

FINAL ENVIRONMENTAL ASSESSMENT APPENDICES

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



Appendices

Appendix A – Agency and Tribal Consultation

Appendix B – Townline Concept Plan

Appendix C – TrackMobile Details

Appendix D – Air Quality

Appendix E – Noise and Vibration

Appendix F – Hazardous Materials Release Sites

Appendix G – Response to Comments on the Draft EA

Appendix A

Agency and Tribal Consultation

A.1 Introduction

This appendix discusses consultation on the development of this Draft Environmental Assessment (EA). Consultation is described per the following four categories:

- Agency Consultation
- Government-to-Government Tribal Consultation
- Section 106 Consultation
- Section 7 Informal Consultation

Copies of relevant consultation correspondence are provided in Attachments 1, 2, 3, and 4. Other correspondence not included in this appendix can be found on the Surface Transportation Board (Board) website under environmental correspondence.

A.2 Agency Consultation

Agency Consultation describes the Board's Office of Environmental Analysis (OEA) written correspondence with federal, state, and local agencies. OEA sent initial agency consultation letters to 18 federal, state, and local agencies on June 22, 2022. These letters informed agencies of the project and requested preliminary information and comments from the agencies about resources to consider in the environmental review. Eight agencies or elected officials responded to these initial consultation letters (see **Table A.2-1**).

Attachment A-1 contains an example of OEA's written correspondence with federal, state, and local agencies and agency responses.

Table A.2-1. Agencies Consulted and Dates of Written Correspondence

Agency	Response Received
Federal Agencies	
National Oceanic and Atmospheric Administration (NOAA)	Yes – 06/29/22
U.S. Fish and Wildlife Service (USFWS)	Yes – see Attachment 4
Federal Emergency Management Agency (FEMA)	No
National Park Service (NPS)	No
U.S. Army Corps of Engineers (Corps)	No
U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)	No
U.S. Environmental Protection Agency (EPA)	No
U.S. Housing and Urban Development (HUD)	No
State Agencies	
New York State Department of Environmental Conservation	Yes – 07/21/22
New York State Natural Heritage Program	Yes – 08/25/22
New York State Department of Transportation (NYSDOT)	Yes – 07/22/22
New York State Historic Preservation Office (New York SHPO)	Yes – see Attachment 3
New York State Department of Health	No
Local Agencies	
Town of Smithtown Supervisor	Yes – 07/19/22
Town of Smithtown Planning Director	No
Town of Smithtown Environmental Protection Director	No
Suffolk County Commissioner	No
Suffolk County Economic Development & Planning	No
Suffolk County Department of Public Works	No
Suffolk County Department of Health Services	Yes – 07/22/22
Suffolk County Soil & Water Conservation District	No

A.3

Government-to-Government Tribal Consultation

OEA consulted with federally recognized tribes pursuant to the National Environmental Policy Act (NEPA) and Executive Order 13175 (see **Table A.3-1**). Executive Order 13175 requires that federal agencies conduct government-to-government consultations with federally recognized Indian tribes in the development of federal policies (including

regulations, legislative comments or proposed legislation, and other policy statements or actions) that have tribal implications. Tribes may have concerns about natural resources and other potential impacts that would not be brought up during the Section 106 process under the National Historic Preservation Act (NHPA), which is described below, and these concerns can be voiced during government-to-government consultation if Tribes choose to consult.

Attachment A-2 contains OEA’s written correspondence with federally recognized tribes listed below. To date, no response letters have been received.

Table A.3-1. Government-to-Government Consultation Dates of Written Correspondence

Tribes	Dates of Written Correspondence
Setalcott Indian Nation	From OEA 06/22/22 & 07/07/22
Shinnecock Indian Nation and THPO	From OEA 06/22/22
Unkechaug Indian Nation	From OEA 06/22/22

A.4 Section 106 Consultation under the National Historic Preservation Act

The Section 106 regulations at 36 Code of Federal Regulations (C.F.R.) Part 800 require federal agencies to consider the impact of their “undertakings” on “historic properties” listed or eligible for listing in the National Register of Historic Places prior to licensing or providing funds for a project. In considering project impacts, federal agencies are required to consult with their applicant (Townline), the state historic preservation officer (SHPO), tribes, and other consulting parties, including representatives of local government and certain persons or groups with a demonstrated interest in the undertaking.

Attachment A-3 contains OEA’s consultation and New York SHPO’s concurrence correspondence.

A.5 Section 7 Consultation under the Endangered Species Act

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.

Attachment A-4 contains OEA’s consultation assessment and USFWS’ concurrence correspondence.

Attachment A-1

Agency Consultation and Responses



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Alicka Ampry-Samuel
Regional Administrator
US Housing and Development
New York Regional Office
26 Federal Plaza, Suite 3541
New York, NY, 10278

By email at RegionalAdministratorNewYork@hud.gov

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

Dear Alicka Ampry-Samuel:

Townline Rail Terminal, LLC (Townline) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new common carrier line. As part of its licensing process, the Board will conduct an environmental review under the National Environmental Policy Act (NEPA). Pursuant to NEPA and the Board's environmental rules at 49 C.F.R. Part 1105, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project.

OEA is beginning the process of gathering information on the project area and project-related issues and concerns. We are writing to you to ask you for information on any environmental resources that may be affected by the proposed project and request your comments. Information collected will assist us in preparing the appropriate NEPA document for the proposed project.

Project Background

Townline intends to seek authority from the Board to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY (the Proposed Line), shown in the attached Figure 1. Townline was established in 2021 to be a common carrier railroad. Townline is affiliated with CarlsonCorp, Inc. (Carlson) which operates a New York State Department of Environmental

Conservation (NYSDEC) permitted waste transfer facility on a portion of an 82-acre site in Kings Park. Carlson recycles and processes uncontaminated concrete, asphalt pavement, rock, brick, and soil, woody yard waste, un-adulterated wood, yard waste, and horse manure.

Townline intends to construct the Proposed Line at the northern end of the 82-acre tract, adjacent to and parallel with the Long Island Rail Road's (LIRR) Port Jefferson rail line (Port Jefferson Line). New York & Atlantic Railway operates freight services on the Port Jefferson Line and has entered into an agreement with Carlson to install a new switch connecting the Proposed Line to the interstate rail network.

Townline would initially move incinerator ash, a by-product from Covanta Energy's (Covanta) waste-to-energy facility, and construction and demolition debris (C&D debris) for Carlson. Townline also plans to offer rail service to adjacent properties, potentially including Kings Park Ready Mix, Kings Park Materials (asphalt plant), and Pelkowski Precast Concrete. Townline anticipates an increased need for the Proposed Line because the Town of Brookhaven waste management facility (ash-monofill/landfill), which currently accepts incinerator ash from Covanta and C&D debris, is scheduled to close in 2024. Townline believes that the Proposed Line would offer an alternative to truck transport off Long Island by providing efficient, direct rail transportation via the Port Jefferson Line to the interstate rail network.

Request for Comments

OEA would like to hear from you regarding whether this proposal would require permitting, should additional fieldwork be needed, or any other requirements or concerns from your agency. Please submit your response by July 22, 2022, so that we may begin the process of identifying the potential impacts of the proposed project.

All filings and other submissions can be submitted electronically through the Board's website at <https://stb.gov>. To submit a comment, select "File an Environmental Comment" (below the "Need Assistance?" button) on the Board's home page. Please make sure to refer to Docket No. FD 36575 in all correspondence, including e-filings, addressed to the Board. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

As of May 24, 2022, you may also send your written comments to Andrea Poole, OEA's Project Manager for the environmental review by mail to:

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

While paper filings are once again being accepted in accordance with the Board's regulations, stakeholders are strongly encouraged to continue to submit filings via the Board's e-filing system and to consent to e-service of decisions.

We look forward to your participation in the environmental review process. If you have any questions or would like to arrange a call, please feel free to contact Andrea Poole of my staff at 202-245-0305 or by email at Andrea.Poole@stb.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Gosselin". The signature is fluid and cursive, with the first name being more prominent.

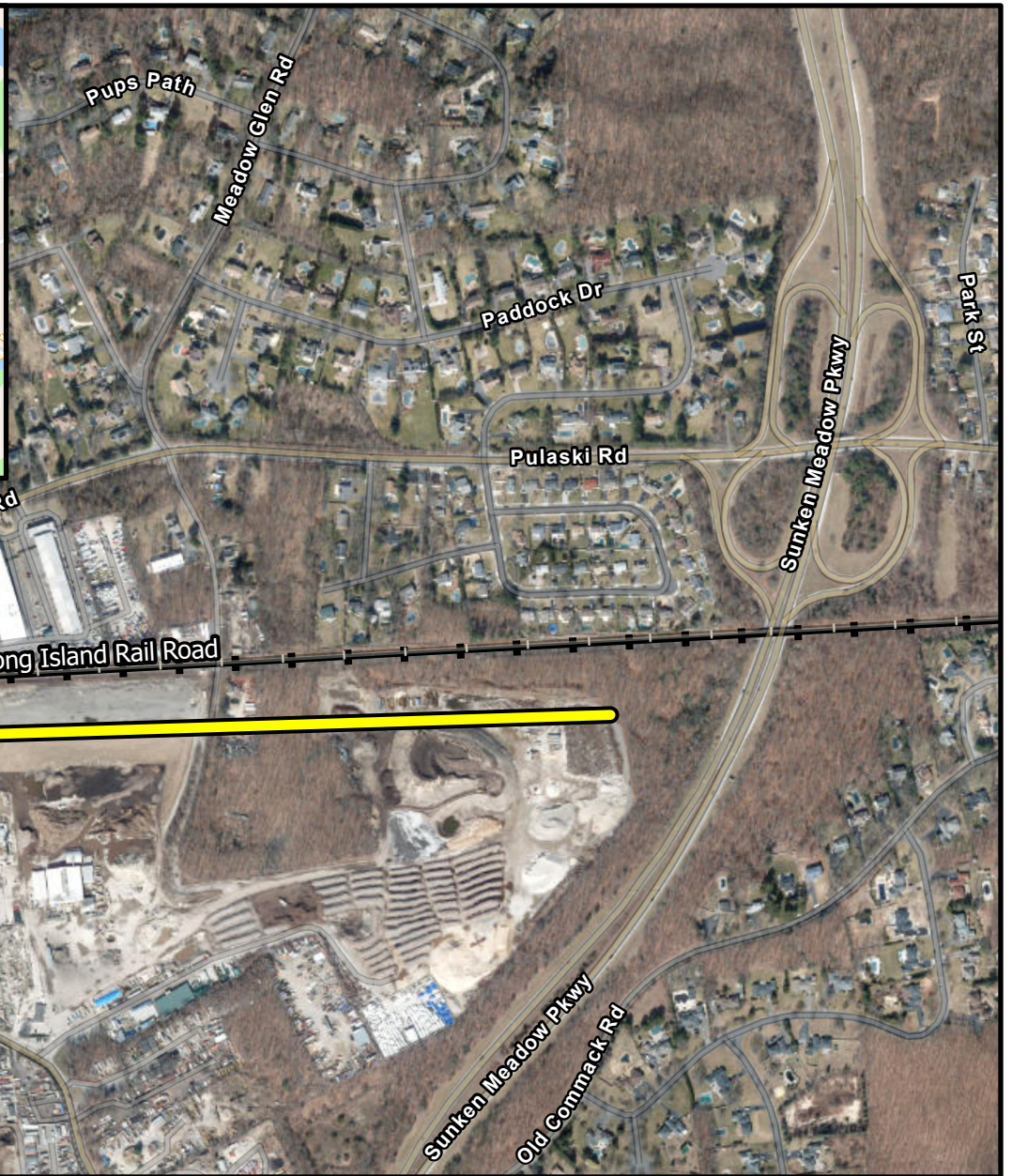
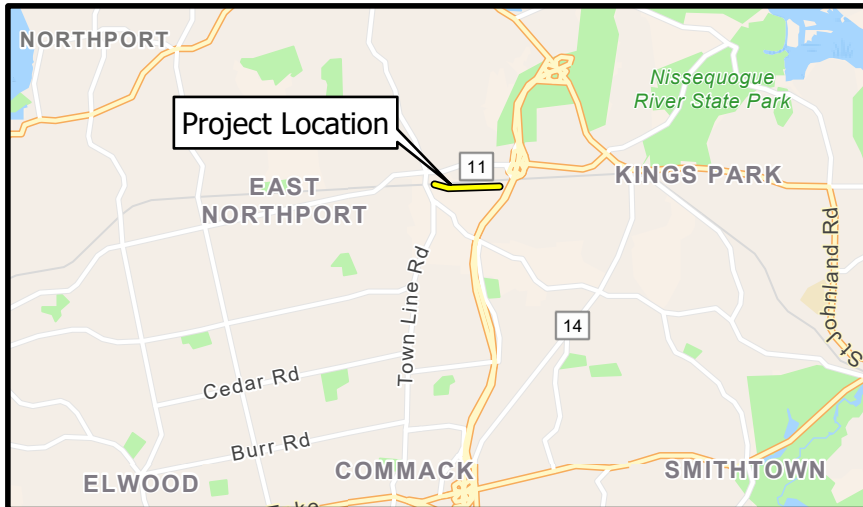
Danielle Gosselin

Director

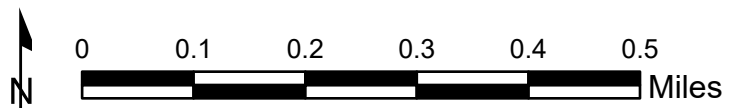
Office of Environmental Analysis

Enclosure:

Figure 1. Proposed Rail Line Location Map



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY

From: [Candice Andre](#)
To: [Allison McAuliffe](#)
Subject: FW: [External] [JIRA] (IMOV-9392) Townline Rail Terminal, LLC, STB Docket No. FD 36575 - Consultation Letter
Date: Tuesday, July 19, 2022 2:08:01 PM

Did you get this?

Candice Andre, AICP (She, Her, Hers)
Senior Project Planner
Planning & Project Development Manager

P [919.741.5346](tel:919.741.5346)
www.vhb.com

From: deborah.brooks <ngs.infocenter@noaa.gov>
Sent: Wednesday, June 29, 2022 7:14 PM
To: Candice Andre <candre@VHB.com>
Subject: [External] [JIRA] (IMOV-9392) Townline Rail Terminal, LLC, STB Docket No. FD 36575 - Consultation Letter

A comment is added on your issue:

Re: Townline Rail Terminal, LLC, STB Docket No. FD 36575 - Consultation Letter

Thank you for informing the National Geodetic Survey (NGS) of Townline Rail Terminal, LLC (Townline)'s intention to construct approximately 5000 feet of new rail line at the northern end of a 82-acre tract, adjacent to and parallel with the Long Island Rail Road's (LIRR) Port Jefferson rail line (Port Jefferson Line) in Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY.

There could be geodetic survey marks located in the proposed project area, and any marks still present could be disturbed by the construction. While it is illegal to disturb or destroy a mark, sometimes disturbing or destroying a mark is unavoidable. In such cases, the mark can often be preserved or reset with advanced planning. NGS provides the public with tools to search for and locate survey marks, see the NGS Data Explorer (<https://geodesy.noaa.gov/NGSDDataExplorer/>).

If a mark will be disturbed by the construction, Townline should consult with NGS at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic marks identified nearby. Information is available online to help reset marks or report disturbed/destroyed marks: See <https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml>, and <https://www.google.com/url?q=https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml&sa=D&ust=1560385764139000&usg=AFQjCNGDkoXCHtBcDJBsXm2KQLkhwYDxQ>.

This notice is also being shared with Dan Martin, (dan.martin@noaa.gov, 240-676-4762) the Regional Geodetic Advisor, so he may work with any interested local agencies or stakeholders.

If you have additional questions, please email NGS.Infocenter@noaa.gov.

Sincerely,
Deborah M. Brooks
Communications Specialist
deborah.brooks@noaa.gov

More information on preserving marks, mark resets, and destroyed marks.

Preserving Marks

Significant resources were invested to create an extensive geodetic network across the United States by establishing precise coordinates at physical survey marks. Disturbing or destroying these marks reduces

geodetic control available to local surveyors, so please make every effort to preserve this valuable network.

Mark Resets

If a mark is about to be destroyed (e.g., due to planned construction), it may be possible to reset the mark and retain the geodetic control. Review the Bench Mark Reset Procedures

(https://geodesy.noaa.gov/PUBS_LIB/Benchmark_4_1_2011.pdf) or contact your closest geodetic advisor (<https://geodesy.noaa.gov/ADVISORS/index.shtml>).

Please do not attempt to reset a mark that has been separated from the base. Any remnants of destroyed marks must be properly discarded and not reused in any manner, as this is a violation of Federal law.

Destroyed Marks

If it is determined that a mark has been destroyed, please provide enough photo evidence to show how this determination was made. To submit this information to NGS, follow the instructions regarding “destroyed marks” on the Mark Recovery Entry web page (

https://geodesy.noaa.gov/cgi-bin/recvy_entry_www.pr1)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 1

SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790

P: (631) 444-0355 | dep.r1@dec.ny.gov

www.dec.ny.gov

July 21, 2022

Danielle Gosselin, Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Docket No. FD 36575, Townline Rail Terminal, LLC Preliminary Construction Letter

Dear Director Danielle Gosselin:

The New York State Department of Environmental Conservation (DEC) has received the Surface Transportation Board's letter dated June 22, 2022 regarding Townline Rail Terminal, LLC's proposal to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY.

DEC staff have determined that the installation of the rail itself would have the potential to impact solid waste management activities at the CarlsonCorp., Inc. facility, which is located at 140 Old Northport Road, Kings Park, NY 11754. CarlsonCorp, Inc. is permitted by DEC permit # 1-4734-00304/00005 to process solid waste materials. This permit is currently active and set to expire on February 7, 2027.

In order to carry out the proposed activities described in your June 22, 2022 letter, a modification to the CarlsonCorp, Inc. permit would be required **because of the corresponding physical space reduction and new waste streams proposed for that facility**. Please be aware that this permit modification would be necessary regardless of whether the rail is used for solid waste operations or not, because of the associated loss of the area available in the facility for storage of waste and for products derived from the waste. This aspect in and of itself would necessitate an updated Facility Manual and site plan, because of the site reconfiguration. Our preliminary review indicates that the facility's permit would also need to be modified to address the transfer of ash and construction & demolition (C&D) debris. This aspect of the project may require adjustments to the facility's throughput and storage capacity due to the addition of new waste streams and the loss of space for existing operations.

DEC staff will provide correspondence directly to CarlsonCorp Inc., regarding the information and documents that would be required in order for DEC staff to review a permit modification necessitated by the activities described in your June 22, 2022 letter. Thank you for requesting our comments and for providing the contact at your agency. If you have any questions, please feel free to reach out to me at torey.kouril@dec.ny.gov.

Sincerely,

Torey K. Kouril
Environmental Analyst



Department of
Environmental
Conservation

cc: Cathy Haas, RD, DEC
Merlange Genece, RE, DEC
DEC- OGC, DMM, DAR, DEP
Allison McAuliffe, PE, VHB
Andrea Poole, Surface Transportation Board

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Natural Heritage Program

625 Broadway, Fifth Floor, Albany, NY 12233-4757

P: (518) 402-8935 | F: (518) 402-8925

www.dec.ny.gov

August 25, 2022

Allison McAuliffe
VHB
940 Main Campus Drive, Suite 500
Raleigh, NC 27606

Re: Docket No. FD 36575 Townline Rail Terminal, LLC– Construction and Operation
Exemption

County: Suffolk Town/City: Smithtown

Dear Allison McAuliffe:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to the above project.

We have no records of rare or state-listed animals or plants, or significant natural communities at the project site or in its immediate vicinity.

The absence of data does not necessarily mean that rare or state-listed species, significant natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain information that indicates their presence. For most sites, comprehensive field surveys have not been conducted. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other resources may be required to fully assess impacts on biological resources.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities, and other significant habitats maintained in the Natural Heritage database. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the NYS DEC Region 1 Office, Division of Environmental Permits, at dep.r1@dec.ny.gov.

Sincerely,



Heidi Krahling
Environmental Review Specialist
New York Natural Heritage Program



Department of Transportation

KATHY HOCHUL
Governor

MARIE THERESE DOMINGUEZ
Commissioner

RICHARD B. CAUSIN, P.E.
Regional Director

July 22, 2022

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

RE: Docket No. FD36575, Townline Rail Terminal, LLC – Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY

Dear Ms. Poole,

The New York State Department of transportation (“NYSDOT”) is in receipt of a letter dated June 22, 2022, regarding a request by Townline Rail Terminal, LLC (Townline) to construct and operate a new common carrier line in Smithtown, New York. Your letter asks for information on “any environmental resources that may be affected” by the proposal, as well as any “requirements or concerns from [NYSDOT].”

According to your letter, Townline is seeking authority from the Surface Transportation Board (STB) to construct and operate approximately 5000 feet of new common carrier rail line in Smithtown, Suffolk County, New York. Townline intends to construct this line at the northern end of an 82-acre tract, adjacent to and parallel with the Long Island Rail Road’s (“LIRR”) Port Jefferson Line. You indicate that Townline and would initially move incinerator ash and construction/demolition debris for an affiliated company (CarlsonCorp, Inc.) that operates a waste transfer facility at this site, and that it also plans to offer rail service to adjacent properties.

Without additional information, NYSDOT is unable to provide detailed information at this time regarding what, if any, environmental resources may be affected by Townline’s proposal. To that end we recommend that a study of the area be conducted that includes the “facility” being proposed (the rail line) and any anticipated road improvements. Specifically, that includes the following:

- Screening for the presence of contaminated soils and plans to address the same if found during construction.
- Screening for the presence for threatened and endangered species and habitat.
- Screening for the presence of cultural and historic resources.

- Information regarding traffic and associated emissions effects on roadway network, if any (e.g. trucks in and out of the facility during construction and operation).
- Information that addresses the Clean Air Act general conformity requirements.

In addition, it appears that the line being proposed will be constructed in or around a residential area. To that extent NYSDOT recommends that public outreach be conducted regarding the proposal and that an identification of any impacted disadvantaged populations (i.e. minority, low-income, persons with limited English proficiency etc.) be made. Given the proposed line's location, Environmental Justice (EJ) concerns may exist, and all relevant Executive Orders - including those directing community engagement – will need to be complied with.

Finally, it is not clear from your letter whether any railroad crossings will be created or modified as part of Townline's proposal. However, please know that to the extent that any public rail crossings will be created or impacted, or if any crossing on the LIRR's line will be modified or created, a public hearing is required by New York State law, and an order from the NYSDOT approving such creation or modification will be needed.

Thank you for advising the NYSDOT about Townline's proposal. Please do not hesitate to contact me if additional information is needed during your environmental review.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Causin', with a long horizontal line extending to the right.

Richard Causin, P.E.
Regional Director, Region 10

TOWN OF SMITHTOWN

SUPERVISOR
EDWARD R. WEHRHEIM

TOWN COUNCIL
THOMAS J. McCARTHY
LYNNE C. NOWICK
LISA M. INZERILLO
THOMAS W. LOHMANN



Office of the Supervisor
99 West Main Street
P.O. Box 9090
Smithtown, NY, 11787

July 19, 2022

Surface Transportation Board
Office of Environmental Analysis
Danielle Gosslin, Director
Andrea Poole, Program Manager
395 E Street SW
Washington, DC 20423

RE: Docket No. FD 36575
Environmental Comments

Dear Director Gosslin,

The following comments are submitted on behalf of the Town of Smithtown in response to OEA's request for information on environmental impacts of the applicant's proposed common carrier line; whether permits will be needed in the event of additional fieldwork; and other Town requirements and concerns.

Our current understanding is that the applicant's proposal includes a rail terminal facility structure and a layout of internal roads to handle trucks and other vehicles using the facility. The Town does not currently permit a rail transfer facility within its borders. The Town's municipal code provisions will have to be amended to add rail transfer as a permitted use.

The Town is in the process of preparing an updated town-wide Comprehensive Plan that will include rail transfer as a potential use. The draft Comprehensive Plan is currently undergoing an environmental review under New York's Environmental Quality Review statute (Envir. Conserv. L. Art. 8) and its regulations. The updated Comprehensive Plan is expected to be adopted by the Town in 2023.

The construction and use of the facility structure and the layout of internal roads falls within the Town's land use jurisdiction. A building permit will be required for the facility and site plan approval will be required.

The Town anticipates that the proposed rail terminal will increase the demand for industrial uses on the applicant's properties and will have potential environmental impacts including noise, fugitive dust and odors, ground and surface water and traffic. These impacts will have to be

Tel: (631) 360-7600 email: Supervisor@tosgov.com

www.smithtownny.gov

Page Two
July 19, 2022
Danielle Gosslin, Director
Andrea Poole, Prog. Mgr.
Office of Environmental Analysis
Re: Docket No. FD 36575

reviewed separately under New York's SEQR statute and regulations. It is also anticipated that STB's NEPA review will inform the Town's SEQR for all actions adjacent to the proposed rail line.

Moreover, the Town is of the opinion that it is in the Town's best interest to reconfigure the Carlson properties by rezoning the parcels to heavy and light industry. The rezoning will also be subject to New York SEQR analysis.

The Town is mindful that there is an existing single-family neighborhood located northeast of the proposed rail site that may be impacted by the proposed rail line and transfer facility.

Lastly, OEA inquired whether Town-issued permits would be necessary if your office's environmental analysis requires additional fieldwork. Permits will not be permitted if the additional work is of the nature described to us – small samples of plants, soil (by hand auger), water. The Town requests notice of when the work would be done and who will be on the site.

Thank you for the opportunity to provide these preliminary comments. If OEA should need any further information, please contact our office.

Very truly yours,



Edward Wehrheim
Supervisor

ERW/xxx
cc: David Barnes, Director
Dept. of Environment & Waterways
Peter Hans, Director
Dept. of Planning & Community
Development
Matthew V. Jakubowski
Town Attorney
Thomas J. McCarthy, Councilman
Lynne C. Nowick, Councilwoman
Lisa M. Inzerillo, Councilwoman
Thomas W. Lohmann, Councilman

COUNTY OF SUFFOLK



STEVEN BELLONE
SUFFOLK COUNTY EXECUTIVE

DEPARTMENT OF HEALTH SERVICES

GREGSON H. PIGOTT, MD, MPH
Commissioner

July 22, 2022

Andrea Poole
US Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423
Via Electronic Submission at <https://stb.gov>

Re: Docket No. FD 36575

Townline Rail Terminal, LLC – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY
Construction and Operation Exemption; Preliminary Consultation
SCTM # 0800 – 023 – 02 – 5, 6.1, 7.1, 8, 9.1, 11.2, 12, 13.1, 13.2, 13.3, 13.4, etc.

Dear Andrea Poole,

The Suffolk County Department of Health Services Division of Environmental Quality (SCDHS; "Department"; "Division") has received the letter dated June 22, 2022 concerning the above referenced proposal. The Division has not received an application for this above referenced proposal.

Please note that this response is based upon the limited information provided and is subject to change once additional information becomes available. Based upon our review, the Division offers the following preliminary comments. However, the Division wishes to reserve its right to provide more detailed information within the comment period(s) established for this action. These comments should not be construed as an implicit SCDHS approval or rejection of the project. All applications are reviewed thoroughly with respect to Suffolk County Sanitary Code concerns by appropriate departmental personnel when SCDHS applications are submitted.

1. The Office of Water Resources (OWR) has noted that there are potential non-community and private



Public Health
Prevent. Promote. Protect.

DIVISION OF ENVIRONMENTAL QUALITY – Office of Ecology
360 Yaphank Avenue, Suite 2B, Yaphank, NY 11980 (631) 852-5750 Fax (631) 852-5812

supply wells downgradient of the project area, and the project site is also in the 25-50 year groundwater contributing area to Smithtown Bay. Any potential impacts to groundwater and downgradient non-community and private supply wells will need to be evaluated. When there is more information available, the Office of Water Resources can meet with the lead agency and/or applicant to discuss further.

2. Permits and/or project-specific reviews that may be required from the Division include, but are not limited to:
 - a. The Office of Pollution Control (OPC) reviews projects for any sanitary code requirements for either storage of hazardous waste (depending on nature of waste received) or petroleum bulk storage. A Permit to Operate may be required depending on the nature of materials handled and stored. When there is more information available, the Office of Pollution Control can meet with the lead agency and/or applicant to discuss further. It should be noted that this project site is in an Article 7 restricted area and storage of any toxic or hazardous materials, as defined in Article 7 of the Suffolk County Sanitary Code, is severely restricted.
 - b. The Office of Wastewater Management (OWM) reviews projects and requires permits for the construction of onsite sewage disposal systems and certain sewage treatment plants. A permit to construct an onsite sewage disposal system will be required if one is proposed.
 - c. The Office of Ecology (OE) conducts administrative and management activities, and provides expanded technical commentary as required by New York State Environmental Quality Review Act (SEQRA) and County mandates. Detailed technical comments are provided for major private and municipal development proposals, as well as for state and municipal planning studies (master plans, open space, Pine Barrens, etc.). This office coordinates with other Division offices (e.g., OWR, OPC, OWM) to complete these reviews.

If you have any questions, please feel free to contact the Office of Ecology at 631-852-5750.

Sincerely,



Julia Priolo
Principal Environmental Analyst
Office of Ecology
SEQRA@suffolkcountyny.gov

Cc: Gregson H. Pigott, MD, MPH, Commissioner, SCDHS
Christina Capobianco, CPA, Deputy Commissioner, SCDHS
Walter Dawydiak, Jr. P.E., J.D., Director, SCDHS Division of Environmental Quality
John Sohngen, P.E., Chief Public Health Engineer, SCDHS Division of Environmental Quality

Attachment A-2

Tribal Consultation



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Setalcott Indian Nation

By email at sellshelen9@aol.com

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

To Whom It May Concern:

Townline Rail Terminal, LLC (Townline) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new common carrier line. As part of its licensing process, the Board will conduct an environmental review under the National Environmental Policy Act (NEPA). Pursuant to NEPA and the Board's environmental rules at 49 C.F.R. Part 1105, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project.

OEA is beginning the process of gathering information on the project area and project-related issues and concerns. We are writing to you to ask you for information on any environmental resources that may be affected by the proposed project and request your comments. Information collected will assist us in preparing the appropriate NEPA document for the proposed project.

Project Background

Townline intends to seek authority from the Board to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY (the Proposed Line), shown in the attached Figure 1. Townline was established in 2021 to be a common carrier railroad. Townline is affiliated with CarlsonCorp, Inc. (Carlson) which operates a New York State Department of Environmental Conservation (NYSDEC) permitted waste transfer facility on a portion of an 82-acre site in Kings Park. Carlson recycles and processes uncontaminated concrete, asphalt pavement, rock, brick, and soil, woody yard waste, un-adulterated wood, yard waste, and horse manure.

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Request for Comments

OEA would like to hear from you regarding whether this proposal would require permitting, should additional fieldwork be needed, or any other requirements or concerns from your tribe. Please submit your response by July 22, 2022, so that we may begin the process of identifying the potential impacts of the proposed project.

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

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We look forward to your participation in the environmental review process. If you have any questions or would like to arrange a call or a meeting, please feel free to contact Andrea Poole of my staff at 202-245-0305 or by email at Andrea.Poole@stb.gov.

