

Thomas J. Litwiler

From: Thomas J. Litwiler
Sent: Thursday, April 3, 2025 4:28 PM
To: Slagor, Scott (LEO)
Subject: RE: Docket No. AB-534 SUB-No.4X Lake State Railway Abandonment Exemption
Attachments: STB Delegation Letter for Section 106 Review in Rail Abandonments.pdf

Mr. Slagor,

Thank you for your note below. As you surmised, my initial correspondence to you was indeed undertaken in connection with the Section 106 process at the Surface Transportation Board for the proposed abandonment. As you may know, the STB has delegated some of its authority in the Section 106 process to railroads and their representatives, such that "applicants seeking authority from the [STB] to abandon railroad lines may act on behalf of the [STB] when complying with the Section 106 regulations of NHPA." See attached STB delegation letter. The STB's regulations at 49 C.F.R. § 1105.8 specify the information that is to be provided in a Historic Report to the SHPO for purposes of the Section 106 process. Is it not the usual practice for railroads to submit separate applications for SHPO review or approval in connection with a railroad abandonment. Nonetheless, pursuant to your request below I have included a completed "Application for SHPO Section 106 Consultation" with the Environmental/Historic Report that has been forwarded to you in accordance with the STB's rules.

As you'll see in the materials that have been sent to you, there are no structures of any kind (more than 50 years old or otherwise) in the right-of-way of the short rail line that is proposed for abandonment. If there is any other information that you may need, please feel free to contact me. Many thanks for your assistance on this matter.

TJL

Thomas J. (T.J.) Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208
(312) 252-1508
tlitwiler@fletcher-sippel.com



From: Slagor, Scott (LEO) <SlagorS2@michigan.gov>
Sent: Monday, January 6, 2025 3:44 PM
To: Thomas J. Litwiler <TLitwiler@fletcher-sippel.com>
Subject: Docket No. AB-534 SUB-No.4X Lake State Railway Abandonment Exemption

Hello Mr. Litwiler,

I received your correspondence regarding the above referenced project. In my time at SHPO I have reviewed one other railway abandonment project and know the STB has their own regulations that

include historic property identification. However, a request to comment on whether historic properties will be affected by the action reads like an undertaking subject to Sec. 106 of the National Historic Preservation Act. Wherein the federal agency must determine the Area of Potential Effects, Identify Historic Properties within the APE, Determine if there is an effect, and seek concurrence from SHPOs and THPOs. I anticipate that while this correspondence might be for STB specific regulations- it will eventually come under Sec. 106. So you know, our office has a formal application process for Sec. 106 undertakings. Please visit www.michigan.gov/shposection106 for instructions, forms, and a link to our online submission portal. In general we do not comment on undertakings without an application form.

Thank you,



Scott Slagor (he/him)
Cultural Resource Protection Manager
State Historic Preservation Office
300 N. Washington Square
Lansing, MI 48913
Direct: 517.285.5120
michigan.gov/shpo

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SURFACE TRANSPORTATION BOARD
Washington, DC 20423

To: State Historic Preservation Officers and Tribal Historic Preservation Officers

Re: Delegation of Authority for the Section 106 Review of Rail
Abandonment Projects

Date: December 10, 2009

Under the regulations of the Surface Transportation Board (STB or Board), railroad applicants seeking to abandon rail lines must prepare Historic Reports and submit these reports to the State Historic Preservation Officer (SHPO) in the state or states where the rail line proposed for abandonment is located for SHPO's review and comment. Applicants must submit the Historic Reports to SHPOs at least 20 days before filing for abandonment authority before the Board. The Board developed this early consultation process to provide more information "upfront" to assist SHPOs, railroads, and Board staff to consider whether a proposed abandonment would affect any historic sites and structures. This "upfront" review is necessary because of the tight regulatory timeframes established by Congress governing rail line abandonment cases.

Some SHPOs have expressed reluctance with reviewing the Historic Reports because they are prepared by the railroad, or in many cases, by an attorney representing a railroad, rather than by the Board, the federal agency responsible for compliance with the National Historic Preservation Act (NHPA). Consequently, some SHPOs do not respond to the Historic Reports, feeling strongly that the Section 106 process under NHPA is not appropriately begun until the Board sends a letter to the SHPO formally initiating the Section 106 historic review process.

