

McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

301292

November 16, 2020

VIA E-FILING

Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

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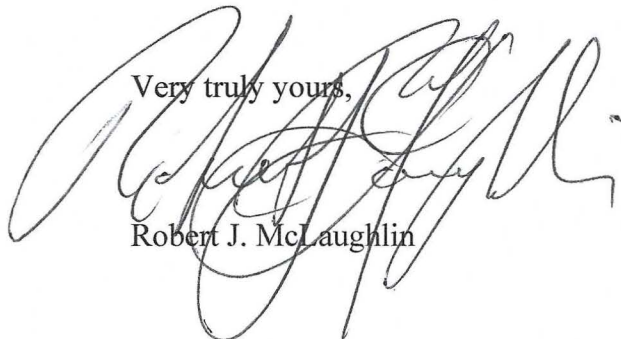
Re: Cattaraugus Local Development Corp. – Abandonment Exemption
Docket AB-1300X

Dear Sirs:

Enclosed for filing in te referenced proceeding is the Environmental and Historic Report submitted on behalf of the Cattaraugus Local Development Corp.

Please contact me if you should have any questions or comments.

Very truly yours,


Robert J. McLaughlin

**Before the
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-1300X

**CATTARAUGUS LOCAL DEVELOPMENT CORP.
ABANDONMENT EXEMPTION
IN CATTARAUGUS COUNTY, NEW YORK**

ENVIRONMENTAL/HISTORIC REPORT

Robert J. McLaughlin
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, New York 12207
518.520.0740
rjm@mclaughlinlawpc.com

*Counsel for
Cattaraugus Local Development Corp.*

Dated: November 14, 2020

Before the
SURFACE TRANSPORTATION BOARD

COMBINED ENVIRONMENTAL AND HISTORIC REPORT ("CEHR")
(49 C.F.R. 1105.7 and 1105.8)

Docket No. AB-1300X

CATTARAUGUS LOCAL DEVELOPMENT CORP.
-ABANDONMENT EXEMPTION-
IN CATTARAUGUS COUNTY, NEW YORK

Dated: November 14, 2020

ENVIRONMENTAL REPORT

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

Pursuant to 49 C.F.R. part 1150, subpart D, Cattaraugus Local Development Corp. ("CLDC"), currently a non-carrier, hereby files this Verified Notice of Exemption to acquire a portion of the former Erie Lackawanna Railway ("Erie Railway") a railroad line (the "Line") extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5), to the City line of the City of Salamanca in the Town of Salamanca (near Milepost 414.1), Cattaraugus County, State of New York. Pursuant to the Order of the United States District Court for the Northern District of Ohio dated February 28, 1980, the Line was deeded to the Cattaraugus County Industrial Development Agency ("IDA") by Quit Claim deed, which entity transferred the Line to CLDC on or about August 2000. Abandonment of the Line will result in the removal of the remaining rail and crossties, if any, and possibly the upper layer of ballast.

The CLDC was established in 1996 as a New York not-for-profit corporation to create community and economic development opportunities throughout Cattaraugus County, New York. It acquired the Line from the IDA in August 2000 (Cattaraugus County Clerk records in Liber 996 of Deeds at page 471). The IDA acquired the Line from the Trustees of the Erie Railway pursuant to an Order of the United States

District Court for the Northern District of Ohio, Eastern Division, dated February 28, 1980 (the "Order"). The Order directed that the Line be conveyed "free and clear of all liens, including judgment liens, mortgage liens, liens authorized by the Court and tax liens, including interest and penalties. Further, the Order provides that "all liens on the property conveyed [by the Order] . . . shall be divested from the property and shall attach, according to their respective priorities, to the proceeds from the transaction authorized herein."

Prior to conveying the Line to the IDA, the Erie Railway operated the Line as part of the Dunkirk Branch of USRA Line No. 1250. The IDA acquired the corridor in 1980 and by the early 1990s, the Line was no longer in operation. On September 6, 1996, the New York & Lake Erie Railroad Company, (the "Railroad Operator") contracted by the IDA to operate their railroad holdings, provided notice (the "Notice") to various parties---including the Department of Defense, the National Park Service, the US Department of Agriculture, and the Commissioner of Transportation---under Subpart F of Title 49 of the Code of Federal Regulations stating its intention to file a Notice of Exemption. That Notice of Exemption was never filed.

CLDC acquired title to the Line in 2000 as described above. There is no current line to operate, as the rails and other parts required for a railroad have been removed. The Line has been used since 2005 as the Senator Pat McGee Trail under the "Rails-to-Trails" Program.

The only alternative to a full abandonment would be for CLDC not to abandon the Line and prevent the public to use a hiking trail which has been utilized by the residents of the State of New York, and contiguous states and countries, for more than 15 years.

A color topographical map of the proposed abandonment is attached hereto as **Exhibit 1**.

(2) Transportation System. 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.

There is no passenger traffic currently on the Line to be diverted to other modes as a result of the proposed abandonment. There is no rails or other supports for a rail line, all having been removed as part of the conversion of the Line to a hiking trail. There is no freight traffic on the Line to be diverted to motor carrier. The proposed abandonment should have no adverse effects on regional or local highway systems and traffic patterns.

(3) Land Use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

(i) Regional planners have consented to the use of the Line by CLDC as the Sen. Pat McGee Hiking Trail since 2005. Therefore, the proposed abandonment of the Line is consistent with existing land use plans. CLDC notified numerous local and state governmental located in Cattaraugus County, New York and the State of New York (1) by publishing a Notice of Intent to Abandon or Discontinue Rail Service in the Olean Times Herald on September 30, 2020, a newspaper of general circulation and (2) by letter dated October 8, 2020 (See **Exhibit 2**) requesting comments and included a copy of a portion of the Phase I Environmental Site Assessment (“ESA”) (See **Exhibit 3**) for the CLDC Trail (Towns of New Albion, Mansfield, Little Valley and Salamanca, Cattaraugus County, NY). A copy of the Preliminary ESA was also mailed to the appropriate local and state agencies for their information and further comment. Two comments have been received: (a) on October 27, 2020, the US Environmental Protection Agency (Region 2) submitted a response stating “[USEPA] do not have any comments or concerns on the Site Assessment at this time.” Further, the USEPS stated “The Sen. Pat McGee Trail is a fine example of the reuse of old rail line for public recreation and enjoyment. (See **Exhibit 4**.) (b) on October 30, 2020, the New York State Office of Parks, Recreation and Historic Preservation submitted a response which states that the Office had the opinion that “no historic properties, including archaeological and/or historic resources, will be affected by this undertaking.” (See **Exhibit 5**.)

(ii) CLDC does not believe that there is any prime agricultural land that will be affected. CLDC notified the United States Department of Agriculture ("USDA") Natural Resources Conservation Service (the agency succeeding to the responsibilities of the Soil Conservation Service) of the proposed abandonment by letter dated October 8, 2020 (See Exhibit 2) requesting comments and included a copy of the preliminary ESA. No comments have been received to date.

(iii) CLDC notified the Coastal Management Program by letter dated October 8, 2020 (See Exhibit 2) requesting comments and including a copy of this preliminary ESA.

(iv) CLDC believes the Line would not be suitable for interim trail use/rail banking.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

(i) The proposed abandonment will have no affect the ability to transport energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will not change the use of railroad transportation over the Line as CLDC uses the Line as a hiking trail.

(iv) The proposed abandonment will not cause the diversion of more than 1,000 rail carloads a year; or an average of 50 rail carloads per mile per year for any part of the line segments of rail traffic to motor carriage.

(5) *Air. (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:*

Not applicable

(6) *Noise. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more; or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.*

Not applicable.

(7) *Safety. (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings). (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials. (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

Not applicable.

(8) *Biological Resources. (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

(i) CLDC does not believe that the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat. CSXT has notified the

U.S. Fish and Wildlife Service ("USF&W") of the proposed abandonment by letter dated October 8, 2020 (See Exhibit 2) requesting assistance in determining whether the proposed abandonment will adversely affect endangered or threatened species or areas designated as a critical habitat and included a copy of the preliminary CEHR. No comments have been received to date.

(ii) CLDC does not believe any wildlife sanctuaries or refuges, National or State parks or forests would be adversely affected by the proposed abandonment.

CLDC has notified the National Parks Service of the proposed abandonment by letter dated October 8, 2020 (See Exhibit 2) requesting assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests and included a copy of the preliminary CEHR. No comments have been received to date.

(9) Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies. (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action.

CLDC notified the U.S. Army Corps of Engineers by letter dated October 8, 2020 (See Exhibit 2) regarding the abandonment. No comments have been received to date. The Line has already been dedicated as a hiking trail so no impact on water quality will occur.

HISTORIC REPORT

1. A topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action (See **Exhibit 1**);
2. The New York State agency having jurisdiction over the project has stated there are no historic impacts. (See **Exhibit 5**.)

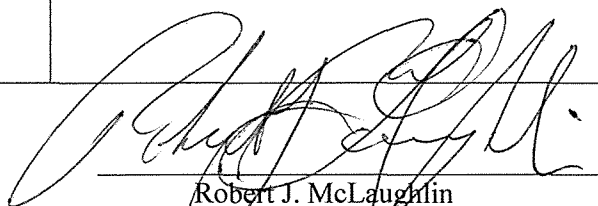
CLDC believes that the Line is not unusual or noteworthy for inclusion on the National Register of Historic Places. It is also CLDC's opinion that there are no archeological resources or other railroad related historic properties in the project area. Moreover, there are no bridges or structures on the Line that are 50 years old or older.

Based on a review of its records, CLDC believes that there are no known subsurface ground disturbances or fill, or environmental conditions that might affect the archeological recovery of any potential resources.

CERTIFICATE OF SERVICE

I hereby certify that on November 16, 2020, I served a copy of the foregoing Environmental and Historic Report on the persons listed below by email (where indicated) or first class mail, postage prepaid.

Hon. Michael Smith, Mayor City of Salamanca 225 Wildwood Avenue Salamanca, NY 14779	Hon. John R. Searles, County Administrator Cattaraugus County 303 Court Street Little Valley, NY 14755
Hon. Abby Snyder, Regional Director NYS Department of Environmental Conservation 270 Michigan Avenue Buffalo, NY 14203-2915	Hon. Pete Lopez US EPA – Region 2 Ted Weiss Federal Building 290 Broadway New York, NY 10007
US Fish & Wildlife 405 N. French Road #120 B Amherst, NY 14228	Hon. Basil Seggos, Commissioner NYS Department of Environmental Conservation 625 Broadway Albany, NY 12207
Hon. Marie Therese Dominguez, Commissioner NYS Department of Transportation 50 Wolf Road Albany, NY 12232	Parks, Recreation and Historic Preservation Office New York Division for Historic Preservation Peebles Island State Park P.O. Box 189 Waterford, NY 12188-0189
National Park Service Northeast Region 1234 Market Street Philadelphia, PA 19107	Hon. Francis P. Cirillo, Regional Director NYS Department of Transportation, Region 5 100 Seneca Street Buffalo, NY 14203
U.S. Fish & Wildlife Services New York Field Office 3 81 7 Luker Road Cortland, NY 13045	Hon. Richard Mayfield, State Director USDA – Rural Development The Galleries of Syracuse 441 South Salina Street, Suite 357 Syracuse, NY 13202-2541
New York Department of State Coastal Zone Management Program Suite 1010 One Commerce Place, 99 Washington Ave Albany, NY 12231-0001	National Geodetic Survey National Geodetic Survey, SSMC3 #9340 1315 East-West Highway Silver Spring, MD 20910-3282 ngs.infocenter@noaa.gov
U.S. Army Corp of Engineers 26 Federal Plaza New York, NY 10278	



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90 State Street, Suite 700
Albany, NY 12207
518.820.0740
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EXHIBIT 1



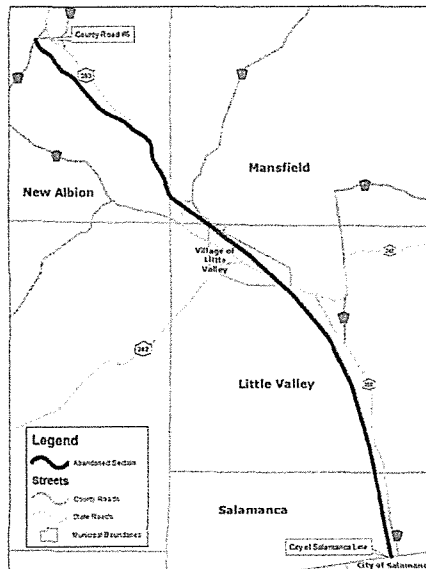
EXHIBIT 2

Notice of Intent To Abandon or To Discontinue Rail Service

The Cattaraugus Local Development Corp. gives notice that on or about September 1, 2020, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., was filed with the Surface Transportation Board, Washington, DC (Board), which petition for exemption seeks to permit the abandonment of a portion of the former railway owned by the Erie Lackawanna Railway Company, which railway is located in Cattaraugus County, New York (USRA Line 1250 or the "Line") extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5), to the City line of the City of Salamanca in the Town of Salamanca (near Milepost 414.3), Cattaraugus County, State of New York. The proceeding has been docketed as No. FD_36435. A petition for declaratory relief was filed by the Cattaraugus Local Development Corp. on March 4, 2020 (FD_36389 now AB_1300X) which petition is being held in abeyance pending completion of the Board's abandonment exemption procedures. The Cattaraugus Local Development Corp. has operated the Line as the Pat McGee Trail since on or about 2005.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, Washington, DC or by calling OEA at 202-245-0305.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative McLaughlin Law, P.C., 90 State Street, Suite 700, Albany, NY 12207 or at 518-520-0740.