Sincerely,

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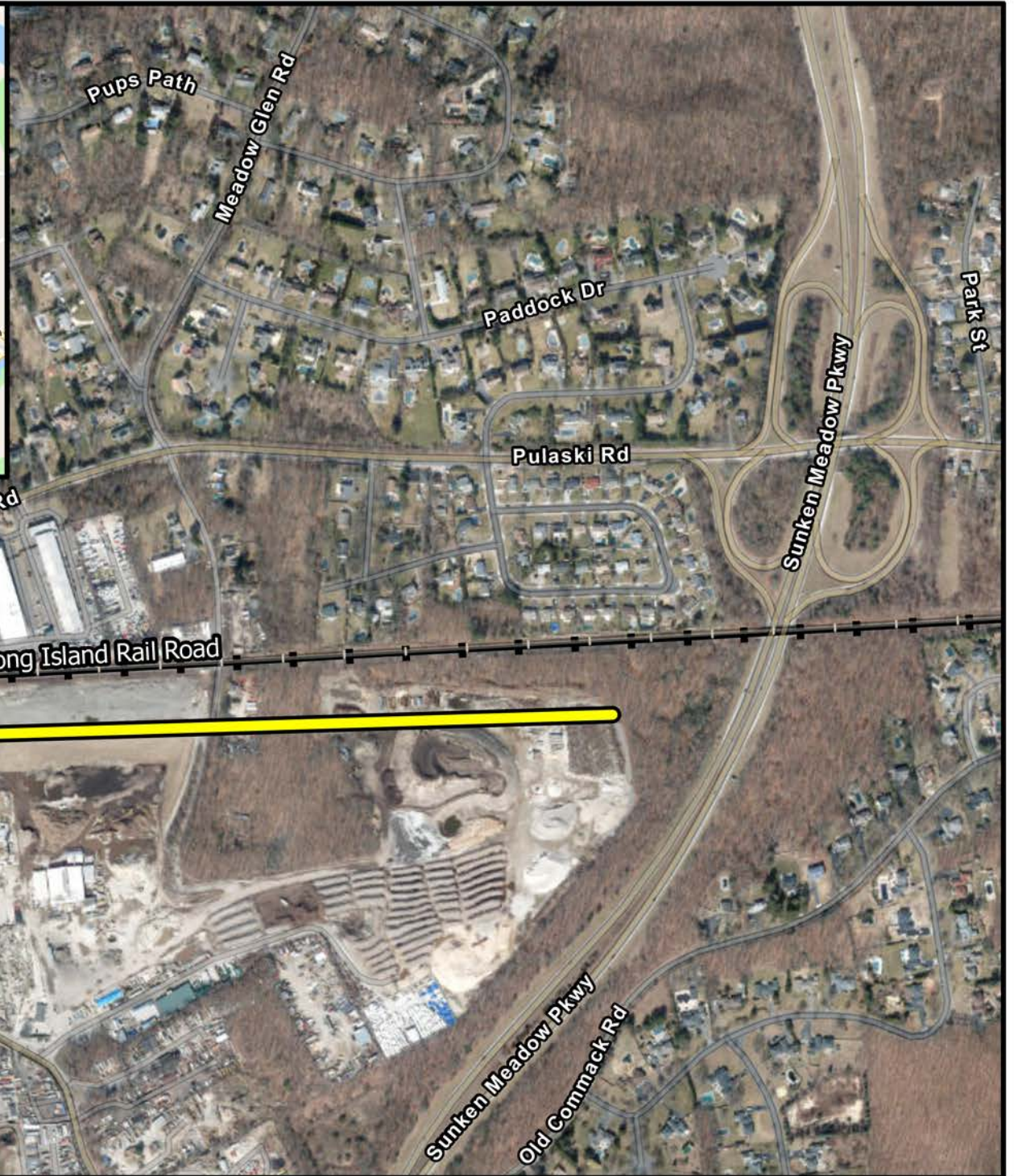
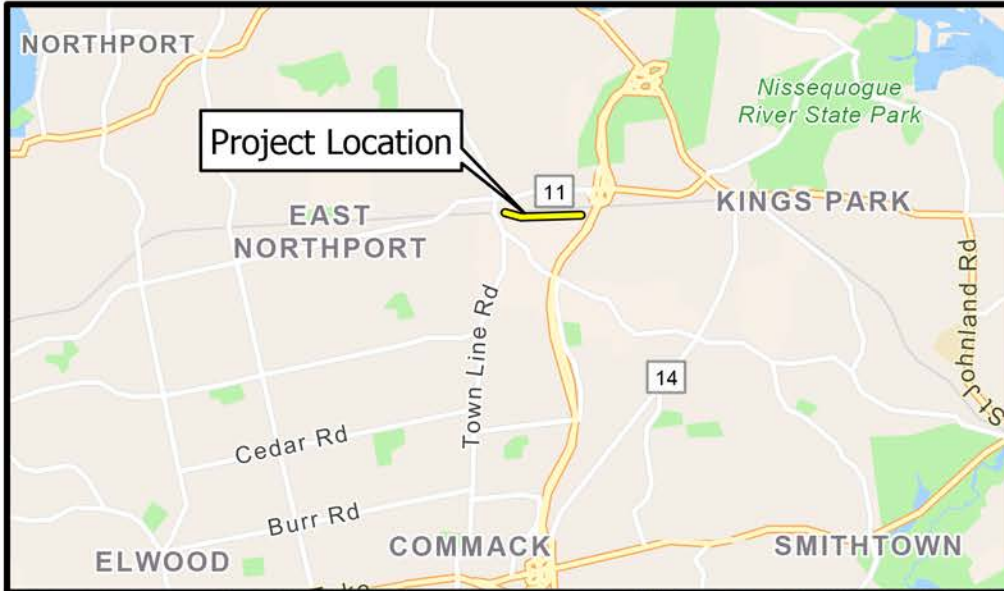
Danielle Gosselin

Director

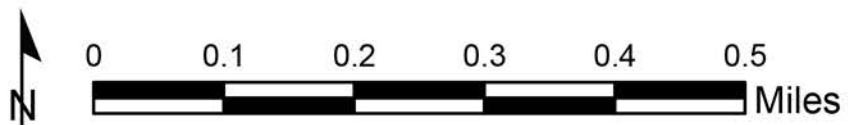
Office of Environmental Analysis

Enclosure:

Figure 1. Proposed Rail Line Location Map



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Brian Polite
Trustee
Shinnecock Indian Nation
PO Box 5006
Southampton, NY 11969

By email at adminoffice@shinnecock.org

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

Brian Polite:

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Project Background

Townline intends to seek authority from the Board to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY (the Proposed Line), shown in the attached Figure 1. Townline was established in 2021 to be a common carrier railroad. Townline is affiliated with CarlsonCorp, Inc. (Carlson) which operates a New York State Department of Environmental Conservation (NYSDEC) permitted waste transfer facility on a portion of an 82-acre site in

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Request for Comments

The Board is interested in knowing whether your tribe is interested in consulting with us regarding the broader range of impacts assessed under NEPA and whether you would want to do that under government-to-government consultation. To assist you in your response, I have attached a questionnaire regarding any future involvement your tribe may want in the overall NEPA process. Please submit the questionnaire and return it by July 22, 2022, so that we may be able to schedule any meetings, site visits, or surveys; conduct necessary follow-up activities; and incorporate your response into the scope of study, as appropriate. The Board will also be initiating consultation with Consulting Parties under the National Historic Preservation Act, including any tribe that attaches religious and cultural significance to historic properties that may be affected by this undertaking.

In addition, OEA has sent a separate letter to David Martine, the Tribal Historic Preservation Office (THPO) representative for the Shinnecock Indian Nation, requesting comments on the project and whether the THPO may want any future involvement in the overall NEPA process.

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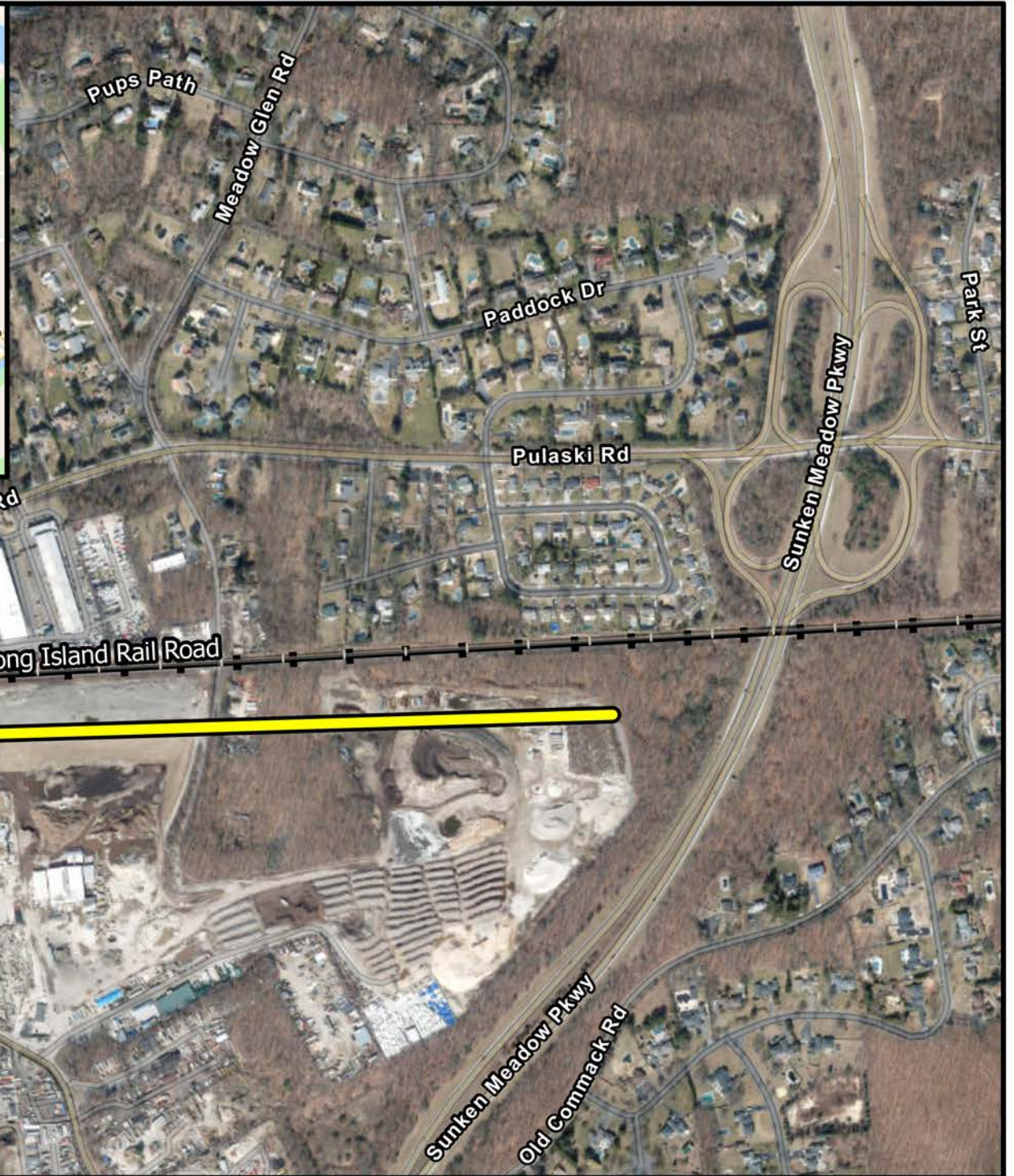
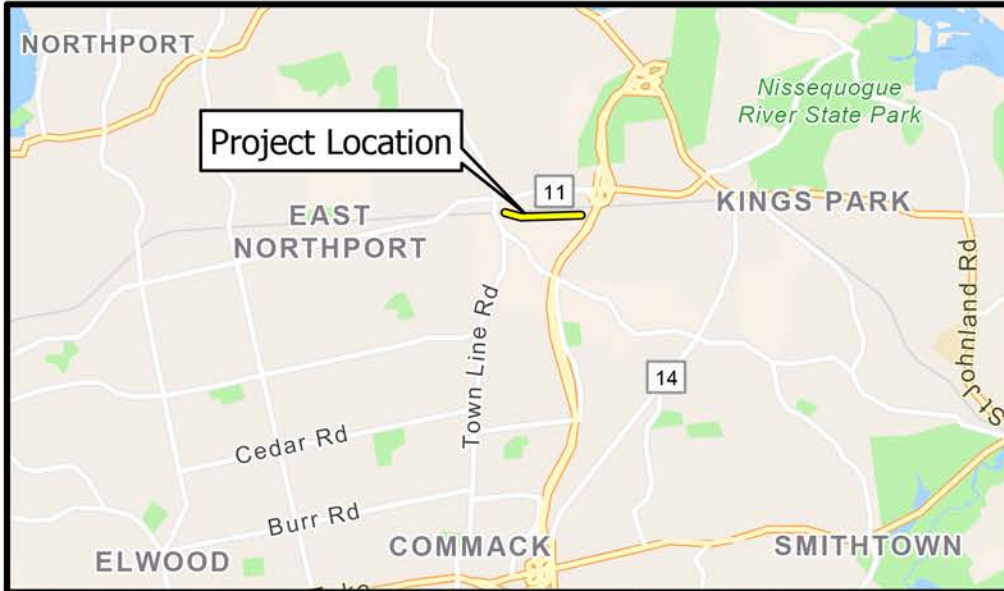
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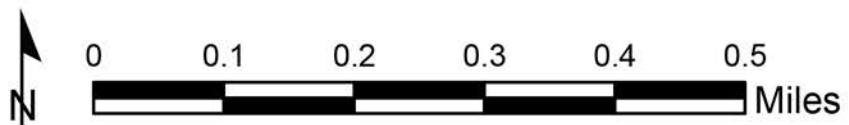
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Danielle Gosselin
Director
Office of Environmental Analysis

Enclosure:
Figure 1. Proposed Rail Line Location Map
Consultation Questionnaire



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY

CONSULTATION QUESTIONNAIRE

Brian Polite, Shinnecock Indian Nation Trustee

**Docket No. FD 36575, Townline Rail Terminal, LLC – Construction and Operation
Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary
Consultation**

Please check all the appropriate response(s) that apply from the list below and use the back of this form or additional sheets if you wish to make comments:

_____ We have no interests associated with the proposed rail line and we are not requesting further consultation with our Tribe.

_____ We want to continue to receive project information by email.

_____ We want to continue to receive project information by U.S. mail.

_____ We have an interest in the proposed rail line and want to participate in government-to-government consultation.

Name of the tribe's designated contact for the proposed rail line:

_____ Phone: _____
Please Print Name

E-mail: _____

Signed: _____ Date: _____

Please email to: Andrea.Poole@stb.gov

Or mail to: Andrea Poole, Surface Transportation Board

Docket No. FD 36575
395 E Street SW
Washington, DC 20423



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

David Martine
Shinnecock Indian Nation
THPO
PO Box 5006
Southampton, NY 11968

By email at davidmartine@shinnecock.org

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

David Martine:

Townline Rail Terminal, LLC (Townline) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new common carrier line. As part of its licensing process, the Board will conduct an environmental review under the National Environmental Policy Act (NEPA). Pursuant to NEPA and the Board's environmental rules at 49 C.F.R. Part 1105, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project.

OEA is beginning the process of gathering information on the project area and project-related issues and concerns. As part of the process, the Board must evaluate the potential impacts of the proposed project on historic properties, in accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), the Section 106 implementing regulations (36 C.F.R. Part 800), and the Board's environmental regulations (49 C.F.R. Part 1105).

Project Background

Townline intends to seek authority from the Board to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY (the Proposed Line), shown in the attached Figure 1. Townline was established in 2021 to be a common carrier railroad. Townline is affiliated with CarlsonCorp, Inc. (Carlson) which operates a New York State Department of Environmental Conservation (NYSDEC) permitted waste transfer facility on a portion of an 82-acre site in

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Initiation of Section 106 Consultation

OEA would like to initiate consultation with your office for the project as currently proposed by Townline. OEA will define the Area of Potential Effects (APE) for historic properties in accordance with 36 C.F.R. Part 800, 49 C.F.R. § 1105.8. OEA expects that the APE for the proposed development will comprise the approximately 5,000 linear feet of new common carrier rail line in Smithtown. The APE for the undertaking will consist 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 will extend the length of the proposed project and will extend the width of required rail Right-of-Way (ROW) to encompass the entire area in which ground disturbing activities could potentially occur. To account for potential effects to existing and unrecorded built historic properties, OEA proposes a 500-foot viewshed to be included in the Above-Ground APE (250 feet on either side of the required ROW centerline and 250 feet at each end) to account for potential setting, visual, noise, or other impacts from construction activities. The APE will be further refined as additional information about the proposed project and its potential to affect cultural resources becomes available.

Request for Comments

OEA requests that you provide information regarding your interest in participating as a Consulting Party under Section 106 for this project. Please submit your comments on the proposed APE and the potential effects of the proposed project. We request your response by July 22, 2022, so that we may begin the process of identifying the potential impacts of the proposed project.

In addition, OEA has sent a separate letter to Brian Polite, the trustee for the Shinnecock Indian Nation, the Unkechaug Indian Nation, and the Setalcott Indian Nation requesting

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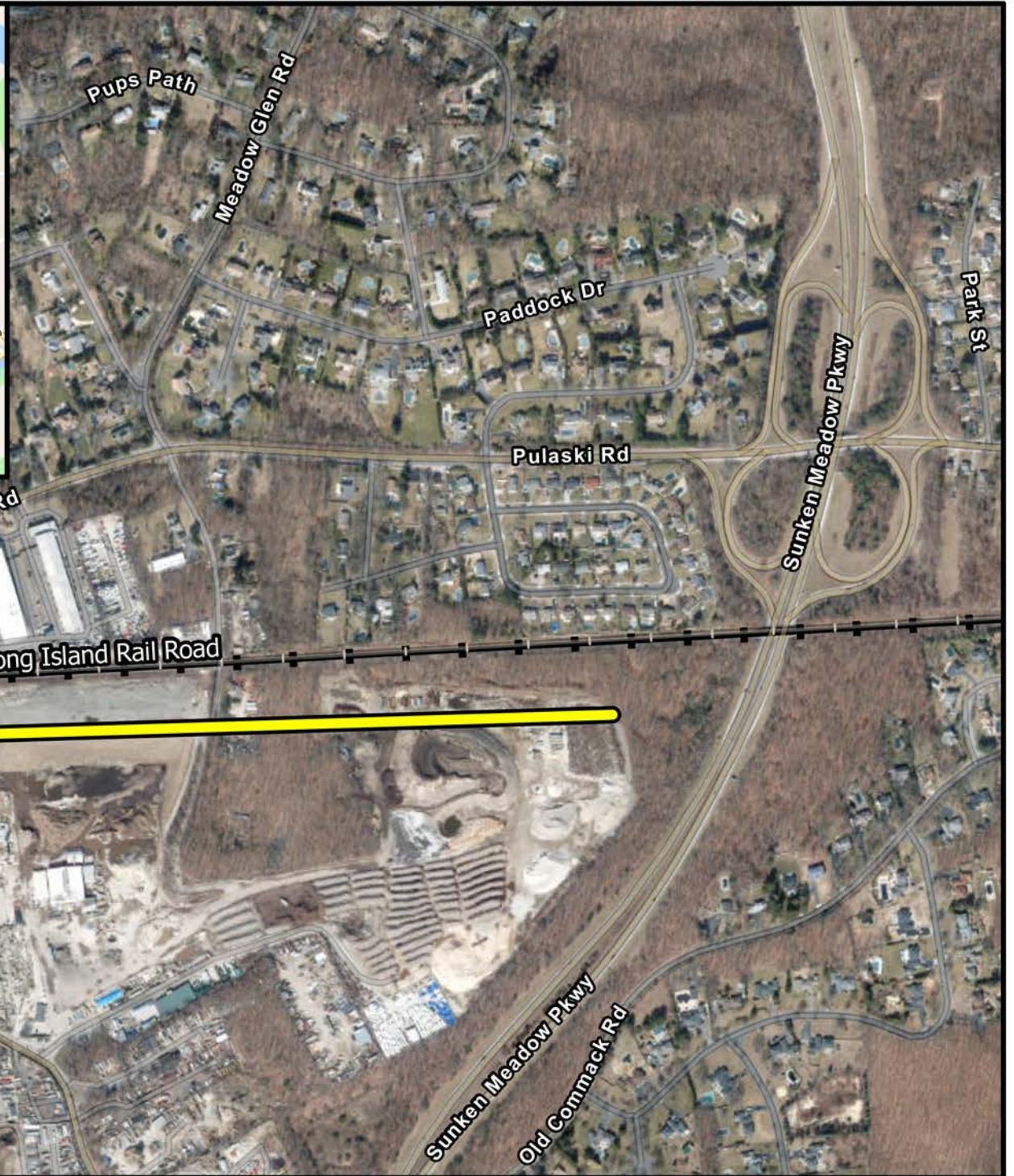
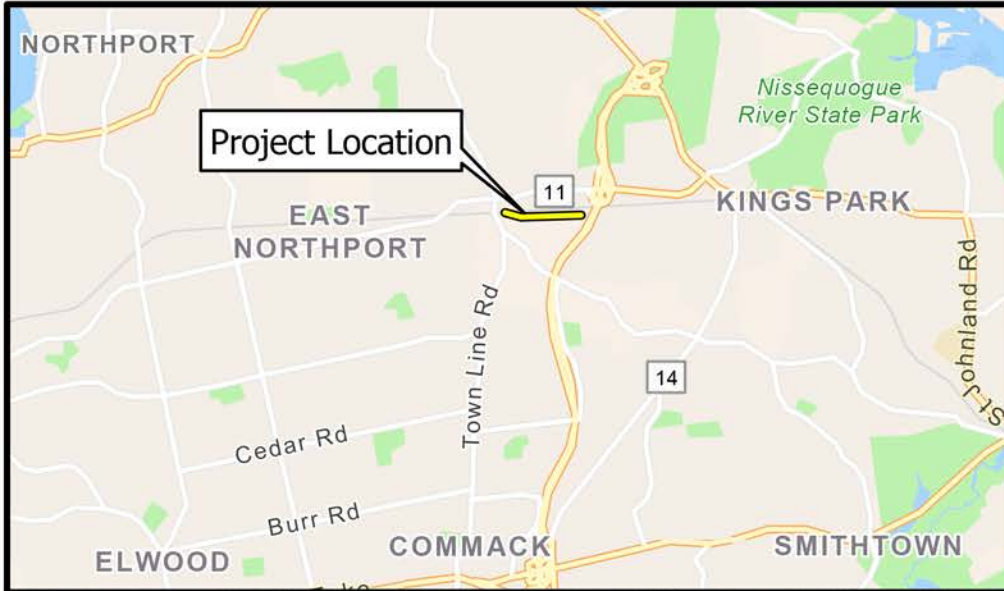
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Danielle Gosselin
Director
Office of Environmental Analysis

Enclosure:
Figure 1. Proposed Rail Line Location Map



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Unkechaug Indian Nation
151 Poospatuck Lane
Mastic, NY 11950

By email at unkechaugnation@gmail.com

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

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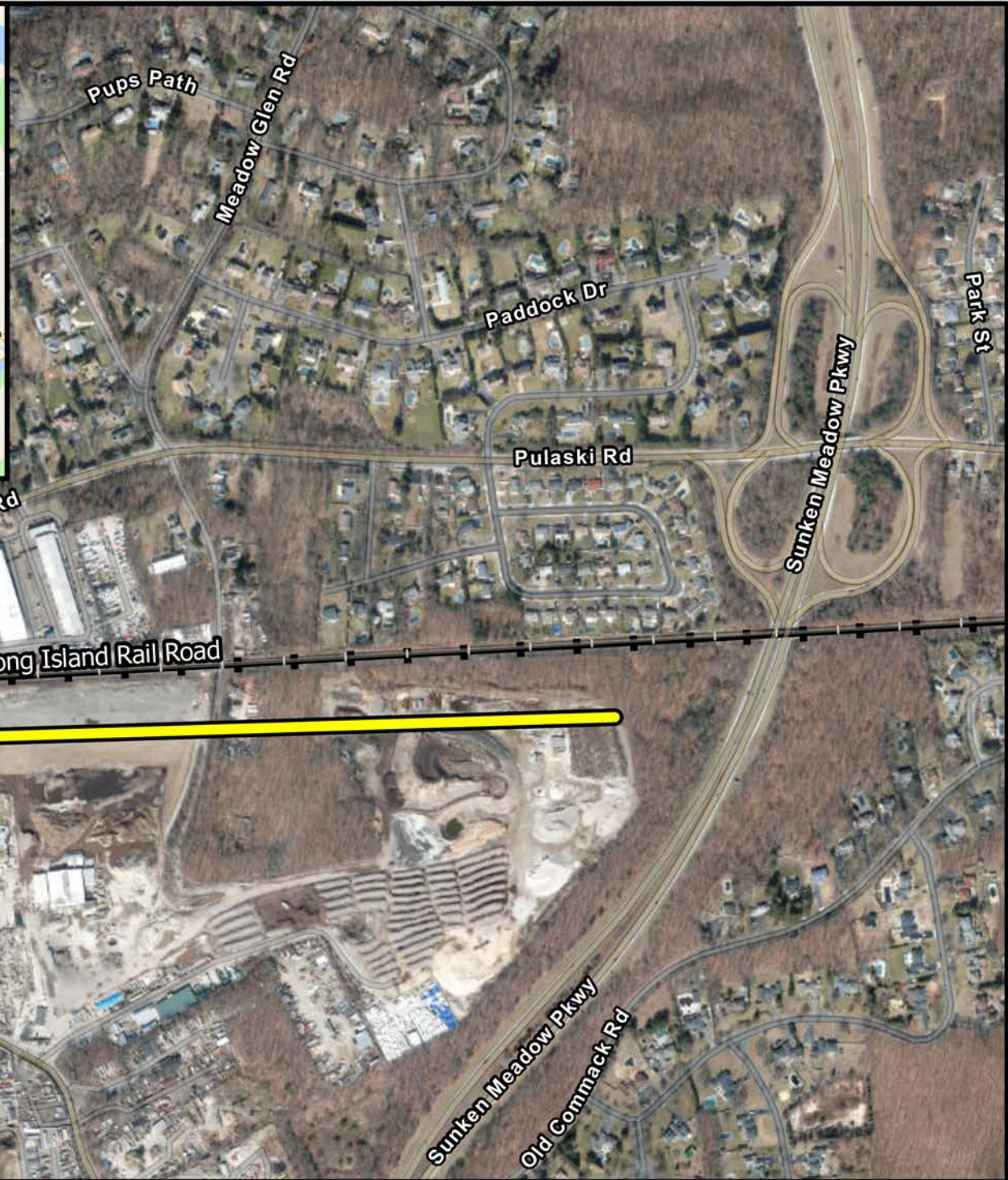
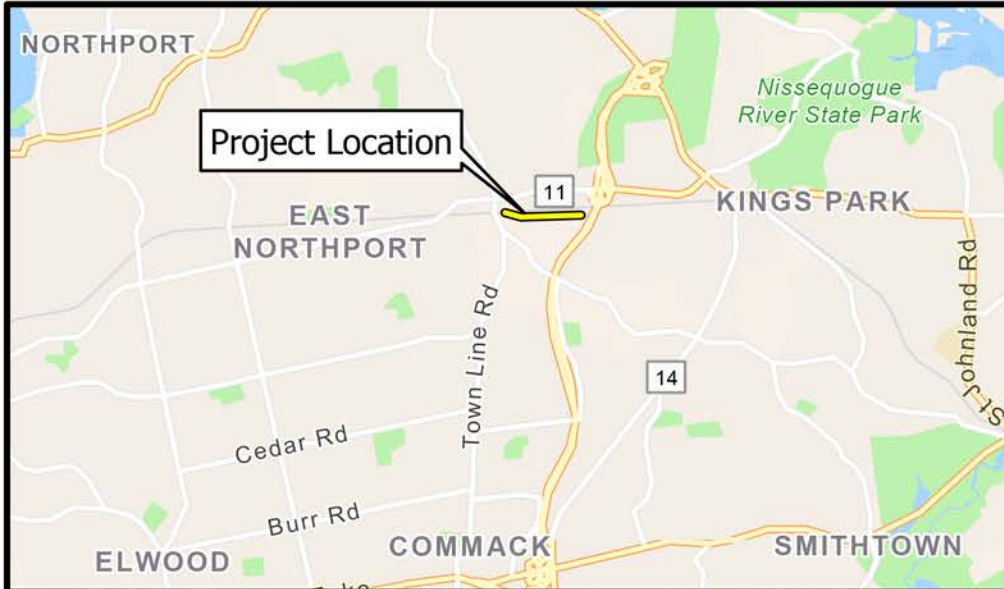
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Enclosure:

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Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY

Attachment A-3

Section 106 Consultation



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Daniel Mackay
Deputy Commissioner
NY State Historic Preservation Office
OPRHP
PO Box 189
Waterford, NY 12188

By email at Daniel.Mackay@parks.ny.gov

RE: Docket No. FD 36575, Townline Rail Terminal, LLC – Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

Daniel Mackay:

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OEA is beginning the process of gathering information on the project area and project-related issues and concerns. As part of the process, the Board must evaluate the potential impacts of the proposed project on historic properties, in accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108), the Section 106 implementing regulations (36 C.F.R. Part 800), and the Board's environmental regulations (49 C.F.R. Part 1105).

As part of the NEPA and Section 106 processes, OEA is requesting your initial comments regarding the potential for the proposed rail line to affect historical, architectural, archeological, or other historic properties that may be in the project area.

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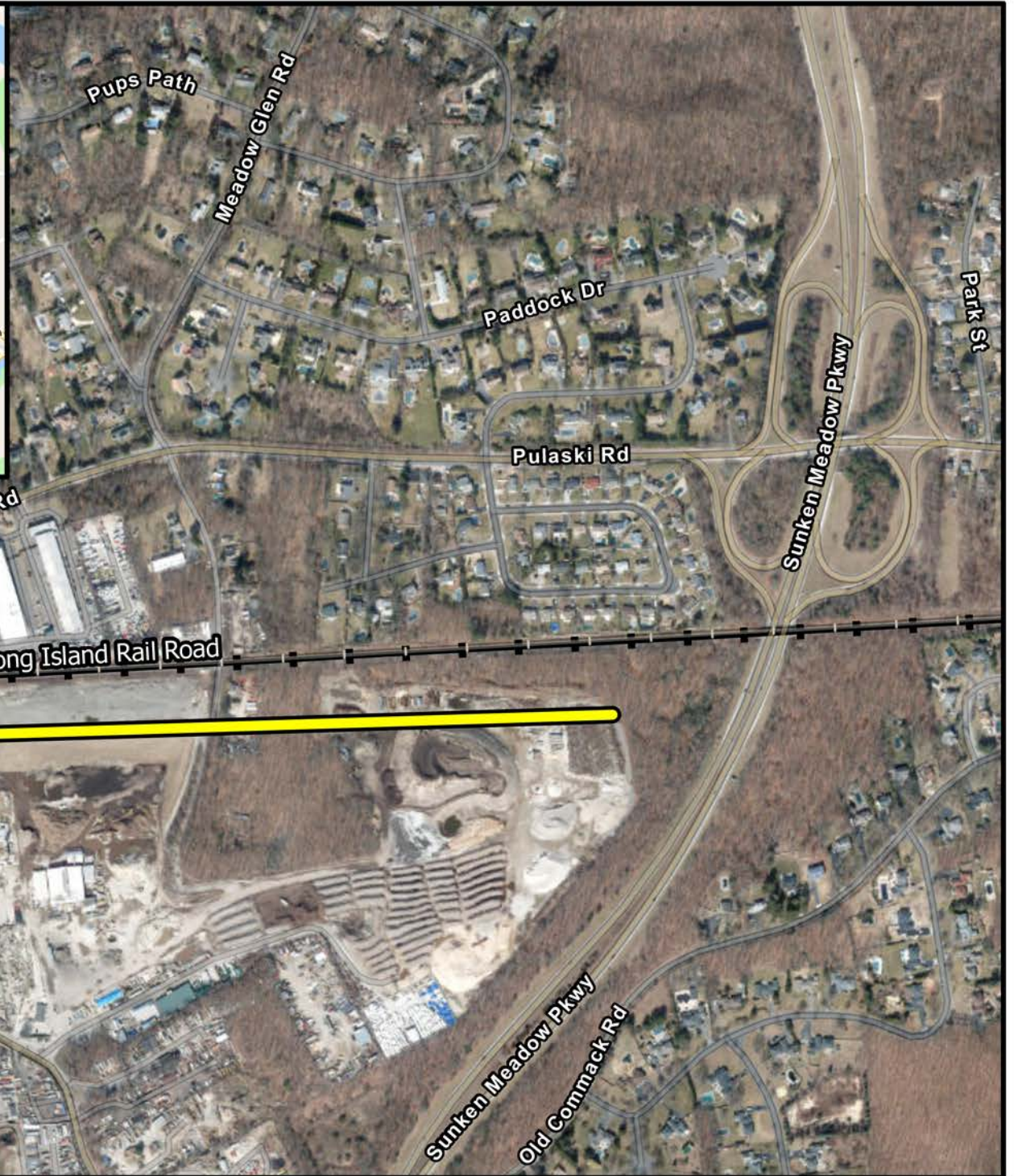
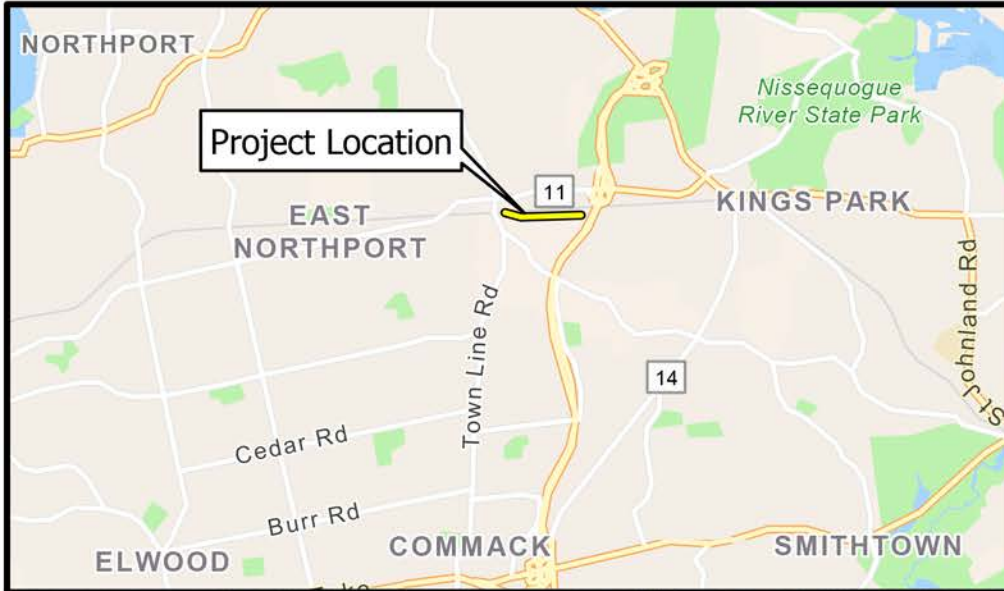
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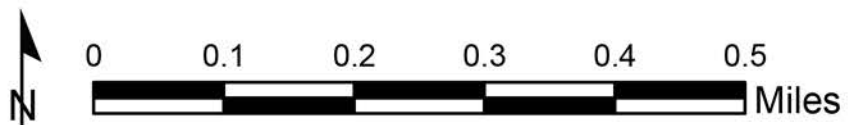


Danielle Gosselin
Director
Office of Environmental Analysis

Enclosure:
Figure 1. Proposed Rail Line Location Map



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

July 15, 2022

Allison McAuliffe
Transportation Planner
VHB
940 Main Campus Drive
Suite 500
Raleigh, NC 27606

Re: STB
Townline Rail Terminal, LLC - Construction and Operation Exemption
Smithtown, Suffolk Co.
22PR04254
Docket No. FD 36565

Dear Allison McAuliffe:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the submitted materials in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

The project area is adjacent to a National Register eligible railroad trestle. Given that the project is for a new railroad line to connect to the existing line, we have reviewed the project for its potential impact on the railroad trustle.