To ensure that the Board's requirements are consistent with those of NHPA, the Board has determined pursuant to 36 CFR Section 800.2(c)(4) and our environmental regulations at 49 CFR 1105, that **applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of NHPA.**

Accordingly, applicants and their authorized representatives, such as attorneys acting on their behalf, may consult with SHPOs to initiate the review process established under 36 CFR Part 800 and to carry out some of its steps. Specifically, applicants are authorized to gather information to identify and to work with consulting parties to assess effects. The Board retains the responsibility to mitigate adverse effects, document its findings, and conclude the Section 106 review.

Rail abandonment applicants and their representatives must involve the Board in consultation whenever:

- There is a disagreement between an applicant or its authorized representatives and SHPO regarding the area of potential effect, identification and evaluation of historic properties, or assessment of effects;
- There is a disagreement between a potential consulting party and the applicant regarding the party's involvement in the Section 106 review process; or
- There is the potential for foreclosure of the opportunity to comment or anticipatory demolition pursuant to 36 CFR Section 800.9(b) and 36 CFR Section 800.9(c), respectively.

Attached is a one-page summary of the Board's Section 106 review process. In addition, the Board has developed historic preservation guidance that explains our historic preservation process in more detail (see www.stb.dot.gov/stb/environment/HistoricPreservation/Guidance). General information regarding the Board is available on the Board's website at www.stb.dot.gov.

If you have any questions regarding any of the above, please free to contact me or Catherine Glidden of my staff at 202-245-0293 or gliddenc@stb.dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson
Chief, Section of Environmental Analysis
Federal Preservation Officer for the Board

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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Suite 800
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Phone: (312) 252-1500
Fax: (312) 252-2400
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THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

March 27, 2025

Mr. Scott Slagor
Section 106/Cultural Resource Protection Manager
Michigan State Historic Preservation Office
300 North Washington Square
Lansing, MI 48913

Re: **Docket No. AB-534 (Sub-No. 4X)**
Lake State Railway Company -- Abandonment
Exemption -- In Saginaw County, Michigan

Dear Mr. Slagor:

On or about April 16, 2025, Lake State Railway Company ("LSRC") expects to file with the Surface Transportation Board a notice of exemption for the abandonment of LSRC's rail line in the City of Saginaw, Saginaw County, Michigan, referred to herein as the West Shore Spur, extending from Sta. 9+00 approximately 270 feet northeast of the intersection of Carrollton Road and Ellsworth Road to the end of line at Sta. 77+05 approximately 1,000 feet southwest of the North Niagara Street at-grade railroad crossing of the Huron & Eastern Railway Company, a distance of approximately 6,805 feet. Your review of and comments on this project were previously requested by letter dated December 17, 2024.

In accordance with 49 C.F.R. §§ 1105.7(b) and 1105.11, we are providing for your information the enclosed Environmental/Historic Report which will accompany the notice of exemption and which describes the proposed action and any expected environmental or historic effects. The Report also includes a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis at the following address:

Surface Transportation Board
Office of Environmental Analysis
395 E Street, S.W
Washington, DC 20423-0001
(202) 245-0300

FLETCHER & SIPPEL LLC

Mr. Scott Slagor

March 27, 2025

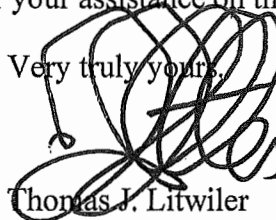
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Your comments should reference Docket No. AB-534 (Sub-No. 4X) and, if written, should include a copy to the undersigned. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to the Office of Environmental Analysis would be appreciated within three weeks. Your comments will be considered by the Board in evaluating the environmental and historic preservation impacts of the contemplated action.

Pursuant to your request, I have also enclosed a completed Application for SHPO Section 106 Consultation Form.

If there are any questions concerning this proposal, you should feel free to contact me directly at 312-252-1508. Thank you for your assistance on this matter. Kind regards.

Very truly yours,

A handwritten signature in black ink, appearing to read 'TJL', is written over the words 'Very truly yours,'.

