Affected Environment

Long Island is a sole-source aquifer region, which means that groundwater is the single supply source for potable water. According to NYSDEC, “the aquifers underlying Long

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<sup>45</sup> The SPDES permit program addresses water pollution by regulating point sources that could discharge pollutants to waters of the United States. Presence of surface waters and wetlands on a project area is not necessary to trigger the SPDES General Permit for Stormwater Discharges from Construction Activity but is based on the area of ground disturbance proposed (i.e., must be one acre or more). The SPDES permit program is authorized under CWA Section 402, 33 U.S.C. §1342, and delegated by EPA to state governments for implementation.

<sup>46</sup> The Long Island Comprehensive Waste Treatment Management Plan (208 Study), 1978.



Island are among the most prolific in the country. Almost all Long Island's drinking water is from groundwater with surface water an insignificant contributor. The three most important Long Island aquifers are the Upper Glacial Aquifer, the Lloyd Aquifer, and the Magothy Aquifer.<sup>47</sup> According to the USGS Groundwater Conditions on Long Island, there are no aquifer wells located in the project area.

The groundwater flow on Long Island is characterized by a groundwater divide, extending east-west along its length. To the north of the groundwater divide, horizontal groundwater flow is generally to the north; in areas south of the divide, groundwater flow is toward the south. A review of the United States Geological Survey's publication, "Water-Table and Potentiometric-Surface Altitudes in the Upper Glacial, Magothy, and Lloyd Aquifers beneath Long Island, New York, April-May 2016" indicates that the regional groundwater flow direction beneath the Proposed Action site is generally to the north, as the property is located north of the groundwater divide and proximate to the Smithtown Bay.

As indicated in the Long Island Comprehensive Groundwater Protection Area Plan (hereinafter SGPA Plan), dated July 27, 1992, Special Groundwater Protection Areas (SGPAs) are significant, largely undeveloped or sparsely developed geographic areas of Long Island that provide recharge to portions of the deep flow aquifer system. SGPAs represent a unique final opportunity for comprehensive, preventative management to preclude or minimize land use activities that can have a deleterious impact on groundwater. Nine SGPAs are located on Long Island: North Hills; Oyster Bay; West Hills/Melville; Oak Brush Plains; South Setauket Woods; Central Suffolk; Southold; South Fork; and Hither Hills. The Proposed Action site is not located within a SGPA.

### **Environmental Consequences**

No drinking water intakes or wellheads are located within the study area of the Proposed Action. Impacts to groundwater typically occur from water withdrawals, changes in aquifer recharge areas, or excavation of the landscape, which may draw down the surficial water table. OEA expects that construction activities related to the Proposed Action would include removing ground surface vegetation and adding ballasts and track.<sup>48</sup> These activities would not involve water withdrawals, changes in aquifer recharge areas, or excavation. Therefore, OEA concludes that the Proposed Action would have no impacts on groundwater.

### **No-Action Alternative**

Under the No-Action Alternative, Townline would not construct and operate the Proposed Action. Therefore, no impacts on surface water, wetlands, floodplains, and groundwater would occur under the No-Action Alternative.

### **Conclusion**

OEA concludes that the Proposed Action would not result in impacts on surface water, wetlands, floodplains, or groundwater, and thus, no mitigation measures are necessary.

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<sup>47</sup> [https://www.nswcawater.org/water\\_facts/our-long-island-aquifers-the-basics/](https://www.nswcawater.org/water_facts/our-long-island-aquifers-the-basics/)

<sup>48</sup> See footnote 34.