STB DISTRIBUTION LIST – SEN. PAT McGEE TRAIL

Hon. Patrick Murphy, Supervisor Town of New Albion 14 Main Street Cattaraugus, NY 14719	Hon. Wirt Smith, Mayor Village of Cattaraugus 14 Main Street Cattaraugus, NY 14719
Hon. Robert Keis, Supervisor Town of Mansfield 7621 California Hill Road Little Valley, NY 14755	Hon. Peter Wrona, Supervisor Town of Little Valley 201 Third Street Little Valley, New York 14755
Hon. Michael Smith, Mayor City of Salamanca 225 Wildwood Avenue Salamanca, NY 14779	Hon. John R. Searles, County Administrator Cattaraugus County 303 Court Street Little Valley, NY 14755
Hon. James Brown, Mayor Village of Little Valley 103 Rock City Street Little Valley, NY 14755	Hon. Ronald Wasmund, Supervisor Town of Otto 8842 Otto-East Otto Road Cattaraugus, NY 14719
Hon. Ann Rugg, Supervisor Town of East Otto 9134 Bowen Road East Otto, NY 14729	Hon. Pete Lopez US EPA – Region 2 Ted Weiss Federal Building 290 Broadway New York, NY 10007
Hon. Abby Snyder, Regional Director NYS Department of Environmental Conservation 270 Michigan Avenue Buffalo, NY 14203-2915	Hon. Basil Seggos, Commissioner NYS Department of Environmental Conservation 625 Broadway Albany, NY 12207
US Fish & Wildlife 405 N. French Road #120 B Amherst, NY 14228	Parks, Recreation and Historic Preservation Office New York Division for Historic Preservation Peebles Island State Park P.O. Box 189 Waterford, NY 12188-0189
Hon. Marie Therese Dominguez, Commissioner NYS Department of Transportation 50 Wolf Road Albany, NY 12232	Hon. Francis P. Cirillo, Regional Director NYS Department of Transportation, Region 5 100 Seneca Street Buffalo, NY 14203
U.S. Fish & Wildlife Services New York Field Office 3 81 7 Luker Road Cortland, NY 13045	Hon. Richard Mayfield, State Director USDA – Rural Development The Galleries of Syracuse 441 South Salina Street, Suite 357 Syracuse, NY 13202-2541
New York Department of State Coastal Zone Management Program Suite 1010 One Commerce Place, 99 Washington Ave Albany, NY 12231-0001	National Park Service Northeast Region 1234 Market Street Philadelphia, PA 19107
U.S. Army Corp of Engineers 26 Federal Plaza New York, NY 10278	National Geodetic Survey National Geodetic Survey, SSMC3 #9340 1315 East-West Highway Silver Spring, MD 20910-3282 ngs.infocenter@noaa.gov

McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

Via Email (ngs.infocenter@noaa.gov)

National Geodetic Survey, SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Sirs:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

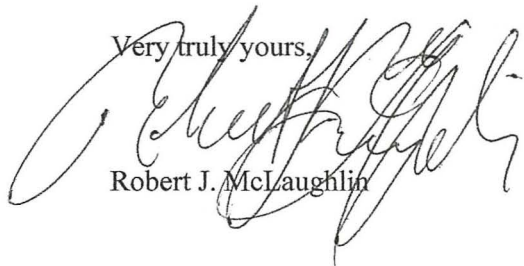
CLDC has recently learned that the 12.14 mile portion of the railway which operates as the Trail was never fully abandoned with the Surface Transportation Board ("Board"). CLDC has filed an abandonment petition for the Line operated as the Trail with the Board. (The Petition for Exemption is docketed as FD_36435; the Petition for Declaratory Relief was filed with the Board on March 4, 2020 and docketed as FD_36389, now AB_1300X.) Upon receipt of abandonment authority from the Board, CLDC will consummate the abandonment and abandon the Line.

CLDC's action requires Board environmental and historic review under 49 C.F.R. 11.05.6(b)(2). A portion of the Phase I Environmental Site Assessment ("ESA") for the CLDC Trail (Towns of New Albion, Mansfield, Little Valley and Salamanca, Cattaraugus County, NY) is enclosed with this letter for your review and consideration. The ESA may have been separately provided to you by the Trust for Public Land.

CLDC would appreciate your comments regarding current, and future, continued use of the Line for the Trail. As you know, CLDC has improved and operated the Trail since 2005 for the benefit of the residents of the State generally and Western NY specifically. Please respond by email to rjm@mclaughlinlawpc.com, or by mail to the above address, within 20 days of the date of this letter so that CLDC can include and analyze your comments in its final submission to the Board. Also enclosed is the distribution list of all parties who have been requested to comment on the CEHR.

If you have any questions, please do not hesitate to contact me.

Very truly yours,


Robert J. McLaughlin

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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

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CERTIFIED MAIL

Hon. Francis P. Cirillo, Regional Director
NYS Department of Transportation, Region 5
100 Seneca Street
Buffalo, NY 14203

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CLDC has recently learned that the 12.14 mile portion of the railway which operates as the Trail was never fully abandoned with the Surface Transportation Board ("Board"). CLDC has filed an abandonment petition for the Line operated as the Trail with the Board. (The Petition for Exemption is docketed as FD_36435; the Petition for Declaratory Relief was filed with the Board on March 4, 2020 and docketed as FD_36389, now AB_1300X.) Upon receipt of abandonment authority from the Board, CLDC will consummate the abandonment and abandon the Line.

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Comments regarding current, and future, continued use of the Line received and operated the Trail since 2005 for the benefit of the Western NY specifically. Please respond by email to the above address, within 20 days of the date of this letter so that comments in its final submission to the Board. Also enclosed is the request to comment on the CEHR.

Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

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See Reverse for Instructions

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McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7018 3090 0001 9189 3681

CERTIFIED MAIL

Parks, Recreation and Historic Preservation Office
New York Division for Historic Preservation
Peebles Island State Park
P.O. Box 189
Waterford, NY 12188-0189

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☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
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McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7018 3090 0001 9189 3704

CERTIFIED MAIL

Hon. Richard Mayfield, State Director
USDA – Rural Development
The Galleries of Syracuse
441 South Salina Street, Suite 357
Syracuse, NY 13202-2541

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Director:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

CLDC has recently learned that the 12.14 mile portion of the railway which operates as the Trail was never fully abandoned with the Surface Transportation Board ("Board"). CLDC has filed an abandonment petition for the Line operated as the Trail with the Board. (The Petition for Exemption is docketed as FD_36435; the Petition for Declaratory Relief was filed with the Board on March 4, 2020 and docketed as FD_36389, now AB_1300X.) Upon receipt of abandonment authority from the Board, CLDC will consummate the abandonment and abandon the Line.

CLDC's action requires Board environmental and historic review under 49 C.F.R. 11.05.6(b)(2). A portion of the Phase I Environmental Site Assessment ("ESA") for the CLDC Trail (Towns of New Albion, Mansfield, Little Valley and Salamanca, Cattaraugus County, NY) is enclosed with this letter for your review and consideration. The ESA may have been separately provided to you by the Trust for Public Land.

Comments regarding current, and future, continued use of the Line have been provided and operated the Trail since 2005 for the benefit of the Western NY specifically. Please respond by email to the above address, within 20 days of the date of this letter so that the Trail is in its final submission to the Board. Also enclosed is the petition requested to comment on the CEHR.

Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

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90 STATE STREET, SUITE 700
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518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7018 3090 0001 9189 3711

CERTIFIED MAIL

Hon. Basil Seggos, Commissioner
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12207

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Commissioner:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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CLDC would appreciate your comments regarding current, and future, continued use of the Line. CLDC has owned, improved and operated the Trail since 2005 for the benefit of the Western NY specifically. Please respond by email to the above address, within 20 days of the date of this letter so that your comments are included in its final submission to the Board. Also enclosed is the petition for abandonment requested to comment on the CEHR.

Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

CERTIFIED MAIL

Hon. Abby Snyder, Regional Director
NYS Department of Environmental Conservation
270 Michigan Avenue
Buffalo, NY 14203-2915

7019 2970 0002 3021 2946

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Director:

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Robert J. McLaughlin

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7019 2970 0002 3021 2946

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rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2953

CERTIFIED MAIL

National Park Service
Northeast Region
1234 Market Street
Philadelphia, PA 19107

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Sirs:

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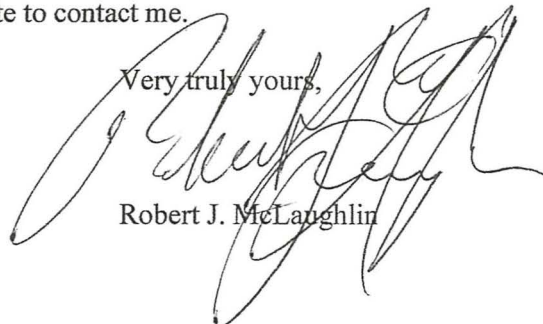
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not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin



7019 2970 0002 3021 2953

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518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2960

CERTIFIED MAIL

Hon. Patrick Murphy, Supervisor
Town of New Albion
14 Main Street
Cattaraugus, NY 14719

RE: STB Docket No. FD 36435 – Abandonment Exemption

Dear Supervisor Murphy:

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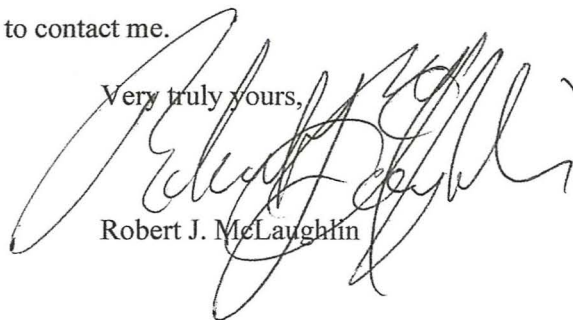
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Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin



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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2977

CERTIFIED MAIL

Hon. Robert Keis, Supervisor
Town of Mansfield
7621 California Hill Road
Little Valley, NY 14755

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Supervisor Keis:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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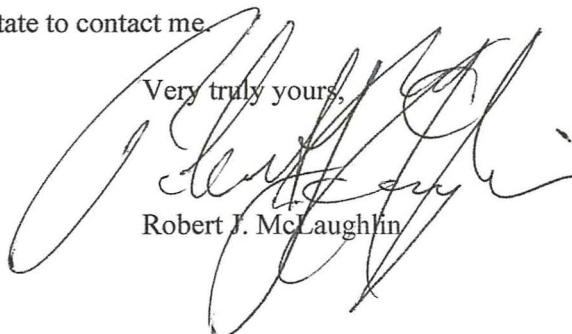
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Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin



7019 2970 0002 3021 2977

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ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2984

CERTIFIED MAIL

Hon. James Brown, Mayor
Village of Little Valley
103 Rock City Street
Little Valley, NY 14755

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Mayor Brown:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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Robert J. McLaughlin

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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2991

CERTIFIED MAIL

Hon. Ann Rugg, Supervisor
Town of East Otto
9134 Bowen Road
East Otto, NY 14729

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Supervisor Rugg:

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518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

CERTIFIED MAIL

New York Department of State
Coastal Zone Management Program
One Commerce Place, 99 Washington Ave
Suite 1010
Albany, NY 12231-0001

7019 2970 0002 3021 3004

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Sirs:

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7019 2970 0002 3021 3004

McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 3028

CERTIFIED MAIL

U.S. Fish & Wildlife Services
New York Field Office
3 81 7 Luker Road
Cortland, NY 13045

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Sirs:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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CLDC's action requires Board environmental and historic review under 49 C.F.R. 11.05.6(b)(2). A portion of the Phase I Environmental Site Assessment ("ESA") for the CLDC Trail (Towns of New Albion, Mansfield, Little Valley and Salamanca, Cattaraugus County, NY) is enclosed with this letter for your review and consideration. The ESA may have been separately provided to you by the Trust for Public Land.