Thomas J. Litwiler
Attorney for Lake State Railway Company

TJL:pj

Enclosures



COPY

APPLICATION FOR SHPO SECTION 106 CONSULTATION

Submit one application for each project for which comment is requested. Consult the *Instructions for the Application for SHPO Section 106 Consultation Form* when completing this application.

Submit application materials online at www.michigan.gov/shposection106 or mail to: Michigan State Historic Preservation Office, 300 North Washington Square, Lansing, MI 48913

I. GENERAL INFORMATION

☒ New submittal

☐ More information relating to SHPO ER# [SHPO Project #](#)

☐ Submitted under a Programmatic Agreement (PA)

PA Name/Date: [PA name/date, if applicable](#)

a. Project Name: **Lake State Railway Company West Shore Spur Abandonment**

b. Project Location(s): A railroad right-of-way between 66 and 20 feet in width in Saginaw, Michigan extending from Sta. 9+00 approximately 270 feet northeast of the intersection of Carrollton Road and Ellsworth Road to the end of line at Sta. 77+05 approximately 1,000 feet southwest of the North Niagara Street at-grade railroad crossing of the Huron & Eastern Railway Company, a distance of approximately 6,805 feet.

If there is more than one location for your project, additional rows may be added to the table below. Township, Range, Section/Private Claim refer to the public land survey sections. Each Township/Range group must have its own row in the table below and must include the corresponding county and municipal unit.

County	Municipality	Street Address	Township (N/S)	Range (E/W)	Section(s) or Private Claim
Saginaw	Saginaw	See above	12 N	4 E	13, 24

II. FEDERAL AGENCY INVOLVEMENT AND RESPONSE CONTACT INFORMATION

a. Federal Agency: Surface Transportation Board

Contact Name: Office of Environmental Analysis

Contact Address: 395 E Street, S.W. City: Washington State: DC Zip: 20423-0001

Email: Phone: (202) 245-0300

Specify the federal agency involvement in the project: Authorizes abandonment pursuant to 49 U.S.C. § 10903 and 49 C.F.R. § 1152.50. Proceeding at STB is Docket No. AB-534 (Sub-No. 4X).

b. If HUD is the Federal Agency: 24 CFR Part 50 ☐ or Part 58 ☐

Responsible Entity (RE): [Name of the entity that is acting as the Responsible Entity](#)

Contact Name: [RE Contact name](#)

Contact Address: [RE mailing address](#) City: [RE city](#) State: [RE State](#) Zip: [RE zip code](#)

RE Email: [RE contact's email](#) Phone: [RE contact's phone #](#)

c. State Agency Contact (if applicable): [Name of state agency](#)

Contact Name: [Name of state agency contact](#)

Contact Address: [State agency contact's mailing address](#) City: [State contact's city](#) Zip: [State contact's zip code](#)

Email: [State contact's email](#) Phone: [State contact's phone #](#)



APPLICATION FOR SHPO SECTION 106 CONSULTATION

- d. **Applicant (if different than federal agency):** Lake State Railway Company, c/o Fletcher & Sippel LLC
Contact Name: Thomas J. Litwiler
Contact Address: 29 North Wacker Drive, Suite 800 **City:** Chicago **State:** IL **Zip:** 60606-3208
Email: tlitwiler@fletcher-sippel.com **Phone:** 312-252-1508
- e. **Consulting Firm (if applicable):** N/A.
Contact Name:
Contact Address: **City:** **State:** **Zip:**
Email: **Phone:**

