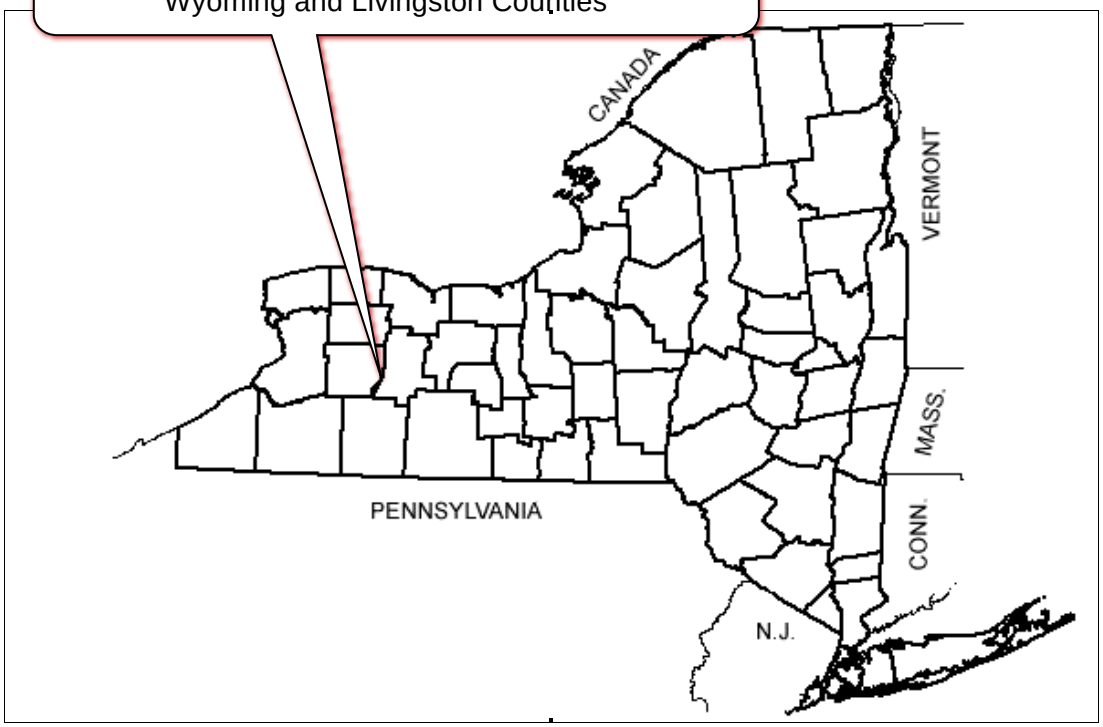
TRANSPORTATION PROJECT REPORT

FINAL ENVIRONMENTAL IMPACT STATEMENT / FINAL SECTION 4(f) EVALUATION and RECORD OF DECISION

December 2014

Portageville Bridge Project
P.I.N. 4935.79
Norfolk Southern Railway Southern Tier Route
over Portageville Bridge,
Towns of Portage and Genesee Falls,
Wyoming and Livingston Counties



FEDERAL HIGHWAY ADMINISTRATION

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

THIS DOCUMENT INCLUDES

Portageville Bridge Project Record of Decision

Portageville Bridge Project Final Environmental Impact Statement / Final Section 4(f) Evaluation

DOCUMENTS PROVIDED ON CD

Portageville Bridge Project Draft Environmental Impact Statement / Draft Section 4(f) Evaluation (incorporated into the FEIS by reference)

RECORD OF DECISION

For

Portageville Bridge Project

December 2014

Project Identification Number (PIN): 4935.79

Portageville Bridge Project

Wyoming and Livingston Counties, New York

1 DECISION

This Joint National Environmental Policy Act (NEPA) / State Environmental Quality Review Act (SEQRA) Record of Decision and SEQRA Findings Statement (Joint ROD and Findings Statement) documents the Federal Highway Administration's (FHWA) and the New York State Department of Transportation's (NYSDOT) findings and decision to proceed with the proposed action as described in the Final Environmental Impact Statement (FEIS) (FHWA-NY-EIS-14-03F) for the Portageville Bridge Project (the Project).

This Joint ROD and Findings Statement is prepared in accordance with NEPA (42 USC § 4321 et seq.), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR Parts 1500 to 1508), and FHWA's regulations implementing NEPA (23 CFR Part 771). As per Section 1319(b) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), the FEIS and ROD for this Project have been developed as a single document.

This Joint ROD and Findings Statement is also prepared in accordance with NYSDOT's Procedures for the Implementation of SEQRA (17 NYCRR Part 15). NYSDOT has given consideration to the facts and conclusions relied upon in the Federal FEIS and determined that the requirements of Article 8, Section 8-0109 of the New York Environmental Conservation Law (ECL) and implementing regulations have been met.

FHWA and NYSDOT have selected the Preferred Alternative for the Portageville Bridge Project (New Bridge on Parallel Alignment—Remove Existing Bridge). This alternative is identified in Section 2.1, "Identification of Preferred Alternative," of the FEIS, and described in Chapter 3, "Project Alternatives" of the Draft Environmental Impact Statement (DEIS) for the Project (FHWA-NY-EIS-14-03D).