It is the opinion of SHPO that the project will have No Adverse Impact on historic resources.

If you have any questions, I can be reached at sloane.bullough@parks.ny or 518-268-2158.

Sincerely,

Sloane Bullough
Historic Sites Restoration Coordinator by email only

Attachment A-4

Section 7 Consultation



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 22, 2022

Long Island Ecological Services Field Office
USFWS
340 Smith Road
Shirley, NY 11967-2258

By email at FW5ES_NYFO@fws.gov

RE: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; Preliminary Consultation

To Whom It May Concern:

Townline Rail Terminal, LLC (Townline) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new common carrier line. As part of its licensing process, the Board will conduct an environmental review under the National Environmental Policy Act (NEPA). Pursuant to NEPA and the Board's environmental rules at 49 C.F.R. Part 1105, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project.

OEA is beginning the process of gathering information on the project area and project-related issues and concerns. We are writing to you to ask you for information on any environmental resources that may be affected by the proposed project and request your comments. Information collected will assist us in preparing the appropriate NEPA document for the proposed project.

Project Background

Townline intends to seek authority from the Board to construct and operate approximately 5,000 feet of new common carrier rail line in the Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY (the Proposed Line), shown in the attached Figure 1. Townline was established in 2021 to be a common carrier railroad. Townline is affiliated with CarlsonCorp, Inc. (Carlson) which operates a New York State Department of Environmental Conservation (NYSDEC) permitted waste transfer facility on a portion of an 82-acre site in Kings Park. Carlson recycles and processes uncontaminated concrete, asphalt pavement, rock, brick, and soil, woody yard waste, un-adulterated wood, yard waste, and horse manure.

Townline intends to construct the Proposed Line at the northern end of the 82-acre tract, adjacent to and parallel with the Long Island Rail Road's (LIRR) Port Jefferson rail line (Port Jefferson Line). New York & Atlantic Railway operates freight services on the Port Jefferson Line and has entered into an agreement with Carlson to install a new switch connecting the Proposed Line to the interstate rail network.

Townline would initially move incinerator ash, a by-product from Covanta Energy's (Covanta) waste-to-energy facility, and construction and demolition debris (C&D debris) for Carlson. Townline also plans to offer rail service to adjacent properties, potentially including Kings Park Ready Mix, Kings Park Materials (asphalt plant), and Pelkowski Precast Concrete. Townline anticipates an increased need for the Proposed Line because the Town of Brookhaven waste management facility (ash-monofill/landfill), which currently accepts incinerator ash from Covanta and C&D debris, is scheduled to close in 2024. Townline believes that the Proposed Line would offer an alternative to truck transport off Long Island by providing efficient, direct rail transportation via the Port Jefferson Line to the interstate rail network.

Initiation of Consultation with U.S. Fish and Wildlife Service (USFWS)

OEA plans to submit a species record request to the New York Natural Heritage Program (NYNHP) to determine if there are any site-specific or site vicinity agency records for any of the federally listed species on the IPaC list. Following the receipt of a response from the NYNHP, we will prepare a project review request that will be submitted to the USFWS Long Island Field Office, following the seven-step procedure set forth on the office's website. The request will include all required information, including any NYNHP records and species determinations with supporting information for the federally listed species on the Official Species List.

Request for Comments

OEA requests your comments on the potential impacts of the proposed project. Please submit your response by July 22, 2022, so that we may begin the process of identifying the potential environmental impacts of the proposed project.

All filings and other submissions can be submitted electronically through the Board's website at <https://stb.gov>. To submit a comment on this proceeding, select "File an Environmental Comment" (below the "Need Assistance?" button) on the Board's home page. Please make sure to refer to Docket No. FD 36575 in all correspondence, including e-filings, addressed to the Board. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

As of May 24, 2022, you may also send your written comments to Andrea Poole, OEA's Project Manager for the environmental review by mail to:

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

While paper filings are once again being accepted in accordance with the Board's regulations, stakeholders are strongly encouraged to continue to submit filings via the Board's e-filing system and to consent to e-service of decisions.

We look forward to your participation in the environmental review process. If you have any questions or would like to arrange a call, please feel free to contact Andrea Poole of my staff at 202-245-0305 or by email at Andrea.Poole@stb.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Gosselin". The signature is fluid and cursive, with the first name "Danielle" written in a larger, more prominent script than the last name "Gosselin".

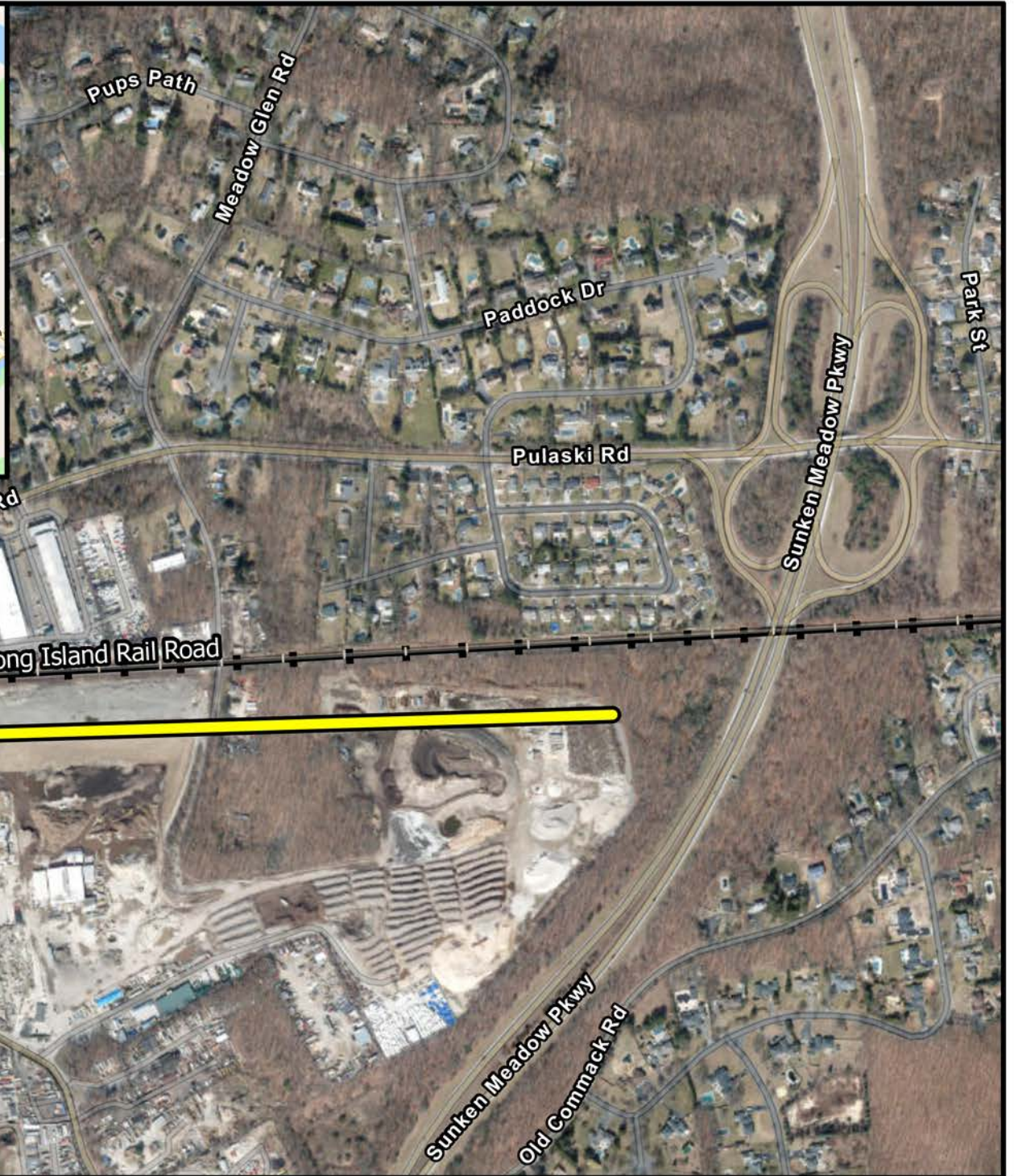
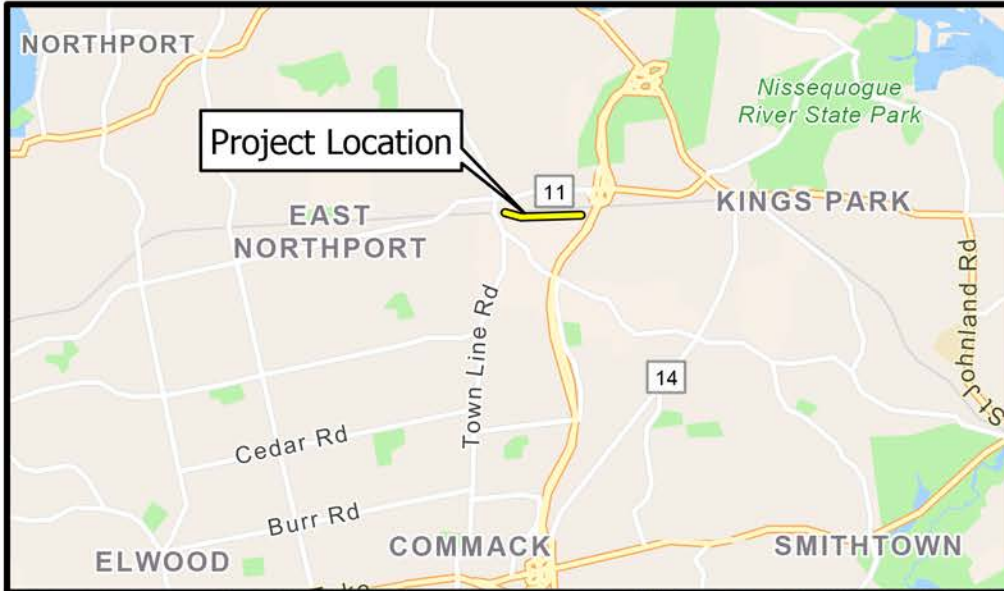
Danielle Gosselin

Director

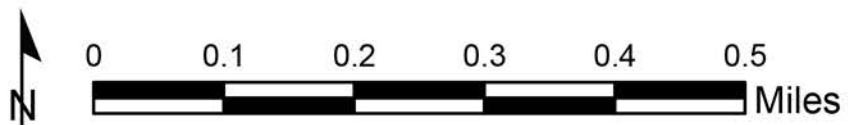
Office of Environmental Analysis

Enclosure:

Figure 1. Proposed Rail Line Location Map



Existing Railroad
 Proposed Rail Line



Docket No. FD 36575
 Townline Rail Terminal, LLC—
 Construction and Operation Exemption
 Suffolk County, NY



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

October 19, 2023

Field Supervisor
USFWS Long Island Ecological Services Field Office
340 Smith Road
Shirly, NY 11967
FW5ES_NYFO@fws.gov

Re: Docket No. FD 36575, Townline Rail Terminal, LLC –Construction and Operation Exemption – Hamlet of Kings Park, Town of Smithtown, Suffolk County, NY; **USFWS Informal Section 7 Consultation** - USFWS Project Code: 2023-0108152¹

Dear Mr. Tobin:

The Surface Transportation Board’s (Board) Office of Environmental Analysis (OEA) is in the process of preparing an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA) and related environmental laws to assess the potential environmental impacts of granting a license to Townline Rail Terminal, LLC (Townline or Applicant) to construct and operate a new common carrier rail line (the Project) in Smithtown, New York. Pursuant to Endangered Species Act (ESA) Section 7(a)(2), OEA is initiating consultation with the United States Fish and Wildlife Service (USFWS) regarding the potential effects of the Project on ESA-listed species that may occur in the project area.²

PROPOSED ACTION

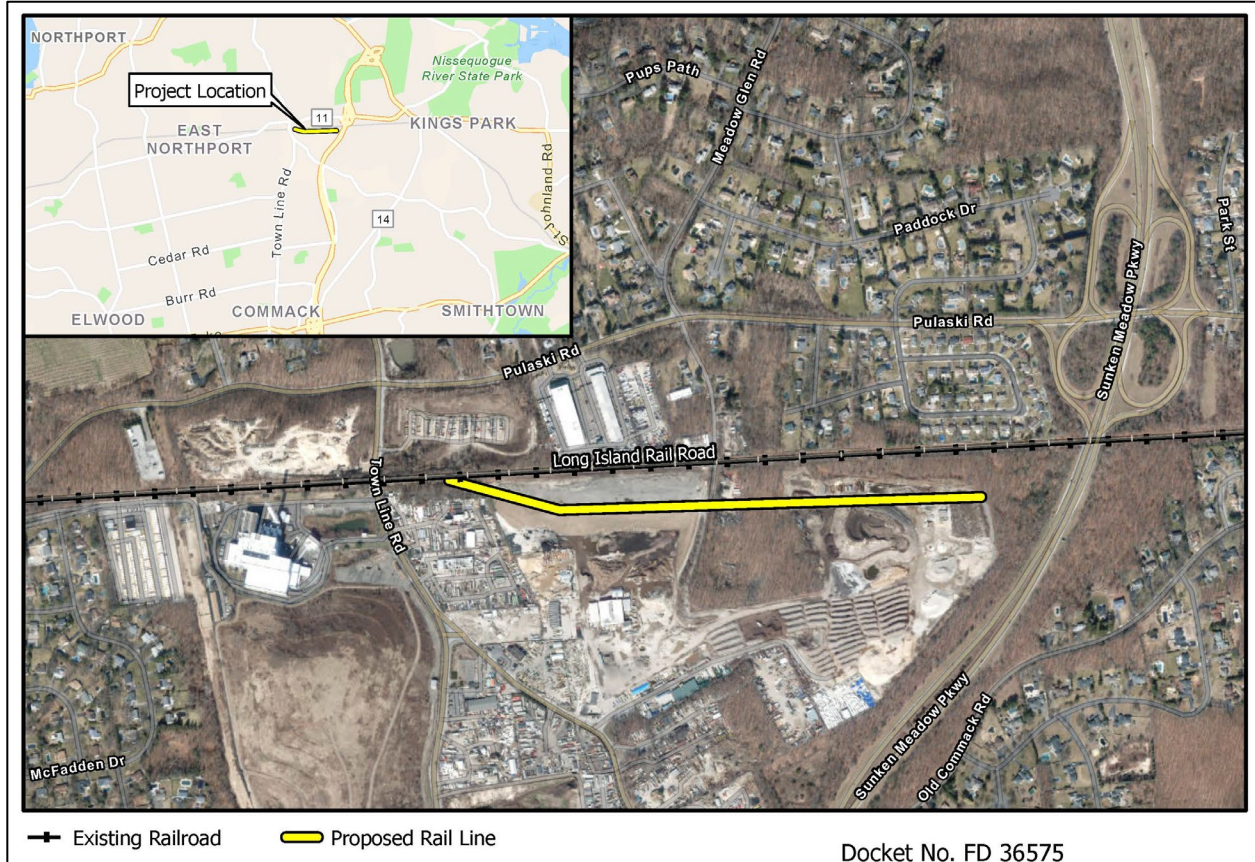
On November 17, 2022, Townline filed a petition in Docket No. FD 36575 seeking authorization from the Board to construct and operate approximately 5,000 feet of new common carrier rail line and associated switching and sidetrack in Smithtown, New York (the Proposed Action; **Figure 1**). Townline states the Proposed Action is needed to provide a rail option for transporting incinerator ash and construction and demolition (C&D) debris off Long Island. The service would also be marketed to local customers for import of goods and commodities. Townline railcars would be transported to and from the project site by the New York and Atlantic Railway (NYA), which is a short line freight railroad operating in New York’s Suffolk,

¹ USFWS Official Species List, dated July 24, 2023 (see Attachment B) lists the project name as “Proposed Towline Rail.” Correct name is listed above “Townline Rail Terminal, LLC – Construction and Operation Exemption.”

² Note that OEA sent a project initiation letter to the Long Island Ecological Services Field Office on June 22, 2022.

Nassau, Kings, and Queens Counties, on tracks owned by the Metropolitan Transportation Authority's (MTA) Long Island Railroad (LIRR).

Figure 1. Project Location



BACKGROUND AND PROJECT DESCRIPTION

The project site is located on an 82-acre industrial property that includes an existing 66-acre waste transfer facility.³ As noted above, the Project is needed to provide a rail option for transporting incinerator ash and C&D debris off Long Island to customers. In 2024, the Brookhaven landfill (the only disposal option for incinerator ash and C&D debris on Long Island) will reach maximum capacity and close.⁴ Once Brookhaven Landfill is closed, manufacturers will need to transport all incinerator ash and C&D waste off Long Island. The Project would offer an alternative to truck transport (the current mode of transport at the facility) off Long Island by providing efficient, direct rail transportation via LIRR's Port Jefferson Rail Line (Port Jefferson Line) to the interstate rail network.

³ The property and waste transfer facility (New York State Department of Environmental Conservation-permitted) are owned and operated by Carlson Corp, Inc. (Carlson). Carlson established Townline in 2021 to be a common carrier railroad.

⁴ Brookhaven Landfill is the final destination for the C&D and incinerator ash (over 20 miles from the project site).

The Project includes the construction and operation of approximately 5,000 feet of new, common carrier single-line rail track and associated switching and sidetrack in the northern portion of the 82-acre industrial property (**Figure 2**). The conceptual design illustrates the proposed track and associated switching and sidetrack offset approximately 150 feet from the existing LIRR track. Townline would construct the Project on an embankment to be consistent with the elevation of the adjacent LIRR track. This configuration (of the rail line adjacent to the LIRR) would allow for efficient operations of the train pulling in and out of the property.

Figure 2. Proposed Conceptual Track Layout



Carlson would construct and operate roads and buildings independently of the Proposed Action that are subject to state and local regulation. These facilities include an indoor 200-foot(ft) x 400-ft rail transfer station and a semi-enclosed 100-ft x 200-ft material storage building (**Figure 2**). The buildings would be accessed by approximately 5,675 ft of new roads on the property to facilitate transload between railcars and trucks. The construction and operation of these facilities are not within the Board’s jurisdiction but, for ESA purposes, would be considered a consequence caused by the Proposed Action that is reasonably certain to occur.⁵ As such, these ancillary facilities are also considered as “effects of the action”, as defined in ESA regulations at 50 CFR 402.02.

⁵ These facilities are being evaluated as cumulative impacts in the Draft Environmental Assessment because Carlson would construct and operate these roads and buildings independently of the Proposed Action.

Construction

Townline proposes to construct the Project across 14.40 acres within the northern portion of the 82-acre industrial property, adjacent to and parallel with the Port Jefferson Line (**Figure 2**). As illustrated in **Figure 2**, new construction would occur within the entirety of the project area, as well as within the footprints of the access roads and buildings that Carlson would construct. Townline anticipates that the temporary construction footprint would be approximately 25 feet on either side of each track roadbed. Townline anticipates construction would last approximately 12 months and would occur during daytime hours. Construction materials would be delivered to the project site by truck, as there is currently no active rail siding at the project site and offloading from the Port Jefferson Line is not permitted. Certain material (e.g., ties, rail) could be delivered by rail to the nearest available siding along the Port Jefferson Line (St. James or Greenlawn) and trucked to the project site. Construction materials will be stored on the property between the proposed rail line and the LIRR in a laydown area (see **Figure 2**). Equipment needed to construct the Project 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 will be installed for the duration of the construction period.

Operations

The proposed rail line would transport incinerator ash and clean C&D debris off Long Island. The owner would also market the service to other potential customers for importing goods and commodities, such as importing aggregate and construction materials to supply local Huntington and Smithtown businesses (e.g., an asphalt plant, cement ready-mix plant, and precast producer). In coordination with Townline, NYA would operate one round-trip train per day, five days a week, during operations. Materials would be shipped in sealed containers or on open rail cars pursuant to industry standards. NYA trains delivering and picking up cars would be an average of 1,900 feet long and consist of two locomotives per train, with a maximum of 27 cars per train. The proposed 5,000 feet of track would hold 54 cars at one time. Twenty-seven cars per train is the maximum the site can support for interchange with NYA without switching on the Port Jefferson Branch, which is the preferred operation for NYA and LIRR. Townline expects that train length will average 16 cars but would not exceed 27 cars. Operations would occur during daytime and nighttime hours. Daytime operations would occur generally between 6:00 am and 6:00 pm (Monday through Saturday), which are the permissible hours of operation for the waste transfer facility. NYA would serve the facility at night (i.e., outside of daytime hours) during off-peak periods when adequate slots are available for freight movement along the LIRR mainline track. Inbound trains would pull in, drop cars on one or more-yard tracks, pick up cars from other tracks, and depart during the night.

Applicant Proposed Avoidance and Minimization Measures

As part of the Project, Townline has voluntarily proposed the following measures to avoid impacts on the federally endangered Northern Long-Eared Bat (NLEB) (see Attachment C). If the Board authorizes the Proposed Action, Townline, their employees, and their contractors

would be required to strictly adhere to these measures, as well as any additional mitigation measures recommended by OEA and imposed by the Board in its final decision.

- The Applicant would not conduct construction-related tree removal for the Project during the NLEB active season (March 1 to November 30 [New York State Department of Environmental Conservation’s NLEB active season for Suffolk County]).⁶
- During construction, the Applicant would 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 Project, 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.
- During construction, the Applicant would direct any temporary lighting away from suitable NLEB habitat during the active season for this species (March 1 to November 30). The Applicant would use downward-facing, full cut-off lens lights for any temporary lighting used during construction of the Project.
- During operations, the Applicant would use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting) for the proposed permanent lights.

ACTION AREA

ESA regulations define the action area as all areas to be affected directly or indirectly by the proposed project and not merely the area immediately adjacent to the action. Therefore, the action area includes the project area and the footprints of the roads and buildings (See **Figure 2**) plus all areas surrounding these areas where construction or operations activities could potentially affect the environment (i.e., potential noise and visual impacts).

FEDERALLY LISTED SPECIES AND HABITATS IN THE ACTION AREA

OEA obtained an official species list from the USFWS’s Information for Planning and Consultation (IPaC) tool on July 24, 2023, identifying federally listed species that may occur or potentially occur in the action area (Attachment B; **Table 1**).

⁶ Note that the USFWS considers the NLEB active season in New York to be April 1 to October 31 (https://www.fws.gov/sites/default/files/documents/Inactive%20Season%20Dates%20for%20Swarming%20and%20Staging%20Areas_0.pdf).

Table 1: Federally Listed Threatened, Endangered, and Candidate Species that May Occur in the Action Area

Species	Federal Status	Species Habitat Description ^{3,4}	Habitat Present in the Action Area
piping plover (<i>Charadrius melodus</i>)	Threatened ¹	Oceanfront beaches and barrier islands; forages on intertidal beaches, exposed mudflats and sandflats, wrack lines and shorelines.	No
red knot (<i>Calidris canutus rufa</i>)	Threatened ²	Oceanfront beaches and barrier islands during migration; tidal flats (sand or mud), shoals, sand bars, and unvegetated portions of salt marshes (e.g., pans, blowouts); nests in Canada and migrates to South America.	No
northern long-eared bat (<i>Myotis septentrionalis</i>)	Endangered	Winter: hibernacula in caves and mines; Summer: roost and maternity trees (≥ 3 inches diameter) with loose bark or cavities, cracks, and/or crevices. Forages in open forests, edges, and around wetlands or water.	Yes
monarch butterfly (<i>Danaus plexippus</i>)	Candidate ⁵	Anywhere with milkweed and an abundance of native nectar plants.	Yes

¹ Critical habitat is designated for this species but it is not present in the action area.

² Critical habitat is proposed for this species but it has not been proposed in the action area.

³ New York Natural Heritage Program. Online Conservation Guides. Available at: <https://guides.nynhp.org/> Accessed September 2023.

⁴ United States Fish and Wildlife Service. Long Island Recovery Efforts. Available at: <https://www.fws.gov/northeast/nyfo/es/lirecovery.htm> Accessed September 2023.

⁵ Candidate species are provided no statutory protection under the Endangered Species Act.

OEA conducted a field survey on July 14, 2023 to characterize the existing habitats and to determine the potential for threatened and endangered species habitat to occur within the action area. Most of the action area is predominately disturbed and unvegetated, with most of the area cleared for existing operations of the waste transfer facility. Vegetated habitat within the project area (as depicted in **Figure 2**) is limited to 3.13 acres of early successional habitat in one area and 2.22 acres of forested habitat in three separate areas (see Figure 1 in Attachment A).⁷ The forested habitat within the project area includes a successional woodland, as well as forested habitats dominated by mature oaks. The oak-dominated forested habitats support a canopy of mature trees and understory vegetation that are common within the general surrounding area of the action area and in Suffolk County. Beyond the project area, an additional 2.62 acres of

⁷ These forested areas are depicted as habitat areas SP-1, SP-3, and SP-4 in Figure 1 in Attachment A.

similar forested habitat occurs within the footprints of ancillary facilities (building and roadway), with similar forested habitat extending beyond the ancillary facilities.⁸

All of the vegetated habitats within the action area exhibit substantial evidence of historical and ongoing disturbance, including clearing, grading, and storage of materials and equipment. In a regional context, the action area is surrounded by developed areas (e.g., residential housing and other industrial land use), state highways and local roads, and a rail line, all which limits habitat connectivity and results in a patchwork across that landscape of mostly smaller, isolated forested areas.

Piping Plover, Red Knot, Monarch Butterfly

Based on the field survey, piping plover and red knot habitat is not present in the action area and the species are not anticipated to be present; therefore, OEA is dismissing these species from further consideration.⁹ The monarch butterfly, as a candidate species, is provided no statutory protection under the ESA. The species was not observed within the action area during the field survey, nor were its milkweed genus (*Asclepias* spp.) host plants. Other flowering plants within the action area represent potential feeding habitat for monarch butterfly adults.

Northern Long-eared Bat (NLEB)

Based on the field survey, 4.84 acres of forested habitat were identified as potentially suitable NLEB roosting and foraging habitat (as described above). OEA performed NLEB habitat assessments of the forested areas within the project area, pursuant to USFWS protocols, as set forth in the *Range-wide Indiana Bat and Northern Long-eared Bat Survey Guidelines* (2023) (information included as Attachment D).¹⁰ As described above, the NLEB habitat consists of successional woodland on steeply sloped terrain located between the adjacent LIRR tracks and lower elevation, and oak-dominated woodlands with disturbed groundcover strata that exhibit evidence of historical clearing, grading, and debris placement, as well disturbance from all-terrain (ATV) vehicle use.

OEA also accessed databases to determine if there are records of NLEB in and around the action area. Regionally, the USFWS has identified Smithtown as a town with summer records for NLEB.¹¹ However, at the local level in and around the action area, according to correspondence from the New York Natural Heritage Program (NYNHP), dated July 17, 2023, and NYDEC's Environmental Assessment Form (EAF) mapper, there are no records for occurrences of NLEB (Attachment B).

⁸ This forested area is part of habitat area SP-3 (see Attachment A Figure 1).

⁹ OEA's official effects determination under ESA Section 7(a)(2) for these two species is **No Effect**.

¹⁰ Note that the forested habitat in the footprint of the rail transfer station and roadway is part of the same forest habitat (identified as SP-3) in the project area.

¹¹ USFWS (https://www.fws.gov/sites/default/files/documents/508_northernlongeared_townswithmaternityroosts_1.pdf).

EFFECTS OF THE PROJECT

Construction

Construction of the Project could affect the NLEB primarily through, 1) habitat removal, 2) temporary noise, and 3) temporary lighting, if the species utilizes the potential habitat in the action area.

Habitat Removal: Construction would remove 4.84 acres of forested habitat that could potentially support NLEB (see Attachment A Figure 2). While some natural vegetation regrowth would occur, construction would permanently alter forest cover; and regrowth would likely be sparse in areas that would be continually disturbed by railroad operation and maintenance. To avoid potential direct impacts on individuals, construction clearing in potentially suitable NLEB habitat would occur outside of the NYSDEC's NLEB active season for Suffolk County (March 1 to November 30) when NLEB are in hibernacula habitat (i.e., caves, mines) (see *Applicant Proposed Avoidance and Minimization Measures* above). In addition, the Applicant would take steps to reduce the unnecessary removal of potential bat habitat by 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 (see *Applicant Proposed Avoidance and Minimization Measures* above).

Temporary Noise: Construction could generate noise in excess of ambient conditions due to vehicles and equipment used to construct the Project. If non-clearing construction activities occur during the active season, and NLEB happen to be present, individuals may be exposed to noise at an intensity that they have not experienced, depending on the location of the individual. However, the action area is within a developed area and ambient noise around the project site consists of the operation of the adjacent LIRR mainline, as well as surrounding roadways, including the Sunken Meadow State Parkway. As part of the noise analysis for the Draft EA, OEA computed existing noise levels in the vicinity of the LIRR mainline using the Computer Aided Noise Abatement (CADNA) environmental noise software application. The analysis concluded that existing noise levels around the project site are consistent with a "very noisy urban residential area." As such, potential construction noise is not anticipated to be substantially noticeable compared to ambient conditions, and any NLEB that may utilize the potential habitat in the action area would likely be acclimated to noise around the Project.

Temporary Lighting: NLEB may be attracted to insect prey drawn by any lighting needed for construction, but this would not represent a substantial behavioral alteration given the existence of artificial lighting present in the vicinity of the Project (i.e., industrial and residential development, and road infrastructure). To minimize potential impacts of temporary construction lighting, the Applicant would direct any temporary lighting away from suitable NLEB habitat during the active season for this species (March 1 to November 30). The Applicant would use downward-facing, full cut-off lens lights for any temporary lighting used during the construction of the Proposed Action see (*Applicant Proposed Avoidance and Minimization Measures* above).

Summary: Overall, there is potentially suitable NLEB habitat present in the action area, and construction would remove this habitat and would generate noise and light conditions that

could adversely affect NLEB. Therefore, constructing the Project *may affect* NLEB. However, OEA anticipates the potential for NLEB presence in the action area would be low due to the degraded habitat conditions (by the current land use of the Project area and ambient noise conditions) and fragmented habitat conditions in the surrounding area. In addition, construction noise and lighting would be temporary. Further, the Applicant would implement avoidance and minimization measures to reduce potential impacts on NLEB. Therefore, for these reasons, OEA anticipates constructing the Project is ***not likely to adversely affect*** NLEB.

Operations

Operation of the Project could affect the NLEB primarily through noise and permanent lighting, if the species utilizes the potential habitat in the action area.

Noise: Noise generated from train operations at the project site could affect NLEB if they are present and have not been exposed to noise at an intensity not previously experienced. However, as previously described for construction impacts, noise modeling concluded that ambient noise conditions are consistent with “very noisy urban residential area.” While operations impacts would be long term, the noise is not anticipated to be notably different than ambient conditions, and any NLEB utilizing the potential habitat in the action area would likely be acclimated to noise around the Project.

Permanent Lighting: Operational lighting would be permanent and could affect NLEB as described above under construction. Rail operations would include lighting poles not to exceed 25 feet in height. Lighting with 2.0 footcandles would be provided in areas along a pathway between the east and west end of the tracks in accordance with American Railway Engineering and Maintenance-of-Way Association (AREMA) recommendations for illumination of flat switching yards. To minimize lighting impacts, the Applicant would use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting) for the proposed permanent lights.

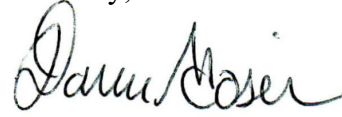
Summary: Overall, there is potentially suitable NLEB habitat present in the action area, and operations would generate noise and light conditions that could adversely affect NLEB. Therefore, operations *may affect* NLEB. However, OEA anticipates the potential for NLEB presence in the action area would be low due to the degraded habitat conditions (by the current land use of the Project area and ambient noise conditions) and fragmented habitat conditions in the surrounding area. Ambient noise levels around the project site are consistent with a noisy urban environment and train operations are not anticipated to substantially add to this noise. Further, the Applicant would implement a lighting minimization measure to reduce potential lighting impacts on NLEB. Therefore, for these reasons, OEA anticipates operating the Project is ***not likely to adversely affect*** NLEB.

CONCLUSION

Based on the results of the habitat assessment, as well the Applicant’s voluntary avoidance, minimization and mitigation measures, OEA has determined that the Project **may affect, but is not likely to adversely affect** NLEB. If you agree with this determination, please

send your written concurrence within 30 days. We appreciate your review and assistance in the consultation process and look forward to hearing from you. For further information or questions, please feel free to contact Andrea Poole of my staff at 202-245-0305 or by email at Andrea.Poole@stb.gov.