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CLDC would appreciate your comments regarding current, and future, continued use of the Line proved and operated the Trail since 2005 for the benefit of the Western NY specifically. Please respond by email to the above address, within 20 days of the date of this letter so that the Line is in its final submission to the Board. Also enclosed is the requested to comment on the CEHR.

Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

CERTIFIED MAIL

Hon. Marie Therese Dominguez, Commissioner
NYS Department of Transportation
50 Wolf Road
Albany, NY 12232

7019 2970 0002 3021 3035

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Commissioner:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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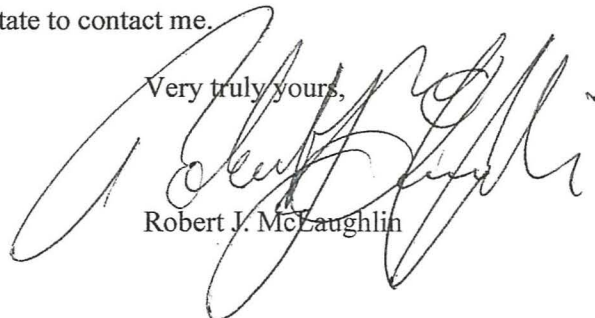
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Robert J. McLaughlin



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518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 3042

CERTIFIED MAIL

US Fish & Wildlife
405 N. French Road #120 B
Amherst, NY 14228

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Sirs:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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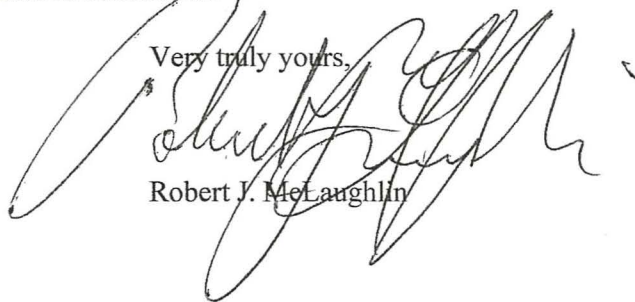
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Robert J. McLaughlin



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ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2892

CERTIFIED MAIL

Hon. Wirt Smith, Mayor
Village of Cattaraugus
14 Main Street
Cattaraugus, NY 14719

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Mayor Smith:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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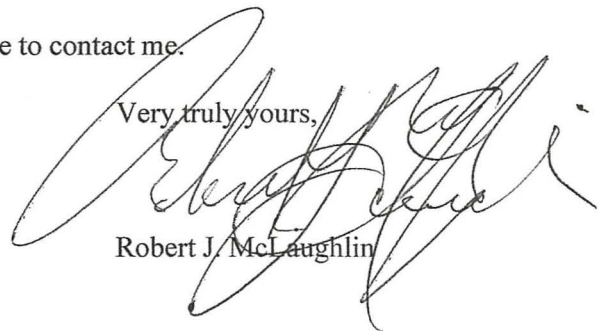
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not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin



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ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2908

CERTIFIED MAIL

Hon. Peter Wrona, Supervisor
Town of Little Valley
201 Third Street
Little Valley, New York 14755

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Supervisor Wrona:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

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ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2915

CERTIFIED MAIL

Hon. John R. Searles, County Administrator
Cattaraugus County
303 Court Street
Little Valley, NY 14755

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Administrator Searles:

We are the attorneys for the Cattaraugus Local Development Corp. (CLDC). As you know, CLDC has operated the Sen. Pat McGee Trail ("Trail") since on or about 2005. The Trail follows a portion of the railway formerly owned and operated by the Erie Lackawanna Railroad Company, specifically the portion of the railway located in Cattaraugus County, New York (USRA Line 1250) and extending roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the City line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). This 12.14 mile portion is referred to as the "Line."

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Robert J. McLaughlin

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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2922

CERTIFIED MAIL

Hon. Ronald Wasmund, Supervisor
Town of Otto
8842 Otto-East Otto Road
Cattaraugus, NY 14719

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Supervisor Wasmund:

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90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

CERTIFIED MAIL

Hon. Pete Lopez
US EPA – Region 2
Ted Weiss Federal Building
290 Broadway
New York, NY 10007

7019 2970 0002 3021 2939

RE: STB Docket No. FD_36435 – Abandonment Exemption

Dear Administrator Lopez:

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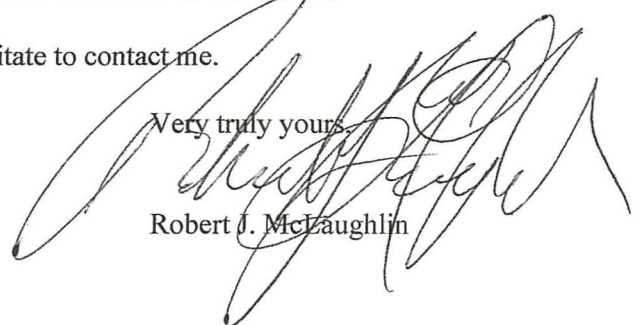
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McLAUGHLIN LAW, P.C.

90 STATE STREET, SUITE 700
ALBANY, NEW YORK 12207
518.520.0740
rjm@mclaughlinlawpc.com

October 8, 2020

7019 2970 0002 3021 2885

CERTIFIED MAIL

U.S. Army Corp of Engineers
26 Federal Plaza
New York, NY 10278

RE: STB Docket No. FD_36435 – Abandonment Exemption

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CLDC has recently learned that the 12.14 mile portion of the railway which operates as the Trail was never fully abandoned with the Surface Transportation Board ("Board"). CLDC has filed an abandonment petition for the Line operated as the Trail with the Board. (The Petition for Exemption is docketed as FD_36435; the Petition for Declaratory Relief was filed with the Board on March 4, 2020 and docketed as FD_36389, now AB_1300X.) Upon receipt of abandonment authority from the Board, CLDC will consummate the abandonment and abandon the Line.

CLDC's action requires Board environmental and historic review under 49 C.F.R. 11.05.6(b)(2). A portion of the Phase I Environmental Site Assessment ("ESA") for the CLDC Trail (Towns of New Albion, Mansfield, Little Valley and Salamanca, Cattaraugus County, NY) is enclosed with this letter for your review and consideration. The ESA may have been separately provided to you by the Trust for Public Land.

CLDC would appreciate your comments regarding current, and future, continued use of the Line for the Trail. As you know, CLDC has improved and operated the Trail since 2005 for the benefit of the State of New York, generally, and Western NY specifically. Please respond by email to the above address, within 20 days of the date of this letter so that we can include your comments in its final submission to the Board. Also enclosed is the petition for abandonment requested to comment on the CEHR.

Do not hesitate to contact me.

Very truly yours,

Robert J. McLaughlin

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EXHIBIT 3

Phase I Environmental Site Assessment

**Cattaraugus Local Development Corp.
Rail Trail
Towns of New Albion, Mansfield, Little Valley, and
Salamanca
Cattaraugus County, New York**

Chazen Project No. 41921.00
June 20, 2019



Prepared for:

Trust for Public Land
666 Broadway #9
New York, NY 10012

Prepared by:

*Chazen Engineering, Land Surveying & Landscape Architecture Co., D.P.C.
21 Fox Street
Poughkeepsie, New York 12601
(845) 454-3980*

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1.0 INTRODUCTION

The Chazen Companies (Chazen) performed a Phase I Environmental Site Assessment (ESA) for the approximately 12.1-mile long Cattaraugus Local Development Corp. rail trail property (aka Pat McGee Trail) located in the Towns of New Albion, Mansfield, Little Valley, and Salamanca, Cattaraugus County, New York ("the Site"). The Phase I ESA was conducted in accordance with the scope and limitations set forth in ASTM Practice E 1527-13 (Phase I ESA Process) with the site reconnaissance of the wooded/rural area of the Site consistent with the ASTM E 2247-16 guidance for forested or rural properties.

The Site is an (±)174.58-acre, approximately 12.1-mile long rail trail property. The majority of the Site is a public access trail with cut grass, wooded land, and areas of wetland/standing water. A lean-to is on the northern Site area, and a pavilion, two gazebos, and a solid roof pergola are on the central part of the Site (within the Village of Little Valley).

1.1 Purpose

The purpose of this Phase I ESA is to reasonably identify potential or known recognized environmental conditions (RECs), controlled RECs (CRECs), historical RECs (HRECs), and Significant Data Gaps (SDGs) as defined by ASTM E 1527-13. The ASTM Standard Practice allows a lender or property owner to satisfy one of the requirements necessary to qualify for either the innocent landowner, contiguous property owner, or bona fide prospective purchaser defenses for liability protection under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). RECs are defined as "presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment" even under conditions in compliance with laws. CRECs are a type of REC that result from a past release that has been addressed to the satisfaction of the applicable regulatory authority while allowing residual impacts to remain at the site (e.g., not meeting unrestricted use criteria) subject to implementation of required controls (e.g., land use restrictions, activity and use limitations, institutional controls, or engineering controls). HRECs are a past release that has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria, without subjecting the property to any required controls (e.g., land use restrictions, activity and use limitations, institutional controls, or engineering controls). HRECs are not considered RECs. SDGs are information shortages which affect the ability to identify RECs or vapor encroachment conditions.

1.2 Scope of Services

The methodology employed for the performance of this Phase I ESA is consistent with, or exceeds the requirements of, ASTM E 1527-13 and comprises the following steps.

Information obtained from the performance of these tasks is described in this Phase I ESA report in Sections 2.0 through 7.0 below. Conclusions regarding the findings of this investigation are provided in Section 8.0.

1.2.1 Review Existing Site Background Information (Current and Historical)

In accordance with ASTM E 1527-13, Chazen attempts to review existing background information describing sites, including: historical aerial photographs, historical Sanborn fire insurance maps (if available), environmental databases, a current United States Geological Survey (USGS) topographic map, and local government records. Discussion of particular identified sources is found in Sections 4.0 through 6.0.

1.2.2 Site Reconnaissance and Interviews

In general accordance with ASTM E 1527-13 and ASTM 2247-16 (guidance for forested and rural properties), Chazen seeks available site information from the following sources. Discussion of sources contacted is found in Sections 4.0 through 6.0:

- A visual site reconnaissance focused on developed areas of the property and areas of environmental interest, including review of operations, chemical/petroleum handling, waste management systems, and prior waste handling practices at the Site;
- Visual observations of adjacent properties from the Site and adjacent roadways;
- Interviews with the user, Site owner, operator, and/or occupants, if identified and available;
- Interviews with identified past owners, operators, and occupants for which contact information was provided;
- Contacting regulatory and local officials to determine if the presence of hazardous substances or petroleum products has been a concern at the Site or adjoining properties;
- Assessment of the current and past use of hazardous substances and petroleum products (from visual observations and interviews with knowledgeable persons); and
- Determination of the existence and use of Site utilities.

1.2.3 Environmental Regulatory Database Search

Chazen obtained a commercially-available database report of a search of Federal and State regulatory databases to determine the possible presence of hazardous substances or petroleum products at the Site and within the search distances identified in ASTM E 1527-13.

1.2.4 Vapor Encroachment Screen

A Tier I Vapor Encroachment Screen was also conducted in accordance with ASTM E 2600-15: Standard Guide for a Vapor Encroachment Screening (VES) on Properties Involved in Real Estate Transactions. The objective of the VES is to identify if a vapor encroachment condition (VEC) exists on the Site. A VEC is determined by the presence of likely presence of ASTM E 2600-15 specified chemicals of concern vapors in the subsurface of the site area caused by a release of vapors from contaminated soil and/or groundwater either on or near the Site.