III. PROJECT INFORMATION

- a. **Project Work Description**
Describe all work to be undertaken as part of the project:
Rail line to be abandoned. Rail, ties and track materials to be removed. Grade crossings at Davenport and West Genesee Avenues previously removed and paved over.
- b. **Project Location and Area of Potential Effect (APE)**
- i. **Maps.** Please indicate all maps that will be submitted as attachments to this form.
☐ Street map, clearly displaying the direct and indirect APE boundaries
☒ Site map
☐ USGS topographic map Name(s) of topo map(s):
☐ Aerial map
☐ Map of photographs
☒ Other: Valuation Maps 18425 and 18429
- ii. **Site Photographs:** N/A
- iii. **Describe the APE:**
The right-of-way of the West Shore Spur. That right-of-way alternates between 66 and 33 feet wide north of West Genesee Street, is 50 feet wide to the south of West Genesee Street, and becomes 33 feet and then 20 feet wide towards its southern end. The far southern terminus of the line (previously removed) was in the pavement of Niagara Street.
- iv. **Describe the steps taken to define the boundaries of the APE:**
The APE for purposes of rail line abandonments at the STB is the right-of-way. *E.g., Patriots Woods Railroad, LLC – Abandonment Exemption – In Cowlitz County, WA, Docket No. AB-1243X (STB served Sep. 15, 2007), 2017 WL 3883755* ("In railroad abandonment cases, the APE is defined as the rail right-of-way because this is the area where salvage activity could occur.").

IV. IDENTIFICATION OF HISTORIC PROPERTIES

- a. **Scope of Effort Applied**
- i. **List sources consulted for information on historic properties in the project area** (including but not limited to SHPO office and/or other locations of inventory data).
U.S. Environmental Protection Agency NEPAAssist tool
- ii. Provide documentation of previously identified sites as attachments. N/A
- iii. **Provide a map** showing the relationship between the previously identified properties and sites, your project footprint and project APE. N/A
- iv. Have you reviewed existing site information at the SHPO: ☐ Yes ☒ No
- v. Have you reviewed information from non-SHPO sources: ☒ Yes ☐ No



APPLICATION FOR SHPO SECTION 106 CONSULTATION

b. Identification Results

i. Above-ground Properties

A. Are you submitting above-ground identification information? ☐ Yes ☒ No

B. If yes, please indicate level:

☐ Literature Review ☐ Reconnaissance Survey Report ☐ Intensive Survey Report

C. Total number of properties surveyed N/A:

D. Total number of previously identified Historic Properties in your APE: None.

E. Total number of newly identified properties recommended eligible for listing in the National Register of Historic Places: Believed to be none.

F. Summarize, briefly, your findings for above-ground resources.

There are no National Register-listed properties or historic districts in or adjacent to the APE. There are no structures 50 years old or older (or structures of any kind) within the APE. The closest National Register-listed property is the Central Warehouse, 1840 North Michigan Avenue, NRIS 82002864, which is approximately one-fifth of a mile to the west. The House at 1514 North Michigan Avenue, NRIS 82002869, which is approximately one-quarter mile to the west, is no longer extant.

G. Attach the appropriate Michigan SHPO Architectural Identification Form for each resource or site 50 years of age or older in the APE. Refer to the *Instructions for the Application for SHPO Section 106 Consultation Form* for guidance on this.

H. Provide the name and qualifications of the person who made recommendations of eligibility for the above-ground identification forms.

Name Name Agency/Consulting Firm: Name of agency or consulting firm

Is the individual a 36CFR Part 61 Qualified Historian or Architectural Historian ☐ Yes ☐ No

Are their credentials currently on file with the SHPO? ☐ Yes ☐ No

If NO attach this individual's qualifications form and resume.



APPLICATION FOR SHPO SECTION 106 CONSULTATION

ii. Archaeology

Submit the following information using attachments, as necessary.