Sincerely,



Danielle Gosselin

Director

Office of Environmental Analysis

Enclosure:

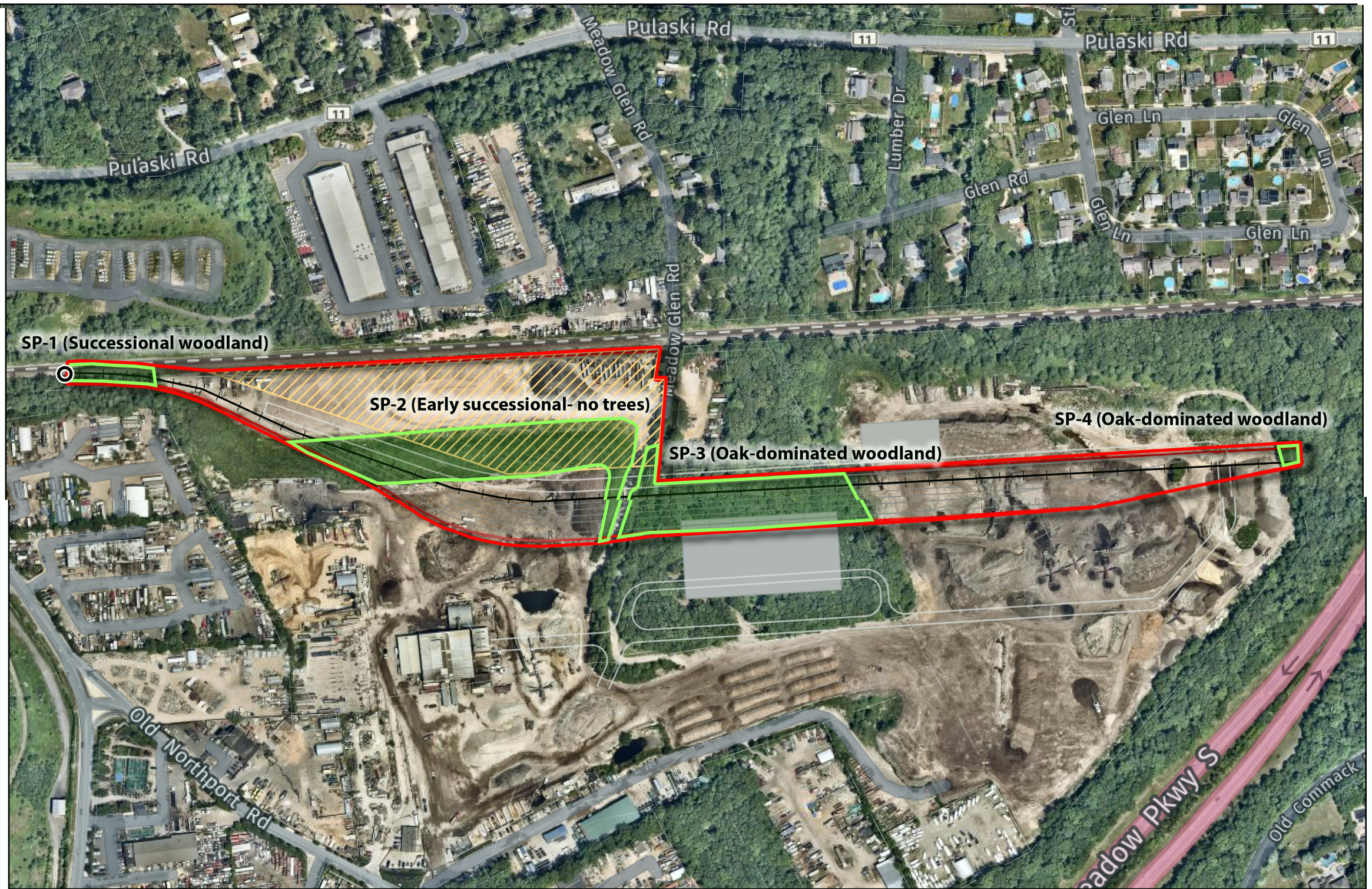
Attachment A – Figure 1. Habitat in Project Area; Figure 2. Forest Impacts

Attachment B - IPaC Official Species List, and NYNHP and NYDEC Information

Attachment C – Applicant’s Voluntary Mitigation Measures for NLEB

Attachment D – NLEB Survey Forms and Photographs

Attachment A: Figure 1. Habitat in Project Area; Figure 2. Forest Impacts



Legend

- | | | | |
|--------------|-----------------|--------------|-----------------|
| Project Area | Parcel Boundary | Main Track | Facilities |
| Turnout | Laydown Area | Yard Track | Vegetated Areas |
| | | Access Roads | |

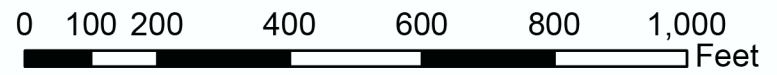


Figure 1



Legend

- Project Area
- Turnout
- Laydown Area
- Main Track
- Yard Track
- Access Roads
- Facilities

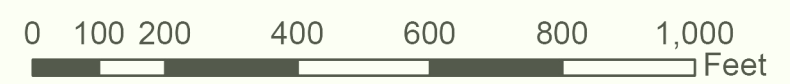


Figure 2

Attachment B: IPaC Official Species List, and NYNHP and NYDEC Information



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Long Island Ecological Services Field Office
340 Smith Road
Shirley, NY 11967-2258
Phone: (631) 286-0485 Fax: (631) 286-4003

In Reply Refer To:
Project Code: 2023-0108152
Project Name: Proposed Towline Rail

July 24, 2023

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological

evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Long Island Ecological Services Field Office

340 Smith Road

Shirley, NY 11967-2258

(631) 286-0485

PROJECT SUMMARY

Project Code: 2023-0108152

Project Name: Proposed Towline Rail

Project Type: Railroad - New Construction

Project Description: Towline Rail Terminal, LLC (Towline) is seeking authority from the Surface Transportation Board (Board) to construct and operate a new common carrier line at the above-referenced location. The Proposed Action includes the construction and operation of approximately 5,000 feet of new, common carrier single-line track and associated switching and sidetrack. The Proposed Action would require some clearing, excavating, and filling of 5.35 acres of existing vegetated areas for the rail line, including 2.82 acres of forested habitat, which would result in temporary and permanent loss or alteration of vegetation.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@40.8791186,-73.28065636166849,14z>



Counties: Suffolk County, New York

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

BIRDS

NAME	STATUS
Piping Plover <i>Charadrius melodus</i> Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/6039	Threatened
Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: Surface Transportation Board
Name: Candice Andre
Address: 940 Main Campus Drive
Address Line 2: Suite 500
City: Raleigh
State: NC
Zip: 27606
Email: candre@vhb.com
Phone: 9197415346

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Surface Transportation Board
Name: Andrea Poole

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, New York Heritage Program

625 Broadway, Fifth Floor, Albany, NY 12233-4757

Phone: (518) 402-8935 | Fax: (518) 402-8925

www.dec.ny.gov

07/17/2023

The attached report from the Environmental Resource Mapper includes information from the New York Natural Heritage Program database with respect to the location indicated on the map below. This letter, together with the attached report from the Environmental Resource Mapper, is equivalent to, and carries the same validity, as a letter from the New York Natural Heritage Program, including for projects where a Natural Heritage letter is required.

If your location of interest does not fall within an area covered by the Rare Plants and Rare Animals layer or in the Significant Natural Communities layer, then New York Natural Heritage has no records to report in the vicinity of your project site. Submitting a project screening request to NY Natural Heritage is not necessary.

If the attached report lists that your location of interest is in the vicinity of state-listed animals, including state-listed bats, please consult the [EAF Mapper](#) to obtain a list of the species involved. (You do not have to be filling out an Environmental Assessment Form in order to use the EAF Mapper). Then consult the appropriate [NYSDEC Regional Office](#) for information on any project requirements or permit conditions.

If the attached report lists unlisted animals, rare plants, or significant natural communities, and if you would like more information on these, please submit a project screening request to [New York Natural Heritage](#). For more information, please see the DEC webpage [Request Natural Heritage Information for Project Screening](#).

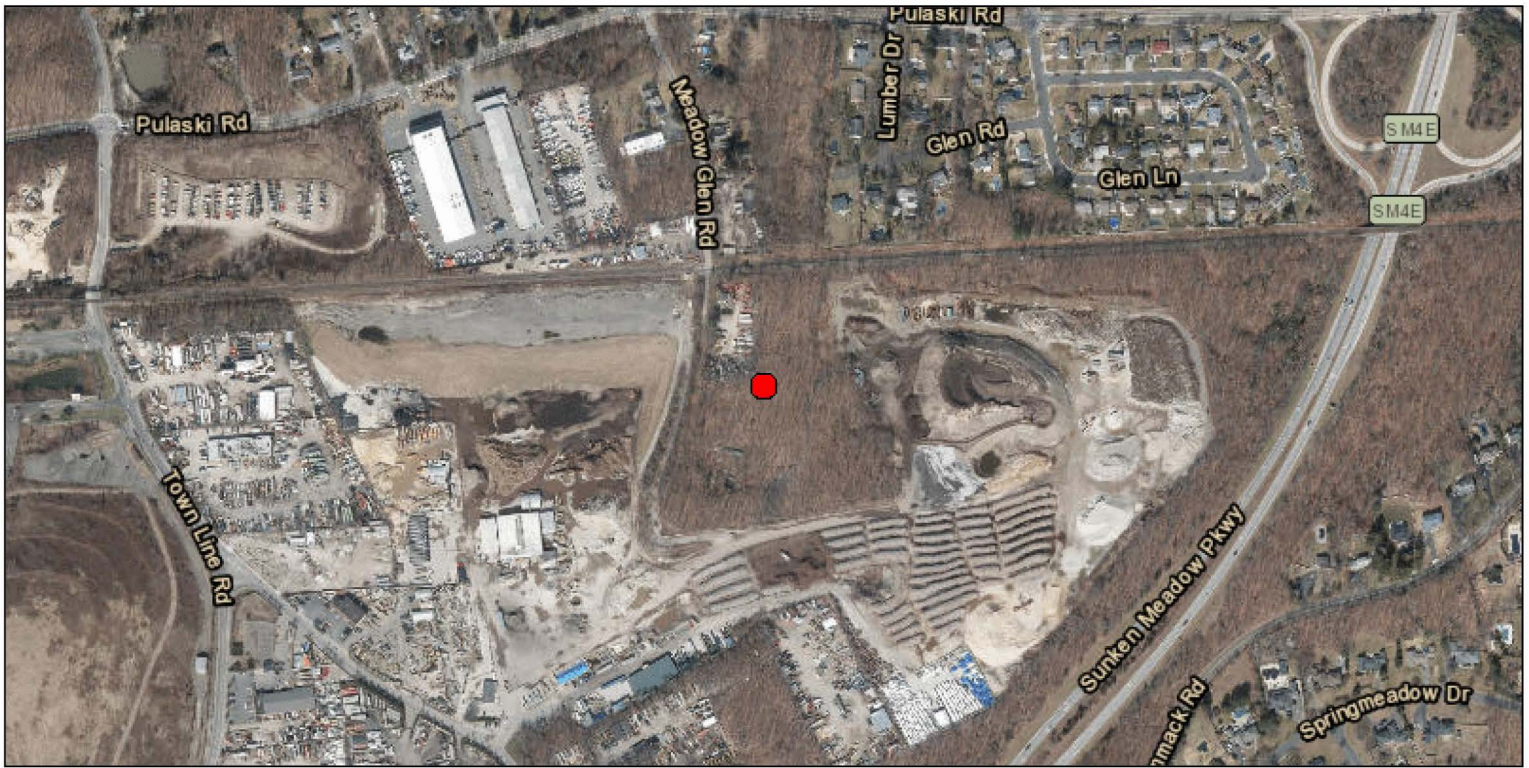
The absence of data does not necessarily mean that rare or state-listed species, significant natural communities, or other significant habitats do not exist on or adjacent to the proposed site. Rather, NYNHP files currently do not contain information that indicates their presence. For most sites, comprehensive field surveys have not been conducted. NYNHP cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. Depending on the nature of the project and the conditions at the project site, further information from on-site surveys or other resources may be required to fully assess impacts on biological resources from a proposed project.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities, and other significant habitats maintained in the NYNHP database.

New York Natural Heritage Program

<https://www.nynhp.org/>.

Environmental Resource Mapper



The coordinates of the point you clicked on are:

UTM 18

Easting: 644889.7158980172

Northing: 4527037.566220474

Longitude/Latitude

Longitude: -73.28031713049876

Latitude: 40.88161317874766

The approximate address of the point you clicked on is:

61-99 Meadow Glen Rd, Kings Park, New York, 11754

County: Suffolk

Town: Smithtown

USGS Quad: NORTHPORT

If your project or action is within or near an area with a rare animal, a permit may be required if the species is listed as endangered or threatened and the department determines the action may be harmful to the species or its habitat.

If your project or action is within or near an area with rare plants and/or significant natural communities, the environmental impacts may need to be addressed.

The presence of a unique geological feature or landform near a project, unto itself, does not trigger a requirement for a NYS DEC permit. Readers are advised, however, that there is the chance that a unique feature may also show in another data layer (ie. a wetland) and thus be subject to permit jurisdiction.

Please refer to the "Need a Permit?" tab for permit information or other authorizations regarding these natural resources.

Disclaimer: If you are considering a project or action in, or near, a wetland or a stream, a NYS DEC permit may be required. The Environmental Resources Mapper does not show all natural resources which are regulated by NYS DEC, and for which permits from NYS DEC are required. For example, Regulated Tidal Wetlands, and Wild, Scenic, and Recreational Rivers, are currently not included on the maps.

Print Preview



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas:LI North Shore Heritage Area
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.ii [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	152040
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Sole Source Aquifer Names:Nassau-Suffolk SSA

E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property:LONG ISLAND RAIL ROAD TRESTLE
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Attachment C: Applicant's Voluntary Mitigation Measures for NLEB

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

October 17, 2023

Danielle Gosselin
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Townline Rail Terminal, LLC
– Construction and Operation of a Line of Railroad –
In Suffolk County, NY
Surface Transportation Board Finance Docket 36575
Voluntary Mitigation Measure – Northern Long-Eared Bat

Dear Ms. Gosselin:

Townline Rail Terminal, LLC ("Townline") submits this letter to propose the following voluntary mitigation measures related to the northern long-eared bat ("NLEB") to be incorporated into the Environmental Analysis of the proposed line.

If the Surface Transportation Board authorizes Townline's proposed line, Townline, their employees, and their contractors voluntarily agree to strictly adhere to these measures, as well as any additional mitigation measures recommended by OEA and imposed by the Board in its final decision.

- Townline would not conduct construction-related tree removal for the Project during the NLEB active season (March 1 to November 30 [New York State Department of Environmental Conservation's NLEB active season for Suffolk County]).
- During construction, Townline would 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 proposed 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.
- During construction, Townline would direct any temporary lighting away from suitable NLEB habitat during the active season for this species (March 1 to November 30). Townline would use downward-facing, full cut-off lens lights for any temporary lighting used during construction of the proposed line.

October 17, 2023
Page 2

- During operations, the Townline would use downward-facing, full cut-off lens lights (with the same intensity or less for replacement lighting) for the proposed permanent lights.

If you have any questions regarding these voluntary measures, please let me know.

Sincerely,



Justin J. Marks
Counsel for Townline Rail Terminal, LLC

Attachment D: NLEB Survey Forms and Photographs

APPENDIX C: PHASE 1 HABITAT ASSESSMENTS

BAT HABITAT ASSESSMENT DATASHEET

Project Name: Proposed Townline Rail Terminal Date: July 14, 2023
 Township/Range/Section: Kings Park, Town of Smithtown
 Lat Long/UTM/ Zone: _____ Surveyor: D. Kennedy

Brief Project Description
 Construction and operation of approximately 5,000 feet of new, common carrier single-track rail line with associated switching and sidetrack on an 82-acre industrial property (see attached site photographs).

Project Area				
	Total Acres	Forest Acres		Open Acres
Project	14.40	2.22		12.18*
Proposed Tree Removal (ac)	Completely cleared	Partially cleared (will leave trees)	Preserve acres- no clearing	*Comprised of 9.05 acres of unevgetated land occupied by site operations and 3.13 acres of early successional habitat with no trees.
	2.22	0	0	

Vegetation Cover Types	
Pre-Project	Post-Project
Forested: 2.22 acres Early successional: 3.13 acres Unvegetated: 9.05 acres	

Landscape within 5 mile radius
Flight corridors to other forested areas?
 Flight corridors to other forested areas are limited due to surrounding roads and rail lines (i.e., Sunken Meadow State Parkway, Town Line Road, Old Northport Road, Long Island Rail Road).
Describe Adjacent Properties (e.g. forested, grassland, commercial or residential development, water sources)
 Areas adjacent to the Project Area are occupied by construction and demolition debris processing operations, composting operations, a waste transport facility, a capped landfill, the Long Island Rail Road, and forested habitat (see attached site photographs).

Proximity to Public Land
 What is the distance (mi.) from the project area to forested public lands (e.g., national or state forests, national or state parks, conservation areas, wildlife management areas)?
 The closest forested public lands are Sunken Meadow State Park, located 0.95±-mile to the northeast of the Project Area, and Kings Park Unique Area, located 1.4±-miles to the east.



Photograph No. 1: View of forest habitat and adjacent site operations at the Project Area, facing southwest (July 14, 2023).



Photograph No. 2: View of site operations at the Project Area, facing south (July 14, 2023).



Photograph No. 3: View of site operations at and adjacent to the Project Area, facing south-southwest (July 14, 2023).



Photograph No. 4: View of site operations at and adjacent the Project Area, facing southwest (July 14, 2023).

APPENDIX C: PHASE 1 HABITAT ASSESSMENTS

Use additional sheets to assess discrete habitat types at multiple sites in a project area

Include a map depicting locations of sample sites if assessing discrete habitats at multiple sites in a project area

A single sheet can be used for multiple sample sites if habitat is the same

Sample Site Description				Sample Site No.(s): _____	
SP-1 Successional Southern Hardwoods					
N/A - no water resources observed.					
Frequency	Intermittent	Perennial	Describe existing condition of water sources:	Water Resources at Sample Site	
Open and accessible to bats?				Stream Type (# and length)	Ephemeral
				Pools/Ponds (# and size)	
Wetlands	Seasonal			Wetlands (approx. ac.)	Permanent
Canopy Closure	50%	Midstory (20-50%)	Understory (<20%)	Forest Resources at Sample Site	
		N/A	1=1-10%, 2=11-20%, 3=21-40%, 4=41-60%, 5=61-80%, 6=81-100%	Closure/Density	Canopy (>50%)
<i>Robinia pseudoacacia, Prunus serotina</i>					
DBH Class	Small (3-8 in)	Med (9-15 in)	Large (>15 in)	Dominant Species of Mature Trees	
	30	20	0	% Trees w/ Exfoliating Bark	
	0	0	0	Size Composition of	

N/A IS THE HABITAT SUITABLE FOR INDIANA BATS? _____

RED BATS? _____

Yes (limited suitability, see comments below)
IS THE HABITAT SUITABLE FOR OTHER LONG-EARED BATS? _____

Non-dominant trees include: *Acer plantanoides*.
The sample site occurs within a linear woodland border area that occupies steeply sloped terrain located between the adjacent Long Island Rail Road tracks and lower elevation, unvegetated areas used for site operations. The observed ecological community is a disturbed successional woodland comprised primarily of trees between one and eight inches dbh. Noise levels from surrounding C&D processing, composting operations, truck and heavy equipment operation, and the adjacent railroad are prevalent within the sample site and surrounding woodland. Habitat viability for NLEB is limited.
Groundcover layer is generally dense. Dominant species include: *Rosa multiflora, Toxicodendron radicans, Celastrus orbiculatus, Lonicera tatarica, Artemisia vulgaris*, and sapling trees.

Additional Comments:

Provide a general description of the habitat

Attach aerial photo of project site with all forested areas labeled

Photographic Documentation: habitat shots at edge and interior from multiple locations; include photos of dead trees, water sources

Photographic Documentation: habitat shots at edge and interior from understory/midstory/canopy; examples of potential suitable snags at edge



Photograph No. 1: Exterior view of Sample Plot SP-1, facing west (July 14, 2023).



Photograph No. 2: Exterior view of Sample Plot SP-1 woodland edge along the Long Island Rail Road tracks, facing west (July 14, 2023).



Photograph No. 3: Interior view of midstory and dense understory strata at Sample Plot SP-1 (July 14, 2023).



Photograph No. 4: Dominant Black Cherry (*Quercus alba*) and Black Locust (*Robinia pseudoacacia*) trees on steeply sloped terrain at Sample Plot SP-1 (July 14, 2023).

APPENDIX C: PHASE 1 HABITAT ASSESSMENTS

Use additional sheets to assess discrete habitat types at multiple sites in a project area

Include a map depicting locations of sample sites if assessing discrete habitats at multiple sites in a project area

A single sheet can be used for multiple sample sites if habitat is the same

Sample Site Description				Sample Site No.(s): _____		
SP-2						
Successional Old Field - herbaceous groundcover vegetation only, no trees present.						
N/A - no water resources observed.				Water Resources at Sample Site		
Intermittent	Perennial	Describe existing condition of water sources:		Stream Type	Ephemeral	
Open and accessible to bats?				Pools/Ponds	(# and length)	
				Wetlands	(# and size)	Permanent
Seasonal				Wetlands	(approx. ac.)	
				Forest Resources at Sample Site		
50'	Midstory (20-50')	Understory (<20')	1=1-10%, 2=11-20%, 3=21-40%, 4=41-60%, 5=61-80%, 6=81-100%		Closure/Density	
				Canopy (> 50')		
				Dominant Species of Mature Trees		
				% Trees w/ Exfoliating Bark		
				Size Composition of		
Small (3-8 in)	Med (9-15 in)	Large (>15 in)	0			

_____ N/A IS THE HABITAT SUITABLE FOR INDIANA BATS? _____

RED BATS? _____ IS THE HABITAT SUITABLE FOR NORTHERN LONG-EARED BATS? _____

<p>The sample site and surrounding vegetated habitat is an early successional habitat comprised of herbaceous vegetation only, with no trees. Habitat for NLEB does not occur.</p>	<p>Additional Comments:</p>
--	------------------------------------

and a general description of the habitat

Attach aerial photo of project site with all forested areas labeled

Photographic Documentation: habitat shots at edge and interior of understory/midstory/canopy; examples of potential suitable snags at



Photograph No. 1: View of treeless, early successional habitat at Sample Plot SP-3, facing west (July 14, 2023).



Photograph No. 2: Mugwort (*Artemisia vulgaris*) and other early successional vegetation at Sample Plot SP-2, facing southeast (July 14, 2023).

APPENDIX C: PHASE 1 HABITAT ASSESSMENTS

Use additional sheets to assess discrete habitat types at multiple sites in a project area

Include a map depicting locations of sample sites if assessing discrete habitats at multiple sites in a project area

A single sheet can be used for multiple sample sites if habitat is the same

Sample Site Description				Sample Site No.(s): _____	
SP-3 Oak-dominated Forest					
N/A - no water resources observed.					
Water Resource Type	Intermittent	Perennial	Describe existing condition of water sources:		
Open and accessible to bats?					
Wetlands	Seasonal				
Stream Type (# and length)			Ephemeral		
Pools/Ponds (# and size)					
Wetlands (approx. ac.)			Permanent		
Forest Resources at Sample Site				Closure/Density	
Canopy (>50%)	Midstory (20-50%)	Understory (<20%)	1=1-10%, 2=11-20%, 3=21-40%, 4=41-60%, 5=61-80%, 6=81-100%		
		3	4	2	
<i>Quercus alba, Quercus coccinea</i>					
				60	
Small (3-8 in)	Med (9-15 in)	Large (>15 in)			
		55	40	5	
Dominant Species of Mature Trees					
% Trees w/ Exfoliating Bark					
Size Composition of					

without these characteristics are not considered suitable.

N/A IS THE HABITAT SUITABLE FOR INDIANA BATS? _____

RED BATS? _____

Yes (habitat suitability is impaired see comments below). IS THE HABITAT SUITABLE FOR NORTHERN LONG-EA

Additional Comments:
 Non-dominant trees include: *Sassafras albidum*, *Prunus serotina*, and *Carya glabra*.
 The sample site and surrounding woodland area exhibit evidence of historical disturbance including clearing, grading, and placement of debris. Noise levels from surrounding, C&D processing, composting operations, truck and heavy equipment operation, and train operation are prevalent within the sample site and surrounding woodland area. Potential habitat for NLEB is present but impaired.
 Groundcover layer is low density with patchy distribution. Dominant species include *Toxicodendron radicans*, *Pteridium aquilinum*, *Gaylussacia baccata*, *Carex pensylvanica*, and sapling trees.

Additional Comments:
 Non-dominant trees include: *Sassafras albidum*, *Prunus serotina*, and *Carya glabra*.
 The sample site and surrounding woodland area exhibit evidence of historical disturbance including clearing, grading, and placement of debris. Noise levels from surrounding, C&D processing, composting operations, truck and heavy equipment operation, and train operation are prevalent within the sample site and surrounding woodland area. Potential habitat for NLEB is present but impaired.
 Groundcover layer is low density with patchy distribution. Dominant species include *Toxicodendron radicans*, *Pteridium aquilinum*, *Gaylussacia baccata*, *Carex pensylvanica*, and sapling trees.

and a general description of the habitat

Attach aerial photo of project site with all forested areas labeled

from multiple locations;
 and live trees; water sources

Photographic Documentation: habitat shots at edge and interior of
 understory/midstory/canopy; examples of potential suitable snags at



Photograph No. 1: Exterior view of Sample Plot SP-3 edge habitat and site operations, facing northwest (July 14, 2023).



Photograph No. 2: View of unpaved site road and woodland edge habitat adjacent to Sample Plot SP-3, facing north (July 14, 2023).



Photograph No. 3: Interior view of canopy, midstory, and understory strata at Sample Plot SP-3 (July 14, 2023).



Photograph No. 4: Dominant White Oak (*Quercus alba*) (with exfoliating bark) and Scarlet Oak (*Quercus coccinea*) trees at Sample Plot SP-3 (July 14, 2023).



Photograph No. 5: Exterior view of live trees and snag (as indicated by the arrow) at Sample Plot SP-3, facing east (July 14, 2023).



Photograph No. 6: Exterior view of woodland edge and site operations to the south of Sample Plot SP-3, facing east (July 14, 2023).

APPENDIX C: PHASE 1 HABITAT ASSESSMENTS

Use additional sheets to assess discrete habitat types at multiple sites in a project area

Include a map depicting locations of sample sites if assessing discrete habitats at multiple sites in a project area

A single sheet can be used for multiple sample sites if habitat is the same

Sample Site Description				Sample Site No.(s): _____	
SP-4 Oak-dominated Forest					
N/A - no water resources observed.					
Water Resource Type	Intermittent	Perennial	Describe existing condition of water sources:	Water Resources at Sample Site	
Open and accessible to bats?				Stream Type (# and length)	Ephemeral
Wetlands (approx. ac.)				Pools/Ponds (# and size)	
Seasonal				Wetlands (approx. ac.)	Permanent
Canopy Closure	50%	Midstory (20-50%)	Understory (<20%)	Forest Resources at Sample Site	
		2	4	Closure/Density	Canopy (>50%)
1=1-10%, 2=11-20%, 3=21-40%, 4=41-60%, 5=61-80%, 6=81-100%			Dominant Species of Mature Trees		
<i>Quercus alba, Quercus velutina, Quercus coccinea</i>			70		
Tree Size	Small (3-8 in)	Med (9-15 in)	Large (>15 in)	% Trees w/ Exfoliating Bark	
	30	50	20	Size Composition of	

N/A IS THE HABITAT SUITABLE FOR INDIANA BATS? _____

RED BATS? _____

Yes (habitat suitability is impaired, see comments below). IS THE HABITAT SUITABLE FOR NORTHERN LONG-EA

<p>Non-dominant trees include: <i>Prunus serotina</i>, and <i>Sassafras albidum</i>.</p> <p>The sample site and surrounding woodland area exhibit evidence of disturbance from ATV use. Noise levels from surrounding, C&D processing, composting operations, truck and heavy equipment operation, and the Sunken Meadow State Parkway are prevalent within the sample site and surrounding woodland area. Potential habitat for NLEB is present but impaired.</p> <p>Groundcover layer is generally dense. Dominant species include: <i>Gaylussacia baccata</i>, <i>Vaccinium angustifolium</i>, <i>Toxicodendron radicans</i>, <i>Parthenocissus quinquefolia</i>, and sapling trees.</p>	<p>Additional Comments:</p>
---	------------------------------------

and a general description of the habitat

Attach aerial photo of project site with all forested areas labeled

from multiple locations;
and live trees; water sources

Photographic Documentation: habitat shots at edge and interior of understory/midstory/canopy; examples of potential suitable snags at



Photograph No. 1: Exterior view of Sample Plot SP-4, facing northeast (July 14, 2023).



Photograph No. 2: Exterior view of the woodlands surrounding Sample Plot SP-4 from the shoulder of the Sunken Meadow Parkway, facing southwest (July 14, 2023).



Photograph No. 3: Interior view of midstory and understory strata along ATV trails at Sample Plot SP-4 (July 14, 2023).



Photograph No. 4: Interior view of dense midstory and understory strata at Sample Plot SP-4 (July 14, 2023).



Photograph No. 5: Interior view of canopy and midstory strata at Sample Plot SP-4 (July 14, 2023).



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Long Island Field Office
New York Field Office



To: Surface Transportation Board OEA Date: 11/7/23

IPaC File No.: 2023-0108152

Regarding Your: Letter Fax Email Dated: 10/19/23

For Project: Townline Rail Terminal, LLC – Construction and Operation Exemption

Located: Kings Park

In Town/County: Smithtown, Suffolk County

Pursuant to the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service's (USFWS):

- Long Island Field Office (LIFO) (340 Smith Rd., Shirley, NY 11967; 631-286-0485)
- New York Field Office (NYFO) (3817 Luker Rd., Cortland, NY 13045; 607-753-9334)
- Acknowledges receipt of your no effect/no take/no impact determination. No further ESA coordination or consultation is required.
- Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.
- Is taking no action pursuant to the ESA or any legislation at this time but would like to be kept informed of project developments.
- Concurs with your federal agency's determination, which includes the implementation of all conservation measures, where noted and applicable, that the proposed action would not be likely to adversely affect the listed species identified in your correspondence.
- Northern long-eared bat - Based upon your IPaC submission, a standing analysis, and further review by the office, the proposed project is not reasonably certain to cause incidental take of the northern long-eared bat.

As a reminder, until the proposed project is complete, we recommend that you check our website used for both LIFO and NYFO at <https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews> regularly from the date of this letter to ensure that listed species presence/probable absence information for the proposed project is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

This letter does not exempt the project sponsor or Federal agency from obtaining approvals or permits that may be required by State and/or Federal agencies. Further, this letter does not

convey any authorization for take¹ under the ESA or any other authorities. Any new information regarding the proposed project and its potential to impact listed species should be coordinated with either the LIFO or NYFO, as well as with the New York State Department of Environmental Conservation.

Service Contact(s): Steve Papa, steve_papa@fws.gov

Supervisor: IAN DREW Digitally signed by IAN DREW
Date: 2023. 11.07 14: 05:15 -05 '00' Date: _____

¹ Take is defined in section 3 of the ESA as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

From: [Poole, Andrea](#)
To: [David Johnson](#); [Candice Andre](#)
Subject: FW: [EXTERNAL] RE: Townline Rail Terminal, LLC – Construction and Operation Exemption 2023-0108152
Date: Tuesday, November 14, 2023 8:10:13 AM

From: Poole, Andrea
Sent: Tuesday, November 14, 2023 8:10 AM
To: 'Papa, Steve' <steve_papa@fws.gov>; Spiller, Kimberly J <kimberly_spiller@fws.gov>
Cc: Gonzalez-Trelles, Melissa D <melissa_gonzalez-trelles@fws.gov>
Subject: RE: [EXTERNAL] RE: Townline Rail Terminal, LLC – Construction and Operation Exemption 2023-0108152

Many thanks for the clarification. STB will consider consultation complete.

Andrea
New Mobile Number: 202-934-3330

From: Papa, Steve <steve_papa@fws.gov>
Sent: Monday, November 13, 2023 6:26 PM
To: Poole, Andrea <andrea.poole@stb.gov>; Spiller, Kimberly J <kimberly_spiller@fws.gov>
Cc: Gonzalez-Trelles, Melissa D <melissa_gonzalez-trelles@fws.gov>
Subject: Re: [EXTERNAL] RE: Townline Rail Terminal, LLC – Construction and Operation Exemption 2023-0108152

Hi,

Our response for northern long eared bat on this form goes a little further than just indicating concurrence, but an affirmative statement that we do not anticipate take. This is the same language used in the online determination key generated through our IPaC project review system.

Hope this helps.