1.3 Qualifications

This Phase I ESA has been conducted by, and under the supervision of, a qualified environmental professional with the required level of education in an environmental field of study and experience in the performance of Phase I ESAs and ASTM Standard requirements. These qualifications are consistent with environmental professional requirements referenced in the ASTM E 1527-13 standard. Appendix E includes resumes of qualified environmental professional qualifications.

1.4 Significant Assumptions

Significant assumptions made in the performance of this Phase I ESA are as follows:

- Groundwater flow approximately mimics major topographic gradients.
- Representations made during interviews are accurate.

1.5 Special Terms and Conditions

No special terms and conditions beyond the ASTM E 1527-13 scope of work have been included in this ESA.

1.6 Limitations and Exceptions of Assessment

No ESA can wholly eliminate uncertainty regarding the potential for RECs in connection with a property. The performance of this Phase I ESA is consistent with ASTM Standard E 1527-13 and is intended to reduce, but not eliminate, such uncertainty regarding the potential for RECs in connection with a property, and this practice recognizes reasonable limits of time and cost. The information presented in this report is limited to the investigation conducted and described herein, and is not necessarily all inclusive of conditions present at the Site.

This Phase I ESA is site specific in that it relates to the assessment of environmental conditions at the Site. Opinions presented in this report apply to Site conditions existing at the time of the Chazen evaluation and may not necessarily apply to future Site or surrounding area conditions. Chazen can render no opinion as to the presence or absence of RECs in areas of the property where access was not provided or was limited.

The accuracy and completeness of the information provided by the sources referenced in this Phase I ESA report was not independently verified. Accordingly, Chazen accepts no responsibility for any deficiencies, misstatements or inaccuracies contained in this report that occur as a result of misrepresentations, omissions, or fraudulent acts of the sources questioned or documentation provided. Persons knowledgeable of the Site were interviewed only to the extent that these individuals were available and forthcoming during the investigation period.

This practice does not address whether requirements, in addition to all appropriate inquiry (AAI), have been met in order to qualify for the landowner liability protections (LLPs), including "the continuing obligation not to impede the integrity and effectiveness of activity and use limitations (AULs), or the duty to take reasonable steps to prevent releases, or the duty to comply with legally

required release reporting operations.” Failure to meet continuing obligations may forfeit CERCLA liability protection.

Additionally, this practice does not address the requirements of any state or local laws, or any federal laws other than the AAI provisions of the LLPs. Users are cautioned that federal, state, and local laws may impose environmental assessment obligations that are beyond the scope of this practice.

Responses from public agencies typically can take three to four weeks to obtain. Client-imposed time constraints that are less than what is considered to be a reasonable timeframe by this standard (i.e., 20 days) may result in a data gap that could affect CERCLA liability protection.

Dense vegetation along the boundaries of the Site limited views of some ground surfaces and access to some areas of the Site. The trail was constructed through areas of varying topography, and although the former railroad bed part of the Site is relatively flat, steep slopes on several areas of the Site limited access. The ground was damp at the time of inspection, which limited the ability to assess for potential soil staining on the southern-most Site area (area of encroachment).

1.7 Deviations

No deviations from the ASTM E 1527-13 standard were performed during this Phase I ESA.

1.8 User Reliance

This report is intended for the sole and exclusive use of Trust for Public Land, and not for the benefit use of others, and may not be used or relied upon by others. The findings of the report are limited to those specifically expressed in the report and no other representations can be relied upon other than those expressly stated in the report and as limited by Chazen’s terms and conditions.

This Phase I ESA report is considered valid under one of the two following conditions:

- 1) (a) The information was collected or updated less than 180 days prior to the date of acquisition or (for transactions not involving an acquisition) the date of the intended transaction, and (b) the user(s) satisfies the user’s responsibilities identified in Section 6 of the Standard.
- 2) It was (a) completed within one year prior to the date of acquisition or (for transactions not involving an acquisition) the date of the intended transaction; (b) the following components were conducted or updated within 180 days of the acquisition or transaction: interviews, search for environmental cleanup liens, review of government records, visual inspection of the property and adjoining properties, and declaration by the environmental professional; and (c) the user(s) satisfies the user’s responsibilities identified in Section 3.

2.0 SITE DESCRIPTION

2.1 Site Location and Total Site Area

The Cattaraugus Local Development Corp. property is a 12.1-mile long former railroad corridor located in the Towns of New Albion, Mansfield, Little Valley, and Salamanca, Cattaraugus County, New York.

The Site is (±)174.58-acre property comprised of six tax lots identified on the Cattaraugus County tax map as:

Section-Block-Lot	Acreage	Municipality
Part of 44.002-1-16.2	59.36 acres of a 63.35-acre parent property (for purposes of this report the 3.99-acre area of the parent property excluded from this report is considered adjoining)	Town of New Albion
54.001-3-27	10.19	Town of Mansfield
54.003-1-41	0.3	Town of Little Valley
54.072-3-6.1	22.37	Town and Village of Little Valley
63.002-1-18	63.35	Town of Little Valley
72.004-1-48	19	Town of Salamanca

A map illustrating the Site location is attached as Figure 1 and the Cattaraugus County tax map boundaries are shown on Figures 2 through 2E. An orthophoto of the Site is provided as Figures 3 through 3E. Site right-of-way maps, dated 2003, are provided as Figure 4. According to the Site owner, several exemptions to the Site boundaries have been recorded, since the issuance of these maps (see Section 4.7).

2.2 Current Site Uses/Operations

The Site is a public access trail used for pedestrian foot traffic, bicycles, horses (including horse drawn buggies), snowmobiles, etc.

Site reconnaissance photographs, depicting observed property conditions are attached as Appendix A.

2.3 General Site Configuration

The Site is an approximately 12.1-mile long property, with approximate widths ranging from 40 feet to 600 feet wide. A maintained grass trail extends along the approximate center of the Site,

and the Site boundaries are mostly wooded land. A paved secondary trail is located along the northeastern boundary of the Site, in the Village of Little Valley (near the adjoining baseball fields). Several waterbodies also extend onto the Site.

2.3.1 Roadways On or Adjoining the Site

Public roadways that bisect the Site are: County Route 6 (aka Leon Road), Sweeney Hill Road, Little Lake Road, Route 353 (areas adjoin and bisect the Site), Kahler Hill Road/North 9th Street, 6th Street, 2nd Street, 1st Street, Woodworth Hollow Road, and Town Line Road. Additionally, Main Street terminates at the western Site boundary, and several farm roads cross the Site.

2.3.2 Easements and Rights-of-Ways

According to the Site owner, an access agreement has been provided to the electric company, so they can access off-Site utility lines, and an easement has been granted to a local snowmobile club to use the Site. Additionally, markers for an underground gas line were observed near several of the Site boundaries. No formal deed search was conducted by Chazen to confirm the presence or absence of any on-site rights-of-way or easements.

2.4 Structures

Locations of the structures listed below are shown on Figures 3A and 3C.

Structures	Year Constructed	Description	Heating and Cooling
Lean-to (Lot 16.2)	2004	Approximately 180-square-foot, three-sided structure on concrete pillars.	None
Solid roof pergola (Lot 6.1)	Circa 2004	Approximately eight-foot square, open-sided, wood framed structure.	None
Gazebos (2) (Lot 6.1)	Circa 2004	Two wood-framed gazebo buildings.	None
Pavilion (Lot 6.1)	2004	Approximately 480-square-foot, open side pavilion style building with a concrete slab floor.	None

Historical mapping suggests that prior Site buildings included a passenger and freight station, coal shed, water tank, and section house.

2.5 Site Utilities

Stormwater catch basins were observed near the Site boundary on the southern-most Site area. No other utilities are provided to the Site; however, municipal water, municipal storm water management, community/public sewer system(s), electricity, and natural gas services are provided to the surrounding area. Several natural gas line markers were observed near the Site boundaries.

2.6 Topographic Description

The area of the Site is hilly. The Site was initially developed as a railroad corridor in the mid-1800s, and generally, 19th century railroad construction standards allowed for a 2.2% slope with a maximum of 4% for short distances. Slopes next to the former railroad alignment appear consistent with earthwork to achieve these requirements (e.g., placement of fill and excavation of hillsides through various topographic features such as valleys, hillsides, and through wetland and pond areas). Therefore, the boundaries of the Site have varying topography including some steep slopes. Figure 1 shows the United States Geologic Survey (USGS) Topographic Map of the surrounding area.

2.7 Site Soils and Geology

A review of the Surficial Geologic Map of New York (Niagara Sheet, 1988) indicates that surficial soils in the Site area are mapped as outwash sand and gravel, kame deposits, and lacustrine silt and clay. Information obtained from United States Department of Agriculture (USDA) Soil Conservation Service's website regarding the Site soils is included as Attachment A. According to the USDA website, depth to groundwater at the Site ranges from surface water to greater than 80 inches below grade.

Bedrock in the Site area ranges from 8 inches below grade to greater than 80 inches below grade according to the USDA website and Surficial Geologic Map. Site bedrock is mapped on the Geologic Map of New York (USGS Google Earth Database, 2005) as Upper Devonian-aged rocks of the Conneaut Group, undivided consisting of shale and siltstone and the Oswayo and Venago Formations, consisting of shale, siltstone, and sandstone.

2.8 Site Hydrology and Hydrogeology

The Little Valley Creek flows in a southerly direction and crosses the Site in several locations. The Site also includes parts of Linlyco Lake and an unnamed lake.

Groundwater flow is best determined using site-specific well data and may be affected by surface topography, hydrology, hydrogeology, and characteristics of the soil and nearby wells. No site-specific well data or hydrology information was provided or is known to exist for the Site. In the absence of site-specific data, other sources of information are typically used including surface topographic information, hydrogeologic information collected from nearby properties, etc.

Based on a review of available information, including area topography, regional groundwater flow is expected to be towards Little Valley Creek and waterbodies associated with the Allegheny River (south of the Site) or north towards waterbodies associated with the Cattaraugus Creek (north of the Site). On-Site groundwater flow would be influenced by site-specific geologic conditions.

2.9 Surrounding Land Uses

The adjoining and surrounding properties are primarily agricultural and residential use, and properties in the Village of Little Valley also include commercial (e.g., attorney office) and religious properties (i.e., church). Table 1 includes commercial or industrial land uses identified during the site reconnaissance and from other available sources that suggest the use could present a potential recognized environmental condition.

3.0 USER PROVIDED INFORMATION

The Trust for Public Land is a potential purchaser of the Site, and Mr. Francis O'Shea completed the User Questionnaire. As such, Mr. O'Shea is the representative of the recognized "User" referenced in this section of this ESA. A copy of the questionnaire is included in Appendix D.

3.1 Title Records

The User has indicated that a title record search has been ordered but not yet received.

3.2 Environmental Liens or Activity and Use Limitations (AULs)

The User is not aware of environmental liens against the property. The User is not aware of AULs, such as engineering controls, land use restrictions, or institutional controls that are in place at the Site and/or have been filed or recorded in a registry under federal, tribal, state, or local law.

3.3 Specialized Knowledge

The User does not have specialized knowledge or experience related to the property or nearby properties.

3.4 Commonly Known or Reasonably Ascertainable Information

The User provided a copy of the August 2002 memorandum from Watts Engineering that is summarized in Section 4.8. The User is not aware of other commonly known or reasonably ascertainable information (i.e., past uses, specific chemicals currently or historically present, spills or chemical releases, environmental cleanups) about the property that would help identify conditions indicative of a release or threatened releases.

3.5 Valuation Reduction for Environmental Issues

The User initiated this Phase I ESA to assess for potential environmental issues that may impact the Site's value, but is not aware of environmental issues that the owner has factored in to reduce the fair market value.

3.6 Reason for Performing the Phase I ESA

The User has indicated that their purpose for this Phase I ESA is to satisfy internal due diligence requirements. This Phase I ESA can also be used to qualify for one of the LLPs to CERCLA liability.

4.0 SITE AND SURROUNDING AREA HISTORICAL REVIEW

4.1 Summary

4.1.1 Site

Based on the historical sources reviewed as part of this Phase I ESA, as well as interviews conducted with knowledgeable individuals, the Site was initially developed as a railroad corridor in the mid-1800s. Structures including a passenger and freight station were located on the Site by at least 1900.

4.1.2 Adjoining/Surrounding Properties

Based on the historical sources reviewed as part of this Phase I ESA, the surrounding area appears to have been historically residential and agricultural land, with industrial/manufacturing properties in the Village of Little Valley.

