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Memorandum

To: Rebecca Crist, NYSDEC
From: Sandy Collins, AKRF
Date: September 29, 2023
Re: Responses to Public Comments on NYSDEC Permit No. 3-9903-00108/00004 /00005, Breakneck Connector and Bridge Project
cc: Angela Schimizzi, Lisa Masi (NYSDEC); Amy Kacala (HHFT); Nancy Stoner (OPRHP); Chelsea Anderson, Frances Felske (About the Work); Melissa Grese (AKRF)

This memorandum has been prepared on behalf of Hudson Highlands Fjord Trail (HHFT) to provide responses to public comments as requested by the New York State Department of Environmental Conservation (NYSDEC). These comments were received in response to NYSDEC's issuance of a public notice for Permit No. 3-9903-00108/00004 and /00005 for HHFT's Breakneck Connector and Bridge Project. Responses are provided below for comments identified by NYSDEC as requiring additional information from the applicant.

Comment 1: [P. Bynum, 8/2/2023] Further, it is possible that increased visitorship could adversely affect the habitat on the approach to Upper Overlook, which HHFT describes in the Joint Application as being "suitable for timber rattlesnakes" and "suitable for eastern fence lizards" and within "proximity to known occurrences" ("Breakneck Connector and Bridge Project Timber Rattlesnake and Eastern Fence Lizard Habitat Assessment," p. 4). HHFT must clarify their conflicting visitorship projections – and, as applicable, clarify the impacts that increased visitorship would have on threatened and endangered species.

Response: Use of the Breakneck Ridge Trail has increased steadily over the last decade and is expected to continue increasing with or without the BNCB Project. As noted in the FEAF, OPRHP is coordinating with partners to develop a Visitor Use Management Plan which will address a number of concerns, including the potential impacts from the use of Breakneck Ridge Trail on natural resources (FEAF Part 1, Attachment A, page 2). Project activities in the Upper Overlook will harden and define the existing trail loop to make it easier to use and will close tangential social trails and restore native vegetation. This will direct visitors in a more organized fashion and consolidate them to the designated trail around the Upper Overlook, thereby reducing the number of visitors wandering along the ridge and protecting more of the habitat in this area (FEAF Part 1, Attachment A, page 8).

Use of the designated trail is expected to result in less erosion, trail spreading, and bushwhacking that currently impacts off-trail habitat and natural resources along the informal social trails. The project within the Upper Overlook will be mainly conducted using handheld tools (i.e., picks, shovels, and steel bars for leveraging stone) which will help to minimize ground disturbance and tree removal. Over the past decade, the Breakneck Ridge Trail has seen a steady increase in visitor use, which is expected to continue increasing with or without the Project. Consolidation of the existing social trails into designated hiking paths will help to limit the impact of human activity on surrounding habitats by directing people along a defined trail rather than continuing to create informal trails through the area. These social trail closures and restoration, in addition to reducing visitor use of these areas, will provide more undisturbed potential fence lizard habitat at the Project Site.

Additionally, measures will be implemented during construction to minimize potential impacts to timber rattlesnakes, fence lizards and eastern wormsnake. These measures will include restricting tree and vegetation removal to between November 1st and March 31st which is during the hibernation season for these species, preparing and implementing a Species Education and Encounter Plan for these species, and having a Qualified and Licensed Species Monitor present during vegetation removal, heavy equipment use and ground disturbance activities between April 1st to October 31st.

Comment 2: [G. Dykstra, 7/28/2023] Hudson Highlands Fjord Trail touts the “Independent Utility” of the Breakneck Bridge, arguing that it is needed for NYCDEP construction vehicles to access the NYC water tunnel, making it essential infrastructure. (Interestingly, a recent NYCDEP Commissioner remembers no discussion or concern about that tunnel.) Meanwhile in other documents, the independent utility of the bridge focuses on pedestrian safety and connections to the existing trail system, but drawings reveal that the bridge does not even connect to the proposed trails! In one document they even say it will NOT increase visitation, even with a new RR platform and toilets.