Steve

Steven T. Papa
Senior Fish and Wildlife Biologist
Long Island Field Office

U.S. Fish and Wildlife Service
340 Smith Rd
Shirley, NY 11967
(631) 286-0485 ext 2120
steve_papa@fws.gov

The Long Island Field Office has three employees who serve more than half the people in NY that reside and work in the Long Island - NY City region. Due to a persistent staff shortage, a large workload for project reviews, and our work to conserve federally listed and at-risk species, current project review times can vary, possibly 60 days or more for large projects. Every project review is important to us and we will do our best to address project reviews in a timely fashion. Your patience is appreciated.

From: Poole, Andrea <andrea.poole@stb.gov>

Sent: Monday, November 13, 2023 3:39 PM

To: Spiller, Kimberly J <kimberly_spiller@fws.gov>

Cc: Papa, Steve <steve_papa@fws.gov>; Gonzalez-Trelles, Melissa D <melissa_gonzalez-trelles@fws.gov>

Subject: [EXTERNAL] RE: Townline Rail Terminal, LLC – Construction and Operation Exemption 2023-0108152

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Kim,

Thank you for the response. This is my first consultation post the Final Rule change on the long-eared bat and I am confused by the form I received. It seems that the Service concurs with the project, but that box is NOT Checked on the form. I only have your concurrence note in the transmittal email. I am wondering if the saving process messed up the form. Should both boxes be checked?

Many thanks, Andrea

Andrea

New Mobile Number: 202-934-3330

From: Spiller, Kimberly J <kimberly_spiller@fws.gov>

Sent: Tuesday, November 7, 2023 3:18 PM

To: Poole, Andrea <andrea.poole@stb.gov>

Cc: Papa, Steve <steve_papa@fws.gov>; Gonzalez-Trelles, Melissa D <melissa_gonzalez-trelles@fws.gov>

Subject: Townline Rail Terminal, LLC – Construction and Operation Exemption 2023-0108152

You don't often get email from kimberly_spiller@fws.gov. [Learn why this is important](#)

Hello,

Please find attached the Service's concurrence with your determination for this project.

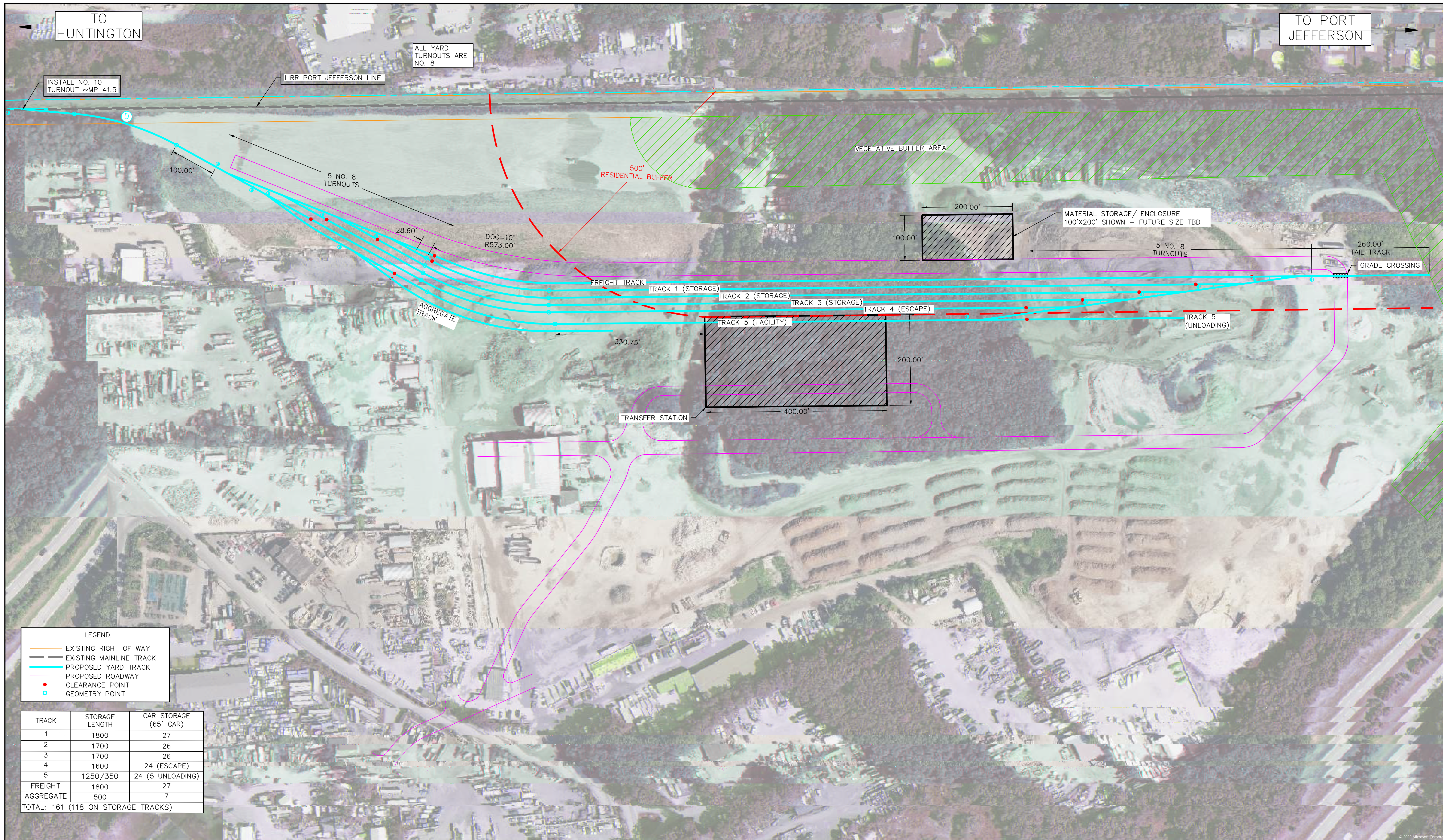
Thank you,

Kim

Kim Spiller (she/her)
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
Long Island Field Office
340 Smith Rd, Shirley, NY 11967
kimberly_spiller@fws.gov

Appendix B

Townline Concept Plan



ISSUE	DATE	DESCRIPTION
8	4/13/2022	MODIFICATIONS PER TOWN COMMENTS
7	2/16/2022	MODIFICATIONS PER TOWN COMMENTS
6	1/20/2022	RELOCATION OF TRANSFER STATION
5	7/01/2021	MODIFIED PER 06/23/2021 COMMENTS
4	6/11/2021	MATERIAL STORAGE WAREHOUSING CONCEPT
3	4/01/2021	PROGRESS MEETING #2 EDITS
2	4/01/2021	PROGRESS MEETING #2
1	3/25/2021	PROGRESS MEETING #1

DESIGNED BY: D. BAGGOTT

DRAWN BY: D. BAGGOTT

CHECKED BY: R. SEMENICK

APPROVED BY: R. SEMENICK



PROJECT: KINGS PARK

DRAWING TITLE: KINGS PARK CONCEPTUAL LAYOUT

SCALE: 1"=100'	CONTRACT NUMBER: N/A
REVISION NUMBER: -	DATE: 04/13/2022
DRAWING NUMBER: C-1	SHEET NO: 01 OF 01

Appendix C

TrackMobile® Details



ATLAS



Joystick & Armrest Controls



Ergonomic Operator's Seat



Safe-T-Vue™ 360° Visibility System

Up to 60,200 lbf. of Tractive Effort



ATLAS

The Atlas is Trackmobile's highest capacity model. Designed for more rugged and higher duty cycle applications, the Atlas is optimized to handle the most severe rail conditions with optimal operator comfort. As the premier model, the Atlas offers many options as standard features.



Atlas control panel and operational controls.

Standard Features

- CAN-Bus Control System with On-board Diagnostics
- UltraView 7" Color Touch Screen Display
- Ergonomic Air Ride, High Back 180° Swivel Seat
- Joystick and Armrest Controls
- Tinted tempered glass (meets ANSI 26.1 standard)
- Automatic / Manual Power-Shift Transmission
- 100 CFM Rotary Screw Air Compressor
- In-Cab Front and Rear Train Air Valves
- Incremental Train Air Brake Controller
- Train Air Hold Button
- Steel Railwheels
- Accessible External Disc Brakes
- Impact Sensor/Recorder
- Embedded LED head lights.
- LED strobe, work, and under hood lights
- Upgraded Jumpseat
- Premium HVAC system
- 35,000 BTU with 550 CFM HVAC
- Fire Extinguisher, 5 pounds
- Heavy-duty Mine Service Foam Filled Tires
- Patented MAX-Tran and MAX-Trac systems
- Train Air Charge Indicator

Safety is at the forefront of all Trackmobile engineering designs. In addition to slip-resistant surfaces, abundant lighting, and crossover decks with steel non-slip ladders, Atlas also offers these standard and optional* safety features:

- **FREE**** Seat in a Rail Safety Training Class
- Patent Pending Safe-T-Vue™ 360° Visibility / Railing Display
- Ramped Throttle Control - Quick and Slow
- Telematics Remote Monitoring & Diagnostics
- Rear Coupler Camera
- Electronic Speed Control
- Neutral Braking
- Hydraulic Lock-Out
- MAX-Trac - Automatic Traction Control System
- MAX-Tran Automatic Weight Transfer System
- GPS Positioning Capabilities
- Remote Control System*
- Vigilance Control*

Ask your Trackmobile Specialist about these and other options to help keep your crews safe and reduce workload fatigue.

* Feature is an option

**With authorization code provided in newly manufactured Trackmobile models.



Maximum Tractive Effort*		
Double Coupled	60,225 lbs [27,318 kg]	
Single Coupled	43,900 lbs [19,913 kg]	
Dimensions / Performance**		
	On Rail	On Road
Wheel Base	157.5" [4,001 mm]	89.2" [2,265.7 mm]
Rail & Road Clearance	4.8" [122 mm]	13.9" [353 mm]
Rail & Road Height	149.8" [3,805 mm]	164.6" [4,181 mm]
Length	220" [5,588 mm]	
Width^^	125" [3,175 mm]	
Weight	83,500 lbs [37,875 kg]	
Rail Gauge*	AAR Standard 56.5" [1,435 mm]	
Centerline to Cab Side	62.6" [1,590 mm]	
Centerline to Non-Cab Side	62.5" [1,588 mm]	
Speeds (Forward & Reverse)***		
	On Rail	On Road
Low	2.0 mph [3.2 km/h]	1.0 mph [1.6 km/h]
2nd Gear	3.9 mph [6.3 km/h]	1.9 mph [3.1 km/h]
3rd Gear	7.8 mph [12.6 km/h]	3.8 mph [6.1 km/h]
4th Gear	15.0 mph [24.1 km/h]	7.2 mph [11.6 km/h]
Engine		
Cummins electronic turbo-charged 9 Liter [543 In³] engine: In-line 6 cylinder, 4 valves per cylinder, 350 hp [261 kW] @ 2,100 rpm, Max torque 4990 lb-ft [1,342 N-m] @ 1,900 rpm.		
Fuel Tank - Steel	Eighty (80) gallon [303 liter] capacity	
Air Intake ¹		
Intake Air heater	Preheats incoming combustion air prior to start.	
Air Filtration Tier IV	3-stage filtration, High-efficiency Pre-cleaner, Primary and Safety Filter	
Powertrain		
Transmission	Funk, DF 250-series, constant mesh spur gearing. Four-speed forward and reverse with selectable power shift manual or automatic with 4th or 3rd and 4th lock-out for rail, road, or both.	
Axles	On-Road - Two heavy-duty steel axles On-Rail - Two (2) out-board internal planetary type with high strength ductile iron rear axle drive hubs with friction drive.	
Differential	Two (2) rigid, outboard planetary, air actuated, auto-control differential locking.	
Safety Features		
Automatic shutdown as a result of:	High engine temperature; Low engine coolant level; High compressor temperature; High hydraulic system oil temperature; (Optional low hydraulic system oil level)	
Brake System		
On-Road Machine Braking ²	Hydraulic disc brakes with Dual Calipers	
On-Rail Machine Braking ²	Hydraulic disc brakes, 18" [457 mm] diameter	
Machine Parking Brake	Hydraulic transmission mounted, self-contained, spring-activated wet disc park brake.	
Selectable Neutral Braking	Automatically applies brake to full pressure within 5 seconds of operator inactivity.	
Train Air Brakes	Glad hand connections	

Train Air Compressors	
100 cfm Rotary Screw Air Compressor	STANDARD
NOTE: All Train Air System options feature in-cab train air valves.	
Hydraulic System	
<ul style="list-style-type: none"> Constant pressure hydraulic system, piston pump and o-ring face seal fittings and oil filtered below ISO 18/16/13. Provides On-road and on-rail braking power. Provides hydraulic steering on road. 	
Electrical System	
Alternator	HD 12-Volt DC, 160 AMP
Batteries	Two (2) - 925 CCA
Digital Instrumentation	SAE-J1939 CAN-Bus Control System
Digital Control Display	7" display for real-time machine statistics and diagnostic data.
Cameras	Safe-T-Vue™ 360° visibility and railing camera with 10" color monitor
Additional Cameras	Two (2) additional outputs for extra camera locations
Alarms	Automatic backup road-mode alarm, selectable electronic <ul style="list-style-type: none"> Warble-type alarm Blast-type air horn Amber strobe warning lights
Wheels / Tires	
On Road	Four (4), 20-ply, radial, 12.00 x 20, Heavy-duty mine service, foam-filled, puncture-resistant rubber tires
On Rail	Four (4), 33" [838.2 mm], heat-treated, forged steel, ring-style flanged railwheels
Rail Sanders	
Eight (8) individual, air-operated, electronically-controlled sanders.	
Chassis / Frames	
Main Frame	Heavy-duty, high-strength welded steel with two (2) 8" [203 mm] thick ballast plates and 4" [101.6 mm] structural plates.
Pivoting Frame	Heavy-duty 6" [152.4 mm] thick, split pivoting main frame with 8" [203 mm] mounting plate with oscillating bearing that pivots up to 10° assuring 4-wheel rail contact at all times and extends axle life.
Body Frame	Heavy-duty, all-welded construction using 2.5" [63.6 mm] pre-formed steel deck plates and 1.25" [21.75 mm] side plate structural forms.
Suspension	
For air-ride cab suspension. Four (4) Firestone airbags and cab air-ride shock absorbers between body frame and fully suspended cab leveling adjustment capability.	
Couplers / Coupler Beams	
Couplers	Two (2) heavy-duty cast steel weight transfer design, positive coupling and uncoupling with AAR contour coupler and locking knuckles.
Coupler Beams	Two (2) standard-width coupler beams with graphite wear pads, which handle most standard curve radii.
Optional wide-traverse coupler beams are available for adverse and severe curve radii.	

Note¹ Not to be used in conjunction with Ether starting fluid.
Note² Maximum application pressure is varied automatically, depending on whether the machine is in rail or road mode. On rail, the application pressure will vary depending on weight transferred, for best stopping capability.
** Rail Gauges available in various sizes.*
*** For shipping purposes, add 1.5" (38 mm) to rail height for a 2" x 4" block under wheel tread. Additional variations may occur due to options selected.*
**** Actual speeds obtained will depend on grade, load, altitude, and other factors.*
^{^^} Width of machine includes 360° Safe-T-Vue™ cameras on each side of machine. Width may be narrowed by approximately 3" for tight tolerances if Safe-T-Vue™ system is removed at time of new machine order.



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MOBILE RAILCAR MOVERS

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Industry's Most Experienced Dealer Network

More than 100 facilities and over 300 factory-trained service technicians throughout North America



- 24 Hour Emergency service
- Service & Parts for all models of Trackmobiles
- Dedicated railcar mover technicians
- Customized railcar mover service vehicles
- On site or in shop service and repair
- NEW Trackmobile railcar movers
- Quality reconditioned railcar movers
- In shop or on site Operator training
- Late model rental units for emergencies
- Availability reduces downtime
- Machine demonstrations
- Machine safety evaluations
- Free site surveys

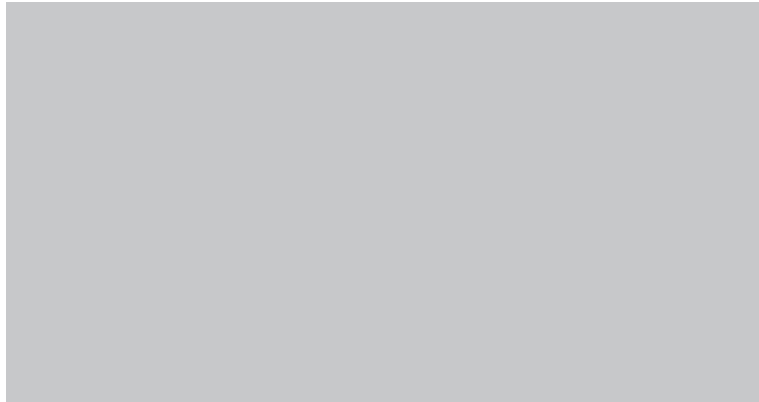
Your Business + Our Dealers + Trackmobile Customer Service = Winning Team

Time is Money

Getting it right the first time requires having the tools and parts. Trackmobile has an inventory of parts to service even many of our legacy models. Understanding that uptime is a significant factor in operational success, our distributors and their service departments stock sufficient inventories to complete routine maintenance and most emergency calls. It takes great teamwork to "get the job done."

Headquarters

Telephone: 706-884-6651
 Fax: 706-884-0390
 E-mail: trackmobile@trackmobile.com
 Address: 1602 Executive Drive
 LaGrange, GA 30240



Air Quality Appendix

This appendix provides technical information on the approach and results used in the analysis of air quality (*Chapter 3, Section 3.5*).

D.1. Approach

The following sections provide further context to the air quality approach discussed in Section 3.5 of the Environmental Assessment (EA).

D.2. Regulatory Context

The Clean Air Act (CAA) amendments, which are implemented by the U.S. Environmental Protection Agency (EPA), set forth guidelines for agencies to follow to achieve attainment of the National Ambient Air Quality Standards (NAAQS). The goal of the regulation is to improve air quality across the United States to protect public health and welfare. The following sections describe CAA components, including the NAAQS, General Conformity, and Class I Areas.

D.2.1 National Ambient Air Quality Standards

The CAA requires the EPA to set NAAQS (40 CFR Part 50) for six criteria pollutants: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), particulate matter less than 10 and 2.5 microns in diameter (PM₁₀ and PM_{2.5}, respectively), and sulfur dioxide (SO₂). NAAQS standards are based on human health criteria to protect public health (primary standards), on environmental criteria to prevent environmental and property damage, and to protect public welfare (secondary standards). **Table D.2-1** presents the current NAAQS.

Table D.2-1. National Ambient Air Quality Standards

Pollutant	Primary or Secondary	Averaging Time	Level	Form
Carbon Monoxide	Primary	8 hours	9 ppm	Not to be exceeded more than once per year
		1 hour	35 ppm	

Lead	Primary and Secondary	Rolling 3-month Average	0.15 $\mu\text{g}/\text{m}^3$	Not to be exceeded
Nitrogen Dioxide	Primary	1 hour	100 ppb	98 th percentile of 1-hour daily maximum concentrations; averaged over 3 years
	Primary and Secondary	1 year	53 ppb	Annual Mean
Ozone	Primary and Secondary	8 hours	0.070 ppm	Annual 4 th highest daily maximum 8-hour concentration; averaged over 3 years
Particulate Matter 2.5	Primary	1 year	12.0 $\mu\text{g}/\text{m}^3$	Annual mean, averaged over 3 years
	Secondary	1 year	15.0 $\mu\text{g}/\text{m}^3$	Annual mean, averaged over 3 years
	Primary and Secondary	24 hours	35 $\mu\text{g}/\text{m}^3$	98 th percentile; averaged over 3 years
Particulate Matter 10	Primary and Secondary	24 hours	150 $\mu\text{g}/\text{m}^3$	Not to be exceeded more than once per year on average over 3 years
Sulfur Dioxide	Primary	1 hour	75 ppb	99 th percentile of 1-hour daily maximum concentrations; averaged over 3 years
	Secondary	3 hours	0.5 ppm	Not to be exceeded more than once per year

Source: EPA 2021d

Note: ppm = parts per million; ppb = parts per billion; $\mu\text{g}/\text{m}^3$ = micrograms per cubic meter

De Minimis Thresholds

The 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 CFR Part 93, Subpart B. The Board does not exercise continuing program control over rail operation and would not exercise such control over operation of the Proposed Action. Accordingly, the Proposed Action is not subject to the General Conformity Rule¹ or required to assess *de minimis* thresholds. However, OEA used the *de minimis* emissions thresholds in the air quality analysis to provide context for the estimated operational emissions (presented in **Table D.2-2**). The Board would exercise control over the construction of the Proposed Action, thus emissions during construction are

¹ Under the General Conformity rule, federal agencies must work with state, tribal and local governments in a nonattainment or maintenance area to ensure that federal actions conform to the air quality plans established in the applicable state or tribal implementation plan.

subject to a General Conformity Determination if emissions are estimated to exceed the *de minimis* thresholds.

Table D.2-2. De Minimis Levels

Pollutant	Tons per Year	Area Type
Ozone (VOC or NO _x)	50	Serious Nonattainment
	25	Severe Nonattainment
	10	Extreme Nonattainment
	100	Other Areas Outside an Ozone Transport Region ¹
Ozone (NO _x)	100	Marginal and Moderate Nonattainment Inside an Ozone Transport Region ¹
	100	Maintenance
Ozone (VOC)	50	Marginal and Moderate Nonattainment Inside an Ozone Transport Region ¹
	50	Maintenance Within an Ozone Transport Region ¹
	100	Maintenance Outside an Ozone Transport Region ¹
Carbon Monoxide (CO), Sulfur Dioxide (SO ₂) and Nitrogen Dioxide (NO ₂)	100	All Nonattainment and Maintenance
Particulate Matter 10 (PM ₁₀)	70	Serious Nonattainment
	100	Moderate Nonattainment and Maintenance
Particulate Matter 2.5 (PM _{2.5}) ²	100	All Nonattainment and Maintenance
Lead (Pb)	25	All Nonattainment and Maintenance

Source: EPA 2021e

¹ The Ozone Transport Region is composed of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

² Direct emissions, SO₂, NO_x, (unless determined not to be a significant precursor), VOC or ammonia (if determined to be a significant precursor)

D.2.1.1 Class I Areas

The CAA establishes a list of federal lands with special air quality protections from major stationary sources (40 CFR Part 52 Subpart 21, 40 CFR Part 81). These areas primarily include national parks, national wilderness areas, and national monuments. The CAA divides the lands into Class I, II, or III where restrictions on emissions are most severe in Class I areas and are progressively more lenient in Class II and III areas. Mandatory Class I areas include all national wilderness areas exceeding 5,000 acres and national parks exceeding 6,000 acres (NPS 2020). There are no elements of the Proposed Action that exceed the Board's thresholds for evaluation within the boundaries of any Class I Area. Although rail lines are not a major stationary source, the EPA recommends a review of any Class I areas within 100 kilometers (62 miles) of the project elements that exceed the Board's thresholds. However, there are no Class I areas within 100 kilometers of the Proposed Action.

D.2.2 Pollutant Descriptions and Effects

In the impact analysis, OEA identified pollutants to consider and summarized their effects on human health and the environment based on regulations and EPA databases. This section 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 greenhouse gases (GHGs). A summary of criteria pollutants and their effects is presented in **Table D.2-3**.

Table D.2-3. Criteria Pollutant Summary

Pollutant	Description
Ozone (O ₃)	O ₃ is a highly reactive compound of oxygen. At very high concentrations O ₃ appears blue in color, is a highly unstable gas and is pungent in odor. At ambient concentrations, O ₃ is colorless and odorless. O ₃ is not emitted directly into the atmosphere by pollutant sources, but instead is produced by an atmospheric reaction of NO _x and VOCs. Generally, this reaction is most favorable during the warmer summer months when sunlight is stronger. Exposure to O ₃ may impair lung function and cause respiratory difficulties to sensitive populations (for example a person with asthma, emphysema, or reduced lung capacity).
Sulfur Dioxide (SO ₂)	SO ₂ emissions are the main components of the “oxides of sulfur,” a group of highly reactive gases from fossil fuel combustion at power plants, other industrial facilities, industrial processes, and burning of high sulfur containing fuels by large ships and non-road equipment. High concentrations of SO ₂ will lead to formation of other sulfur oxides. By reducing the SO ₂ emissions, other forms of sulfur oxides are also expected to decrease. When oxides of sulfur react with other compounds in the atmosphere, small particles that can affect the lungs can be formed. This can lead to respiratory disease and aggravate existing heart disease.
Particulate Matter (PM ₁₀ and PM _{2.5})	Particulate matter is comprised of small solid particles and liquid droplets. PM ₁₀ refers to particulate matter with a nominal aerodynamic diameter of 10 micrometers or less, and PM _{2.5} refers to particulate matter with an aerodynamic diameter of 2.5 micrometers or less. Particulates can enter the body through the respiratory system. Particulates over 10 micrometers in size are generally captured in the nose and throat and are readily expelled from the body. Particles smaller than 10 micrometers, and especially particles smaller than 2.5 micrometers, can reach the air ducts (bronchi) and the air sacs (alveoli) in the lungs. Particulates are associated with increased incidence of respiratory diseases, cardiopulmonary disease, and cancer.
Carbon Monoxide (CO)	CO is a colorless and odorless gas that is a product of incomplete combustion. CO is absorbed by the lungs and reacts with hemoglobin to reduce the oxygen carrying capacity of the blood. At low concentrations, CO has been shown to aggravate the symptoms of cardiovascular disease. It can cause headaches, nausea, and at sustained high concentration levels, can lead to coma and death.
Nitrogen Dioxide (NO ₂)	When combustion temperatures are extremely high, such as in engines, atmospheric nitrogen gas may combine with oxygen gas to form various oxides of nitrogen. Of these, nitric oxide (NO) and NO ₂ are the most significant air pollutants. This group of pollutants is generally referred to as NO _x . Nitric oxide is relatively harmless to humans but quickly converts to NO ₂ . NO ₂ has been found to be a lung irritant and can lead to respiratory illnesses. Nitrogen oxides, along with VOCs, are also precursors to ozone formation.

Table D.2-3. Criteria Pollutant Summary

Pollutant	Description
Lead (Pb)	Pb is a heavy metal that can affect the nervous system, kidneys, immune system, reproductive system, and cardiovascular system when exposed to substantial doses. Pb is emitted through some heavy industrial manufacturing processes, especially those associated with metal processing. The addition of Pb to fuel increases engine performance and reduces valve wear; however, general use of Pb as a fuel additive has been phased out for on-road vehicles in the United States. Since this phase out, Pb concentrations in ambient air are often low. States with no significant lead emitting sources typically do not measure Pb at their ambient air monitoring stations.

Hazardous Air Pollutants

Controlling air toxic emissions became a national priority with the passage of the Clean Air Act Amendments (CAAA) of 1990, whereby Congress mandated that EPA regulate 188 air toxics, also known as hazardous air pollutants (HAPs). EPA has assessed this expansive list in their latest rule on the Control of Hazardous Air Pollutants from Mobile Sources (*Federal Register*, Vol. 72, No. 37), and identified a group of 93 compounds emitted from mobile sources, listed in their Integrated Risk Information System (EPA 2021h). In addition, EPA identified nine compounds with significant contributions from mobile sources that are among the national and regional-scale cancer risk drivers from their 2011 National Air Toxics Assessment (EPA 2021i). The nine compounds are called mobile source air toxics (MSATs) and are typically associated with transportation sources including motor vehicles, construction equipment, and locomotives. These are 1,3-butadiene, acetaldehyde, acrolein, benzene, diesel particulate matter (diesel PM), ethylbenzene, formaldehyde, naphthalene, and polycyclic organic matter (POM). OEA considered these nine compounds in the emissions assessment.

Greenhouse Gases

In nature, carbon dioxide (CO₂) is exchanged continually between the atmosphere, plants, and animals through processes of photosynthesis, respiration, and decomposition, and between the atmosphere and ocean through gas exchange. Oceans and living biomass (i.e., sinks) absorb billions of tons of carbon in the form of CO₂ and emit it to the atmosphere annually through natural and man-made processes (i.e., sources). CO₂, however, constitutes less than 1/10th of a percent of the total atmosphere gases. Similar to the glass in a greenhouse, certain gases, primarily CO₂, nitrous oxide (N₂O), and methane (CH₄) absorb heat that the surface of the Earth radiates. Increases in the atmospheric concentrations of these gases can cause the Earth to warm by trapping more heat. The common term for this phenomenon is the “greenhouse effect,” and these gases are typically referred to as “greenhouse gases.” GHG emissions have effects at the regional and global scale and are thus reviewed at a regional scale. In 2007, the Supreme Court determined that GHGs are anticipated

to endanger public health and therefore are part of the EPA's responsibility to regulate under the CAA. In 2009, the EPA signed an endangerment finding in the CAA that stated the current and projected concentrations of the six key GHGs in the atmosphere could threaten the public health and welfare of current and future generations.

EPA has not established ambient air standards for GHGs like the criteria pollutants have under the NAAQS. However, the Council on Environmental Quality (CEQ) has created guidelines for conducting GHG and climate change analyses in NEPA Documents (CEQ 2016). A draft GHG guidance document was released by CEQ in 2019; however, Presidential Executive Order 13990, signed in 2021, rescinded the 2019 draft guidance, making the previously implemented 2016 guidance document the current guidance for use in NEPA documents. The 2016 guidance states that where feasible, federal agencies should include a quantitative analysis of potential GHG emissions from a Proposed Line. On January 9, 2023, new interim guidance was issued effective immediately and reflects similar guidance as 2016. When tools, methodologies, or data inputs are not reasonably available, a qualitative evaluation should be provided. This analysis should consider direct, indirect, and cumulative emissions. It should evaluate both short- and long-term effects of the Proposed Action and alternatives. When appropriate, mitigation should be considered to avoid, minimize, and compensate for increased GHG emissions.

D.3. Emissions Inventory Methodology

D.3.1.1 Construction Emissions

OEA also assessed impacts from construction. The construction assessment included a quantification of the air quality impacts of the construction equipment as well as fugitive dust associated with the general construction sitework and earthwork.

The Proposed Action would result in the construction of 5,000 feet of new rail line and associated switching and side track. The planned construction analysis estimated the duration to be 260 working days as the Applicant stated that construction will take approximately one year to complete. OEA estimated emissions assuming an analysis of year of 2025. Emissions from both nonroad equipment and fugitive dust have been quantified for the construction analysis as described below. Equipment and fugitive dust emissions were summed to create a total construction emissions inventory.

OEA quantified estimated emissions from nonroad equipment based on the list of equipment necessary to complete the new track work. Equipment expected to be used in the track work are dump trucks, excavators, backhoes, bulldozers, soil compactors, grapple trucks, welding trucks, tampers, ballast regulators, stabilizers, and truck mounted cranes. OEA derived emission factors for the equipment using the Nonroad module within the MOVES3 model (EPA 2022). OEA ran the MOVES3 model for

Suffolk County, where the construction is located, using model default inputs. OEA assumed equipment size and age correspond to the model's default population data. OEA assumed all equipment operate on diesel fuel. OEA estimated hours of equipment operation assuming an eight-hour workday. OEA combined these operating hours with emission factors and load factors to estimate equipment emissions.

OEA quantified fugitive dust emissions associated with construction from general site work and earthwork. Fugitive dust emissions are emissions of the criteria pollutant particulate matter. OEA referenced emission factors from the "WRAP Fugitive Dust Handbook" for construction emissions and corresponding earthwork emissions (WGA 2006). Per the guidance, OEA quantified fugitive dust emissions based on the hours of general construction and earthwork. OEA assumed general construction hours to be all the operating hours associated with construction. OEA assumed PM_{2.5} emissions to be 10 percent of the PM₁₀ emissions as described by the guidance. OEA conservatively assumed no control measures in the estimation of fugitive dust emissions.

D.3.1.2 Operational Emissions

OEA evaluated the environmental consequences for operations of the Proposed Action. For the Proposed Action, OEA measured air quality and GHG impacts. OEA assessed changes in pollutant emissions for project elements. OEA compared emissions under the Proposed Action to the No-Action Alternative to determine Line-related emissions. Note that as the Proposed Line is non-operational in the No-Action Alternative, no locomotive emissions occur in this scenario.

OEA estimated emissions for nitrogen oxides (NO_x), volatile organic compounds (VOC), PM₁₀, PM_{2.5}, SO₂, CO, Carbon Dioxide Equivalent (CO_{2e}), Methane (CH₄), Nitrogen Dioxide (N₂O), and HAPs. OEA calculated CO_{2e} by deriving CO₂, CH₄, and N₂O emissions and applying global warming potentials (EPA 2021a). The emissions estimations were based on changes in freight train activity on rail line segments and rail yard operations using the TrackMobile mobile railcar mover. OEA compared emissions in nonattainment areas to the *de minimis* thresholds; however, operational emissions are not subject to General Conformity determination.

OEA used the number of locomotives per day, horsepower of the locomotives, idle load factor, and idle time to calculate the estimated daily idling activity during operations. OEA used the number of locomotives per day, horsepower of the locomotives, the track length, and an assumed average travel speed to calculate the estimated daily moving activity during operations. The fuel usage associated with idling and moving activity were summed together to get the total daily fuel usage. OEA obtained emission factors for calculating locomotive emissions using EPA methodology (EPA 2009). The PR20B model locomotives that will be used under the Proposed Action are emission Tier 3+ locomotives. Since the EPA "Emission Factors

for Locomotives” table does not include emission factors for Tier 3+ locomotives, the values for Tier 3 were used. This provides a more conservative estimate for locomotive emissions. Emission factors were converted into a grams per gallon format using the EPA-provided conversion factor from brake horsepower-hours to gallons (EPA 2009) and HAPs emission rates were estimated by applying speciation profiles to the VOC or PM emission rates (EPA 2021c). Annualized emissions were estimated assuming trains operate six days per week. OEA combined the above No-Action Alternative and Proposed Action fuel usages with the emission factors to calculate the emissions inventory for the Proposed Action.