## 3.9 Cultural Resources

This section describes OEA’s analysis of potential impacts on cultural resources that could result from the Proposed Action and the No-Action Alternative. The Board’s decision whether to approve the Proposed Action is a federal action under NEPA and a federal undertaking under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108). The Section 106 regulations at 36 C.F.R. Part 800 require federal agencies to consider the effects of their undertakings on historic properties that are listed in, or eligible for listing in, the National Register of Historic Places (National Register). Other relevant federal and state statutes, regulations, and guidance on protecting cultural resources, include:

- Protection of Historic and Cultural Properties (36 C.F.R. Part 800).
- New York State Historic Preservation Act of 1980 (Section 14.09).
- New York State Parks, Recreation and Historic Preservation (PAR) Chapter 36-B, Title C, §§ 14.01-14.12.
- National Register Criteria for Evaluation (36 C.F.R. Part 60).
- Section 106 Regulations Users Guide, Advisory Council on Historic Preservation - Step-by-step guidance from Advisory Council on Historic Preservation.
- American Indian Religious Freedom Act of 1978 (42 U.S.C § 1996).
- Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (25 U.S.C. Ch 32).
- Archeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. §§ 470aa through 470mm).

Historic properties can include buildings, precontact and historic archaeological sites, districts, objects, and structures, as well as traditional cultural properties and landscapes. The term “historic property” also includes properties of religious or cultural significance to Indian Tribes. For the Proposed Action, OEA is coordinating the environmental review process under NEPA with the Section 106 process, and the NEPA term “cultural resources” as used in this section is interchangeable with the Section 106 term “historic properties.” Based on the evaluation detailed in this section, OEA expect the Proposed Action to impact cultural resources.

### Approach

To evaluate the potential for the Proposed Action to affect cultural resources, OEA first developed a study area, known as an Area of Potential Effects (APE), for the undertaking. The APE, as defined in 36 C.F.R. § 800.16(d), is the geographic area or areas within which a federal undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. For this undertaking, the APE consists of two components: an Archaeological APE, defined as the footprint of ground disturbance, and an Above-Ground APE, defined as the existing historical built environment of the design footprint and its viewshed. Each component of the APE extends at least the 5,000-ft length of the undertaking and extends to the width of the proposed rail right-of-way to encompass the entire area within which ground disturbing activities would occur under the

Proposed Action. To account for potential effects to existing and unrecorded built historic properties, OEA established a 500-ft viewshed to be included in the Above-Ground APE (250 feet on either side of the required right-of-way centerline and 250 feet at each end) to account for potential setting, visual, noise, or other impacts from construction activities.

OEA then conducted historical background research of the APE. The purpose of this research was to find information regarding the past land use and occupation of the APE. Background research included a review of data from a variety of digital and archival repositories for relevant information, including publicly available sources, archaeological site forms, archaeological and cultural surveys conducted within and near the APE, National Register files, historic topographic maps, and historic aerial imagery of the APE. A review of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) Cultural Resources Information System (CRIS) provided records related to existing cultural resource data. OEA obtained records related to historic topographic maps and historic aerial imagery through the U.S. Library of Congress and the United States Geologic Survey (USGS) topoView and earthexplorer web applications. OEA obtained parcel information through the Suffolk County property appraiser website.

In a letter dated June 22, 2022, OEA initiated consultation with the New York State Historic Preservation Office (SHPO), Tribal Historic Preservation Officers (THPOs), and tribal governments with a possible interest in the APE. OEA coordinated with the Shinnecock Indian Nation, Unkechaug Indian Nation (Poospatuck Reservation), and Setalcott Indian Nation. Appendix A provides detailed information on efforts to reach out to potential consulting parties.

## Affected Environment

There are no existing buildings or structures located within the proposed limits of ground disturbance for the undertaking. The LIRR mainline is adjacent to the Proposed Action, and there was one at-grade crossing located at Meadow Glen Road that has been permanently closed. Due to the existing development that has taken place within and surrounding the proposed limits of ground disturbance for the Proposed Action, the APE and immediate environment is believed to have a low potential to contain intact and significant archaeological features and deposits. Furthermore, no portion of the proposed disturbance footprint is located within an area of archaeological potential as defined by the New York State OPRHP.