4.2 Title Search Information

Information available from the Town Assessor's Offices and Cattaraugus County Real Property Tax Office indicates that the Cattaraugus Local Development Corporation began acquiring the Site parcels in 2000. Prior ownership history is presented in table below. A property/deed abstract was not performed under the scope of this Phase I ESA. The former Erie Lackwanna Railway acquired the Site land between 1850 and 1880.

Historic Property Ownership – 16.2

From	To	Date
Erie Lackwanna Railway	Cattaraugus County Industrial Development Agency (IDA)	April 1, 1980
Cattaraugus County IDA	Cattaraugus Local Development Corp.	June 20, 2004

Historic Property Ownership – 27

From	To	Date
Erie Lackwanna Railway	Cattaraugus County IDA	April 1, 1980
Cattaraugus County IDA	New York State Department of Transportation	January 22, 1997
New York State Department of Transportation	Cattaraugus Local Development Corp.	August 30, 2000

Historic Property Ownership – 41

From	To	Date
Erie Lackwanna Railway	Cattaraugus County IDA	April 1, 1980
Cattaraugus County IDA	Cattaraugus Local Development Corp.	August 30, 2000

Historic Property Ownership – 6.1 (formerly identified as part of Lot 6)

From	To	Date
Erie Lackwanna Railway	Cattaraugus County IDA	April 1, 1980
Cattaraugus County IDA	Cattaraugus Local Development Corp.	August 30, 2000

Historic Property Ownership – 18

From	To	Date
Erie Lackwanna Railway	Cattaraugus County IDA	April 1, 1980
Cattaraugus County IDA	Cattaraugus Local Development Corp.	August 30, 2000

Historic Property Ownership – 48

From	To	Date
Erie Lackwanna Railway	Cattaraugus County IDA	April 1, 1980
Cattaraugus County IDA	Cattaraugus Local Development Corp.	January 26, 2004

4.3 Sanborn Fire Insurance Maps

Environmental Data Resources, Inc. (EDR), owner of the historical Sanborn Fire Insurance Map collection, was contacted to provide Sanborn Fire Insurance Maps. Fire insurance maps indicate uses of properties at specified dates. These maps are one of the sources used to understand the historical use of the Site and surrounding area. Sanborn maps for the years 1900, 1905, 1910, 1924, and 1943 were provided by EDR for parts of the Village of Little Valley near Site Lot 6.1. A copy of the Certified Sanborn Map Report is included in Appendix B. These maps show the Site developed with railroad tracks.

The 1900 through 1943 maps show a passenger and freight station, coal shed (on or along the western Site boundary), and water tank on Lot 6.1 (excluding 1943), near the end of Main Street (formerly known as 5th Street and Railroad Avenue). The 1905 through 1924 map show a section house (structure typically used for housing railroad workers, or for the storing and maintenance of equipment for a section of railroad) on or near the western Site boundary where the tributary to the Little Valley Creek flows through the Site. A shed-size structure is also shown in this area on the 1910 map, and a coal shed is shown extending onto or along the eastern boundary of Lot 6.1 south of 6th Avenue.

Adjoining and surrounding area properties are primarily residential and commercial buildings. Nearby industrial properties include the following:

Village of Little Valley Tax Lot (Section-Block-Lot)	Map Year(s)	Business Name/Property Use
54.063-2-1	1943	This adjoining property is developed as the Cattaraugus County Agricultural Society Fair grounds, and includes cattle sheds, a band stand, grandstand, etc.
General area of 54.063-2-Lots 1 and 2.1	1900	Little Valley Electric Light Station – property features include the use of coal, a steam boiler, and a water pipe that extends from the buildings across the Site railroad tracks.
	1905, 1910, 1924	Little Valley Electric Light Station – A coalhouse is located on the western side of the property, on or near the Site boundary.
	1943	This property is shown as the Village of Little Valley Store House.
General area of 54.064-1-Lots 2.2 and 4.1	1900	The W.W. Wilson Manufacturing Co. knife factory – property features include the use of coal, a steam boiler, and a forge room.
	1905, 1910, 1924, 1943	Cattaraugus Cutlery Co.'s Factory No. 2 and the Geo. W. Korn Razor Manufacturing Company – property features include the use of coal, a forge room, a lumber house, a water tank (1905 map), and steam boilers. A coal shed is shown extending onto or along the eastern boundary of Site Lot 6.1. The 1910 map shows the property being renovated, a forge shop under construction, and an oil house. The 1943 map shows the southern buildings on this property as garage and equipment storage and as a paint shop.
54.072-3-1	1900	Whitesides & Johns Wood Roller Factory – property features include the use of wood fuel, a 20-horsepower engine, and wood sawing.

Village of Little Valley Tax Lot (Section- Block-Lot)	Map Year(s)	Business Name/Property Use
	1905	Star Mill Co. Grist Mill (northern area of the property) – facility features include the use of coal, a steam house, and a 35-horse power engine. A coal shed is shown near the southeastern corner of this facility. Several of these features are mapped adjacent to the western railroad track and their locations relative to the current property line are not known. Whitesides & Johns Wood Roller Factory (southern area of the property)– the engine is no longer shown, and a coal storage shed is shown along the eastern side of the property (on or adjoining the western Site boundary).
	1910	The Whitesides & Johns Wood Roller factory is not shown, and a second coal shed is shown on the northern property facility.
	1924, 1943	The Star Milling Co. Grist Mill buildings are located on both the northern and southern parts of this property. The southern property area is developed with a coal shed, and structures on the northern property area include a gas engine, scales, and notes indicate the property has chemical extinguishers. This property is labeled as the Jas H. Gray Milling Co. Grist Mill on the 1943 map, and the facility is shown as including a gasoline tank.
General area of 54.072-3-7	1910, 1924, 1943	The Merrell-Soule Co. Powdered Milk Factory – property features include a railroad spur, the use of coal, steam boilers, and a water tank. The 1924 map also shows storage buildings, a “waste disposal plant” that includes two concrete tanks, a reservoir, and several wells. The 1943 map identifies this property as the Borden’s Milk Products Co. Inc.
General area of 54.073-1- 4.2	1924, 1943	A celery bleaching shed is shown to the southwest of the Site, northeast of Rock City Street, and east of Hill Street.

4.4 USGS Topography Maps

A comparative analysis using historic topographic maps was conducted for the Site and surrounding area to help understand the historical use of the Site and surrounding area. Topographic maps for the parts of the Site and surrounding areas for the years 1900, 1922, 1923, 1938, 1941/1943, 1941, 1942, 1943/1947, 1943, 1961/1962, 1962/1963, 1963, 1976/1979, 1976, and 2013 were available from EDR. Copies of the historic topographic maps are included in Appendix B. The provided maps show the Site developed as part of the Erie railroad, and several

buildings are shown adjoining the railroad tracks, but it is not clear from the provided maps if these structures are on or off Site.

4.5 Aerial Photographs

A comparative analysis using historical aerial photographs was conducted to help understand the historical use of the Site and surrounding area. Aerial photographs for areas of the Site and surrounding area for the years 1939 (part of Lot 16.2), 1956, 1961, 1981, 1985, 1995, 2006, 2009, 2013, and 2017 were available from EDR. Copies of the historical aerial photographs are included in Appendix B.

The railroad corridor/trail is visible on the Site on the 1939 through 2017 photographs. On the 1956 through 1995 photographs, a rectangular-shaped building is visible on the Site, near the end of Main Street in the Village of Little Valley. The present-day pavilion, gazebos, and solid roof pergola are visible beginning on the 2006 photograph.

Attachment B is a summary of features visible on the historical aerial photographs.

4.6 Municipal Records/Local Government Interviews

Request for information on file with the following Town Assessor's office, Building Departments, Planning and Zoning Departments, and Historians (excluding Town of Mansfield) were submitted to the Town Clerks offices, and the table below summarizes the provided responses. Additionally, Chazen requested information from the local Fire Departments and the Town of Mansfield Historian, but as of the date of this report, responses have not been received. Provided historical ownership information is summarized in Section 4.2.

Municipality	Section-Block-Lot	Date Request(s) Submitted	Town Response
New Albion	Part of 44.002-1-16.2	May 14, 2019	Records were received on June 12, 2019. These records indicate that a 12-foot by 15-foot lean-to/shed was constructed in 2004 on Lot 16.2. No heating, plumbing, or electrical systems are associated with this structure. The provided records indicate that 9,880 tons of crushed gravel were brought onto the Site, and 27,000 tons of "earthwork" was completed as part of the construction of the rail trail. Construction activities also included rehabilitating six bridges, installing 811 feet of drainage pipes, 30,000-feet of ditch cleaning, and placing 1,720 tons of riprap on the Site.
Mansfield	54.001-3-27*	May 14, and June 3, 2019	A response has not been received.
Town of Little Valley	54.003-1-41 54.072-3-6.1** 63.002-1-18*	May 14, 2019	Records were received on May 28, 2019 and indicate that the Village of Little Valley has a license to install, maintain, and use a water line that extends under Site Lot 18.
Village of Little Valley	54.072-3-6.1**	May 14, 2019	The Village responded on May 17, 2019 that no records are available for the Site, but that funding for the construction of the rail trail may have included a grant.
Salamanca	72.004-1-48*	May 14, 2019	The Town Clerk responded on May 16, 2019 and provided a copy of a deed for the Site. James Crosby, Town Enforcement Officer, responded on June 3, 2019 that he is not aware of buildings on this Lot fo the Site. Additionally, Mr. Crosby understands that railroad ties are still located on the Site.

*The Town of New Albion provided a 2012 online property card for Site Lots 27, 18, and 48, which do not suggest buidlings on these lots.

**The Town of New Albion provided a 2012 online property card for Site Lot 6 (currently identified as Lot 6.1), which indicate that a 30-foot by 16-foot pavilion was constructed in 2004.

4.7 Owner, Operator and Occupant Interviews

4.7.1 Property Owner/Key Site Representative

Sharon Froedden of Chazen interviewed the current owner representative Mr. Rick LeFeber on June 5 and 6, 2019. Mr. LeFeber provided pertinent information regarding the Site which has been included in the appropriate sections of this report.

Mr. LeFeber understands that the Site was initially developed in 1850/1851 as a railroad. Construction of the railroad was conducted in 10-mile increments and included cutting through hillsides and bringing in fill material. On the northern-part of the Site there are two areas where fill was brought in to significantly change the elevation of the Site. The northern of these areas (aka the "Great Fill") used fill to elevate the railroad corridor approximately 100 feet above the elevation of the surrounding land. The Site area of the railroad was active until the late 1960s or early 1970s, and in the late 1970s, the Cattaraugus County IDA took ownership of the Site. During the IDA's ownership, some of the railroad ties were removed from the Site. Mr. LeFeber's organization, the Cattaraugus Local Development Corporation, took ownership of the Site in the early 2000s so that the property could be converted to a rail trail. Construction of the rail trail began in 2004/2005 and was funded using grant money. Construction activities included installing new culverts, placing riprap along Site boundaries to prevent erosion, repairing six on-Site bridges, constructing the Site Lot 6.1 structures, stacking the remaining railroad ties to the side of the trail, and bringing in fill material to re-grade areas of the Site. Fill material used in the construction of the trail included gravel and crushed limestone from reputable sources. After the rail trail was constructed, the Lot 16.2 lean-to-shed structure was built. Several lot line adjustments have been made to resolve areas of encroachment onto the Site and to transfer ownership of adjoining road frontage to local municipalities. Several buildings are shown on or adjoining the Site boundary, and according to Mr. LeFeber, these structures are off-Site. A lot line adjustment/subdivision is currently being made (owner is waiting for the finalized deed) for Lot 16.2, near the northern end of Linlyco Lake excluding an area of encroachment from the Site.

An area of encroachment that includes heavy equipment, sheet metal, an empty 275-gallon AST, etc. was observed on the southern-most Site area. Mr. LeFeber stated that the observed materials are owned by the adjoining property owner, James Crosby. Mr. Crosby is also the Town Code Enforcement Officer. Mr. LeFeber has not enforced the Site boundary in this area and in return, Mr. Crosby maintains the Site parking area (e.g., snow plowing).

Mr. LeFeber stated that occasionally, the area of the Site adjoining the County fairground is used for parking during events.

Mr. LeFeber indicated that businesses that formerly adjoined the Site in the Village of Little Valley included a dried milk company, a feed company, and a cutlery manufacturer. He also stated that the surrounding area has historically been wooded and farm land, and in addition to agriculture, timber harvesting is prevalent in the area.