Response: The Project Sponsor asserts the independent utility of the entire Project, not solely of the Bridge. However, the Project will serve multiple purposes, one of which is to improve DEP access to its Hudson River Drainage Chamber (HRDC) facility both during its planned construction project and for future routine maintenance and operational purposes. HHFT’s understanding is that the bridge is needed to bring personnel safely to the work site during DEP’s construction project which would otherwise have to be provided by other costly, and only temporary means. Vehicular use of the bridge will be restricted to H-10 load rated vehicles (16,000 lbs/axle) operated by DEP, OPRHP and its designated trail operator, and emergency responders for maintenance and emergency response only. While larger construction vehicles and heavy equipment will not be permitted to use the Breakneck Bridge, the greater benefit to DEP is the permanent access solution to their critical water supply infrastructure.

While DEP has a specific interest in the bridge for the construction project, DEP has clearly demonstrated its desire and need for a crossing at that location since the 1930s and since that time has made attempts to negotiate a crossing (See DEP testimony at the Bridge Administrative Law Judge Hearing, which was recorded and is publicly available at <https://www.youtube.com/watch?v=SlfeQw-hZWc>). Vehicular access to the building was lost when Route 9D was relocated from the shoreline and run through the mountain. As

stated in the FEAF (Part 1, Attachment A, page 4), DEP staff currently accesses the HRDC by foot along the Breakneck Ridge Trail and over the rock face, or they access it by boat on the Hudson River. The completion of the Bridge will grant DEP easier and more convenient access for personnel and lightweight vehicles to the HRDC both during and after the planned construction project. When the Breakneck Bridge and its shared-use path is opened and accessible to the general public, it will provide the public with safe pedestrian and non-motorized passage over the MNR tracks. Ultimately, with the planned Fjord Trail, the Project will also create safe access across the railroad tracks for pedestrians, hikers, and bicyclists to the south of Breakneck Ridge along the Fjord Trail. The BNCB Project provides a direct connection between the MNR Breakneck Ridge station, parking lots, the Wilkinson Memorial Trailhead, and the Breakneck Ridge Trailhead with the Bridge. The Project will not directly increase visitation itself. Rather, it is intended to manage the anticipated visitorship to the area, which has been increasing steadily in recent years and is expected to continue increasing with or without the Project.

Comment 3: [A. Hall, 8/3/2023] However, in terms of the DEP access for needed repairs, no scope of work or budget is available that would allow a cost-benefit analysis for the bridge construction, especially considering the possible impacts to the shoreline & aquatic habitat based on the current application. What is known is that the bridge component is a significant part of a project valued at upwards of \$86 million but that does not provide any access for heavy equipment or materials. If this is required for the CAT-399 project, does it mean there will be further applications for barges in the river, and hence for future and cumulative in-river and shoreline impacts?

Response: As noted in the response to Comment 2, one of the purposes of the Project is to provide safe access for DEP to the HRDC. The Bridge will provide access for lightweight H-10 rated (16,000 lbs/axle) DEP and contractor personnel vehicles during and after the future HRDC repair and renovation project (i.e., CAT-399). For DEP's CAT-399 rehabilitation project of the HRDC, there will be equipment and materials that will exceed the bridge rating. DEP is planning alternate means for transport of this heavy equipment via Hudson River access and submitted a Joint Permit Application to the Department for review on 9/14/2023. The construction periods for the BNCB Project and DEP's CAT-399 project do not overlap and would not result in cumulative impacts related to barge use or shoreline disturbance. Potential impacts of the CAT-399 project were also evaluated by DEP in accordance with the State Environmental Quality Review Act (SEQRA) and DEP issued an Environmental Assessment/Negative Declaration to the involved agencies on 6/30/2023.

Comment 4: [P. Henderson, 8/1/2023] While certain elements of the Breakneck Connector and Bridge, notably those along the 9D corridor, may provide independent utility, this is not true for the bridge portion of the project. Indeed, the applicant states in their EAF that the bridge would provide only *marginal* utility, and only to the DEP (highlighting added):

“The Project will also improve DEP’s access to its HRDC facility for maintenance and operational purposes by providing a safer crossing and lightweight vehicular access to the HRDC over the MNR railroad.”

The applicant attempts to justify this further by saying:

“...it will also support DEP’s CAT-399 Project by enabling the transport of *employees and light tools and equipment* over the MNR tracks via *lightweight vehicle*.”