Pursuant to Section 106, OEA conducted record searches of the National Register and New York CRIS databases to identify cultural resources that are listed in or eligible for listing in the National Register. Based on the results of those searches, OEA concluded that while two resources previously determined not eligible are located within the APE, no previously recorded eligible cultural resources are located within the APE (see **Figure 3.9-1** and detailed information in Appendix A).

**Figure 3.9-1: New York Cultural Resource Information System (CRIS) Summary**



In a letter dated July 15, 2022, OEA received a response from the State of New York Parks and Recreation and Historic Preservation Division (SHPO) noting that there was one historic property in the project vicinity (Long Island Railroad Trestle, located outside of the APE) and concluded that the Proposed Action would have No Adverse Effect on historic properties.

### Environmental Consequences

Accordingly, pursuant to Section 106 of the NHPA, OEA finds that the Proposed Action would have no effect on historic properties because there are no historic properties present within the APE. Further, the area has not been identified by the New York SHPO as a location of archaeological potential because the area already has been highly disturbed by modern industrial activities, and the potential for intact archaeological deposits is extremely low.

## Conclusion

For the reason discussed above, OEA has determined that the Proposed Action would have no effect on historic properties and New York SHPO concurs. Thus, no mitigation measures are recommended for Cultural Resources.

## 3.10 Hazardous Materials Release Sites

This section describes the existing conditions and potential environmental impacts associated with hazardous material release sites during construction of the Proposed Action and the No-Action Alternative. Construction of the Proposed Action has the potential to encounter contaminated soils that have been impacted by past releases (such as spills or leaks) of petroleum and/or hazardous substances. Overall, based on the evaluation below, OEA expects the Proposed Action to minimally impact existing hazardous material release sites.

### Approach

The Proposed Action would be located on an active industrial site adjacent to the LIRR mainline, which carries both passengers and freight. Soils located within railroad rights-of-way can often be impacted with contaminants associated with prior spills and releases associated with typical railroad operations. In many locations, rail lines are also surrounded by industrial operations where releases of petroleum and/or hazardous substances may have occurred. Therefore, it is possible that petroleum and/or hazardous substances may have migrated into the railroad right-of-way or on surrounding lands from historic rail or industrial operations.

OEA defined the study area for hazardous material release sites as the area within a 500-foot buffer around the Proposed Action site. EPA defines hazardous waste as waste with properties that make it dangerous or potentially harmful to human health or the environment. For purposes of this analysis, a hazardous material release site is an area that has been affected by a documented release of petroleum and/or hazardous substances into soil, groundwater, surface water, sediments, and/or air. Hazardous materials are hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §103), including hazardous wastes.

OEA used multiple resources to identify documented hazardous materials release sites in the study area. OEA obtained an Environmental Database Report (EDR) to identify known hazardous material releases within the study area.<sup>49</sup> This report includes information from the New York State Hazardous Waste Site (SHWS), SPILLS (Spills Information Database), and/or Voluntary Cleanup Program (VCP) databases, as well as the Federal Sustainable Environment Management System (SEMS) database, each used to identify hazardous waste releases in this evaluation. After identifying hazardous material release sites in the study area, OEA evaluated whether construction of the Proposed Action would potentially be

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<sup>49</sup> EDR is a third-party database report used in the environmental due diligence process that searches relevant state and federal environmental databases.

impacted by those hazardous materials release sites based on their proximity to the study area.

Additionally, OEA identified the proximity of nearby Solid Waste Landfills (SWLs) and hazardous waste generators to determine potential impacts.

## Affected Environment

Based on a review of the EDR Report, SHWS, SPILLS, VCP databases and/or the SEMS database, 17 hazardous materials release sites were identified within OEA's study area for this resource evaluation (see **Table F-1 – Hazardous Materials Release Sites within the Study Area** in Appendix F).

At least seven former or active Solid Waste Landfills (SWLs) are located near Carlson's 82-acre industrial site. In addition, the active Town of Huntington Landfill Transfer Station, at 99 Townline Road, which has been active since at least July 2021, abuts the project area. While the remaining SWLs are listed as inactive, SWLs can have documented soil and/or groundwater contamination.