In addition, Mr. LeFeber did not have knowledge of: 1) environmental liens or governmental notifications relating to past or recurrent violations of environmental laws with respect to the property or any facility located on the property; or 2) information regarding past, threatened, or pending lawsuits or administrative proceedings concerning a release or threatened release of any hazardous substance or petroleum product. Mr. LeFeber indicated that an environmental review

of the Site was conducted in the mid-2000s in support of grant funding applications. He is not aware of concerns identified during that review or of any previous ESAs of the property that might indicate the presence of hazardous substances or petroleum products on, or contamination of, the property or recommended further assessment of the property.

4.7.2 Current Operators and/or Site Occupants

The Site is a public rail trail maintained by the Site owner and several volunteers. Information provided by the Site representative is included in Section 4.7.1.

Chazen interviewed Mr. James Crosby on June 6 and 19, 2019. Mr. Crosby stores (encroachment) materials on the southern-most Site area. He stated that his is not aware of releases having occurred on the Site. Mr. Crosby stated that the aboveground storage tank (AST) stored on the southern-most Site area was likely used to store fuel oil in a nearby basement residence, and that the stored materials on this area of the Site include an air compressor tank.

4.7.3 Past Owners, Occupants, and Operators

ASTM E 1527-13 states that interviews be conducted with past owners, operators, and occupants who are likely to have material information regarding the potential for contamination at the property to the extent that 1) they have been identified and 2) the information likely to be obtained is not duplicative of information already obtained from other sources.

Identified past owner, operators, and occupants include the Erie Lackwanna Railway and the Cattaraugus County IDA. Chazen attempted to contact the IDA, but a response has not been received. Chazen contacted the NYSDOT Region 5 Railroad Coordinator, Mr. Kurt Felgemacher, who did not have information about their ownership of Site lot 27 from 1997 to 2000. Mr. Felgemacher had no knowledge of NYSDOT applying pesticides and noted that they typically would have the railroad or a contractor to do maintenance.

A search for contact information for the Erie Lackwanna Railway indicates that the railway filed for bankruptcy in 1972, and in 1976, the company was accepted into the Consolidated Rail Corporation (Conrail) and much of the company's assets were purchased by the federal government. Since a contact for the railroad was not identified, no prior owner interview could be conducted.

4.8 Previous Environmental Investigations

An August 2002 memorandum from Watts Engineering summarizes a preliminary screening for hazardous waste-contaminated materials for the Site. The purpose of the screening was to identify potential areas of environmental concern where hazardous waste or contaminated materials could have been encountered during excavation activities. The screening included a review of historical land uses, government records, and a site visit. Relevant findings are as follows:

- Watts Engineering stated that railroads can be associated with residual impacts from partially combusted fossil fuels, leachate from creosote-preserved railroad ties, heavy metals, pesticides, and various chemical spills that may have occurred over the life of the

rail line. A recommendation was made that soil and fill materials excavated during construction may require special handling.

- Several adjoining industrial properties were noted to have potential for past releases of hazardous wastes/contaminated materials. These properties include King Windows (formerly Korn Razor Company), Cattaraugus Cutlery, the Cattaraugus County DPW, the Little Valley Municipal Electric Company service barns, John's Collision Shop, and the Tri-County Chrysler-Plymouth-Dodge-Jeep dealership.

5.0 ENVIRONMENTAL REGULATORY AGENCY RECORD REVIEW

The environmental regulatory agency record review conducted by Chazen consisted of database searches of ASTM standard sources (Section 5.1) as well as supplemental databases (Section 5.2), and interviews with regulatory agency personnel (Section 5.4). A copy of the database search conducted by EDR for Chazen is provided in Appendix C. For sites whose locations could not be mapped by EDR (i.e., "orphan sites"), Chazen attempted to locate these sites through the use of maps, site reconnaissance or other means; as appropriate, these sites are included in their respective regulatory agency record section. Likewise, additional information obtained during the site reconnaissance or from interviews is discussed where appropriate below.

A Tier I Vapor Encroachment Screen was also conducted in accordance with ASTM E 2600-15: Standard Guide for a Vapor Encroachment Screening (VES) on Properties Involved in Real Estate Transactions. The objective of the VES is to identify if a vapor encroachment condition (VEC) exists on the Site. A VEC is determined by the presence or likely presence of ASTM E 2600-15 specified chemicals of concern vapors in the subsurface of the site area caused by a release of vapors from contaminated soil and/or groundwater either on or near the Site.

The Tier I Screening is an initial, non-invasive screening which utilizes information collected through the Phase I ESA process including standard environmental records sources, physical setting sources and current and historical use information and uses of properties in the surrounding area.

5.1 Standard ASTM Environmental Record Sources

The United States Environmental Protection Agency (USEPA) and New York State Department of Environmental Conservation (NYSDEC) regulatory agency record sources listed below, and their corresponding search distances were reviewed per ASTM E 1527-13 and ASTM E2600-15 for the area of concern.

Results of the review are summarized in the table below and additional information, where sites were identified, is provided in the subsequent text.

The EDR report was ordered before the northern-most mile of rail trail was excluded from the Site boundaries. This report section includes Chazen's review of the EDR report relative to the updated Site boundaries.

Standard ASTM Environmental Record Sources

Database	ASTM E 1527 Search Distance	ASTM E2600-15		Sites Listed Within Search Distance (Yes/No)
		Chemicals of Concern	Petroleum Hydrocarbon Chemical of Concern	
USEPA National Priorities List (NPL)	1.0 mile	0.33 mile	0.10 mile	Yes
USEPA Delisted NPL	0.5 mile	—		No
USEPA Superfund Enterprise Management System (SEMS) – Formerly the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) List	0.5 mile	0.33 mile	0.10 mile	Yes
USEPA SEMS-Archived List - Formerly CERCLIS No Further Remedial Action Planned (NFRAP)	0.5 mile	—		No
USEPA Resource Conservation and Recovery Act (RCRA) CORRACTS Facilities List	1.0 mile	0.33 mile	0.10 mile	No
USEPA RCRA non-CORRACTS Treatment, Storage and/or Disposal (TSD) Facilities List	0.5 mile	0.33 mile	0.10 mile	No
USEPA RCRA Generators List	Site & adjoining	Site Only	Site Only	Yes
USEPA Institutional Control/ Engineering Control Registries	Site only	Site Only	Site Only	Yes*
USEPA Emergency Response Notification System (ERNS) List	Site only	Site Only	Site Only	No
State and Tribal Registries of Hazardous Waste Sites (NPL equivalent)	1.0 mile	0.33 mile	0.10 mile	No such State or Tribal databases
State and Tribal Registries of Hazardous Waste Sites (CERCLIS equivalent)	0.5 mile	0.33 mile	0.10 mile	Yes
State and Tribal Landfill and Solid Waste Disposal Site List	0.5 mile	0.33 mile	0.10 mile	Yes
State and Tribal Registered Storage Tank List	Site & adjoining	Site Only	Site Only	Yes
State and Tribal Spills Database - Leaking Storage Tank Events	0.5 mile	0.33 mile	0.10 mile	Yes

Database	ASTM E 1527 Search Distance	ASTM E2600-15		Sites Listed Within Search Distance (Yes/No)
		Chemicals of Concern	Petroleum Hydrocarbon Chemical of Concern	
State and Tribal Institutional Control/ Engineering Control Registries	Site only	Site Only	Site Only	No
State and Tribal Voluntary Cleanup Sites	0.5 mile	0.33 mile	0.10 mile	No
State and Tribal Brownfield Sites	0.5 mile	0.33 mile	0.10 mile	No

*No Site specific USEPA Institutional Control/Engineering Control Registries were identified; however, USEPA Institutional Control/Engineering Control Registries apply to the surrounding area and encompass part of the Site (see Section 5.1.1).

5.1.1 Federal

Federal NPL Sites, SEMS List, and Federal Institutional Control/ Engineering Controls

A review of the United States Environmental Protection Agency (USEPA) National Priorities List (NPL) for Region II, the USEPA Superfund Enterprise Management System (SEMS) (formerly known as Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS)) list of federal hazardous waste sites, the US Engineering Controls list, and the US Institutional Control lists include the Little Valley – Route 353 site. This eight-mile-long area includes Site Lots 41, 6.1, and 18, and groundwater is impacted with trichloroethylene (TCE). The image provided on the following page shows the approximate boundaries of the NPL.

In 1982, investigations identified TCE in private wells near a “small manufacturing facility on Route 353.” In 1989, it was determined that the TCE plume extended from the Village of Little Valley to the northern edge of the City of Salamanca. Groundwater monitoring wells were installed, and from 1989 to 1995, 74 private wells were sampled in the area, and of those private wells, 42 reported TCE concentrations greater than the federal maximum contaminant level (MCL) of 5 micrograms per liter (ug/l). In 1996, this property/area was added to the NPL. A Remedial Investigation (RI) from 1997 through 2005 investigated 10 potential sources of the TCE impacts, and the results indicate that the likely sources of the TCE impacts were Bush Industries (Area A on the provided image; not adjoining to the Site), Cattaraugus Cutlery (Area C on the provide image; adjoining the Site), the Great Triangle Area (Area F on the provided image; includes part of the Site), the Luminite Area¹ (Area H on the provided image; includes part of the Site), and Ninth Street Landfill Area (Area B on the provided image). Soil sampling indicated that the Bush Industries and Cattaraugus Cutlery properties were active sources of the TCE impacts, and that the Great Triangle Area, the Ninth Street Landfill Area, and the Luminite Area were former TCE sources. Investigation of the former King Windows (Area D on the provided image; adjoining the

¹ The Luminite facility was included in a NYSDEC survey of select businesses and the summary notes that per- and polyfluoroalkyl substances (PFAS) were not used, stored, manufactured, or disposed of at this facility.

LEGEND

WYOMING HIGHWAY, TOWN OF ARAPAHO

A. NORTH HONEYCREEPER AREA
 B. NORTH STREET LARSEN AREA
 C. CHANDLER GALLERY AREA
 D. ROAD WASHING (DRAINAGE) AREA
 E. FIRST STREET AREA
 F. LORAIN TOWN AREA
 G. HONEYCREEPER AREA
 H. HONEYCREEPER AREA
 I. HONEYCREEPER AREA
 J. HONEYCREEPER AREA
 K. HONEYCREEPER AREA
 L. HONEYCREEPER AREA
 M. HONEYCREEPER AREA
 N. HONEYCREEPER AREA
 O. HONEYCREEPER AREA
 P. HONEYCREEPER AREA
 Q. HONEYCREEPER AREA
 R. HONEYCREEPER AREA
 S. HONEYCREEPER AREA
 T. HONEYCREEPER AREA

SCALE

0 3000 4000
 APPROXIMATE GRAPHIC SCALE

TITLE

LITTLE VALLEY GROUNDWATER SITE
 SITE BOUNDARY AND
 POTENTIAL SOURCE AREAS
 SCALE 1
 SITE BOUNDARY AND
 POTENTIAL SOURCE AREAS

DATE

1994

BY

TETRA TECH, INC.

Z:\projects\41900-41999\41921_00_TrustForPublicLand-CattaraugusRail\ENV\PIESA\Report\41921-CattaraugusRailTrail-PIESA.docx

removed. Based on the revised estimate, additional remediation alternatives were evaluated, and it was determined that in-situ soil vapor extraction (SVE) would be effective. The SVE system operated at the cutlery property from 2006 to 2013, and in 2014 approximately 25 cubic yards of TCE-contaminated soil were excavated and disposed of off-site. Post excavation samples indicated that TCE concentrations were less than the TAGM soil cleanup objective of 700 ug/kg, and the most recent groundwater monitoring event (2016) indicated that one of the 13 wells on this property had TCE concentrations exceeding the MCL.

Soil vapor monitoring was conducted in the area, and four vapor intrusion mitigation systems were installed on local houses. Institutional Controls have been recorded for the Town and Village of Little Valley with regards to groundwater and soil vapor intrusion.

Federal RCRA Generators

The USEPA listing of Resource Conservation and Recovery Act (RCRA) Hazardous Waste Generators list indicates that the following three RCRA Generators adjoin the Site:

- NYS DOT Bin 1046370
- King Brothers Wholesale Inc.
- Sixt Lumber Yard
- Kevin's Auto Body
- Lyons SWML Logging Equipment (aka Tigercat Logging Equipment)

Additional information regarding the adjoining RCRA Generators is included in Table 1.