Clearly, if the DEP requires *heavy* equipment or materials for the CAT-399 project, then the bridge will be of no use. Since the purpose is simply “[to enable] the transport of employees and light tools and equipment over the MNR tracks” during CAT-399, this is a marginal one-time use that will result in permanent damage to shoreline and aquatic habitat, as well as scarring the natural landscape and scenic viewsheds.

Response: The Breakneck Bridge provides independent utility in that it is providing a safe pedestrian and vehicular connection for DEP to access and maintain its drainage chamber, part of the New York City aqueduct system providing the City with 40% of its drinking water. As noted above, DEP personnel currently access the HRDC solely by foot along the Breakneck Ridge Trail and over the rock face, or they access it by boat on the Hudson River. Vehicular connection to the HRDC was an original condition for the facility which was severed when the tunnel was dug, Route 9D rerouted, and at-grade crossings by vehicles prohibited. DEP has tried several times over the past 90 years to add a crossing at this location to regain this access. This permanent access to the HRDC is needed for ongoing operation, maintenance and security checks of the facility and is the DEP’s primary and continuing need for the bridge.

The FEAF (Part 1, Attachment A, page 9) indicates that the Breakneck Bridge will provide DEP employees and contractors with daily access to the HRDC during the CAT-399 project, and DEP will use barges to transport larger and heavier equipment to the site to minimize impacts to railroad operations. Access during the CAT-399 project is not a direct purpose of the Bridge, but it will offer this secondary benefit to DEP during the construction of the CAT-399 project. The Bridge will be temporarily closed to the public during the CAT-399 construction project. After the CAT-399 construction, the Bridge will serve as a connection over the MNR tracks for the public’s visual access to the Hudson River. While it will be temporarily closed to the public during construction, the bridge will be publicly accessible following completion of the CAT-399 project. The southern portion of the BNCB Project will branch into two paths, one leading to the Breakneck Ridge trailhead and Upper Overlook and the other a continuance of the shared-use trail as the new Breakneck Bridge over the MNR railroad tracks (see enclosed **FEAF Figure 1**). When the Fjord Trail is fully constructed, the Bridge will serve as the connection to and along the Fjord Trail south of Breakneck Ridge.

Comment 5: [D. Merandy, 8/2/2023] SAFETY – Currently, there exists safe access for pedestrians to the hiking trail north of Breakneck Mountain. Metro North has upgraded their stop and added a fenced in walkway that connects to a short section of path running parallel to Rt. 9D, behind a guardrail to the Breakneck Mountain trailhead. The elaborate bridge, estimated at or above \$85 million, does little, if anything, to provide safety to pedestrians, it is simply the gateway to the proposed boardwalk, stretching to the Village of Cold Spring.

Response: The safety measures established by Metro-North at its Breakneck Ridge Station are intermediary and were partly funded and implemented by HHFT to create safer train station conditions while a permanent plan was implemented (the BNCB Project). The interim safety improvements included fencing to ensure pedestrians could not walk out onto the tracks. The tracks were previously unsecured and one recent fatality and another

dismemberment caused MNR to close the station until safety improvements were made. Fencing was installed by Hudson Highlands Fjord Trail contractors. Metro-North installed platform safety barriers, temporary path improvements between stations, and signage. State Parks installed additional signage as well. This package of improvements enabled the reopening of the station.

The larger Breakneck Connector project will address and improve chaotic parking conditions on Route 9D at this location, provide a designated, ADA-compliant trail between the train station and trailhead it serves, add bathroom and garbage facilities, and improve site drainage. The vehicular access to the Bridge begins in the southern off-street parking area, goes along the trail section until it reaches the Bridge. Because the project site is within the Hudson Highlands Scenic Area of Statewide Significance, the bridge design will also meet certain visual criteria.

As described in the FEAF (Part 1, Attachment A, page 3), visitors arriving by car to the project site must currently use limited and unmarked parking at the HHSPP trailheads to Bull Hill, Mount Beacon, and Breakneck Ridge, and when established parking areas are full, cars park along NYS Route 9D. Visitors must then walk along the road or the Route 9D right-of-way to reach the trailheads because there is no separated pedestrian walkway or defined crosswalks. Patrons arriving by train at the Breakneck Ridge Station must cross or walk along a narrow stretch of the road, and many have walked along the railroad right-of-way, which is unsafe and illegal. The Breakneck Bridge will provide safe pedestrian passage over the railroad tracks and will ultimately serve as a continuance of the larger planned shared-use Fjord Trail.