A search on EPA's website revealed 42 properties designated as hazardous waste generators under the Resource Conservation and Recovery Act (RCRA) program in Kings Park, New York.<sup>50</sup> Three of the designated properties are located adjacent to the study area for this resource evaluation, including Bobby's Auto Refinishing Inc., Dejana Truck & Utility Equipment, and Twins Auto Body Inc. (see **Table F-2 - Hazardous Waste Generators Within the Study Area** in Appendix F).

## Environmental Consequences

The following section describes the potential environmental impacts of construction of the Proposed Action and the No-Action Alternative.

### Proposed Action

While there were several hazardous materials sites identified within the study area, there were no hazardous waste release sites identified within the Proposed Action site. Given the hazardous waste release sites and generators found in the study area, and the existing industrial use of the 82-acre property and the surrounding area, there is potential for residual contamination in soil and/or groundwater to be encountered during construction of the Proposed Action. Therefore, OEA developed mitigation requiring that Townline follow Standard Practice for Environmental Site Assessments to avoid impacts related to soil or groundwater contamination (**MM-Hazardous Materials Sites-01**). In addition, Townline's voluntary mitigation includes a measure requiring its construction contractor(s) to implement measures to protect workers' health and safety and the environment in the event that undocumented hazardous materials, if any, are encountered during construction (**VM-Hazardous Materials Sites-01**). If the proposed rail line is authorized and both of these mitigation measures are imposed and implemented, construction impacts related to hazardous waste release sites would be minimal.

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<sup>50</sup> <https://www.epa.gov/fedfacts/resource-conservation-and-recovery-act-rcra>

## No-Action Alternative

Under the No-Action Alternative, the Board would not authorize the Proposed Action. OEA does not expect potential impacts to hazardous material release sites under the No-Action Alternative.

## Conclusion

OEA concludes that there would be minimal impacts to existing hazardous waste material sites from construction of the Proposed Action. Townline has proposed mitigation requiring that it protect workers and the environment if contaminated soils are uncovered. In addition, to ensure proper documentation and handling of any hazardous waste discovered during construction of the Proposed Action, OEA is recommending mitigation that would require Townline to follow Standard Practice for Environmental Site Assessments (**MM-Hazardous Materials Sites-01**).

## 3.11 Environmental Justice

EPA defines Environmental Justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies” (EPA 2021a).

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994), requires agencies to make environmental justice part of the agency’s mission by identifying and addressing disproportionately adverse human health and environmental effects of programs, policies, and projects on minority populations and low-income populations. Collectively, EPA refers to these populations as EJ populations. In April 2023, the President signed An Executive Order 14096, to Revitalize Our Nation’s Commitment to Environmental Justice for All, which requires all executive branch agencies to consider environmental justice in their decision making.

This section summarizes OEA’s analysis on the extent to which minority and low-income communities exist in the project area and the potential for adverse impacts of the Proposed Action and No-Action Alternative on EJ communities. Overall, based on the evaluation below, OEA anticipates the Proposed Action would create no adverse impacts to Environmental Justice populations.

## Approach

OEA applied the following steps to evaluate the potential for the Proposed Action to cause disproportionately adverse impacts on EJ populations:

- OEA identified all potentially adverse impacts of the Proposed Action.
- OEA determined the impacts of the Proposed Action range from no impacts to negligible impacts. Therefore, there would be no adverse impacts to Environmental Justice populations. Nevertheless, to fully inform the reader, OEA defined a study area the study area as Kings Park, NY for this resource evaluation.

- OEA identified potential EJ populations (low-income and minority populations, including American Indians) in the study area using the best available demographic data managed by the U.S. Census Bureau and the U.S. Department of Housing and Urban Development (HUD). OEA considered populations with high rates of limited English-speaking households to inform the public outreach process.