- A. **Are you submitting archaeological information?** ☐ Yes ☒ No
- B. **If yes, please indicate:** ☐ Assessment (Desktop Review) ☐ Archeological Report
- C. **Width(s), length(s), and depth(s) of proposed ground disturbance(s):** See description of right-of-way in Sections I.b and III.b.iii above. Salvage activities will be limited to rail, ties and track materials on the ground, and will involve no subsurface ground disturbance.
- D. **Is a portion of the APE underwater?** ☐ Yes ☒ No
If the assessment did not include the underwater portions of the APE, please briefly justify:
[Justification for not assessing the potential for submerged historic resources:](#)
- E. **Potential to adversely affect significant archaeological resources:**
☒ Low ☐ Moderate ☐ High
- Is fieldwork recommended?** ☐ Yes ☒ No
Briefly justify the recommendation:
Significant ground disturbance occurred when the rail line was constructed 135 years ago. No significant ground disturbance will be associated with abandonment and salvage of track and track materials.
- F. **Have you attached an Archaeological Sensitivity Map?** ☐ Yes ☒ No
- G. **Summary of previously reported archaeological sites and surveys:**
N/A.
- H. **Summarize past and present land use:**
The APE has been utilized as a rail line serving the surrounding industrial/commercial area for the past 135 years.
- I. **If archaeological fieldwork has been conducted, please attach a copy of the report copy and provide full report reference here:**
N/A.
- J. **Provide the name and qualifications of the person who provided the information for the Archaeology section:**
Name: [Name of archaeologist](#) **Agency/Firm:** [Archaeologist's agency or firm](#)
Is the person a 36CFR Part 61 Qualified Archaeologist? ☐ Yes ☐ No
Are their credentials currently on file with the SHPO? ☐ Yes ☐ No
If NO, attach this individual's qualifications form and resume.

Archaeological site locations are legally protected.

This application may not be made public without first redacting sensitive archaeological information.

V. IDENTIFICATION OF CONSULTING PARTIES

- a. **Provide a list of all consulting parties**, including Native American tribes, local governments, applicants for federal assistance/permits/licenses, parties with a demonstrated interest in the undertaking, and public comment:
See the Environmental/Historic Report in STB Docket No. AB-534 (Sub-No. 4X), submitted herewith.
- b. **Provide a summary of consultation with consultation parties:**
See response to Item V.a.
- c. **Provide summaries of public comment and the method by which that comment was sought:**
See response to Item V.a.



APPLICATION FOR SHPO SECTION 106 CONSULTATION

VI. DETERMINATION OF EFFECT

Guidance for applying the Criteria of Adverse Effect can be found in *the Instructions for the Application for SHPO Section 106 Consultation Form*.

a. **Basis for determination of effect:**

No structures of any kind are located within the APE.

b. **Determination of effect**

☒ **No historic properties will be affected**

☐ **Historic properties will be affected** and the project will (check one):

☐ have **No Adverse Effect** on historic properties within the APE.

☐ have an **Adverse Effect** on one or more historic properties in the APE and the federal agency, or federally authorized representative, will consult with the SHPO and other parties to resolve the adverse effect under 800.6.

☐ **More Information Needed:** We are initiating early consultation. A determination of effect will be submitted to the SHPO at a later date, pending results of survey.