For more discussion regarding justification of the need for the bridge, please see the above responses.

Comment 6: [D. Merandy, 8/2/2023] ACCESS for NYCDEP – Since construction of the HRDC facility at the foot of Breakneck Mountain, the need for access has been minimal. What maintenance or upgrades are scheduled that require the kind of access as proposed in this \$85 million dollar bridge? HHFT is using “access” as the justification to start building their showcase bridge which will connect to Fjord Trail’s centerpiece boardwalk. HHFT represents that the bridge will be constructed to hold only light vehicles. Again, what maintenance or upgrades are scheduled that require only light vehicles but also an \$85 million bridge? Where is the documentation justifying NYCDEP’s actual needs for a private foundation to engage in a 2-year shoreline platform construction project to provide an \$85 million access to the HRDC Facility? The Breakneck Connector and Bridge are neither reasonable nor necessary and the permit should be denied.

Response: As described in the response to Comment 2 and noted in the FEAF, DEP staff must currently access the HRDC by foot along the Breakneck Ridge Trail and over the rock face, or they access it by boat on the Hudson River. It cannot be inferred that DEP’s need for access “has been minimal” from the fact that access has been physically impossible. The Project will not only provide long-term, safe, and convenient access to DEP personnel and lightweight vehicles over the MNR tracks but will also include utility conduits to run permanent power and communications to the HRDC facility as well as accommodating pedestrians and hikers over the MNR tracks and connecting to the planned Fjord Trail. Given its long-term utility, DEP is sharing the cost of the Bridge, which is currently estimated at \$50 million, while HHFT is funding the shared-use trail (Connector). The

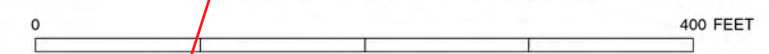
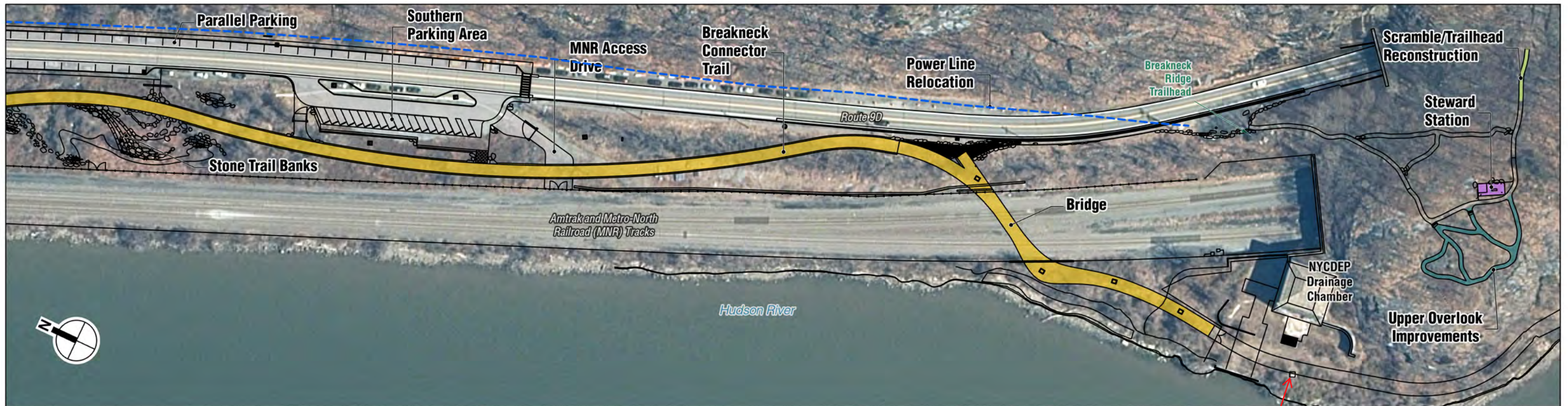
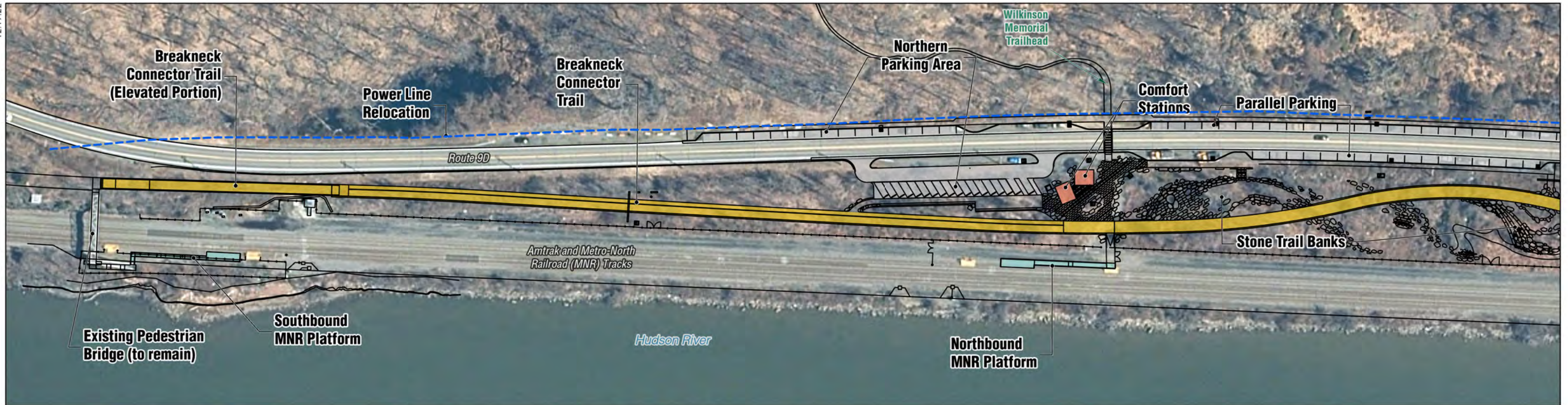
Bridge will facilitate safe public passage over the MNR tracks as part of the planned Fjord Trail.