As noted above, OEA defined the study area for analysis as Kings Park, which includes the project area, and used American Community Survey (ACS) data and the New York State Climate Justice Working Group’s list of disadvantaged communities on Long Island to identify potential EJ populations. The analysis primarily considered income and the share of the population that falls within a minority group. Consistent with EPA’s definition of low-income, OEA defined low-income to mean individuals earning an income less than 200 percent of the federal poverty level. The minority population consisted of all individuals who identify as non-White. A potential EJ population would have to meet the following thresholds:

- At least 50 percent of the people in the block group self-identify as being of minority status;
- The percentage of the population of minority status in the block group is at least 10 percentage points higher than for the entire county in which the population is located; or
- An individual earning an income less than 200 percent of the federal poverty level.

## Affected Environment

According to the 2020 American Community Survey (ACS) 5-Year Estimates, the Hamlet of Kings Park has a total population of 16,153 and is classified as 94.9 percent white, 1.5 percent black, and 3.4 percent Asian (see **Table 3.11-1** below). Approximately 6.5 percent of King Park’s population is classified as Hispanic. The median household income in Kings Park for 2020 was \$98,031 and the median family income was \$137,687, both of which are higher than the values for New York as a whole.



**Table 3.11-1: Race of Study Area and Surrounding Populations**

Label	New York		Suffolk County		Smithtown		Kings Park	
	Pop.	%	Pop.	%	Pop.	%	Pop.	%
Total population	19,514,849		1,481,364		116,428		16,153	
One race	18,593,296	95.3%	1,419,415	95.8%	113,688	97.6%	15,836	98.0%
White	12,160,045	62.3%	1,161,861	78.4%	105,973	91.0%	15,014	92.9%
Black or African American	3,002,401	15.4%	113,699	7.7%	1,382	1.2%	163	1.0%
American Indian and Alaska Native	76,535	0.4%	4,172	0.3%	63	0.1%	0	0.0%
Asian	1,674,216	8.6%	60,873	4.1%	5,108	4.4%	459	2.8%
Native Hawaiian and Other Pacific Islander	9,376	0.0%	526	0.0%	0	0.0%	0	0.0%
Some other race	1,670,723	8.6%	78,284	5.3%	1,162	1.0%	200	1.2%
Two or more races	921,553	4.7%	61,949	4.2%	2,740	2.4%	317	2.0%

Source: 2020 American Community Survey (ACS) 5-Year Estimates

Based on this analysis, Kings Park does not meet the EJ criteria for minority or low-income populations. OEA also considered the recently published (March 2023) list of disadvantaged communities on Long Island by the New York State Climate Justice Working Group. The study area was not included on the Group’s list of disadvantaged communities. Therefore, OEA determined that no census tracts in Kings Park are designated as Historically Disadvantaged Communities.<sup>51</sup>

### Environmental Consequences

OEA did not identify any adverse impacts that could affect minority or low-income populations, nor did it identify any minority or low-income populations in the study area; therefore, no further EJ analysis is warranted for the Proposed Action or No-Action Alternative.

### Conclusion

No adverse effects and no EJ populations were identified within the study area. Accordingly, OEA concluded there would be no adverse impacts to EJ communities (i.e.,

<sup>51</sup> U.S Department of Transportation, Transportation Disadvantaged Census Tracts (Historically Disadvantaged Communities)  
<https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a>

minority and low-income populations), and therefore there is no need for mitigation measures.

## 3.12 Cumulative and Other Impacts

Cumulative effects are defined as “the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions” (40 C.F.R. § 1508.1(g)(3)).

This section describes the cumulative impacts of the Proposed Action and other past, present, and reasonably foreseeable future projects and actions. The sections that follow describe the approach, affected environment, and environmental consequences for OEA’s cumulative impacts analysis. Overall, based on the analysis below, OEA does not anticipate cumulative impacts associated with the Proposed Action and any other reasonably foreseeable projects in the study area.