5.1.2 State and Tribal

State and Tribal Hazardous Waste Sites (CERCLIS Equivalent)

The New York State Department of Environmental Conservation's (NYSDEC) list of Inactive Hazardous Waste Disposal (IHWD) Sites was reviewed. The 7167 Route 353 Property is approximately 1,200 feet north of the Site and also referred to as Frank Ralphs Transportation and Marine Composite Panels and Formerly Champion, TODCO Plant #5, and Overhead Door). This facility is listed as a potential source of methylene chloride impacted groundwater reported at the Village of Cattaraugus well field, which is approximately 1,500 feet northeast of this facility. Based on the presumed direction of groundwater flow in this area (east-northeast) and the facility's distance from the Site, no impacts to the Site soil, groundwater, or soil vapor quality are expected.

State and Tribal Landfills and/or Solid Waste Disposal Site Lists

NYSDEC's Facility Register of Solid Waste Disposal Facilities and Landfill (SWF/LF) Sites was reviewed as was the Report on the Status of Open Dumps on Indian Land (ODI). These lists included eight facilities at four addresses and the reason for the overlap was not identified. The following properties were identified on these lists:

- 124 Main Street and 214 Main Street (adjoining), Little Valley (Dayton, Onoville, Machias, and Farwell transfer stations, and Allegany and Conewango Convenience Stations)
- 303 Court Street (adjoining), Little Valley (former Farwell and 5 Points transfer stations)

- 200 Erie Street, Little Valley (former 5 Points solid was landfill and Salamanca Convenience station)
- 1 Creek Side Drive (adjoining), Little Valley (land spreading facility)

Additional information regarding these facilities is included in Table 1.

State and Tribal Registered Storage Tanks

NYSDEC's Petroleum Bulk Storage (PBS) database and Chemical Bulk Storage (CBS) databases were reviewed for underground storage tank (UST) and aboveground storage tank (AST) sites. There is no Tribal database for UST sites on Indian Land for USEPA Region 2. The following bulk storage facilities were identified for adjoining properties:

- Cattaraugus County Center, 303 Court Street, Little Valley: PBS No. 9-414867
- King Brothers Wholesale Co Inc., 190 Second Street, Little Valley: PBS No. 9-222771
- Little Valley, 214 Main Street, Little Valley: PBS No. 9-414859
- Little Valley Municipal Electrical Department, 100 First Street, Little Valley: PBS No. 9-105309
- Rock City Chrysler Jeep, 520 Rock City Street, Little Valley: PBS No. 9-601423
- Crosby O'Mann, Inc., 4037 Route 353, Salamanca: PBS No. 9-601066

Additional information regarding these facilities is included in Table 1.

State and Tribal Leaking Underground Storage Tanks

The NYSDEC's Spills Information database was reviewed to obtain information on Leaking Underground Storage Tank (LUST) events for underground chemical or petroleum storage tanks. LUST events are a subset of events contained in the spills database where the release originated from an UST. No Tribal LUST database exists for USEPA Region 2. This review indicates that approximately 20 LUST events were reported within 0.5 mile of the Site. The following spill events were reported for adjoining properties and are further described in Table 1:

- Cattaraugus County DPW
- Former King Brothers Wholesale Co. Inc.
- Chrysler Dodge Jeep Ram Dealership (aka Tri County Chrysler)
- John's Collision
- Haley Construction (unknown if this is an adjoining property)

Based on the distance from the Site, the presumed direction of groundwater flow, and/or the closure of the release by the NYSDEC, the remaining reported LUST events are not expected to have impacted Site soil, groundwater, or soil vapor quality.

5.2 Supplemental Non-ASTM Environmental Record Sources

The EDR report includes several databases that are not part of the ASTM standard environmental record sources. Three supplemental databases listed below were reviewed for sites within the corresponding search distances.

Supplemental Non-ASTM Environmental Record Sources

Database	Search Distance	Sites Listed Within Search Distance (Yes/No)
NYSDEC Spills Information Database	0.5 mile	Yes
NYSDEC Major Oil Storage Facilities (MOSFs)	Site & adjoining	No
Dry cleaners	0.5 mile	No

State Spills List

NYSDEC's Spills Information Database lists releases of hazardous substances and petroleum products was reviewed. Based on a review of the spills database, more than 30 surficial spill events (excluding LUSTs) were identified as having occurred within 0.5 mile of the Site. The following spill events were reported for adjoining properties and are further described in Table 1:

- Creek
- Tri County Chrysler
- Sixt Lumber
- Haley Construction
- NYS DEC Region 9 facility

Based on the distance from the Site, the quantity of material released, and/or the closure of the release by the NYSDEC, the remaining reported spill events are not expected to have impacted Site soil, groundwater, or soil vapor quality.

5.3 Tier I Vapor Encroachment Screen

Based on the following information, a vapor encroachment condition exists.

Potential On-Site Sources for Vapor Encroachment

No information was provided regarding the source of the fill material used to construct the railroad bed, and topography changes of upwards of 100 feet were noted on the Site. However, the area of the Site was rural land when the railroad was constructed, and local material is typically used to construct rural railroad beds. Therefore, the presence of this fill material on the Site is not considered a potential VEC. Additionally, fill material brought onto the Site to convert the former railroad to a trail was purchased from local mining facilities. Therefore, the presence of this fill material on the Site is not considered a VEC.

Potential Off-Site Sources for Vapor Encroachment

The Site is located within the bounds of an NPL site that has TCE impacted groundwater and soil vapor. Therefore, a VEC exists.

5.4 Information from Regulatory Agency Officials

5.4.1 County Department of Health

Under the Freedom of Information Law (FOIL), a request for information was sent to the Cattaraugus County Department of Health for information regarding the Site. The Cattaraugus County Department of Health responded that their files do not contain information regarding the Site.

5.4.2 New York State Department of Environmental Conservation

Under the FOIL, a request for information was sent to the NYSDEC Region 9 for information regarding the Site and several adjoining spill events and PBS facilities. The NYSDEC Records Access office responded by providing copies of the requested documents, and provided information is summarized in Section 5.1 and Table 1.

6.0 SITE RECONNAISSANCE

6.1 Conditions of Reconnaissance

	Location and Description
Site Contacts Present During Reconnaissance	Rick LeFeber – President of the Cattaraugus Local Development Corporation and Board Member of the Erie Cattaraugus Rail Trail.
Date of Reconnaissance	June 6, 2019 Sharon Froedden – Chazen representative
Areas Observed and Methodology	The site reconnaissance focused on the developed areas of the Site, areas where features (e.g., buildings, soil disturbances, etc.) are visible in historical documents, and the former railroad bed.
	Interior – Pavilion, gazebos, pergola, and lean-to.
	Exterior – The former railroad bed and representative Site boundaries.
Limitations to Reconnaissance	Dense vegetation along the boundaries of the Site limited views of some ground surfaces and access to some areas of the Site. The trail was constructed through areas of varying topography, and although the former railroad bed part of the Site is relatively flat, steep slopes on several areas of the Site limited access. The ground was damp at the time of inspection, which limited the ability to assess for potential soil staining on the southern-most Site area (area of encroachment).

A camp fire pit was observed near the lean-to on the northern Site area. No information was provided regarding the type of accelerant used.

Tax ID 54.072-3-1 adjoins the Site near Main Street in the Village of Little Valley. Based on the owner's description of the Site boundary in this area, it appears that a concrete pad extends onto the Site from the adjoining property. The former use of this pad was not apparent.

The southern-most Site area adjoins a property used for equipment storage (Tax ID 72.004-1-23). Material observed within the Site boundaries (per the County GIS dataset) included several pieces of heavy equipment including forklifts, an excavator, an apparently empty 275-gallon AST (located in overgrown vegetation suggesting the tank is not actively used), farm equipment, sheet metal, an apparent air compressor and an air compressor tank, a drill press, a trailer, highway signs, plastic piping, several tractor trailers, a scissor lift, a tank truck semitrailer, etc. Dense vegetation in this area limited access and views of ground surfaces, and it is unknown if additional materials are in this area. An area of sparse vegetation was observed near some of the stored equipment, but no staining or odors were observed in this area. Additionally, the vegetation beneath one of the forklifts appeared stained, but an odor was not observed and access to this area was limited.

6.2 Chemical and Petroleum Substances

Container Type	Identified Yes/No	Location and Description
Bulk Storage Tanks	No	No active bulk storage tanks were observed on the Site. A 500-gallon AST with dispenser pump was observed off-Site on Tax ID 54.064-1-4.1 near the Site boundary. No evidence of a release was observed in this area.
Raw Product Drums and Containers	No	

6.3 Site Waste Profile

Waste Type	Identified Yes/No	Location and Description
Solid Waste	Yes	Numerous piles of discarded railroad ties were observed on the Site. No stressed vegetation was observed in these areas. Materials stored on the southern-most Site area are described in Section 6.1. Garbage cans were observed in the pavilion and one of the gazebo buildings. Several piles of stacked cars were observed on the adjoining John's Collision property (tax ID 54.081-1-3). These cars appeared to be stored off-Site and no obvious areas of encroachment were observed. No stressed vegetation was observed on this area of the Site.
Waste Sludge	No	
Waste Liquids	No	
Waste Containers	No	
Wastewater Discharges	No	
Waste Pits, Ponds or Lagoons	No	

6.4 Site Drainage

Drainage Type	Identified Yes/No	Location and Description
Catch Basins	No	
Floor Drains	No	
Dry Wells and Sumps	No	

6.5 PCB-Containing Equipment

Transformers and other electrical equipment or hydraulic equipment dated 1979 or earlier may contain polychlorinated biphenyls (PCBs). Two utility poles with pole-mounted transformers were observed along the eastern side of Route 353, near the southern-most Site area. No evidence of a release from this equipment was observed.

7.0 EVIDENCE OF POTENTIAL/KNOWN SITE CONTAMINATION

Type of Contamination	Identified Yes/No	Location and Description
Soil or Surface Staining	Yes	The vegetation beneath one of the forklifts stored on the southern-most Site appeared stained, but an odor was not observed and access to this area was limited.
Fill of Unknown Origin	Yes	Construction of the railroad corridor in the 1850s included cutting through hillsides and bringing in fill material. On the northern-part of the Site there are two areas where fill was brought in to significant change the elevation of the Site. The northern of these areas (aka the "Great Fill") used fill to elevate the rail road corridor approximately 100 feet above the elevation of the surrounding land. The source of the fill material used in the 1800s is unknown. Fill material (e.g., gravel, limestone, and riprap) has been used to re-grade and restore areas of the Site. According to the Site owner, this material was purchased from a reputable distributor. A pile of apparent asphalt millings was observed near the Site boundary adjoining Tax ID 54.064-1-4.2. According to the Site owner, this material is stored by the Department of Public Works and is off-Site.
Liquid Discharges or Contaminated Surface Water	No	
Soil or Surface Disturbances	No	
Stressed Vegetation	Yes	An area of apparent stressed vegetation was observed on the Site near Tax ID 54.064-1-4.2. No staining or associated odor was visible in this area of the Site. An area of sparse vegetation was observed near stored equipment on the southern-most Site area, but no staining or odors were observed in this area.
Waste Deposits (piles, pits, landfills, lagoons)	No	
Odors	No	

8.0 REPORT FINDINGS, OPINIONS AND CONCLUSIONS

The Chazen Companies have completed a Phase I Environmental Site Assessment ("Phase I ESA") in conformance with the scope and limitations of ASTM Practice E 1527-13 for the approximately 12.1-mile long Cattaraugus Local Development Corp. rail trail property (aka Pat McGee Trail) located in the Towns of New Albion, Mansfield, Little Valley, and Salamanca, Cattaraugus County, New York. Any exceptions to, or deletions from, this practice are described in Section 1.0 of this report.

This assessment was performed during May and June 2019 and was comprised of a site reconnaissance on June 6, 2019 by Chazen, interviews with individuals knowledgeable of the property, and a regulatory and historical information review.

The Site is an (±)174.58-acre, approximately 12.1-mile long rail trail property. The majority of the Site is a public access trail with cut grass, wooded land, and areas of wetland/standing water. A lean-to is on the northern Site area, and a pavilion, two gazebos, and a solid roof pergola are on the central part of the Site (within the Village of Little Valley).

8.1 Findings and Opinions

Provided below is a summary of the findings identified through this ESA and opinions as to the potential impact of these findings to the Site. Where identified, known and potential recognized environmental conditions (RECs), controlled RECs (CRECs), historical RECs (HRECs), de minimis conditions, and significant data gaps (SDGs) are included.