Comment 7: [D. Merandy, 8/2/2023] If completed, the elaborate bridge and massive shoreline platform proposed by HHFT, by their own preliminary calculations, will draw 35% more visitors to the area, most of which will arrive by vehicle. The noise and pollution from vehicles traveling to the Breakneck Connector will undoubtedly adversely affect the health of the residents and visitors of the surrounding area and the additional traffic caused by this proposal can only increase the safety risk for pedestrians in the area. Additionally, the welfare, which includes happiness and wellbeing, of both residents and visitors, is at risk from the huge influx of visitors this proposal will draw.

Response: The projected additional visitation expected as a result of HHFT at full buildout is anticipated to be at 35%. That number is for full buildout, projected at the time to occur by 2028, but now more likely 2030/2031. The impacts of that buildout are being studied as part of the larger Generic Environmental Impact Statement (GEIS) for the project. The Breakneck Connector segment is not anticipated to be a driver of that increased visitation. The safety and infrastructure needs addressed by the BNCB Project are aimed at fixing critical safety needs for an existing train station and trailheads and providing safe access to the DEP facility. While there may be initial curiosity at reopening after construction that might result in a temporary spike in visitation to the trailhead, the number of hikers seeking to hike these existing trails because of these safety improvements is not anticipated to have a net increase.

As described above, visitation trends for Breakneck Ridge have shown an overall increase in recent years and are expected to continue increasing with or without the project. The BNCB Project will not result in additional increases in visitorship. Instead, it will help to manage this usage and improve safety for patrons by consolidating parking areas and providing direct pedestrian connections from the parking areas to designated trails away from the MNR right-of-way and the NYS Route 9D corridor (see enclosed **FEAF Figure 1**). The number of vehicles and related noise and air emissions are not anticipated to increase as a result of the project because the project will not cause an increase in visitorship.

Over the long-term, as part of the larger proposed Fjord Trail, planned improvements will help manage and distribute visitation with six main access points along a 7.5-mile trail corridor and will include amenities like restrooms, additional organized parking, wayfinding signage, trash and recycling management, and additional staffing to help orient visitors and better manage usage. These measures are being designed to improve health, safety and welfare for residents and visitors. The potential impacts of the larger trail and associated visitation, including impacts related to noise and air quality, will be evaluated in the Draft GEIS that will be available for public review.



Future connection of BNCB Project to planned shared-use trail shown in black outline.