### Approach

CEQ developed the handbook, *Considering Cumulative Effects under the National Environmental Policy Act* (1997), to assist federal agencies in assessing cumulative impacts. OEA has followed these guidelines in its evaluation of whether cumulative impacts could result from impacts of the Proposed Action and impacts of past, present, and reasonably foreseeable future projects and actions in the study area. OEA defined the study area and analysis period for cumulative impacts to include reasonably foreseeable projects and actions that could affect the same resource areas as the Proposed Action. For the cumulative impact analysis, OEA considered reasonably foreseeable projects and actions that would likely be constructed within Kings Park, New York within the foreseeable future, which are discussed below.

### Past, Present, and Reasonably Foreseeable Future Projects and Actions

As described in Chapters 1 and 2 of this [FinalDraft](#) EA, Carlson is pursuing state and local review and approval of a proposed truck to rail transload facility that would not be part of Townline’s proposed rail transportation. The planned facility would include:

- An indoor 200-foot(ft) x 400-ft rail transloading facility;
- A semi-enclosed 100-ft x 200-ft material storage building; and
- Approximately 5,675 ft of new roads on the property site to facilitate transloading between railcars and trucks.

During consultation with various appropriate local, state, and federal agencies during the preparation of this [FinalDraft](#) EA, OEA did not learn of any other recent, ongoing, or planned activities within Kings Park that could result in cumulative effects to any of the resource areas that the construction and operation of the Proposed Action would also affect. Based on review of publicly available resources, there is one multifamily residential

development that is proposed in Kings Park southeast of the project area named Country Pointe Estates at Kings Park. The application for this development includes 391 residential units and accessory facilities. However, the development site is located more than 1.3 miles from the Proposed Action property, and pursuant to a March 2023 Town Planning Commission meeting, this development would require rezoning prior to site plan approval. OEA did not identify any additional past, present, and reasonably foreseeable future projects or actions that could result in impacts that would coincide in time and space with impacts from the Proposed Action. Therefore, the cumulative impacts analysis only analyzes the impacts of the Proposed Action combined with the planned transloading facility proposed by Carlson.

## Cumulative Impacts

As discussed above, impacts from the Proposed Action range from no adverse effect to minimal impacts. However, with respect to biological resources, OEA determined that construction of the Proposed Action *may affect but is not likely to adversely affect* the northern long-eared bat (NLEB) through the clearing of or disturbance to forested habitat, temporary construction noise and lighting, and operational lighting and noise. Therefore, OEA reviewed whether there would be impacts to biological resources from the future planned transloading facility (including the future planned transloading facility, storage building, and new roads) that could be combined with the impacts associated with the Proposed Action. Carlson's planned transloading facility and associated roadways could remove additional forested habitat that is suitable for the NLEB. These additional forested impacts were addressed in OEA's Section 7 Consultation assessment under ESA regulations at 50 C.F.R. § 402.02 (see Appendix A for more detail). The inclusion of these additional forested impacts with the Proposed Action's impacts does not change OEA's determination of *may affect, not likely to adversely affect* for the NLEB because Townline's proposed voluntary mitigation requires that it not conduct tree removal during the NLEB active season, and that any lighting be directed downward and away from NLEB habitat. USFWS concurred with OEA's conclusions.

## Conclusion

As direct impacts from the Proposed Action would be minimal, OEA does not anticipate cumulative impacts associated with the Proposed Action or any other reasonably foreseeable actions in the study area.

# 4

## Mitigation

The regulations for implementing NEPA require that agencies consider mitigation measures that could reduce the environmental impacts of their actions, but NEPA does not mandate the form or adoption of any mitigation measures (40 C.F.R. § 1508.1(s)). This chapter sets forth OEA’s final recommended ~~preliminary~~ mitigation measures based on the results of OEA’s environmental analysis and public and agency consultation. This chapter describes mitigation measures that, if imposed by the Board, would avoid, minimize, or mitigate these environmental impacts. The mitigation includes voluntary mitigation proposed by Townline and additional measures developed by OEA.