The opinions below provide the environmental professional's rationale for concluding whether a condition is currently a REC. Only conditions identified by the environmental professional as recognized environmental conditions and significant data gaps are listed in the subsequent Conclusions section of the report.

- The Site was initially developed as a railroad corridor in the mid-1800s, and structures including a passenger and freight station were located on the Site by at least 1900. No prior owner interviews could be conducted, which is considered a data gap.
 - The Site was developed as a railroad corridor in the mid-1800s, and earthwork (e.g., placement of fill and excavation of hillsides) was common to meet construction slope standards through various topographic features such as valleys, hillsides, and through wetland and pond areas. Although no information was provided regarding the source of the fill material used to construct the railroad bed, which is considered a data gap, rural Site areas generally used local material for fill. Therefore, the lack of information regarding the condition and source of the fill material is not considered an SDG.
 - Railroad tracks were historically on the Site. Potential environmental concerns associated with railroad tracks and railroad usage include the leaching of creosote from treated railroad ties, the presence of residual coal ash and cinder which may contain elevated metal levels, and the release of fuel and oil to the ground surface. Numerous stacks of railroad ties are still present on the Site. Several industrial/manufacturing facilities were formerly located along the railroad (including several identified as source of TCE impacted groundwater, see NPL

bullet below), and it is unknown if materials used, produced, or transported to/from these facilities were released to the ground. Therefore, the prior use of the Site as a railroad and the lack of information regarding the condition of surface soil on the Site considered an **SDG**. No evidence of coal, coal ash, stained soil, or stressed vegetation was observed on the rail trail part of the Site.

- Prior Site buildings included a passenger and freight station, coal shed (on or along the western Site boundary), a water tank, a section house, a shed-size structure, and a coal shed may have extended onto the Site. No information was provided regarding the heating systems for the former buildings, the activities conducted in the section house and shed-sized structure, and/or the condition of soil in the former coal storage areas. This lack of information is considered an **SDG**.
- The Site includes Little Valley – Route 353 NPL site (also included on SEMS and IC/EC lists), which is an eight-mile-long area that includes Site Lots 41, 6.1, and 18. Groundwater in this area is impacted with the solvent TCE. Remediation of some of the sources of groundwater impacts has been conducted, including on the adjoining former cutlery property, and Institutional Controls have been recorded for the Towns and Village of Little Valley with prohibiting use of groundwater without treatment and requiring soil vapor intrusion evaluation for potential structures. Although a title report has not been provided, documenting the Institutional Controls (data gap), the presence of the Site on these lists and the known groundwater and soil vapor impacts in the area are considered a **REC**.
- The Site was redeveloped in the mid-2000s as a rail trail. The owner stated that construction of the rail trail included using fill material (i.e., gravel, limestone, and riprap) purchased from reputable facilities. Therefore, the presence of this fill material on the Site is not considered a **REC**. The use of a property for hiking, snowmobiling, horseback riding, etc. is not typically associated with a **REC**.
 - Four structures are located on the Site and are unheated. These structures are not considered a **REC** for the Site.
 - Mr. LeFeber stated that occasionally, the area of the Site adjoining the County fairground is used for parking during events. No releases have been reported for the Site and no evidence of stained soil or vegetation was observed on this area of the Site. Therefore, this use is not considered a **REC**.
 - A camp fire pit was observed near the lean-to on the northern Site area. No information was provided regarding the type of accelerant used, which is considered a **data gap**. However, accelerants are typically volatile and would burn off in the subsequent fire. Therefore, this **data gap** is not considered an **SDG**.
- An area of stressed vegetation was observed on-Site, near S6.064-1-4.2. The reason for this area was not apparent and is considered an **SDG**. No stained soil was observed in this area of the Site.
- The Site boundaries used for this Phase I ESA are based on owner input and the County GIS dataset, and the County website notes that the parcel lines are not survey quality. The following features were observed to be near the Site boundaries and except for the encroachment area from 72.004-1-23, are off-Site according to the Site owner. A boundary survey of the Site could confirm the features relationships to the Site boundary.

- Tax ID 54.072-3-1 adjoins the Site near Main Street in the Village of Little Valley. Based on the owner's description of the Site boundary in this area, it appears that a concrete pad extends onto the Site from the adjoining property. The former use of this pad was not apparent, and the adjoining property was formerly a grist mill. No stained soil or stressed vegetation was observed in this area; therefore, this possible encroachment onto the Site is not considered an SDG.
- A pile of apparent asphalt millings was observed near the Site boundary adjoining Tax ID 54.064-1-4.2. According to the Site owner, this material is stored by the Department of Public Works and is off-Site. No evidence of a release to the Site was observed; therefore, it is not considered a REC.
- Several piles of stacked cars were observed on the adjoining John's Collision property (Tax ID 54.081-1-3). These cars appeared to be stored off-Site and no obvious areas of encroachment were observed. No stressed vegetation was observed on this area of the Site; therefore, it is not considered a REC.
- The southern-most Site area adjoins a property used for equipment storage (Tax ID 72.004-1-23), which is also a registered PBS facility. Material observed to encroach onto the Site (per the County GIS dataset) included several pieces of heavy equipment including forklifts, an excavator, an apparently empty 275-gallon AST that was observed in the general location of an AST noted in NYSDEC records, farm equipment, sheet metal, an apparent air compressor and an air compressor tank, a drill press, a trailer, highway signs, plastic piping, several tractor trailers, a scissor lift, a tank truck semitrailer, etc. Dense vegetation in this area limited access and views of ground surfaces, and it is unknown if additional materials are in this area. An area of sparse vegetation was observed near the some of the stored equipment, but no staining or odors were observed in this area. Additionally, the vegetation beneath one of the forklifts appeared stained, but an odor was not observed and access to this area was limited. The lack of information regarding the condition of surface soil on this area of the Site, specifically in the areas of sparse vegetation, stained vegetation, and areas where dense vegetation limited the view of ground surfaces, is considered an SDG.
- Two utility poles with pole-mounted transformers were observed along the eastern side of Route 353, near the southern-most Site area. No evidence of a release from this equipment was observed; therefore, the presence of this equipment on or near the Site boundary is not considered a REC.
- In addition to the database findings summarized above, four RCRA generators, one hazardous waste site, five SWF/LFs, five PBS facilities, 20 LUST events, and more than 30 spill events were reported within the ASTM search distance from the Site. Based on the distance from the Site, the quantity of material released, and/or the closure of the release by the NYSDEC, the remaining reported spill events are not expected to have impacted Site soil, groundwater, or soil vapor quality.

8.2 Conclusions

The Chazen Companies have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527-13 of the Cattaraugus Local Development Corp. property. Any exceptions to, or deletions from, this practice are described elsewhere in this report.

This assessment has revealed no evidence of recognized environmental conditions in connection with the property except for the following:

- The presence of the Site within the bounds of an NPL, SEMS, IC/EC with TCE in groundwater and soil vapor.

Significant data gaps that were encountered during this Phase I ESA, which may require further investigation to determine whether or not a REC exists include the following:

- The prior use of the Site as a railroad and the lack of information regarding the condition of shallow soil on the Site.
- The lack of information regarding heating systems for the former buildings, the activities conducted in the section house and shed-sized structure, and/or the condition of soil in the former coal storage areas.
- The lack of information regarding the condition of oil in the area of stressed vegetation near tax ID 56.064-1-4.2
- The lack of information regarding the condition of surface soil on the southern-most Site area.

9.0 SIGNATURES OF ENVIRONMENTAL PROFESSIONALS

We declare that, to the best of our professional knowledge and belief, we meet the definition of Environmental Professional as defined in Section 312.10 of 40 CFR 312.

We have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the Site. We have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.



Sharon Froedden
Environmental Professional



Arlette St. Romain
Director, Environmental Due Diligence
and Brownfield Investigations

LIST OF PEOPLE AND AGENCIES CONTACTED

1. User, Francis O'Shea, Project Manager for the Trust for Public Land
2. Site Representative: Rick LeFeber – President of the Cattaraugus Local Development Corporation and Board Member of the Erie Cattaraugus Rail Trail.
3. New York State Department of Environmental Conservation
4. Cattaraugus County Department of Health
5. Towns of New Albion, Mansfield, Little Valley, and Salamanca Building Department
6. Village of Little Valley Building Department
7. Towns of New Albion, Mansfield, Little Valley, and Salamanca Assessor's Office
8. Towns of New Albion, Mansfield, Little Valley, and Salamanca Historians
9. Towns of New Albion, Mansfield, Little Valley, and Salamanca Fire Departments
10. NYSDOT Region 5 Railroad Coordinator, Kurt Felgemacher

DOCUMENTS REVIEWED

1. Aerial Photographs for the years 1939, 1956, 1961, 1981, 1985, 1995, 2006, 2009, 2013, and 2017 were available from EDR.
2. NYS Office of Technology 2016 orthophotoimagery.
3. Environmental Data Resources, Inc. The EDR Area/Corridor Report™ with GeoCheck®, dated May 28, 2019.
4. Sanborn Map Company Archives. Late 19th Century to 1990: provided by Environmental Data Resources, Inc.
5. Historical Topographic Maps for the years 1900, 1922, 1923, 1938, 1941/1943, 1941, 1942, 1943/1947, 1943, 1961/1962, 1962/1963, 1963, 1976/1979, 1976, and 2013 were available from EDR.
6. New York State Museum and Science Service Geologic Map of New York State, Google Earth Database, 2005.
7. New York State Museum and Science Service Surface Geologic Map of New York State, Niagara Sheet, 1988.
8. United States Department of Agriculture, Soil Conservation Service in cooperation with Cornell University Agricultural Experiment Station, Soil Survey of Cattaraugus County, New York. Website accessed 13 June 2019.
9. US Topo. 2013 - USGSTopo (MapServer) Layer: USGS TNM Topo Base Map. Accessed 22 May 2019.
10. Tax Map:

Section-Block-Lot	Municipality
Part of 44.002-1-16.2	Town of New Albion
54.001-3-27	Town of Mansfield
54.003-1-41	Town of Little Valley
54.072-3-6.1	Town and Village of Little Valley
63.002-1-18	Town of Little Valley
72.004-1-48	Town of Salamanca

FIGURES

EXHIBIT 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

October 27, 2020

Robert J. McLaughlin
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, New York 12207

RE: STB Docket No. FD 36435 - Abandonment Exemption

Dear Mr. McLaughlin:

Thank you for your letter of October 8, 2020 to the U.S. Environmental Protection Agency's (EPA) Regional Administrator Peter Lopez describing the Cattaraugus Local Development Corps' (CLDC) efforts concerning the Surface Transportation Board's abandonment procedure for the Sen. Pat McGee Trail. The trail was once part of Erie Lackawanna Railroad Company's railway located in Cattaraugus County, New York (USRA Line 1250) and extends roughly 12.14 miles from Cattaraugus County Road #6 in the Town of New Albion, Cattaraugus County (Milepost 426.5) to the city line of the City of Salamanca, Town of Salamanca (near Milepost 414.3). Your letter was forwarded to me for reply.

EPA reviewed the Environmental Site Assessment and found it informative. As such, we do not have any comments or concerns on the Site Assessment at this time. To assist with future Trail-related projects in which you may suspect of having potential environmental impacts, EPA recommends that CLDC review and utilize EPA's online mapping tool, NEPAassist, located on the web at <https://www.epa.gov/nepa/nepassist>. NEPAassist facilitates the environmental review process and project planning in relation to environmental considerations. The web-based application draws environmental data dynamically from EPA Geographic Information System databases and web services and provides immediate screening of environmental assessment indicators for a user's defined area of interest. For example, NEPAassist will locate federal and state aquifers and water monitoring data near the proposed project site.

The Sen. Pat McGee Trail is a fine example of the reuse of an old rail line for public recreation and enjoyment.

Sincerely,

David W. Kluesner

David W. Kluesner, Director
Strategic Programs Office

EXHIBIT 5



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

October 30, 2020

Robert McLaughlin
Member
McLaughlin Law, P.C.
90 State Street, Suite 700
Albany, NY 12207

Re: USACE
Sen. Pat McGee Trail: Abandonment Exemption
20PR06762

Dear Robert McLaughlin:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project 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 potential 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).

Based upon this review, it is the opinion of the New York SHPO that no historic properties, including archaeological and/or historic resources, will be affected by this undertaking.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

A handwritten signature in black ink that reads "R. Daniel Mackay".

R. Daniel Mackay

Deputy State Historic Preservation Officer
Division for Historic Preservation