OEA used the daily TrackMobile operating hours and yearly operating days to calculate the number of operating hours each year. Specifications from TrackMobile and Cummins such as kilowatts at full load and fuel consumption rate were needed for calculations. Criteria pollutant emission factors were taken from the EPA Nonroad Compression-Ignition Engines: Exhaust Emission Standards table with the exception of SO₂, which was taken from EPA’s criteria pollutant “Emission Factors for Locomotives” table since it is a standard value per gallon of diesel fuel consumed. GHG emission factors were taken from EPA’s “Emission Factors for Greenhouse Gas Inventories.” HAPs emission factors were taken from EPA’s National Emissions Inventory. The criteria pollutant and HAPs emission factors were multiplied by the operating hours per year, engine power, and load factor to get the emissions per year. GHG emission factors were multiplied by the amount of gallons consumed each year to get the GHG emissions each year.

D.3.2 Environmental Consequences

The following sections provide supplemental information about the environmental consequences for the Proposed Action in addition to the discussion provided in **Section 3.5** of the EA.

D.3.2.1 Construction Emissions

OEA anticipates short-term air quality impacts in association with construction. OEA estimated emissions of criteria pollutants, GHGs, and HAPs for construction activities. OEA compared emissions in nonattainment areas to the *de minimis* thresholds, as presented in **Table D.3-1**. OEA determined that the Proposed Action construction site will result in criteria pollutant emissions below the applicable *de minimis* thresholds. The construction analysis determined that equipment emissions during the year-long construction period will be relatively small. Relatively larger emissions of PM are expected to result from earthwork activity and fugitive dust emissions. While not required as emissions are less than the *de minimis* thresholds, emissions of PM from fugitive dust could be minimized through the use of industry-standard control measures. OEA conservatively assumed that no control measures were used in the fugitive dust assessment. OEA also projects HAPs emissions during

construction to be small, with the largest single HAP emission being 0.028 tons per year of formaldehyde.

Table D.3-1 Summary of Construction Emission Estimates

Pollutant	Construction Activity (tons/year)	
	Estimated Emissions	<i>de Minimis</i> ¹
Criteria Pollutants (tons/year)		
NO _x	3.27	25
VOC	0.11	25
PM ₁₀	30.28	-
PM _{2.5}	3.10	100
SO ₂	0.00	-
CO	0.44	-
Greenhouse Gases (tons/year)		
CO ₂ e ²	1,364	-
Hazardous Air Pollutants (tons/year)		
Acetaldehyde	1.0 x 10 ⁻²	-
Acrolein	2.0 x 10 ⁻³	-
Benzene	4.7 x 10 ⁻³	-
1,3-Butadiene	1.8 x 10 ⁻⁴	-
Ethyl Benzene	5.7 x 10 ⁻⁴	-
Formaldehyde	2.8 x 10 ⁻²	-
Napthalene	2.2 x 10 ⁻⁴	-
POM	1.6 x 10 ⁻⁵	-

Notes:

1. *de Minimis* values are only shown for criteria pollutants for which Suffolk County is in nonattainment or maintenance.
2. CO₂e values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

Values of zero indicate emissions were smaller than 0.05 or 0.005 tons per year, respective to the number of decimal places presented. NO_x = Oxides of Nitrogen; VOC = Volatile Organic Compounds; PM₁₀ = Particulate Matter 10 microns or less in diameter; PM_{2.5} = Particulate Matter 2.5 microns or less in diameter; SO₂ = Sulfur Dioxide; CO = Carbon Monoxide; CO₂e = Carbon Dioxide Equivalent; POM = Polycyclic Organic Matter.

D.3.2.2 Operational Emissions

OEA analyzed air quality effects from forecasted operations under the Proposed Action. The following sections summarize the estimated Line-related emissions from project elements. The Proposed Action would result in increased pollutant emissions from activity on the constructed rail line segment and in the rail yard relative to the No-Action Alternative, which are the primary contributors to project-related emissions. Truck to rail diversions would partially offset emissions from increased rail activity associated with the Proposed Action.

The Proposed Action would result in an increase of all criteria pollutant emissions (as shown in **Table D.3-2**) due to new rail line and rail yard activity. These increases would occur across 5,000 feet of track in Fort Salonga, New York. OEA estimated the increases in criteria pollutant emissions to be below the respective *de minimis* thresholds for Suffolk County.

Table D.3-2 presents the operational HAPs emissions estimates. The emissions of total HAPs are estimated to be 0.022 tons per year. This increase is primarily composed of 0.014 tons per year increase of formaldehyde. These increases of HAPS are extremely small due to the Proposed Action only adding two additional trains per day consisting of two locomotives and one TrackMobile. The *de minimis* thresholds do not apply to 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 in **Table D.3-2**. OEA expects the Proposed Action to have GHG emissions of approximately 222 tons of CO₂e relative to the No-Action Alternative.

Table D.3-2. Summary of Operational Emissions Estimates

Pollutant	Operational Activity (tons/year)			
	Train Emissions	Yard Emissions	Total Emissions	<i>de Minimis</i> ¹
Criteria Pollutants (tons/year)				
NO _x	0.665	0.046	0.711	25
VOC	0.018	0.090	0.109	25
PM ₁₀	0.011	0.005	0.015	-
PM _{2.5}	0.010	0.004	0.015	100
SO ₂	0.0006	0.001	0.002	-
CO	0.172	0.789	0.961	-
Greenhouse Gases (tons/year)				
CO ₂ e ²	66.202	155.707	221.909	-
Hazardous Air Pollutants (tons/year)				
Acetaldehyde	1.44 x 10 ⁻³	3.59 x 10 ⁻³	5.03 x 10 ⁻³	-
Acrolein	2.94 x 10 ⁻⁴	7.33 x 10 ⁻⁴	1.03 x 10 ⁻³	-
Benzene	4.14 x 10 ⁻⁴	1.03 x 10 ⁻³	1.45 x 10 ⁻³	-
1,3-Butadiene	3.42 x 10 ⁻⁵	8.52 x 10 ⁻⁵	1.19 x 10 ⁻⁴	-
Ethyl Benzene	7.07 x 10 ⁻⁵	1.76 x 10 ⁻⁴	2.47 x 10 ⁻⁴	-
Formaldehyde	4.10 x 10 ⁻³	1.02 x 10 ⁻²	1.43 x 10 ⁻²	-
Napthalene	5.02 x 10 ⁻⁵	1.25 x 10 ⁻⁴	1.75 x 10 ⁻⁴	-
POM	4.86 x 10 ⁻⁵	6.08 x 10 ⁻⁵	1.09 x 10 ⁻⁴	-

Notes:

1. *de Minimis* values are only shown for criteria pollutants for which Suffolk County is in nonattainment or maintenance.
2. CO₂e values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

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

Pollutant	Operational Activity (tons/year)			
	Train Emissions	Yard Emissions	Total Emissions	<i>de Minimis</i> ¹

¹NO_x = Oxides of Nitrogen; VOC = Volatile Organic Compounds; PM₁₀ = Particulate Matter 10 microns or less in diameter; PM_{2.5} = Particulate Matter 2.5 microns or less in diameter; SO₂ = Sulfur Dioxide; CO = Carbon Monoxide; CO_{2e} = Carbon Dioxide Equivalent; POM = Polycyclic Organic Matter.

D.3.3 Truck-to-Rail Diversion Analysis

OEA conducted an analysis of the emissions changes associated with truck-to-rail diversions that would result from the Proposed Action. OEA estimated anticipated truck activity reduction in vehicle miles traveled (VMT) due to the Proposed Action. OEA derived Emission Factors for the on-the-road trucks using EPA’s MOVES3 model (EPA 2022). OEA ran the MOVES3 model to establish a set of representative emission factors for Suffolk County. The emission factors represent short-haul combination trucks traveling default speed distributions for urban unrestricted roadways in a grams per mile format. OEA combined the resulting emission factors and VMT data to create an emission inventory for project truck-to-rail diversions.

While locomotive emissions would increase on the newly proposed rail line, regional emissions would be partially (or wholly) offset by a reduction in truck traffic. Under the Proposed Action, freight would be carried by rail but under the No-Action Alternative this same freight would be carried by trucks. These “truck-to-rail diversions” would result in reduced truck vehicle miles travelled (VMT) in the Proposed Action. As rail transportation is estimated to be approximately four times more fuel efficient on average compared to trucks, the resulting reduction in truck travel and fuel use would consequentially result in a decrease of truck-related emissions (AAR 2021). Townline’s 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 to an estimated 1,008,200 lane miles eliminated per year by implementing the Proposed Action.

Table D.3-3 summarizes the truck-to-rail diversion analysis. The reductions in truck emissions are a benefit of the Proposed Action and can be expected to provide a 9 ton per year reduction in NO_x emissions, a 0.4 ton per year reduction in VOC emissions, and a 0.4 ton per year reduction in PM_{2.5} emissions, pollutants of particular concern due to their nonattainment or maintenance status. The corresponding reduction in truck VMT is also expected to result in an 1,880 ton per year reduction in CO_{2e} emissions. Note, the truck to rail diversion emissions presented in **Table D.3-3** are not directly comparable to the locomotive emissions presented in **Table D.3-2** as the truck emissions are representative of a regional reduction in VMT, while the locomotive emissions are limited to the new rail segments per the Board’s thresholds for analysis. **Table D.3-4** shows the on-road emission factors calculated using the MOVES model.

Table D.3-3. Truck to Rail Diversion Analysis - Summary

Annual Truck Reduction VMT¹	-1,008,200
Criteria Emissions (tons/year)	
NO _x	-9.25
VOC	-0.42
PM ₁₀	-0.60
PM _{2.5}	-0.36
SO ₂	-0.01
CO	-3.61
Greenhouse Gas Emissions (tons/year)	
CO ₂	-1,878.74
CH ₄	-0.03
N ₂ O	-0.00
CO ₂ e ²	-1,880.23
HAP Emissions (tons/year)	
Acetaldehyde	1.58 x 10 ⁻²
Acrolein	2.59 x 10 ⁻³
Benzene	2.94 x 10 ⁻³
1,3 – Butadiene	9.75 x 10 ⁻⁴
Ethyl Benzene	1.86 x 10 ⁻³
Formaldehyde	3.10 x 10 ⁻²
Napthalene	3.27 x 10 ⁻³
POM	1.41 x 10 ⁻³

Notes:

1. Truck VMT Reduction provided from the Townline Response to Information Request #3.
2. CO₂e values were calculated using the 100-year potential global warming potential (GWP) values from the IPCC Fourth Assessment Report (IPCC 2007).

Values of zero indicate emissions were smaller than 0.05 or 0.005 tons per year, respective to the number of decimal places presented. NO_x = Oxides of Nitrogen; VOC = Volatile Organic Compounds; PM₁₀ = Particulate Matter 10 microns or less in diameter; PM_{2.5} = Particulate Matter 2.5 microns or less in diameter; SO₂ = Sulfur Dioxide; CO = Carbon Monoxide; CO₂e = Carbon Dioxide Equivalent; POM = Polycyclic Organic Matter.

Table D3-4 Truck to Rail Diversion Analysis - Truck Emission Factors

Pollutant	Emission Factor (g/veh-mi)
NO _x	8.326
VOC	0.378
PM ₁₀	0.540
PM _{2.5}	0.326
SO ₂	0.006
CO	3.246
CO ₂	1690.508
CH ₄	0.024
N ₂ O	0.002
Acetaldehyde	0.014

Acrolein	0.002
Benzene	0.003
1,3 – Butadiene	0.001
Ethyl Benzene	0.002
Formaldehyde	0.028
Napthalene	0.003
POM	0.001

Notes:

g/veh-mi= grams per vehicle miles; NO_x = Oxides of Nitrogen; VOC = Volatile Organic Compounds;
 PM₁₀ = Particulate Matter 10 microns or less in diameter; PM_{2.5} = Particulate Matter 2.5 microns
 or less in diameter; SO₂ = Sulfur Dioxide; CO = Carbon Monoxide; CO_{2e} = Carbon Dioxide
 Equivalent; POM = Polycyclic Organic Matter.

Source: Calculated using MOVES3

Emission Factor Assumptions:

- Project-level scale with NYSDEC inputs
- Represents emission factors for the January AM peak period, a build year of 2026 was used
- Compressed natural gas, gasoline, and diesel short-haul combination trucks included
- Urban unrestricted access roadways included

Noise and Vibration Impact Assessment Methods

Table of Acronyms and Abbreviations

ANR	average noise reduction
Board	Surface Transportation Board
C.F.R.	Code of Federal Regulations
dB	decibel
dba	A-weighted decibel
EIS	environmental impact statement
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
Hz	Hertz
L _{eq}	level equivalent
OEA	Office of Environmental Assessment
PPV	peak particle velocity
RMS	root-mean-square
SSM	supplementary safety measure
VdB	root-mean-square vibration velocity

E.1. Introduction

This appendix describes the methods that the Surface Transportation Board’s (Board) Office of Environmental Analysis (OEA) used to estimate and analyze the potential effects of noise and vibration from construction and operation of the proposed rail line.

E.2. Wayside Noise Models

Wayside noise refers to all noise generated by rail cars and locomotives (but not including horn noise). OEA used noise measurements from past noise studies (Surface Transportation Board 1998a, 1998b) as the basis for the wayside noise level projections for the proposed rail line.

The basic equation used for the wayside noise model is as follows.

$$SEL_{cars} = L_{eqref} + 10\log(T_{passby}) + 30\log(S/S_{ref})$$

For locomotives, which can be modeled as moving monopole point sources, the corresponding equation is as follows.

$$SEL_{locos} = SEL_{ref} + 10\log(N_{locos}) - 10\log(S/S_{ref})$$

The total train sound exposure level is computed by logarithmically adding SEL_{locos} and SEL_{cars} .

$$DNL_{100'} = SEL + 10\log(N_d + 10N_n) - 49.4$$

$$DNL = DNL_{100'} + 15\log(100/D)$$

The $10\log(x)$ term in the previous equations can be used to determine the increase (or decrease) in train noise level associated with changes in traffic volumes assuming that the other factors affecting noise (speed, train consist and length, time of day, and number of locomotives) are equivalent. The change in noise level associated with two different traffic volumes would be as follows.

Delta (dB) = $10\log(N_2/N_1)$ where N_1 and N_2 are two different traffic volumes (trains/day)

For example, if rail traffic doubled, the increase in noise level would be $10\log(2) = 3$ dB.

The following parameters apply to the equations above.

SEL_{cars} = Sound exposure level of railcars (A-weighted decibels [dBA])

L_{eqref} = Level equivalent of railcar

T_{passby} = Train passby time, in seconds

S = Train speed, in miles per hour

S_{ref} = Reference train speed

SEL_{locos} = Sound exposure level of locomotive

SEL_{ref} = Reference sound exposure level of locomotive

DNL = Day-night average noise level

N_{locos} = Number of locomotives

N_{d} = Number of trains during daytime

N_{n} = Number of trains during nighttime

D = Distance from tracks, in feet

Table E.2-1 shows the reference wayside noise levels used in this study and **Exhibit E.2-1** shows the wayside noise frequency spectrum used in the calculations.

Table E.2-1. Reference Wayside Noise Levels

Description	Average Level (dBA)
Locomotive SEL (40 miles per hour at 100 feet)	95
Railcar L_{eq}	82

Source: Surface Transportation Board 1998a, 1998b
dBA = A-weighted decibels; SEL = sound exposure level; L_{eq} = level equivalent

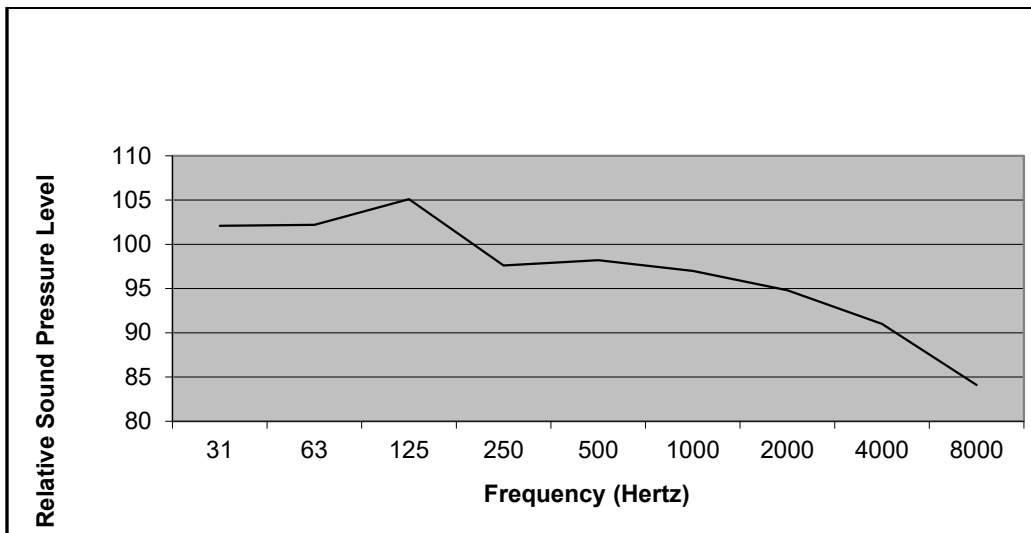


Exhibit E.2-1. Wayside Noise Spectrum (Surface Transportation Board 2002)

E.3. Horn Noise Models

Freight train horn noise levels can vary for a variety of reasons, including the manner in which an engineer sounds the horn. Consequently, it is important to determine horn noise reference levels based on a large sample size. A substantial amount of horn noise data are available from the *Draft Environmental Impact Statement, Proposed Rule for the Use of Locomotive Horns at Highway-Rail Grade Crossings* (Federal Railroad Administration 1999), hereafter referred to as the 1999 Federal Railroad Administration (FRA) Draft Environmental Impact Statement (EIS).

The FRA data indicate that horn noise levels increase from the point at which the horn is sounded at 0.25 mile from the grade crossing to when it stops sounding at the grade crossing. In the first 0.125-mile segment, the energy average sound exposure level measured at a distance of 100 feet from the tracks was found to be 107 dBA, and in the second 0.125-mile segment, found to be 110 dBA. The 1999 FRA Draft EIS simplified the horn noise contour shape as a 5-sided polygon, when it is actually a teardrop shape. The *Final Environmental Impact Statement, Construction and Operation of a Rail Line from the Bayport Loop in Harris County, Texas* (Surface Transportation Board 2003) discusses this subject in detail. OEA used the more accurate teardrop contour shape for this analysis. The attenuation or drop-off rate of horn noise is assumed to be 4.5 dBA per doubling of distance away from the tracks (Federal Railroad Administration 1999).

Table E.3-1 lists the reference horn noise levels used in this study, and **Exhibit E.3-1** shows the horn noise spectrum used in the calculations.

Table E.3-1. Reference Horn Noise Levels

<i>Description</i>	<i>Average Level (dBA)</i>
<i>Horn SEL 1st 0.25 mile</i>	<i>110</i>
<i>Horn SEL 2nd 0.25 mile</i>	<i>107</i>

Source: Federal Railroad Administration 1999
dBA = A-weighted decibels; SEL = sound exposure level

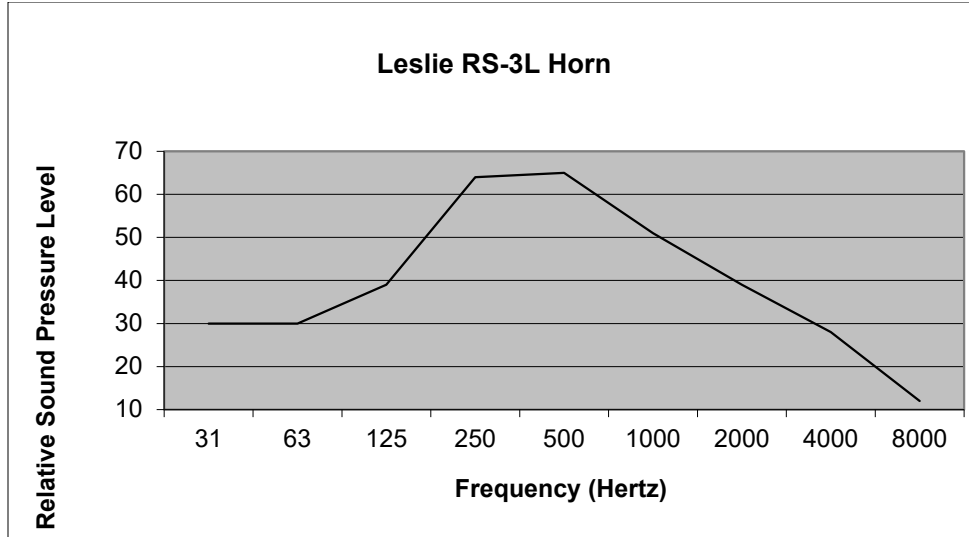


Exhibit E.3-1. Horn Noise Spectrum (Surface Transportation Board 2002)

E.4. Rail Yard Noise Models

Table E.4-1 shows the noise modeling parameters for rail yards. Twenty four daytime and one nighttime car coupling events were assumed. Trackmobile noise was estimated to be 85 dBA at the cab and assumed 3 hours use per day and no nighttime use.

Table E.4-1
Modeling Parameters for Rail Yard Noise Projections^a

	Equation No.	SEL	Lmax	n	k (dBA/ft)
Switch Engines	1	98	83	1	0.001
Car Coupling Impacts	1	94	99	2	0.005
Automobile Loader	2	N/A	76	N/A	0.001
Crane	2	N/A	72	N/A	0.0025
Idling Locomotives	3	N/A	67	N/A	0.0025

- 1) $DNL = SEL + 10\log(N_d + 10N_n) - 49.4 - 10\log(D/100)^n - k(D-100)$
- 2) $DNL = L_{max} + 10\log(NH_d + 10NH_n) - 13.8 - 20\log(D/100) - k(D-100)$
- 3) $DNL = L_{max} + 10\log(NH_d + 10NH_n) - 13.8 - 20\log(D/100) - k(D-100) + 8\log(1.33N_i) + 10\log(NR)$

Sound Exposure Level (SEL) is the event-specific noise level with the sound level normalized to one second; L_{max} is the maximum noise level which occurs during the event; n is an exponent used in the equations where n=1 for moving sources and n=2 for stationary sources; and k is the combined air/ground absorption coefficient. D is the distance in feet; N_d and N_n are the number of daytime and nighttime operations; NH_d and NH_n are the number of hours of daytime and nighttime operations; N_i is the number of noise sources per row; and NR is the number of rows of noise sources.

a. STB, 1998, except as otherwise indicated

E.5. Rail Line Operation Vibration Analysis Methods

OEA based the vibration assessment methods on Federal Transit Administration (FTA) methods (2006). Vibration level due to train passbys is approximately proportional to:

$$V = 20 \times \log (\text{speed}/\text{speed}_{\text{ref}})$$

Where:

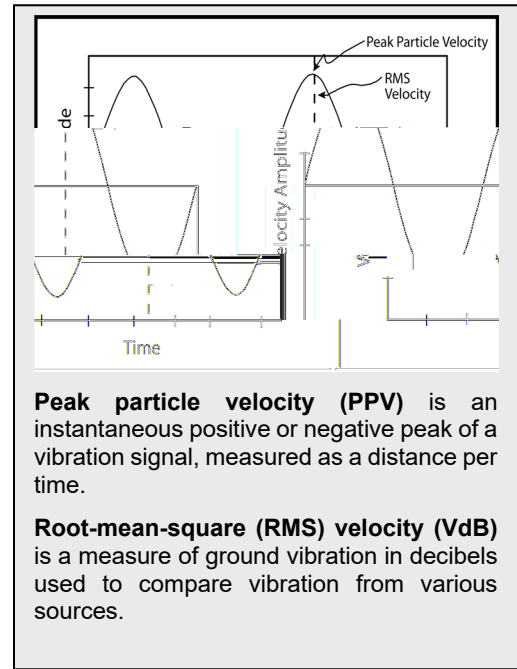
V = The ground-borne vibration velocity

Speed = The train speed

speed_{ref} = The reference speed of the train relative to its corresponding vibration level

Published (FTA) ground-borne vibration levels are adjusted for train speed by this equation and distance from the rail line to estimate vibration levels at receptor locations.

There are two ground-vibration impacts of general concern: annoyance to humans and damage to buildings. In special cases, activities that are highly sensitive to vibration, such as microelectronics fabrication facilities, are evaluated separately. Two measurements correspond to human annoyance and building damage for evaluating ground vibration: peak particle velocity (PPV) and root-mean square (RMS) velocity. PPV is the maximum instantaneous positive or negative peak of the vibration signal, measured as a distance per time (such as millimeters or inches per second). This measurement has been used historically to evaluate shock-wave type vibrations from actions like blasting, pile driving, and mining activities, and their relationship to building damage. RMS velocity is an average, or smoothed, vibration amplitude, commonly measured over 1-second intervals. It is expressed on a log scale in decibels (VdB) referenced to 0.000001×10^{-6} inch per second and is not to be confused with noise decibels. It is more suitable for addressing human annoyance



and characterizing background vibration conditions because it better represents the response

E.6. References

Federal Railroad Administration. 1999. *Draft Environmental Impact Statement, Proposed Rule for the Use of Locomotive Horns at Highway-Rail Grade Crossings*.

Federal Transit Administration. 2006. *Transit Noise and Vibration Impact Assessment*. May. (FTA-VA-90-1003-06.) Available: http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf.

Surface Transportation 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)*.

Surface Transportation Board. 1998b. *Draft Environmental Assessment Canadian National/Illinois Central Railroad Acquisition*.

Surface Transportation Board. 2002. *Draft Environmental Impact Statement, Construction and Operation of a Rail Line from the Bayport Loop in Harris County, Texas*. December.

Surface Transportation Board. 2003. *Final Environmental Impact Statement, Construction and Operation of a Rail Line from the Bayport Loop in Harris County, Texas*. May.

E.7. Glossary

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.
Day-night average sound level	The energy average of A-weighted decibel sound levels over 24 hours, which 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 1 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.
Decibel (dB)	A standard unit for measuring sound pressure levels based on a reference sound pressure of 0.0002 dyne per square centimeter. This is nominally the lowest sound pressure that people can hear.
Decibel, A-weighted (dBA)	A measure of noise level used to compare noise from various sources. A-weighting approximates the frequency response of the human ear.
Hertz (Hz)	A unit of frequency equal to one cycle per second.
Peak particle velocity (PPV)	The maximum instantaneous positive or negative peak of the vibration signal, measured as a distance per unit time (such as millimeters or inches per second). This measurement has been used historically to evaluate shock-wave type vibrations from actions like blasting, pile driving, and mining activities, and their relationship to building damage.
Root-mean-square vibration velocity (VdB)	An average or smoothed vibration amplitude, commonly measured over 1-second intervals. It is expressed on a log scale in decibels (VdB) referenced to 0.000001 inch per second and is not to be confused with noise decibels.

Hazardous Materials Release Sites

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.

To search for documented releases of hazardous materials, OEA used multiple resources to identify documented spills/releases. OEA obtained an Environmental Database Report (EDR) to identify known hazardous material releases within the study area.¹ This report includes 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 affect those hazardous material release sites based on their proximity to the study area.

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

The tables below summarize the results of these database searches in relation to the study area.

¹ EDR is a third-party database report used in the environmental due diligence process that searches relevant state and federal environmental databases.

Table F-1: Hazardous Materials Release Sites within the Study Area

Spill ID	Site Name	Address	Release Description	Proximity to Property
9208035	Lilco	Bread & Cheese Hollow Road	Release of mineral oil from failed transformer.	Exact location unknown.
9109558	TC Carting Co	15 Meadow Glen Road	Release of diesel to soil.	490 feet north of project site
9003724	Voltaggio Residence	20 Glen Lane	Release of No. 2 fuel oil to soil.	400 feet north
1609699	Industrial Yard	150 Townline Road	A release of motor oil to stone.	Directly adjacent to the project site.
0225203	Ecology Sanitation Corp.	150 Townline Road	Fuel oil spill from aboveground storage tank, contaminated soil left in ground.	Directly adjacent to the project site.
0604346	Unknown	9 Glen Road	A release of mineral oil from a transformer.	420 feet north of the project site
8911183, 8911232	Huntington Landfill	Townline Road and Pulaski Road	A release of petroleum product as results of tank overfill.	400 feet west of the project site
152040	Huntington Landfill	Townline Road and Pulaski Road	Concentrations of tetrachloroethene and metals in groundwater. Residual contamination being managed under a Site Management Plan.	400 feet west of the project site
0550512	Covanta Huntington	99 Townline Road	A release of hydraulic oil to concrete.	380 feet east of the project site
9308069	Odgen Martin Systems	99 Townline Road	A release of petroleum product.	380 feet east of the project site
9204516	Odgen Martin Systems	99 Towline Road	A release of petroleum product from tank.	380 feet east of the project site

0900591	Huntington Resource Recovery Facility	99 Townline Road	Release of 5 gallons of motor fuel to soil.	380 feet east of the project site
1812765	Kings Park Landfill	Townline Road/Commack Road	Heavy odor coming from landfill.	Exact location unknown.
0206934	Unknown	Pulaski Road/Townline Road	A release of 10 gallons of hydraulic oil.	Exact Location unknown
0708999	Townline Road	Townline Road/Old Northport	A 10 to 20 gallon release of unknown petroleum product.	Exact location unknown.
57154	Steck/Philbin Development Company	Old Northport Road	Concentrations of PFAS and 1,4-dioxane in groundwater in excess of EPA Health Advisory levels.	400 feet east of the project site

Table F-2: Hazardous Waste Generators Within the Study Area

Identification No.	Property Owner	Street Address	Proximity to Property
NYD982722787	BOBBYS AUTO REFINISHING INC (currently Fairway Equipment Truck Repair)	150 TOWNLINE RD	Directly adjacent to site (SW)
NYD982726457	DEJANA TRUCK & UTILITY EQUIP	490 PULASKI RD	Directly adjacent to site (N)
NY0000095182	TWINS AUTO BODY INC	168 TOWNLINE RD BAY #5	South of project site along Townline Road

Source: EPA, <https://www.epa.gov/hwgenerators>.

Response to Comments on the Draft EA

G.1 Introduction

This section responds to the substantive comments that OEA received on the Draft EA and describes how and where those comments may have led to changes to the Draft EA as reflected in the Final EA. OEA’s responses to the comments, set forth below, explain its analyses on the issues raised in the comments and clarify and correct information in the Draft EA where appropriate. If the comment resulted in a change to the Draft EA, the edits can be seen in strikethrough or underlined text in the Final EA. The comments received during the comment period were factual and minor and did not warrant altering the conclusions OEA reached in the Draft EA. The comments and responses below are organized by resource area in the same order as the Draft EA.

Table 2, at the end of this section, provides an index that allows readers to find their comments and the associated responses. The table is arranged in alphabetical order by commenter last name or organization. The table lists the Board’s website comment identification number, commenter type category (federal agencies, elected officials, organizations, and individuals), the comment number (e.g., C-12), and associated resource area.

To find OEA’s response to a comment, find the commenter’s name or organization in **Table 2** and note the comment number and associated resource area, then find the appropriate section number for that resource area.

G.2 Approach

OEA responded to substantive comments received on the Draft EA, individually or in groups, in accordance with the Council on Environmental Quality (CEQ) requirements at 40 C.F.R. § 1503.4, Response to comments. OEA’s comment responses were also prepared in accordance with CEQ guidance in the Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations (CEQ 1986), which states “an agency is not under an obligation to issue a lengthy reiteration of its methodology for any portion of an EA if the only comment addressing the methodology is a simple complaint that the EA

methodology is inadequate. But agencies must respond to comments, however brief, that are specific in their criticism of agency methodology.”

The CEQ guidance makes clear that “if a number of comments are identical or very similar, agencies may group the comments and prepare a single answer for each group. Comments may be summarized if they are especially voluminous.” Interested parties can view the full text of all comments on the Board’s website (www.stb.gov) by searching “Environmental Comments” for the docket number of this proceeding (Docket No. FD 36575).

The following paragraphs describe the approach OEA used to capture, track, and respond to comments on the Draft EA:

- OEA received a total of 105 comments on the Draft EA. Comments came from individuals, citizen associations, and agencies. OEA read all comments and their attachments to identify and extract concerns. OEA identified 41 comments that were largely factual but substantive enough to warrant a response in this Final EA.
- Frequently, commenters raised identical or similar concerns or issues. OEA summarized the commenters’ concerns or issues and responded below. The comment summaries are paraphrased, but OEA made every effort to capture the meaning of every comment.
- If the meaning of a comment was not clear, OEA made a reasonable attempt to interpret the comment and to respond based on that interpretation.
- Each comment summary and response consists of three parts: (1) the comment summary, (2) the assigned comment identification number, and (3) OEA’s response.