Townline submitted extensive proposed voluntary mitigation measures to OEA in correspondence dated July 10, 2023, and October 17, 2023, prior to the completion of the environmental analysis. As discussed in Chapter 3, however, the proposed construction and operation of this 5,000-foot rail line in an industrial area would have negligible impacts to all environmental resource areas, excluding biological resources. Therefore, OEA deleted the proposed voluntary mitigation measures that it deemed unnecessary and irrelevant upon completion of the environmental analysis. OEA incorporated the remaining proposed voluntary mitigation measures (a number of which would require Townline to comply with best management practices during the construction and operation of the proposed rail line) with minor editorial changes (designated as VMs below). The three ~~two~~-mitigation measures developed by OEA are designated as MMs below.

If the Board decides to grant Townline’s request for authority to construct and operate the proposed rail line, the mitigation measures set out in this chapter could become conditions of the Board’s decision.

### Conditioning Power of the Board

The Board has the authority to impose conditions to mitigate environmental impacts, but that authority is not limitless. Any mitigation measure the Board imposes must relate directly to the proposed action before the Board, must be reasonable, and must be supported by the

record before the Board. OEA's consistent practice has been to recommend mitigation only for those environmental impacts that would result directly from a proposed action. The Board typically does not require mitigation for pre-existing environmental conditions.

## **Preliminary Nature of The Mitigation Process**

OEA's ~~preliminary~~ final recommended mitigation measures are based on information available to date, consultation with appropriate agencies, and the environmental analysis presented in this Final ~~Draft~~ EA. ~~OEA invites public and agency comments on the mitigation proposed below and any other mitigation that might be needed. For OEA to assess the comments effectively, it is critical that the public be specific regarding any desired mitigation and the reasons why the suggested mitigation would be appropriate.~~

After OEA issued the Draft EA ~~for public comment~~, it received comments during the public comment period ~~closes, OEA will prepare a Final EA.~~ This ~~Final EA will~~ responds to the substantive comments (see Appendix G), ~~may conduct additional analyses if appropriate, and will make~~ final recommendations to the Board on mitigation to impose. After considering all public comments on the Draft EA, OEA added one new mitigation measure regarding lighting. After issuance of this Final EA ~~the conclusion of the EA process~~, the Board will make its final decision in this proceeding, considering both the transportation merits ~~of the proceeding~~ and the full environmental record—the ~~is~~ Draft EA, ~~this~~ Final EA, all public and agency comments received, and OEA's final recommended mitigation.

## **4.1 Mitigation Measures**

The following sections include OEA's ~~preliminary~~ final recommended mitigation measures (MM) and the relevant proposed Voluntary Mitigation (VM) offered by Townline. OEA recommends that, if the Board grants Townline authority to construct and operate the proposed rail line, such authority should be subject to the mitigation measures identified below. If a resource area is not listed below, OEA did not identify any adverse impacts that warrant mitigation and has therefore not proposed mitigation measures for this resource area.

### **Land Use and Zoning**

#### **Townline's Proposed Voluntary Mitigation Measures**

**VM-Land Use and Zoning-01.** Townline and its contractor(s) will consult, as necessary, with directly abutting landowners for coordination of construction schedules and temporary access during project-related construction.

## Air Quality and Climate Change

### Townline's Proposed Voluntary Mitigation Measures

**VM-Air Quality-01.** Townline's contractor(s) will comply with the dust control permitting requirements of Suffolk County, Smithtown, and New York State Department of Environmental Conservation to the maximum extent practicable to reduce fugitive dust emissions created during project-related construction. Townline will also require its construction contractor(s) to regularly operate water trucks on haul roads to reduce dust generation.

**VM-Air Quality-02.** Townline will work with its contractor(s) to ensure project-related construction equipment is properly maintained, and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air pollutant emissions.

## Noise and Vibration

### Townline's Proposed Voluntary Mitigation Measures

**VM-Noise-01.** Townline will comply with Federal Railroad Administration regulations (49 C.F.R. Part 210) establishing decibel limits for train operation.