Federally Authorized Signature: _____

Date: _____

Type or Print Name: Thomas J. Litwiler

Title: Partner, Fletcher & Sippel LLC

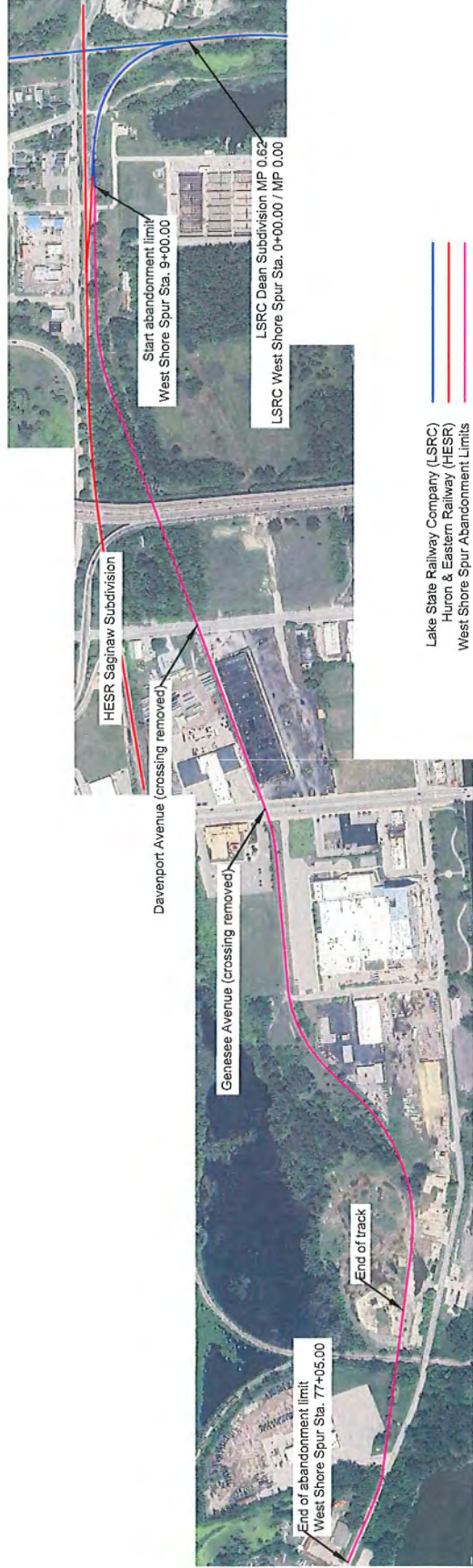


APPLICATION FOR SHPO SECTION 106 CONSULTATION

ATTACHMENT CHECKLIST

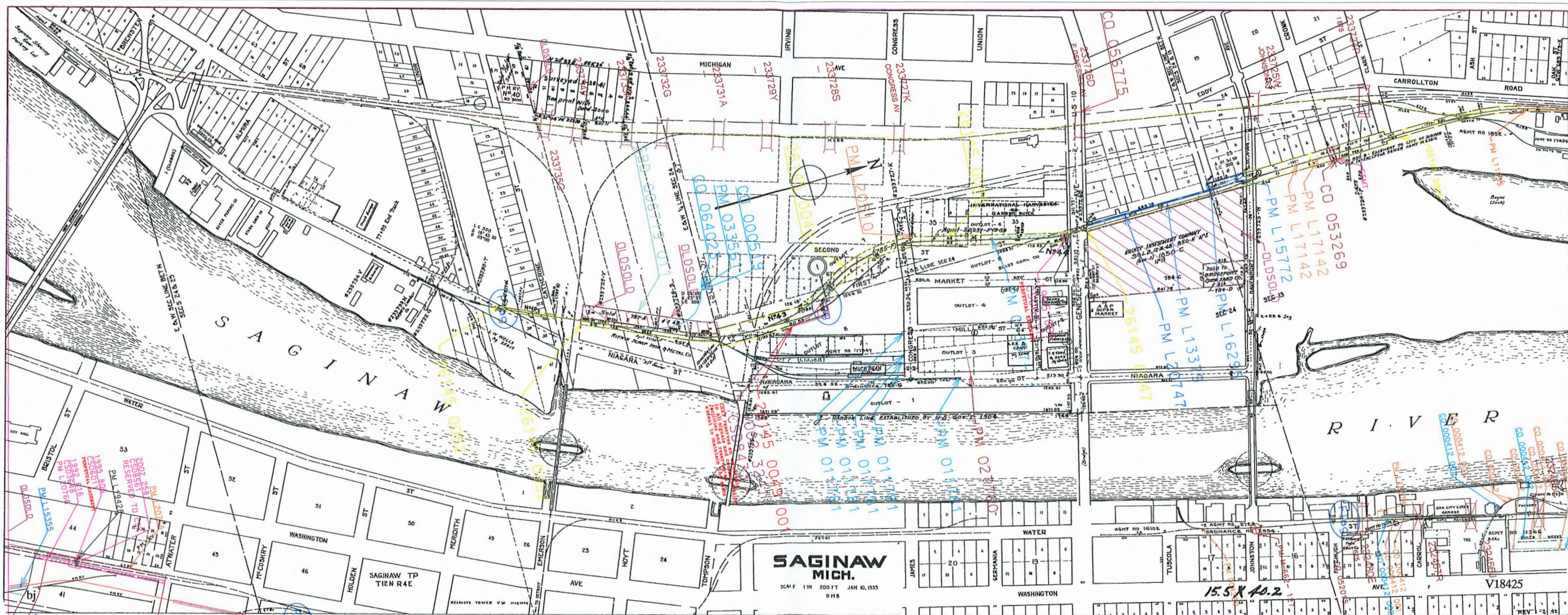
Identify any materials submitted as attachments to the form:

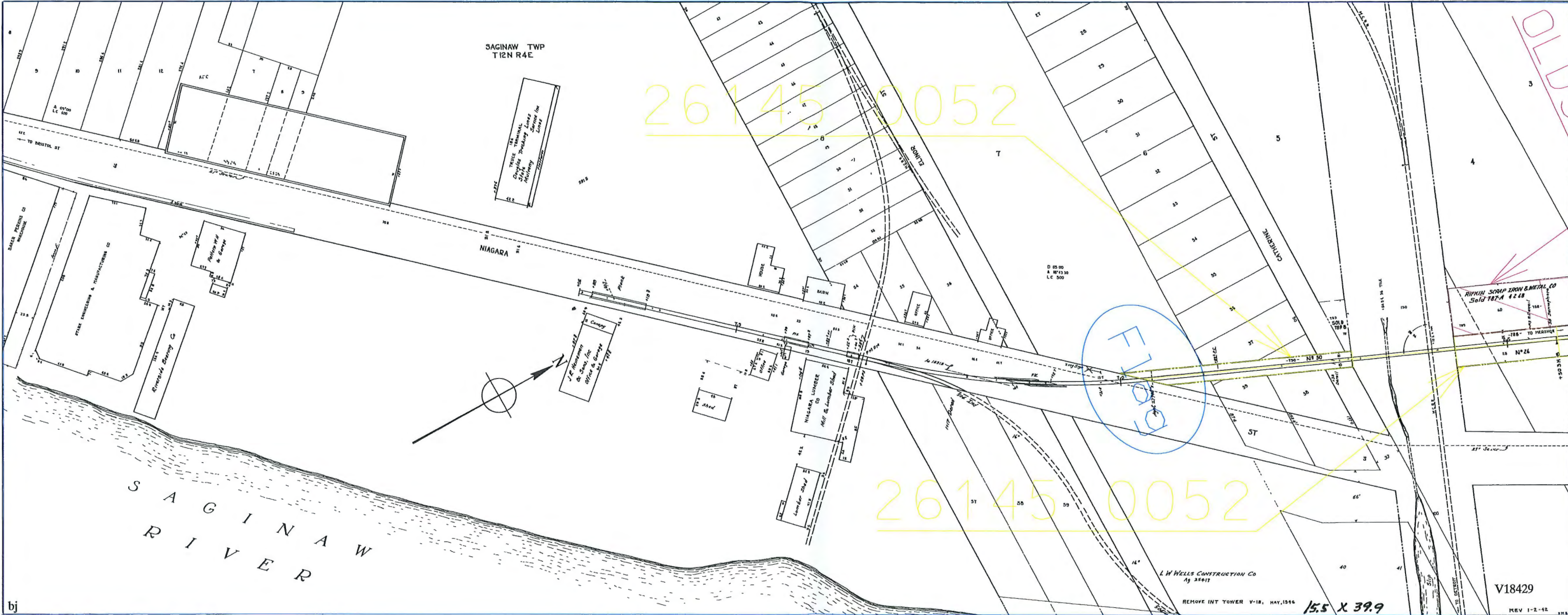
- ☐ Additional federal, state, local government, applicant, consultant contacts
- ☒ Maps of project location
 - Number of maps attached: 3
- ☐ Site Photographs
 - ☐ Map of photographs
- ☐ Plans and specifications
- ☐ Other information pertinent to the work description: [Identify the type of materials attached](#)
- ☐ Updated documentation of previously identified historic properties
- ☐ New Architectural Properties Identification Forms
- ☐ Map showing the relationship between identified historic properties, your project footprint, and project APE
- ☐ Above-ground qualified person's qualification form and resume
- ☐ Above-ground survey report
- ☐ Archaeological sensitivity map
- ☐ Archaeology survey report
- ☐ Archaeologist and Historian qualifications and resume- if not on file already.
- ☒ Other: See Environmental/Historic Report in STB Docket No. AB-534 (Sub-No. 4X), submitted herewith.



Not to Scale

								Docket No. AB-534 (Sub-No. 4X)			
								West Shore Spur Saginaw, Michigan			
								Drawn By: S. Pengally			
								Date: 9/23/2024			
								DWG:			





OLD SOLD