The comments and responses are organized by resource area in the same order as the Draft EA, except for the first section below, which addresses comments on the environmental review process.

G.3 Comments and Responses

G.3.1 Environmental Review Process

Comment Summary

Commenters disagreed with OEA’s decision to prepare an Environmental Assessment rather than an Environmental Impact Statement (EIS), noting that the EIS process ensures that the agency takes a “hard look” at environmental consequences. (C-67)

OEA Response

As presented in *Chapter 1, Section 1.4* of the Draft EA, OEA determined that preparation of an EA rather than an EIS would be appropriate in this case under 49 C.F.R. §1105.6(d) because OEA did not expect impacts to be significant for the reasons identified there. The

environmental analysis and conclusions in the Draft EA confirm that OEA properly found that preparation of an EA would be adequate here. Neither OEA’s analysis, nor the commenters, have shown that there is a potential for significant environmental impacts warranting an EIS. The environmental impacts identified are minor and can be appropriately addressed with OEA’s final recommended mitigation.

Comment Summary

Commenters took issue with the statement in the Draft EA that no agencies raised major concerns that warranted consideration of additional alternatives. Commenters stated that local agencies did raise concerns about the potential impacts of the project, including concerns about the impacts to fugitive dust and odor, noise, surface water, and traffic. One commenter noted a discrepancy between *Section 1.4* of the Draft EA, stating that “minimal” concerns were raised from relevant agencies, and *Section 2.4* of the Draft EA, stating that no agencies raised “any concerns” regarding potential environmental impacts. (C-35, C-34, C-67)

OEA Response

Chapter 2, Section 2.4 of the Final EA clarifies that the intent of the statement was to indicate that no agencies raised substantial concerns regarding potential environmental impacts of the Proposed Action warranting the consideration of additional alternatives beyond the Proposed Action and No-Action Alternative.

Comment Summary

A commenter questioned why OEA did not contact the Long Island Railroad (LIRR) regarding the Proposed Action’s impacts to the existing LIRR rail line during construction and operation. (C-67)

OEA Response

As discussed in *Chapter 2, Section 2.1* of the Draft EA, the New York Atlantic Railroad (NYA) took over the LIRR’s freight service over two decades ago. *Section 2.4* of the Draft EA explained that Townline properly coordinated with NYA regarding its proposed connection to the mainline and its operations. NYA can only operate the number of freight trains that LIRR would allow. OEA typically does not consult with railroads from which an applicant would receive service. Therefore, no further consultation with either NYA or LIRR was needed.

Comment Summary

A commenter questioned why OEA did not contact other relevant New York State Department of Environmental Conservation (NYSDEC) divisions concerning water resources, petroleum and chemical bulk storage programs, and remediation and materials management. (C-67)

OEA Response

As indicated in *Appendix A* of the Draft EA, OEA exchanged letters with NYSDEC. The regional director for NYSDEC is the typical contact for agency consultation. The regional director can forward to other internal divisions as appropriate. The commenter did not indicate why OEA should have contacted other NYSDEC divisions. Moreover, the Proposed Action would not involve the petroleum and chemical bulk storage and remediation and materials management.

Comment Summary

A commenter asked whether OEA replied to the Suffolk County Department of Health Services (SCDHS) as requested in its initial consultation letter and if so, whether there were any meetings to discuss the Proposed Action. Commenter also asked whether the SCDHS consultation letter should have been discussed in *Section 1.6*, Agency Consultation or in Cumulative Impacts, *Section 3.12*. (C-67)

OEA Response

SCDHS provided preliminary comments at the outset of the EA process regarding topics to analyze in the Draft EA and stated that it reserved its right to provide more detailed information during the comment period. In *Sections 1.6*, Agency Consultation, and *3.12*, Cumulative Impacts of the Draft EA, OEA did not respond to individual initial consultation letters received from federal, state, and local agencies and therefore, did not specifically discuss SCDHS's comments in those sections. SCDHS never requested a meeting with OEA during the EA process but did provide comments during the formal comment period for the Draft EA, which OEA carefully considered. Therefore, no further consultation was necessary.

Comment Summary

A commenter asked whether OEA contacted the New York State Department of Transportation (NYSDOT) as requested in its initial consultation letter and if so, whether there were any meetings to discuss the Proposed Action. Commenter also asked whether the NYSDOT comments should have been discussed in *Section 1.6*, Agency Consultation. (C-67)

OEA Response

As indicated in NYSDOT's letter in *Appendix A* of the Draft EA, NYSDOT never requested a meeting with OEA. In *Section 1.6*, Agency Consultation, OEA did not respond to individual initial consultation letters received from federal, state, and local agencies and therefore, did not specifically discuss NYSDOT's comments in that section. NYSDOT provided comments at the outset of the EA process regarding topics to analyze in the Draft EA, which OEA carefully considered. Therefore, OEA appropriately consulted with NYSDOT and considered its comments.

Comment Summary

A commenter claimed that no in-person surveying or fieldwork was done to support the analysis in the Draft EA. (C-11, C-67)

OEA Response

As discussed in *Chapter 3, Sections 3.7 and 3.8* and *Appendix A* of the Draft EA, OEA conducted a site visit on August 1, 2022, and conducted a habitat survey for the Northern Long Eared Bat on July 14, 2023.

Comment Summary

Commenters stated that the Environmental Assessment process was rushed and that OEA did not make members of the public aware of Townline's application. Commenters also raised the question of whether the appropriate agencies were contacted during the EA process. (C-45, C-64, C-65)

OEA Response

The record does not support the claim that the environmental review was rushed. Consistent with CEQ regulations, OEA provided the public with ample opportunity to participate in the environmental review process. In June 2022, when OEA began working on the Draft EA, OEA sent letters to locally elected officials, tribes, and local, state, and federal agencies alerting them to the Proposed Action and requesting information on any environmental resources that could be affected by the Proposed Action. The Draft EA was issued for a 30-day public review and comment period on January 5, 2024. OEA also issued a press release and notified local elected officials; tribes; local, state, and federal agencies and media outlets that the Draft EA had been issued for public comment on January 5, 2024. OEA coordinated with all appropriate local, state, and federal agencies during the EA process. For a detailed list of every agency OEA contacted, as well as all correspondence between OEA and the agencies, please see *Appendix A: Agency and Tribal Coordination*.

G.3.2 Purpose and Need

Comment Summary

Commenters questioned the purpose and need to provide a rail option for transporting incinerator ash and clean Construction and Demolition (C&D) debris off Long Island by rail instead of truck. Commenters observed that the Brookhaven Landfill currently accepts those types of waste. In addition, NYSDEC has permitted two existing Suffolk County disposal facilities for C&D debris in Medford and Brentwood. Commenters stated that the increased C&D debris capacity provided by those permits far surpasses the amount of C&D debris that would be lost with the closing of the Brookhaven Landfill. Also, a Town of Brookhaven Supervisor recently announced that the Brookhaven Landfill will remain open to accept ash until 2027 or 2028.

Commenters further stated that the Draft EA did not clearly indicate that there are four Covanta Waste to Energy facilities on Long Island: Covanta Babylon, Covanta Hempstead, Covanta MacArthur, and Covanta Huntington. Commenters noted that Covanta has stated that “Covanta continues to explore options and has not finalized plans regarding how we will handle the ash from our Long Island facilities following the closure of the Brookhaven Landfill...” (C-34, C-35, C-67, C-68)

OEA Response

Regardless of the amount of landfill capacity that would remain on Long Island, Townline’s purpose is to provide rail service to Carlson Corp (Carlson), which is currently using trucks for waste transport to local landfills, based on an understanding that the Brookhaven Landfill is scheduled to close and that ultimate landfill capacity on Long Island is limited. Townline intends to serve Covanta Huntington, which neighbors the Carlson property. The fact that Covanta facilities may be exploring other options for disposal of ash does not preclude Townline from seeking authority from the Board to provide this rail service.

Comment Summary

Commenters questioned the description of the Proposed Action on pages 16 and 17 of the Draft EA regarding Townline’s marketing of its service to other potential customers for importing goods and commodities such as aggregate and construction materials. Commenters questioned Townline’s expectation that train length would average 16 cars but would not exceed 27 cars per train. Commenters stated that a review of the filings indicates that the imports would be much larger than the aggregates and materials to supply a local asphalt plant, cement ready-mix plant, and precast producer that the Draft EA described. Commenters stated that Townline also intends to service lumber yards and car dealerships, which do not exist in the industrial area and that the Draft EA downplays the scope of the Proposed Action.

Commenters also asserted that there are contradictions in the tables in the Draft EA regarding the amount of ash produced, transported, and transferred by Carlson. Commenters suggested that OEA amend the Draft EA to accurately reflect the quantities of ash and the sources of the ash. (C-34, C-35, C-67)

OEA Response

The Draft EA generally describes the anticipated rail operations in *Chapter 2, Section 2.2*. However, daily carloads would depend on demand. As indicated in the Draft EA, the primary purpose of the Proposed Action is to serve Carlson. However, as the Draft EA also states, the Proposed Action would be a common carrier rail line, and Townline would be obligated to “provide the transportation or service on reasonable request.”¹ As such, OEA cannot perfectly predict the number of shippers that would use the proposed rail line, but given the proposed rail line’s length of 5,000 feet, the maximum number of cars per train would be 27, and the proposed rail line would have a maximum capacity of 54 cars (27 cars

¹ 49 U.S.C. § 11101(a)

coming in on one train and 27 cars leaving on one train). The Draft EA appropriately assumed the maximum number of cars for each resource area evaluation.

Regarding the alleged contradictions in the Draft EA tables, OEA notes that the information in the Draft EA was provided by Townline. Additionally, the numbers provided by the commenter that supposedly contradict the information in the Draft EA are lower than those provided by Townline, indicating that OEA's analysis overstated the impacts, which only strengthens OEA's conclusions.

Comment Summary

A commenter stated that the planned operating hours for Townline, which the Draft EA states would start at 6:00 a.m., conflict with the Town of Smithtown (Smithtown) code, because the Code does not allow noise-producing operations to start before 7:00 a.m. (C-35)

OEA Response

Comment noted. As stated in *Chapter 3, Section 6* of the Draft EA, OEA's noise analysis showed that no residential structures would be impacted by noise from the Proposed Action because the residential structures are located on the other side of the LIRR mainline. OEA also determined that the Proposed Action's daytime and nighttime operations would have no adverse effect on adjacent receptors. Accordingly, whether operations start at 6:00 a.m. or 7:00 a.m. is not of consequence, because regardless of the start time of rail operations, noise from the Proposed Action would have minimal impacts.

Comment Summary

Commenters noted that in addition to the Board's permitting authority, there are local and state regulations that would limit what activities Carlson can conduct on their site and what commodities they are able to transfer via the Proposed Action, for example, hazardous materials and municipal solid waste. Comments suggested that the Draft EA should have discussed these additional regulations. Commenters also claimed that if Townline intends to transport commodities from other shippers, the impacts of those actions should have been examined in the Draft EA as well. (C-34, C-35)

OEA Response

As clarified in a decision in this proceeding served on February 23, 2024, the Board does not have any jurisdiction over the Carlson transloading facility, and Carlson would be required to comply with applicable state and local laws for the transloading facility, so long as those laws do "not unreasonably burden rail transportation, discriminate against rail carriers, or impinge on the Board's jurisdiction or a railroad's ability to conduct its rail operations."² The Board noted on page 5 of its decision that state and local regulations for storing and handling hazardous materials at the transload facility would not be federally preempted

² Town of Smithtown, N.Y. – Pet. for Declaratory Order, FD 36575 (Sub-No. 1), slip op. at 4 (STB served Feb. 23, 2024).

because the Carlson transloading facility is not part of rail transportation by a rail carrier. Furthermore, OEA properly described the local permitting process in *Chapter 1, Section 1.5* of the Draft EA when it stated “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.”

With respect to anticipated shippers, *Chapter 2, Section 2.2* of the Draft EA indicates that the Proposed Action includes Townline marketing its rail service to other potential customers for importing goods and commodities. The analysis contained in the Draft EA appropriately included all commodities that are reasonably foreseeable.

G.3.3 Proposed Action and Alternatives

Comment Summary

Commenters questioned the sufficiency of OEA’s description of the Proposed Action and asked for more supplemental information about intended operations, potential customers, and other details. (C-67)

OEA Response

OEA’s description of the Proposed Action was adequate and provided all the necessary information to analyze the impacts of the Proposed Action. All available information about planned operations of the Proposed Action can be found in *Chapter 2, Section 2.2* of the Draft EA.

Comment Summary

Commenters stated that NEPA requires a thorough examination of alternatives to proposed actions. Commenters stated that this examination should be all-encompassing, including a comparative analysis of all reasonable alternatives, a "no action" scenario, and other possible changes. Commenters stated that NEPA requires that agencies describe appropriate alternatives and indicate reasons for their elimination from detailed study. Furthermore, commenters suggested that the Proposed Action’s potential regional impact necessitates consideration of a broad range of alternatives. Townline Association specifically asked what would happen if the Board approved the Proposed Action, but NYSDEC and the Town of Smithtown do not approve the transloading facility.

Commenters also suggested alternatives to the Proposed Action that the Draft EA did not consider. The alternatives included: a smaller facility; alternative locations including SDG LLC and Babylon Township; a private rail spur; use of the Long Island Rail Terminal or other private rail waste transfer stations currently in development, including those in Yaphank, Brentwood, and Medford instead of constructing the Proposed Action; use of existing transloading truck to rail facilities currently operating on Long Island; and constructing the Proposed Action on an alternative site on the Old Pilgrim State Hospital Property. (C-9, C-10, C-14, C-34, C-67)

OEA Response

As discussed in *Chapter 2, Section 2.4* of the Draft EA, 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.” In addition, CEQ regulations require only 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)). In other words, the reasonable range of alternatives should be commensurate with the potential impacts. As demonstrated in *Chapter 3* of the Draft EA, the impacts of the Proposed Action would range from no adverse effect to minimal impacts. If the Board approves the Proposed Action, but NYSDEC and the Town of Smithtown do not approve the transloading facility, Townline could still construct and operate a rail line on the project site.

The Draft EA reasonably considered only two alternatives—the Proposed Action and the No-Action Alternative, which would occur if the Board denied Townline’s request for Board authority. 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. Moreover, while agencies raised some concerns about the project, none of those concerns detailed potential environmental impacts that would warrant the consideration of additional alternatives. Nor did any agency suggest any rail alternatives to the Proposed Action 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. The alternatives suggested by commenters would not meet the purpose and need of the Proposed Action. See Chapter 1 of the Draft EA for a detailed discussion of the Proposed Action’s purpose and need. Commenters have not demonstrated that the alternatives they suggested should have been considered in the EA.

G.3.4 Hazardous Materials Transportation

Comment Summary

Commenters noted that federal law would require Townline to transport any freight, including hazardous materials, upon reasonable request. Commenters claimed that Townline has stated that it would not transport hazardous materials. The commenters argue that if Townline did transport hazardous materials, it would not be able to unload the hazardous materials in Carlson’s waste transload facility pursuant to state and local law. (C-12, C-67)

OEA Response

The Board provided further information on these issues in a decision in this proceeding served on February 23, 2024.³ The Board clarified in its decision that “Townline’s common

³ Town of Smithtown, N.Y. – Pet. for Declaratory Order, FD 36575 (Sub-No. 1), slip op. at 5 (STB served Feb. 23, 2024).

carrier obligation would impart no obligation on Carlson Corp. to transload such [hazardous] materials.” Specifically, the Board noted that it has exclusive jurisdiction over “transportation by rail carrier,” 49 U.S.C. § 10501(b), and that “transportation” includes transloading activities when those activities are performed by, or under the auspices of, a rail carrier. However, the Board stated on page five that:

Although Carlson Corp and Townline are affiliated entities, nothing in the record indicates that Carlson Corp would act as Townline’s agent, that Townline would exert control over Carlson Corp’s operations at the facility, or that Carlson Corp’s transloading would be included as part of the common carrier rail service Townline would offer to the public. Under those circumstances, the transloading activities contemplated by Carlson Corp would not constitute ‘transportation by rail carrier.’

Thus, the Board specified in its decision that Carlson would be required to comply with state and local laws prohibiting it from storing and handling hazardous materials at the transload facility.

Further, on page five of its decision, the Board “decline[d] to describe in the abstract what may constitute a reasonable request for transportation of hazardous materials by Townline,” noting that “whether a request is reasonable depends on the relevant facts and circumstances.” Townline has acknowledged that it would have an obligation to fulfill any reasonable request to transport hazardous materials as a common carrier. However, it has no current plans to transport hazardous materials, and no request to transport hazardous materials by Townline is currently anticipated.

Comment Summary

Townline Association stated that, because federal law would require the transport of hazardous materials, the “specifics contained within the DEA can reasonably be regarded as downplaying the prospective scope and materiality of the Proposed Action.” (C-67)

OEA Response

The Draft EA did not downplay the prospective scope and materiality of the Proposed Action because Townline does not have current plans to ship hazardous materials. There was no need for the Draft EA to analyze potential impacts that were not reasonably foreseeable.

Comment Summary

EPA “recommends the Board consider Townline’s plans to offer rail service to adjacent properties and environmental impacts associated with transfer of waste materials due to production of asphalt and concrete and other potential customers as different types of waste may have different environmental impacts during operation and should be disclosed in accordance with NEPA.” (C-52)

OEA Response

Chapter 1, Section 1 of the Draft EA states the following about the Proposed Action: “Townline intends to serve a planned truck-rail transloading facility that its affiliated entity, Carlson, would build pursuant to state and local law.” Carlson plans to use the Proposed Action to transport incinerator ash, C&D debris, and aggregates. The aggregates could be used in the manufacturing of asphalt and concrete. *Chapter 2, Section 2.2* of the Draft EA states that Townline anticipates switching four to five freight cars carrying aggregate and one to two freight cars carrying other commodities for unloading on a daily basis. OEA does not expect that these small volumes of aggregates and other commodities would have potentially significant environmental impacts that should have been disclosed in the EA.

G.3.5 Transportation

Comment Summary

A commenter stated that OEA provided no relevant regulations and guidance for the analysis of transportation impacts and requested the relevant regulations and guidance. (C-65)

OEA Response

Chapter 3, Section 3.1, explains that the Draft EA followed the Board’s environmental regulations at 49 C.F.R. Part 1105.7. The regulations state “describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.” OEA properly addressed all the information in the Board’s regulations in the Draft EA.

Comment Summary

Commenters expressed concerns about the increase in traffic on local roads and trucks traveling too fast on residential roads and near schools. Commenters also dispute the discussion of trucks using Sunken Meadow Parkway, Townline Road, Meadow Glen Road, or Greenwood Road in the Draft EA. Commenters stated that parkways in New York exclude commercial traffic, Meadow Glen Road does not provide access to Carlson’s property, Greenwood Road is not completely paved, and Townline Road has time and weight restrictions and frequently floods. Commenters also noted truck restrictions on Bread and Cheese Hollow Road, although they also stated that trucks frequently use the roadway. Commenters also claimed that the EA erroneously did not consider the impacts to Jericho Turnpike, Deposit Road, and Pulaski Road, which would be impacted by the Proposed Action. (C-67, C-68, C-35, C-69, C-34, C-106)

OEA Response

Comments noted. *Chapter 3, Section 3.2* of the Final EA clarifies the roadway network description to reflect roadway restrictions including weight and industrial traffic. However, these comments do not affect the conclusions of the transportation impacts’ analysis of the

Proposed Action in the Draft EA. The Draft EA analyzed the number of trucks required for the movement of waste currently and under the Proposed Action, as well as the necessary miles traveled by those trucks. Based on the total miles traveled with current operations and the Proposed Action, OEA found that there would be fewer trucks and truck trips required under the Proposed Action. Therefore, OEA properly concluded that there would be positive impacts on Transportation as a result of the Proposed Action.

Comment Summary

Commenters took issue with the analyses of transportation impacts in the Draft EA and disputed the accuracy of the truck trip calculations. Commenters stated that while Vehicle Miles Traveled (VMT) may be offset regionally by the Proposed Action, the local area would bear the burden of increased truck trips. Commenters stated the EA should quantify and evaluate the number of trips to and from the site, as opposed to just the vehicle miles that would be traveled. Commenters stated that the Proposed Action would generate more truck trips than what the Draft EA described and raised concerns about the addition of tractor trailers and warehouses on the Carlson property and their potential to increase truck traffic. Commenters also stated that Carlson intends to construct an additional 50 truck bays on its property, raising additional concerns about truck traffic. Commenters suggested that the EA should analyze the impacts of additional trucking under the Proposed Action to transport commodities to the site to then be shipped by rail. (C-4, C-35, C-34, C-39, C-58, C-40, C-75, C-11, C-53)

OEA Response

As detailed in *Chapter 1, Section 1.1* of the Draft EA, the Board is reviewing the construction and operation of the proposed 5,000 feet of rail line and associated switching and sidetrack. The facilities and improvements associated with Carlson's planned transloading facility, including the additional truck bays, are not under the Board's jurisdiction and would be reviewed at the state and local level (see details in *Chapter 1, Section 1.5* of the Draft EA and Board decision).⁴ While daily carloads would depend on demand, *Chapter 2, Section 2.2* of the Draft EA provides Townline's detailed forecast of truck counts and anticipated daily movement of railcars to and from the site. OEA's train counts are accurate and reasonable based on the information provided by Townline. Finally, any storage and local movement of materials by Carlson would require compliance with the NYSDEC permit.

Comment Summary

A commenter stated that there is a clarification needed in the description of the Proposed Action's location. The commenter asserts that the Proposed Action is not located on the LIRR mainline, but on the Port Jefferson Branch, which has more limited capacity for passengers and freight. (C-35)

⁴ See Town of Smithtown, N.Y.--Petition for Declaratory Order (Decision Sub-No.1), FD 36575 et al. (STB served Feb. 23, 2024)

OEA Response

Comment noted. OEA is aware that the Proposed Action is located along the portion of the LIRR mainline known as the Port Jefferson Branch. In *Chapter 3, Section 3.3* of the Draft EA, OEA quoted from the draft Smithtown Comprehensive Plan, which states that the exact location of the industrial property is located along the Port Jefferson Branch of the LIRR. OEA used the term “LIRR mainline” throughout the Draft EA for simplicity.

Comment Summary

A commenter suggested the need for a modification to the existing waste transfer permit due to “physical space reduction and new waste streams proposed for the facility.” The commenter posed the question – is there also a need to modify the permit due to the change in mode of transportation from truck to rail? (C-52)

OEA Response

NYSDEC correspondence, dated July 21, 2022, details the need for a modification to the existing waste transfer facility but does not indicate that the change in mode of transportation from truck to rail is a reason for the required permit modification (included in *Appendix A* of the Draft EA).

Comment Summary

A commenter noted that the Draft EA does not include an analysis regarding where the incinerator ash and C&D debris would be transferred when the Brookhaven Landfill is closed. The calculations of reduced traffic are based on truck transfer to Covanta in Huntington. However, if the Proposed Action would lead to transferring waste off Long Island, this calculation in truck miles traveled would change significantly based on where the waste is being transferred. Therefore, the commenter recommends that the Board assess the transfer locations outside of Long Island to where future waste produced by Carlson and associated facilities in Kings Park would be shipped and the impacts associated with the change in transfer location. The commenter states that this is a reasonably foreseeable impact under 40 C.F.R. § 1508.8 and should be addressed prior to an environmental determination regarding the Project. (C-52)

OEA Response

The Proposed Action is not a request for authority related to the Brookhaven Landfill, and while the need to transfer incinerator ash and C&D debris to other locations when the Brookhaven Landfill is closed is part of Townline’s purpose and need, it is not part of the Proposed Action. In response to the comment, and to address the commenter’s request for information on the locations where Townline’s rail shipments might be transferred, OEA did additional research. OEA determined that while the locations of some transfer stations – which could be used off of Long Island under the Proposed Action and in the case of closing the Brookhaven Landfill – are known, a complete list is unavailable. In addition, the number of potential landfills for C&D is large; information on all landfills that handle ash is unavailable; and shipments of waste are subject to commercial negotiations that are

confidential. Therefore, there is no way to reasonably calculate where exactly the waste would ultimately go or the impacts associated with the change in transfer locations.

More specifically, OEA researched the possible destinations of the C&D debris and incinerator ash where rail transport could serve as an option. Municipalities and private businesses have been shipping waste for several decades, as landfills continue to exceed capacity or close, and options for disposal diminish. Researchers have explored the modal options for shipping waste in order to determine what is most cost-effective and sustainable. The research indicates that transporting waste by rail involves higher terminal fees than shipping waste by truck. However, rail transport has lower line-haul costs. Therefore, transporting waste by rail becomes more economically viable in comparison to trucking as the distance traveled increases.⁵ As a result, transporting waste by rail increases the number of landfills to which waste could be reasonably shipped, provided that there is existing rail infrastructure. Therefore, when considering transportation costs alone, it is reasonable to assume that waste shipped by rail by Townline typically would not be limited to local or regional landfills.

To identify specific potential locations for waste that could be transported by Townline, OEA would have to identify all landfills in the United States that accept C&D debris and incinerator ash. Most states maintain lists of permitted landfills. These lists typically detail whether the landfill is public or private, its location, and what type of waste it handles. To provide an example, OEA removed public landfills from its search because public landfills usually serve the neighboring communities that pay taxes to maintain them. OEA reviewed the lists of available landfills in North Carolina, Virginia, Maryland, Pennsylvania, Georgia, Florida, Alabama, and Kentucky, and found over 250 private landfills that accept C&D debris. The table below, **Table 1**, details how many private C&D landfills there are by state. The options for transporting C&D debris via rail are so vast, even within the Southeast and Mid- Atlantic, that OEA cannot reasonably predict where C&D waste would be shipped.

Further, incinerator ash waste can only be accepted at select facilities. In the United States, incinerator ash is typically disposed of in monofils.⁶ Lists of locations accepting incinerator ash are not publicly available. Therefore, OEA also cannot reasonably predict where incinerator ash might be shipped.

⁵ Banks, Robert L, et al. “Solid Waste by Rail: A Research Opportunity.” *Transportation Research Forum*, vol. 31, no. 2, Jan. 1991.

⁶ Cho, B. H., Nam, B. H., An, J., & Youn, H. (2020). Municipal Solid Waste Incineration (MSWI) Ashes as Construction Materials-A Review. *Materials (Basel, Switzerland)*, 13(14), 3143. <https://doi.org/10.3390/ma13143143>

Table 1: Private C&D Landfills by State

State	Number of Private Landfills accepting C&D Debris
Georgia ⁷	33
North Carolina ⁸	28
Florida ⁹	64
Maryland ¹⁰	6
Virginia ¹¹	10
Pennsylvania ¹²	5
Alabama ¹³	77
Kentucky ¹⁴	55

G.3.6 Land Use and Zoning

Comment Summary

A commenter stated there was an inaccuracy in the Draft EA regarding the number and names of active landfills on Long Island. The commenter asserted that the most recent data available from the NYSDEC Local Solid Waste Management Plan should be used in the analysis. (C-35, C-67)

⁷ www.epd.georgia.gov/about-us/land-protection-branch/solid-waste/regulated-solid-waste-facilities

⁸ www.deq.nc.gov/about/divisions/waste-management/solid-waste-section/solid-waste-permitted-facility-information-and-guidance/solid-waste-facility-lists

⁹ www.floridadep.gov/waste/permitting-compliance-assistance/content/solid-waste-section

¹⁰ www.mde.maryland.gov/programs/LAND/SolidWaste/Pages/PermittedFacilities.aspx

¹¹ www.deq.virginia.gov/home/showpublisheddocument/20645/638436070995400000

¹² www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/MunicipalWastePermitting

¹³ www.adem.alabama.gov/programs/land/landforms/CDILFMasterList20.pdf

¹⁴ www.eec.ky.gov/Environmental-Protection/Waste/Pages/Solid-Waste-Facility-Reports.aspx

OEA Response

Comment noted. The Draft EA has been updated to provide accurate names of the landfills and references in the most recent NYSDEC Solid Waste Management Plan. The number of active landfills on Long Island presented in the Final EA, *Chapter 1, Section 1.1*, is accurate according to the most recent NYSDEC data.

Comment Summary

Commenters suggested that the Draft EA's depiction of the site of the Proposed Action and the surrounding context are misleading. Commenters stated that the Draft EA only outlines the site's proximity to the LIRR mainline and presents the nearest residence on Meadow Glen Road, as roughly 500 feet away. Commenters stated that a broader perspective reveals that the site, which is at the edge of an industrial area, is surrounded by residential homes, schools, parks, day care facilities, animal shelters, healthcare and group living facilities, an orchard, and local roads. They assert that the Proposed Action would negatively affect many residential communities, including Commack, Kings Park, Fort Salonga, East Northport, Northport, Greenlawn, Huntington, and Elwood. Some commenters assert that the Draft EA does not adequately address the impact to these neighborhoods, and improperly focuses on the homes to the north of the property while ignoring a residential neighborhood 500 feet to the southwest. Commenters noted that OEA's site visit did not fully capture the potentially problematic context of the site. Commenters also expressed concern that the Proposed Action would negatively affect property values. (C-4, C-5, C-57, C-67, C-106)

OEA Response

Chapter 3, Section 3.3 of the Final EA clarifies why the Proposed Action would be consistent with the existing land uses on the subject property and clarifies that the Town's Comprehensive Plan provides general support for the industrial zoning of the Proposed Action's location. In addition to reviewing the relevant local laws, OEA visited the project area in preparing the Draft EA, to gain a full understanding of the project area and the surrounding area. The land use analysis in the EA is thorough, and OEA's conclusions are reasonable. OEA's description of the Proposed Action's proximity to residential land uses in *Chapter 3, Section 3.3* of the Draft EA, is correct; the nearest residential property line is across the LIRR mainline from the Carlson property on Meadow Glen Road. The LIRR line is an existing rail line, and the Proposed Action would not impact residences given the existing impacts from LIRR operations.

Regarding property values, NEPA requires agencies to evaluate the "environmental impact" and any unavoidable adverse "environmental effects" of a proposed action. A potential change in property values would not be an effect on the environment. Therefore, OEA appropriately did not assess potential effects on property values as part of the environmental review.

Comment Summary

Commenters disputed the accuracy of the Land Use and Zoning statements in the Draft EA. Commenters noted several inaccuracies in the Draft EA's references to the Town's zoning and the Comprehensive Plan. Similarly, the commenters suggested inaccuracies in how the Draft EA discusses the current zoning of the Carlson property. Commenters stated that the Proposed Action in Smithtown involves construction of a waste transloading facility and a rail spur on a site currently zoned for Heavy Industrial, Light Industrial, and One-Family Residential. (C-67)

Commenters also questioned the Proposed Action's compatibility with existing zoning laws. Commenters asserted that the planned transloading facility would require a zoning change from residential to heavy industrial, and Smithtown regulations require a 500-ft buffer zone between industrial and residential areas. However, according to commenters, the nearest home is 140 feet away. (C-67, C-35, C-34)

OEA Response

Comment noted. OEA has clarified the statements regarding the zoning of the Carlson property in the Final EA to indicate that the Carlson property should be described as "used for industrial purposes" rather than "zoned as industrial." As described in *Section 1.5, Chapter 1* of the Final EA, the planned transloading facility and associated local approvals are not part of the Proposed Action.

Regarding the commenters' concern about a residential property nearby, there is one residential property on Meadow Glen Road that is 140 feet away from the Carlson property line. As clarified in *Section 3.3, Chapter 3* of the Final EA, although this property is 140 feet from the Carlson property line, it is 400 feet or more north of the Proposed Action and separated by the existing LIRR mainline corridor. This distance is also illustrated in the Concept Plan in *Appendix B* of the Draft EA.

Comment Summary

A commenter took issue with the Proposed Action's proximity to the Iroquois Pipeline, which was not discussed in the Draft EA. The commenter asserted that constant vibration, construction activities, and potential rail accidents pose considerable risks to gas pipeline safety and the nearby residential neighborhoods. The commenter also noted that the Draft EA should have considered the LIPA (Long Island Power Authority) underground transmission lines and the methane venting system at the Huntington Landfill. (C-67)

OEA Response

Final engineering for rail lines and any other transportation facilities and structures requires the identification and protection of pipelines and utilities, including impacts that could result from vibration, construction, or rail operations. OEA properly analyzed a conceptual design of the Proposed Action, which is typical for NEPA reviews. Additionally, though there would be minor grading activities, no excavation is expected as a part of the Proposed Action, which is located adjacent to an existing, active rail line. Thus, OEA does not

anticipate that the Proposed Action would have any adverse effect to the pipeline or other utilities.

Comment Summary

One commenter asserted that the zoning of the Carlson property would be changed as a result of the Proposed Action without any public input. (C-41)

OEA Response

Comment noted. The Board does not approve or deny local zoning changes or amendments. During the rezoning process, the Town would be legally bound to publicly share the proposed zoning changes and hold public hearings.