**VM-Noise-02.** Townline will work with its contractor(s) to make sure that project-related construction and maintenance vehicles are maintained in good working order with properly functioning mufflers to control noise.

## Biological Resources

### Townline's Proposed Voluntary Mitigation Measures

**VM-Biological-01.** Townline will not conduct construction-related tree removal for the Proposed Action during the Northern Long-eared Bat (NLEB) active season (March 1 to November 30) consistent with New York State Department of Environmental Conservation's NLEB active season for Suffolk County.

**VM-Biological-02.** During project-related construction, Townline will take steps to reduce the unnecessary removal of bat habitat by limiting tree removal to only the areas necessary to safely construct and operate the rail line, marking the limits of tree clearing through the use of flagging or fencing, and ensuring that construction contractors understand clearing limits and how they are marked in the field.

**VM-Biological-03.** During project-related construction, Townline will direct any temporary lighting away from suitable NLEB habitat during the active season for this species (March 1 to November 30). Townline will use downward-facing, full cut-off lens lights for any temporary lighting used during construction of the rail line.

**VM-Biological-04.** During project-related rail operations, Townline will use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting) for the proposed permanent lights.

**VM-Biological-05.** Townline will require its contractor(s) to comply with the requirements of the Migratory Bird Treaty Act as applicable. The following measures will be taken by Townline and/or its contractor(s):

Where practical, any ground-disturbing, ground-clearing activities or vegetation treatments will be performed before migratory birds begin nesting or after all young have fledged.

If such activities must be scheduled to start during the migratory bird breeding season, Townline will not take steps to prevent migratory birds from establishing nests in the potential impact area. Townline or its agents will not haze or exclude nest access for migratory birds and other sensitive avian species.

If such activities must be scheduled during the migratory bird breeding season, a qualified biologist will perform a site-specific survey for nesting birds starting no more than seven days prior to ground-disturbing activities or vegetation treatments. Birds with eggs or young will not be hazed, and nests with eggs or young will not be moved until the young are no longer dependent on the nest.

If nesting birds are found during the survey, Townline will establish appropriate seasonal or spatial buffers around nests. Vegetation treatments or ground-disturbing activities within the buffer areas will be postponed, where feasible, until the birds have left the nest. A qualified biologist will confirm that all young have fledged.

### **OEA's [Final Preliminary](#) Mitigation Measures**

**MM-Biological-01.** During project-related construction, Townline will minimize, to the extent practicable, soil compaction in temporarily disturbed areas, provide surface treatments (e.g., break up compacted soil) for any compacted soils, and take actions to promote vegetation regrowth.

**MM-Biological-02.** Townline's permanent lighting will consist of 2.0 footcandles at a height not to exceed 25 feet.

## **Hazardous Materials Release Sites**

### **Townline's Proposed Voluntary Mitigation Measures**

**VM-Hazardous Materials Sites-01.** Townline will require its construction contractor(s) to implement measures to protect workers' health and safety and the environment in the event that undocumented hazardous materials, if any, are encountered during project-related construction. Townline will document all activities associated with hazardous material spill sites and hazardous waste sites, if any, and will notify the appropriate state and local agencies according to applicable regulations. The goal of these measures is to ensure the proper handling and disposal of contaminated materials, including contaminated soil, groundwater, and stormwater, if such materials are encountered. Townline will use disposal methods that comply with applicable solid and hazardous water regulations.

## OEA's ~~Final~~ ~~Preliminary~~ Recommended Mitigation

**MM-Hazardous Materials Sites-01.** Townline shall follow American Society of Testing and Materials E1527-05, Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process in areas where potential contamination could be encountered. If Townline encounters contamination (or signs of potential contamination) during these activities, Townline shall promptly perform a Phase 2 environmental investigation. Should findings of a Phase 2 environmental investigation identify contamination in soil and/or groundwater, Townline shall coordinate with relevant New York state agencies on regulatory obligations and comply with those agencies' reasonable requirements for avoiding impacts related to soil and/or groundwater contamination.



# 5

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