G.3.7 Air Quality and Climate Change

Comment Summary

Commenters expressed concern about increased truck traffic on already busy local roads close to schools, parks, healthcare facilities, and homes. Commenters suggested that this would inflict more harmful truck emissions on communities. Commenters were also concerned about diesel emissions from the Proposed Action and cited a study showing that children living near rail yards were more likely to have respiratory issues. Commenters stated there was a lack of information about the potential environmental resources impacted by the Proposed Action and stated that NYSDOT's letter dated July 22, 2022, recommended a local study that considers road improvements, traffic, and associated emissions effects associated with construction and operation. Commenters noted that day-to-day air quality in Kings Park is some of the most polluted in the state of New York and thus, increasing emissions in the area would be detrimental. Commenters disagreed with the Draft EA's focus on regional conditions, stating that it fails to reflect the true impact on local residents, and needs to consider cumulative impacts of the Proposed Action along with the emissions from existing businesses. (C-67)

OEA Response

As detailed in *Chapter 2, Section 2.2* of the Draft EA, the Proposed Action would result in a substantial decrease in existing truck traffic associated with ash and C&D debris transport, and the decrease in truck traffic would partially or wholly offset the diesel emissions from an increase in rail traffic. OEA properly analyzed potential impacts to air quality as discussed in *Chapter 3, Section 3.5* of the Draft EA. The Clean Air Act (CAA) amendments, issued by EPA, set agency guidelines for attainment of the National Ambient Air Quality Standards (NAAQS). The CAA requires EPA to set NAAQS (40 C.F.R. Part 50) for six criteria pollutants based on human health criteria to protect public health (primary standards), on environmental criteria to prevent environmental and property damage, and to protect public welfare (secondary standards). The air quality analysis in the Draft EA followed the standard accepted practice of identifying pollutants and summarizing their effects on human health and the environment based on applicable regulations and EPA databases. OEA's analysis also appropriately evaluated the potential consequences of the

Proposed Action and determined for informational purposes (operational emissions are not subject to General Conformity determination) that the project is below the *de minimis* thresholds, and no additional analysis is required, including both rail operations and construction, by comparing predicted air emissions to the No-Action Alternative in *Chapter 3, Section 3.5, Air Quality and Climate Change*. While not required as emissions are less than the *de minimis* thresholds, fugitive dust should be minimized through the use of industry-standard control measures during construction. Further, as explained in the Draft EA, air quality is one of the resources for which the Proposed Action would have no or *de minimis* impacts. Therefore, the cumulative impact analysis in the EA did not include air quality.

Comment Summary

A commenter noted that the Draft EA currently says that the Proposed Action would reduce emissions by transporting goods via rail and then delivering them with a fleet of 50 diesel tractor trailers. However, the commenter had concerns over the validity of this claim, arguing that the freight cars would not be returning to the proposed rail line empty; cars would need to be unloaded and the commodities would have to be transported by trucks. Commenters suggested that this would increase the number of trucks on already congested local roads such as Townline Road, Old Northport Road, Meadow Glen Road, Pulaski Road, Commack Road, and Indian Head Road. Commenters asserted that the Proposed Action would compound the issue of traffic congestion rather than resolve it, by simply changing the location of the problem. (C-67)

OEA Response

As detailed in *Chapter 2, Section 2.2* of the Draft EA, daily carloads would depend on demand. However, OEA expects that four to five rail freight cars carrying aggregate and one to two freight cars carrying other commodities would come to the Proposed Action site on a daily basis. This volume of material would require fewer truck trips than if these commodities were moved only by truck. The potential commodities being delivered to the site might be stored at the project site rather than immediately transported to the end user, further reducing the number of trucks required to transport the commodities. Further, as explained in the Draft EA, the storage and local movement of materials by Carlson would require compliance with the NYSDEC permit. Therefore, OEA properly found that the Proposed Action would reduce emissions by transporting goods via rail and then delivering them by truck.

Comment Summary

A commenter disagreed with the Draft EA's characterization that the Proposed Action is located in an area with land that is already disturbed. The commenter raised concerns about the ecological impact of the Proposed Action, especially the effects of removing existing vegetation, including trees, shrubs, and plants. The commenter points out that these forms of vegetation are known to play an important role in mitigating flood risks and improving air quality by reducing CO₂ levels. The commenter shared a recent study that highlighted the significant role of city trees and soil in absorbing carbon. The article claimed that existing

forest edges, often overlooked as ‘disposable’, store large amounts of carbon. The commenter suggested that the conclusions in the study countered the Draft EA’s conclusions regarding impacts to soil and vegetation, and requested a full analysis of the impact of vegetation clearing that would happen as a result of the Proposed Action. (C-67).

OEA Response

Chapter 3, Section 3.7 of the Draft EA includes details of existing vegetation in the project area and the proposed construction laydown area, as well as the anticipated impacts associated with the Proposed Action. As explained there, approximately 5.35 acres of existing vegetated area is anticipated to be altered for construction of the Proposed Action. Of the 5.35 acres of vegetation to be removed, 3.13 acres are early successional habitat which does not contain trees, and 2.22 acres are forested. As explained in the Draft EA, the 5.35 acres of vegetated area that would be cleared under the Proposed Action would no longer sequester greenhouse gases from the atmosphere.¹⁵ This loss was estimated using a standard conversion factor for carbon sequestered for one year by one acre of average U.S. forest. Even though the project area includes vegetated land that is not considered forest, OEA used a conservative approach to estimate lost sequestration, and the entire 5.35 acres were analyzed as forest in the Draft EA. The standard conversion factor includes carbon stocks in the above-ground biomass, below-ground biomass, and other stores. Based on the average U.S. forest, EPA has estimated that 0.86 metric tons of CO₂ are sequestered by one acre of forest annually. As such, the Draft EA properly estimated that greenhouse gas emissions associated with land alteration as a result of the Proposed Action would be approximately 5 tons per year. Commenters have not shown that the analysis in the Draft EA was incomplete or inaccurate.

Comment Summary

Commenters raised concerns about wind dispersing ash and potential impacts to air quality. (C-12)

OEA Response

As detailed in *Chapter 2, Section 2.2* of the Draft EA, 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. Furthermore, ash is already transported in the area; it would just be transported by rail instead of truck under the

¹⁵ Carbon sequestration is the process by which atmospheric CO₂ is taken up by trees, grasses, and other plants through photosynthesis and stored as carbon in biomass (trunks, branches, foliage, and roots) and soils. In the United States, land use, land use change, and forestry removed 854 million tons of carbon from the atmosphere in 2022 and absorbed about 13.5 percent of the nation's total carbon dioxide emissions.

Proposed Action. Therefore, impacts to air quality are not anticipated as a result of the transport of incinerator ash by rail.

G.3.8 Noise and Vibration

Comment Summary

A commenter disagreed with the Draft EA's conclusions about vibration and expressed concern that the Draft EA did not mention the site's history as a location for illegal sand mining and illegal dumping between the late 1980s and 1990s with respect to construction feasibility. The commenter stated that while the property was subjected to legal action and reclamation, there are still concerns over the nature of the fill used and whether proper compaction occurred over the 28-year period. The commenter was concerned that vibration from the Proposed Action would cause soil compaction and the potential collapse of the rail line. The commenter also expressed concern about whether the site, known to be located on Long Island's major Hydrogeologic Zone I Deep Flow Recharge Area, can safely support the planned rail freight operations given the substantial weights involved. (C-67)

OEA Response

The Federal Railroad Administration (FRA) regulates track design under 49 C.F.R § 213.103, which requires that "all track shall be supported by material which will transmit and distribute the load of the track and railroad rolling equipment to the subgrade" and "restrain the track laterally, longitudinally, and vertically under dynamic loads imposed by railroad rolling equipment and thermal stresses imposed by the rails." The final engineering for rail lines and any other transportation facilities and structures will address soil stability. A professional track design engineer cannot stamp (i.e., certify) design drawings without having assessed soil stability. In addition, track design engineers follow the guidelines of the American Railway Engineering and Maintenance-of-Way Association (AREMA) when designing track and roadbed. Therefore, because the concerns raised by the commenter will be addressed later, OEA properly used a conceptual design in its analysis, which is typical for NEPA reviews. As for the commenter's point about water contamination, see the responses to comments in *Section 3.3.9* below.

Comment Summary

A commenter raised questions about the assessment of potential noise impacts from the Proposed Action. The commenter stated that the assumption in the Draft EA that noise would be contained within the confines of the property is unrealistic, given the transient and changing nature of sound. The commenter stated that depending on environmental factors such as warmth, humidity, turbulence, and topography, sound waves can bend, refract, and travel long distances. The commenter further stated that the study area for the noise analysis should be extended to one mile. The commenter also disagreed with the conclusion in the Draft EA that noise levels would increase as a result of the Proposed Action but would also essentially remain unchanged within the project area. (C-67)

OEA Response

As described in *Chapter 3, Section 3.6* of the Draft EA, OEA used well-established methods to analyze noise and vibration impacts that consider varying environmental factors, such as warmth, humidity, turbulence and topography, and 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. OEA concluded that noise generated during construction or operation of the Proposed Action would have minimal, if any, impacts to adjacent land uses. As explained in the Draft EA, OEA anticipates that relatively high existing noise levels caused by the existing LIRR mainline operations, nearby highways, and existing industrial land uses would overwhelm construction and operation noise related to the Proposed Action. Accordingly, no changes to the noise and vibration analysis in the Draft EA are warranted.

Comment Summary

A commenter was concerned that the Proposed Action would produce unpredictable noises such as whistles and grinding brakes, which OEA's noise analysis did not include. The commenter argues that these kinds of noises can contribute more significantly to stress, potentially causing health issues. The commenter cites recent research that linked railway noise to incidences of diabetes due to stress-related alterations in insulin sensitivity and changes in appetite. Specifically, Townline Association disputes the Draft EA's conclusion that the project area is a "noisy urban residential area." The commenter also was concerned about nighttime noise from freight trains, which are louder than the pre-existing passenger trains on the LIRR line. The commenter requests that OEA conduct real-world, non-computer-generated noise studies at different times of day and night for a more accurate assessment. (C-67)

OEA Response

OEA's noise analysis explicitly accounted for the additive effect of rail-related noise that could result from the operation of freight trains in the area. As demonstrated in the noise analysis (see *Appendix E* of the Draft EA), all daytime and nighttime noise generated by rail cars and locomotives was included in OEA's analysis with the exception of horn noise. The at-grade crossing at Meadow Glen has been permanently closed and therefore, OEA does not expect locomotive horn sounding. *Chapter 3, Section 3.6* of the Draft EA describes the study area as having a relatively high concentration of existing noise sources (including the LIRR mainline, highways, and an industrial area) and being classified as a "very noisy urban residential area" based on EPA standards. By definition, the Ldn measure that OEA used to quantify noise impacts accounts for the compounding and cumulative effects of increasing train operations. OEA's noise analysis is based on the Ldn noise metric, which is the industry standard for assessing an increase in train noise events. The noise analysis concluded that the Proposed Action would imperceptibly increase existing noise levels at the closest residential locations to the north. There are no public health concerns related to noise because OEA's analysis determined that the Proposed Action would not cause any adverse

noise impacts. Accordingly, OEA properly concluded in *Chapter 3, Section 3.6* of the Draft EA that there would be negligible (small or insignificant) noise effects as a result of the Proposed Action.

G.3.9 Water Resources

Comment Summary

Commenters expressed concern about the Proposed Action contaminating drinking water sources and noted that industrial activity has contaminated some drinking water sources in the past. A commenter stated that since Smithtown is not serviced by a municipal sanitary sewer system, sanitary systems for the study area discharge untreated wastewater and sewage directly to the local groundwater table. The commenter stated that stormwater drywells also discharge directly to the groundwater table and expressed concern that environmental contaminants related to the Proposed Action could enter groundwater. Commenters stated that spills have been a major source of water contamination on Long Island and that there is a sole source aquifer present below the project area, which the Draft EA failed to analyze. Commenters also asserted that the water resources analysis should have included the locations of the nearest wells used for drinking water, as well as specifics about the Magothy Aquifer. Also, commenters asserted that the Draft EA does not acknowledge that the Carlson property falls within a resultant plume from the Huntington landfill, which discharges into Sunken Meadow Creek and the Long Island Sound. (C-67, C-68, C-51, C-36, C-35, C-60, C-11)

OEA Response

As discussed in *Chapter 3, Section 3.8* of the Draft EA, no drinking water intakes or wellheads are located within the study area of the Proposed Action. Moreover, there are no sanitary systems located within the Proposed Action footprint. The Proposed Action would not include the installation of sanitary systems and is not expected to generate sanitary waste.

Chapter 3, Section 3.8 of the Draft EA discusses the importance of Long Island being a sole-source aquifer region and associated concerns regarding groundwater. Impacts to groundwater typically occur from water withdrawals, changes in aquifer recharge areas (such as changes in access, availability, or quality of drinking water), or excavation of the landscape (i.e., digging and removing earth rather than surface soil disturbance common with grading activities to level or reshape the ground surface), which may draw down the surficial water table. OEA expects that construction activities related to the Proposed Action would include removing only vegetation on the surface and adding ballast and track on the ground surface. The ballasts and roadbed are permeable (i.e., rainwater can move through it). These activities would not involve water withdrawals, changes in aquifer recharge areas, or excavation.¹⁶ As there are no impacts expected to groundwater from the

¹⁶ A recharge area is the place where water is able to seep into the ground and refill an aquifer because no confining layer is present.

Proposed Action, the locations of existing plumes and wells have no bearing on the analysis in the Draft EA. Therefore, OEA properly concluded that the Proposed Action would have no impacts on groundwater.

Comment Summary

A commenter noted that there are potential non-community and private supply wells downgradient of the project area, which is also in the 25-50 year groundwater contributing area to Smithtown Bay. The commenter asserted that the Draft EA should have evaluated any potential impacts to groundwater and downgradient non-community and private supply wells. (C-105)

OEA Response

As detailed in *Chapter 3, Section 3.8* of the Draft EA, the Proposed Action is not expected to impact groundwater, as there are no drinking water intakes or wellheads, including private supply wells, within the project area or activities expected to draw down the surficial water table. This section of the Draft EA discusses the importance of Long Island being a sole-source aquifer region and associated concerns regarding groundwater. Thus, contrary to the commenter's claims, the analysis in the Draft EA was adequate.

G.3.10 Cultural Resources

Comment Summary

A commenter was concerned that the New York State Historic Preservation Office (SHPO) stated that “there would be No Adverse Effects on historic resources” because there is a historic train trestle on Townline and Pulaski Road. The commenter was concerned about whether the historic trestle could handle the weight of the trains that Townline proposes to run. (C-68)

OEA Response

As discussed in *Chapter 3, Section 3.9* of the Draft EA, in a letter dated July 15, 2022, OEA received a letter from the State of New York Parks and Recreation and Historic Preservation Division (SHPO) noting the presence of the trestle the commenter referenced. The SHPO letter stated that there was one historic property in the project vicinity, the Long Island Railroad Trestle, which is located outside of the Area of Potential Effect. Based on 2023 train volumes on the LIRR mainline, 46 trains currently travel between the Proposed Action site and Huntington Station each weekday, and 30 trains currently travel the same segment on the weekends, which includes traversing the trestle. Therefore, OEA does not anticipate any issues with the trestle being able to handle the additional two trains per day that would result from the Proposed Action.

G.3.11 Cumulative Impacts

Comment Summary

A commenter raised concerns about the Draft EA’s cumulative impacts analysis, contending that no consideration was given to the cumulative impacts of the Proposed Action’s vegetation removal. (C-67)

OEA Response

OEA’s informal consultation with U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act, discussed in *Chapter 3, Section 3.12* and in *Appendix A* of the Draft EA,, analyzed the cumulative impacts of vegetation removal associated with the Proposed Action and Carlson’s planned truck to rail transload facility. As detailed in the Section 7 informal consultation correspondence included in *Appendix A* of the Draft EA, approximately 4.84 acres of forested area would be removed as a result of the Proposed Action and Carlson’s planned truck to rail transload facility. Thus, the Draft EA’s cumulative impacts analysis was appropriate and adequate.

Comment Summary

A commenter took issue with the cumulative impacts analysis and the discussion of the potential site improvements and transloading facilities that may be constructed to support the Proposed Action. The commenter stated that the Board does not have the authority to authorize these additional facilities and that the Town has not received any application indicating that Carlson intends to construct these facilities. (C-35)

OEA Response

Comment noted. The Draft EA properly considered the planned transloading facility and site improvements as cumulative impacts in *Chapter 3, Section 3.12*. Moreover, *Chapter 1* of the Draft EA correctly details the roles and reviews of other agencies, stating that Carlson would be required to comply with applicable state and local laws for the transloading facility and associated site improvements, which are not subject to the Board’s jurisdiction because they are 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 in this case the Board’s jurisdiction is limited to Townline’s request for authority to construct and operate the proposed rail line, not the transloading facility or other supporting facilities. See Town of Smithtown, N.Y.—Petition for Declaratory Order (Decision Sub-No.1), FD 36575 et al. (STB served Feb. 23, 2024), pages 3-5.

Comment Summary

A commenter stated that the Draft EA should have evaluated the potential for increased industrial activity as a result of the Proposed Action. The commenter asserted that the Proposed Action would open the door to more industrial uses and increased activity on or around the site. (C-76)

OEA Response

The Proposed Action includes the construction and operation of a 5,000-foot rail line with limited capacity – space for a maximum of 54 rail cars. As discussed in the Draft EA, Townline would immediately serve Carlson and potentially Covanta Energy and market its rail service to other potential customers for importing goods and commodities, such as aggregate and construction materials to supply local businesses (e.g., an asphalt plant, cement ready-mix plant, and precast producer). OEA does not anticipate that this project would induce industrial activity because the area in and around the Proposed Action site is already developed. OEA properly concluded in *Chapter 3, Section 3* of the Draft EA 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.”

Comment Summary

Commenters questioned whether the Draft EA should have addressed the reduction of available space for recycling at Carlson Corp as a result of the Proposed Action. (C-67)

OEA Response

As illustrated in *Chapter 1, Section 1.1* of the Draft EA, the Proposed Action would not reduce the amount of space used for the recycling operations. Carlson uses approximately 66 acres of the 82-acre property for the recycling operations. The Proposed Action (approximately 14 acres) is not currently used for recycling operations by Carlson and therefore would not affect Carlson’s recycling operations.

G.3.12 Mitigation

Comment Summary

Several commenters suggested additional mitigation measures, including mitigation for impacts on noise, biological resources, transportation, and operations. (C-10, C-34, C-35, C-67)

Specifically, the suggested mitigation measures include:

- Requiring that truck traffic traveling to and from the Proposed Action site be restricted from residential areas;
- Noise mitigation should recognize Town Code Chapter 207 with regard to permissible noise levels and hours, including limiting operations to a 7:00 a.m. start time;
- Biological Resources MM-01: Soil disturbance mitigation should include the implementation of a NYS SWPPP (stormwater pollution prevention plan);
- Biological Resources VM-02: The proposed habitat removal mitigation of limiting tree removal to “only the areas necessary to safely construct and operate the rail line” is contradicted by the list on page 58 (Cumulative impacts) of associated proposed development, including the proposed 200’x400’ transloading facility, a proposed

100'x200' material storage building, and approximately 5,675 feet of new roads on the property.

- Biological Resources VM-03: Outdoor lighting mitigation should reflect what is specified in the analysis on page 17 of the Draft EA and included in the letter from the Board to USFWS dated October 19, 2023, that permanent lighting levels be 2.0 footcandles and not to exceed 25' height;
- Nighttime operations and lighting. In order to minimize impacts related to lighting on the adjoining properties, all lighting should be DarkSky approved;
- Safeguard measures from the FAST Act should be applied, including weekly freight manifests for local authorities, no tank cars carrying oil, gas, or liquid, and a freight car limit. Track suitability for heavy diesel engines must also be confirmed; and
- The potential planned landscaped berm should be included in the recommended mitigation measures.

OEA Response

OEA addresses the requested mitigation measures in turn below:

- With respect to the request for truck restrictions on residential roads, the Draft EA properly concluded that there would be a reduction in truck traffic under the Proposed Action, resulting in no impacts from the Proposed Action that warrant mitigation. Furthermore, restricting truck traffic on residential roads is under the local jurisdiction of the Town of Smithtown. Therefore, mitigation restricting truck traffic on residential roads would not be appropriate.
- Regarding permissible noise levels and hours of operations in the Town Code, as stated in *Chapter 3, Section 3.6* of the Draft EA, OEA determined that the Proposed Action's operations between 6:00 a.m. and 6:00 p.m. would have minimal, if any, noise impacts to adjacent land uses. Therefore, no additional noise mitigation is warranted.
- Regarding the requests for additional biological resources mitigation, OEA's recommended mitigation measures in the Draft EA are adequate to address habitat removal associated with tree clearing for the Proposed Action. In *Section 3.7* of the Draft EA, OEA properly concluded that with its recommended mitigation, there would be minor adverse impacts to biological resources, including wildlife and vegetation. Therefore, OEA is not recommending any further mitigation.
- The request for a NYS SWPPP to be included in Biological Resources MM-01 is unwarranted, as Townline would already be required to comply with this and other reasonable requirements under state law.
- Regarding the first comment about lighting, the requested specific lighting details, including 2.0 footcandles and a height not to exceed 25 feet, have been added to OEA's final recommended mitigation in the Final EA as mitigation measure **MM-Biological-02**.
- Regarding the second comment about lighting, in *Chapter 3, Section 3.7* of the Draft EA, OEA concluded that construction and operational lighting may affect the Northern Long Eared Bat (NLEB), but that with OEA's recommended mitigation, the lighting would be unlikely to adversely affect the NLEB. OEA found no other impacts that would occur as a result of lighting from the Proposed Action. The

mitigation for lighting recommended in the Final EA is adequate to address any potential lighting impacts. Therefore, the request for a mitigation measure requiring that all lighting should be DarkSky approved is not warranted.¹⁷

- The U.S. Department of Transportation and FRA have standards for track design and engineering that Townline, like all common carrier railroads, would be required to comply with. The Proposed Action is not a project covered under the FAST Act, formally known as Fixing America's Surface Transportation Act, and therefore, the request to include safeguard measures from the FAST Act as a mitigation measure is not warranted.
- A landscape berm is not needed to address impacts related to the Proposed Action. However, OEA notes that Townline's concept plan includes a landscape berm that would be designed based on further coordination with the Town (see page Draft EA).

G.3.13 Other Topics

Public Health

Comment Summary

Commenters were concerned that construction and operation of the Proposed Action could harm public health. Commenters suggested that impacts from the Proposed Action would be worse than described in the Draft EA. Residents near the Proposed Action stated that they already face exposure to various pollution sources from neighboring industrial activity and claim that there are already higher than normal rates of cancer in the area. Commenters suggested that increased noise, air and water pollution, and hazardous material transportation could increase health risks, especially cancer. Commenters expressed concern about the adverse effects on air quality, increased respiratory risks, and potential threats to the health of vulnerable groups like children, the elderly, and those with preexisting diseases and disabilities.

Commenters also expressed concern with previous industrial activity in the project area and its impact on the analysis in the Draft EA. Commenters reported illegal mining and dumping on the site, as well as a plume travelling into local estuaries and Long Island Sound. (C-8, C-12, C-27, C-37, C-48, C-51, C-59, C-60, C-67, C-68)

OEA Response

As discussed in *Chapter 3, Section 3.5* of the Draft EA, the Clean Air Act (CAA) amendments, issued by EPA, set agency guidelines for attainment of the National Ambient Air Quality Standards (NAAQS). The CAA requires EPA to set NAAQS (40 C.F.R. Part 50) for six criteria pollutants based on human health criteria to protect public health

¹⁷ DarkSky is a program that provides “objective, third-party certification for lighting products, lighting designs, and installed lighting projects that minimize glare, reduce light trespass, and reduce light pollution.” Certification requires the restricting the amount of upward-directed light, glare, over-lighting, and other light pollution minimization measures.
<https://darksky.org/what-we-do/darksky-approved/>

(primary standards), on environmental criteria to prevent environmental and property damage, and to protect public welfare (secondary standards). The air quality analysis in the Draft EA followed the standard accepted practice of identifying pollutants and summarizing their effects on human health and the environment based on applicable regulations and EPA databases, and evaluating the expected consequences of the Proposed Action, including both rail operations and construction, by comparing predicted air emissions with the No-Action Alternative. OEA's analysis properly concluded that the increases in hazardous air pollutants (HAPS) would be extremely small because the Proposed Action would only add two additional trains per day consisting of two locomotives and one TrackMobile (a small rail car mover).

Regarding concerns about noise, see responses in *Section G.3.8 Noise and Vibration* above. Regarding concerns about water contamination, see responses in *Section G.3.9 Water Resources* above. Finally, for concerns related to hazardous materials, please refer to responses in *Section G.3.4 Hazardous Materials Transportation* and the Hazardous Materials Release Sites responses below.

Emergency Response

Comment Summary

A commenter suggested that the Draft EA should contain an emergency response plan in case there were a catastrophic incident on the Carlson site. A commenter also questioned whether the Draft EA properly considered the capacity of emergency responders to appropriately respond to incidents on the Carlson site, noting that many of the surrounding roads are single-lane roads. Commenters also raised concerns about train derailment. (C-12, C-67, C-68, C-69)

OEA Response

Comment noted. FRA regulates freight rail safety, including operating practices. To the extent that the commenters are referring to derailments and potential releases of hazardous materials, FRA requires railroad emergency response plans under 49 C.F.R. Parts 172 and 174. Because NYA would already have an emergency response plan under 49 C.F.R. Parts 172 and 174, there was no need to include a discussion of the emergency response plan in the Draft EA.

Hazardous Materials Release Sites

Comment Summary

A commenter noted that the Suffolk County Office of Pollution Control (OPC) and Office of Wastewater Management (OWM) are required to review projects for any sanitary code requirements for storage of hazardous waste or petroleum bulk storage and construction of onsite sewage disposal systems and certain sewage treatment plants. (C-105)

OEA Response

Comment noted. The Proposed Action would not involve the storage of hazardous waste, petroleum bulk storage, or construction of onsite sewage disposal systems and certain sewage treatment plants. Therefore, there should be no need for an OPC or OWM review.

Comment Summary

Commenters noted while there were several hazardous materials sites identified within the study area, there were no hazardous waste release sites identified within the Proposed Action footprint. Commenters shared that Toxics Targeting, Inc. database included at least eight spills on Carlson's property and that there was a report of potential uncontrolled emissions involving carbon monoxide, nitrogen dioxide, and sulfur dioxide. Commenters assert that the issue of illegal sand mining should also have been considered in any study involving hazardous materials released onto the site. Commenters also identified a history of Carlson Corp violating state environmental laws and local ordinances. Commenters state that a site visit should have been done to assess these issues. (C-67)

OEA Response

The commenters referred to spills outside the footprint of the Proposed Action. The construction of the Proposed Action would be limited to that footprint and therefore would not disturb contaminated areas that might exist elsewhere on the Carlson property. Regarding the allegations of illegal mining and violations of environmental laws, while OEA conducted a site visit, OEA relied on a database search to determine contamination from past releases. As detailed in *Chapter 3, Section 3.10* of the Draft EA, OEA's research into the records of contamination did not find any evidence of violations within the footprint of the Proposed Action. OEA concluded that there would be minimal impacts to existing hazardous waste material sites from construction of the Proposed Action.

Table 2 Substantive Comment Index - Organized Alphabetically by Commenter Last Name or Organization

Commenter	Commenter Number	STB Comment ID	Topic	Appendix Section Number
<i>Federal Agencies</i>				
EPA Region 2	C-52	EI-33340	Hazardous Materials Transportation	G.3.4
EPA Region 2	C-52	EI-33340	Transportation	G.3.5
<i>Local Agencies</i>				
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Environmental Review Process	G.3.1
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Purpose and Need	G.3.2
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Transportation	G.3.5
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Land Use and Zoning	G.3.6
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Water Resources	G.3.9
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Cumulative Impacts	G.3.11
Town of Smithtown Department of Environment and Waterways	C-35	EI-33321	Mitigation	G.3.12
Town of Smithtown Planning Department	C-34	EI-33322	Environmental Review Process	G.3.1
Town of Smithtown Planning Department	C-34	EI-33322	Purpose and Need	G.3.2
Town of Smithtown Planning Department	C-34	EI-33322	Proposed Action and Alternatives	G.3.3
Town of Smithtown Planning Department	C-34	EI-33322	Transportation	G.3.5
Town of Smithtown Planning Department	C-34	EI-33322	Land Use and Zoning	G.3.6

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Commenter	Commenter Number	STB Comment ID	Topic	Appendix Section Number
Town of Smithtown Planning Department	C-34	EI-33322	Mitigation	G.3.12
Suffolk County, Department of Health Services	C-105	EI-33390	Other Topics	G.3.13
Suffolk County, Department of Health Services	C-105	EI-33390	Water Resources	G.3.9
Organizations				
Commack Council of PTAs	C-51	EI-33304	Water Resources	G.3.9
Commack Council of PTAs	C-51	EI-33304	Other Topics	G.3.13
Townline Association	C-67	EI-33325	Environmental Review Process	G.3.1
Townline Association	C-67	EI-33325	Purpose and Need	G.3.2
Townline Association	C-67	EI-33325	Proposed Action and Alternatives	G.3.3
Townline Association	C-67	EI-33325	Hazardous Materials Transportation	G.3.4
Townline Association	C-67	EI-33325	Transportation	G.3.5
Townline Association	C-67	EI-33325	Land Use and Zoning	G.3.6
Townline Association	C-67	EI-33325	Air Quality and Climate Change	G.3.7
Townline Association	C-67	EI-33325	Noise and Vibration	G.3.8
Townline Association	C-67	EI-33325	Water Resources	G.3.9
Townline Association	C-67	EI-33325	Cumulative Impacts	G.3.11
Townline Association	C-67	EI-33325	Mitigation	G.3.12

Table 2 Substantive Comment Index - Organized Alphabetically by Commenter Last Name or Organization

Commenter	Commenter Number	STB Comment ID	Topic	Appendix Section Number
Townline Association	C-67	EI-33325	Other Topics	G.3.13
Commack Community Association	C-10	EI-33279	Proposed Action and Alternatives	G.3.3
Commack Community Association	C-10	EI-33279	Mitigation	G.3.12
Commack Community Association	C-11	EI-33280	Environmental Review Process	G.3.1
Commack Community Association	C-11	EI-33280	Water Resources	G.3.9
Commack Community Association	C-11	EI-33280	Transportation	G.3.5
<i>Private Citizens</i>				
Andrew Axelrod	C-69	EI-33323	Transportation	G.3.5
Andrew Axelrod	C-69	EI-33323	Other Topics	G.3.13
Anton Angelic	C-106	EI-33550	Transportation	G.3.5
Anton Angelic	C-106	EI-33550	Land Use and Zoning	G.3.6
Diane Calderone	C-37	EI-33318	Other Topics	G.3.13
Deborah Chalmers	C-48	EI-33307	Other Topics	G.3.13
Denise DeCostanzo	C-39	EI-33316	Transportation	G.3.5
Danielle and James Dinda	C-57	EI-33335	Land Use and Zoning	G.3.6
Alan and Judy Feirgelson	C-14	EI-33275	Proposed Action and Alternatives	G.3.3
Robert and Donna Foley	C-58	EI-33334	Transportation	G.3.5
George Groumbos	C-53	EI-33334	Transportation	G.3.5

Table 2 Substantive Comment Index - Organized Alphabetically by Commenter Last Name or Organization

Commenter	Commenter Number	STB Comment ID	Topic	Appendix Section Number
Tina Hassan	C-45	EI-33310	Environmental Review Process	G.3.1
Janet A. Husted	C-68	EI-33324	Purpose and Need	G.3.2
Janet A. Husted	C-68	EI-33324	Transportation	G.3.5
Janet A. Husted	C-68	EI-33324	Water Resources	G.3.9
Janet A. Husted	C-68	EI-33324	Cultural Resources	G.3.10
Janet A. Husted	C-68	EI-33324	Other Topics	G.3.13
Victoria Houslanger	C-65	EI-33327	Environmental Review Process	G.3.1
Victoria Houslanger	C-65	EI-33327	Transportation	G.3.5
Dr. John Impagliazzo	C-36	EI-33320	Water Resources	G.3.9
John Knavan	C-9	EI-33251	Proposed Action and Alternatives	G.3.3
Barbara Lane	C-60	EI-33332	Other Topics	G.3.13
Barbara Lane	C-60	EI-33332	Water Resources	G.3.9
Susan Landau	C-40	EI-33315	Transportation	G.3.5
Erik Lea	C-41	EI-33314	Land Use and Zoning	G.3.6
Nigel Lea	C-12	EI-33278	Hazardous Materials Transportation	G.3.4
Nigel Lea	C-12	EI-33278	Air Quality and Climate Change	G.3.7
Nigel Lea	C-12	EI-33278	Other Topics	G.3.13
Keith Macartney	C-59	EI-33333	Other Topics	G.3.13

Table 2 Substantive Comment Index - Organized Alphabetically by Commenter Last Name or Organization

Commenter	Commenter Number	STB Comment ID	Topic	Appendix Section Number
Christine M. Mehilentze	C-4	EI-33222	Transportation	G.3.5
Christine M. Mehilentze	C-4	EI-33222	Land Use and Zoning	G.3.6
Maria O'Brien	C-64	EI-33328	Environmental Review Process	G.3.1
Derek Pope	C-75	EI-33375	Transportation	G.3.5
Jennifer Pope	C-76	EI-33374	Cumulative Impacts	G.3.11
David Pontillo	C-8	EI-33233	Other Topics	G.3.13
Elizabeth N. Smith	C-5	EI-33233	Land Use and Zoning	G.3.6
Kim Zubrinic	C-27	EI-33293	Other Topics	G.3.13

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