2 PROJECT LOCATION

The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between Wyoming and Livingston Counties within Letchworth State Park and serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route. The Southern Tier route is a critical freight rail link between Buffalo and Binghamton, New York, and provides connections to Canada and the eastern seaboard of the United States. The Southern Tier route passes through Letchworth State Park in western New York, on right-of-way owned by Norfolk Southern but within the boundaries of the park. This right-of-way within the park boundaries includes the Portageville Bridge, which provides the crossing over the Genesee River between Wyoming and Livingston Counties, at milepost 361.66 of the Southern Tier route. The bridge is a single-track, truss structure that spans approximately 819 feet across and is 245 feet above the Genesee River gorge.

3 PROJECT NEED, PURPOSE, AND OBJECTIVES

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River, at its current location, that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting Federal Railroad Administration (FRA) Class 4 speeds, while reducing ongoing maintenance efforts and

costs. The Project is needed for Norfolk Southern, the Project Sponsor, to continue to provide safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

In support of the Project's purpose and need, Norfolk Southern, NYSDOT, and FHWA have identified the following objectives for the Portageville Bridge Project:

1) Eliminate the structural deficiencies of the existing Portageville Bridge;
2) Address operational constraints along the Southern Tier route caused by the existing Portageville Bridge; and
3) Reduce the need for extensive ongoing maintenance costs related to the existing bridge.

4 PROJECT BACKGROUND

The Portageville Bridge over the Genesee River, which opened to rail traffic in 1875 (replacing an earlier bridge that opened to rail traffic in 1852), is a vital, yet currently deficient, component of the Southern Tier route. It is at the end of its useful life as a freight rail structure, and as such, Norfolk Southern must substantially restrict the speed and tonnage of trains that cross the Genesee River. Without action to upgrade or replace the bridge, the crossing may need to be taken out of service. This would greatly impair Norfolk Southern's ability to operate on a substantial portion of the Southern Tier route and would negatively impact the economies of the many locations it serves.

Based on the proposed funding and regulatory approvals initially anticipated for the Project, a DEIS was previously prepared pursuant to SEQRA, with NYSDOT as the lead agency. In September 2008, NYSDOT published a positive declaration and notice of scoping in the New York State Environmental Notice Bulletin. NYSDOT conducted a public scoping meeting on October 1, 2008. NYSDOT and Norfolk Southern considered the comments received during scoping and provided responses in a Final Scoping Report, which was issued in March 2009.

NYSDOT then prepared a DEIS pursuant to SEQRA. The SEQRA DEIS was made available for public review in November 2012, with a public review period held from November 26, 2012 through February 1, 2013. During the public comment period, a public hearing was held in January 2013. Following the close of the public comment period, NYSDOT began to prepare an FEIS for the Project.

In July 2013, it was determined that federal Congestion Mitigation and Air Quality improvement program (CMAQ) funds could be made available to help fund construction of the Project, making the Project subject to federal environmental review procedures. On October 31, 2013, FHWA published a Notice of Intent (NOI) in the Federal Register to prepare an Environmental Impact Statement (EIS) in accordance with NEPA.

A public scoping meeting was held on November 19, 2013 in Mount Morris, Livingston County, New York, where the public was invited to provide oral or written comments on the scope of the EIS. Written comments were also accepted throughout the public scoping review period, which extended through December 19, 2013. A Final Scoping Report, which summarized the comments received and provided responses as appropriate, was prepared and made available on the Project website (www.dot.ny.gov/portagevillebridge).

Following scoping, the NEPA DEIS was prepared to assess the environmental impacts of the Project consistent with NEPA and other applicable regulations and requirements. The SEQRA DEIS

evaluated nine Project alternatives, with detailed analysis of two build alternatives: Alternative 4 – New Bridge on Parallel Alignment/Remove Existing Bridge and Alternative 5 – New Bridge on Parallel Alignment/Convey Existing Bridge. Based on analyses presented in the SEQRA DEIS and input received during the SEQRA public review process and NEPA scoping process, Alternative 5 was eliminated from further study in the NEPA DEIS. The NEPA DEIS evaluated the No Action Alternative and Alternative 4 (the Preferred Alternative).

FHWA approved the NEPA DEIS for public circulation on July 21, 2014 with a Notice of Availability in the Federal Register on August 1, 2014. In accordance with NEPA, FHWA established a 45-day public comment period for the DEIS, which remained open through the close of business on September 15, 2014. At the start of the public review period, the DEIS was made available for review to government agencies, elected officials, civic and interested groups, and the public. During the public comment period, a public hearing was held on August 26, 2014 in Mount Morris, New York, at which individuals were offered the opportunity to provide oral and/or written comments on the findings of the DEIS. At the public hearing, engineering, environmental, and right-of-way aspects of the Project were described in a brief formal presentation. In addition, before and after the hearing, NYSDOT and Project Sponsor representatives were available to answer questions. A court reporter transcribed the proceedings. Written comments (submitted by mail, fax, email, and in person at the public hearing) were accepted through the close of the public comment period on September 15, 2014. Written comments received after this date were also considered.

A total of 41 people attended the public hearing on the NEPA DEIS and three people provided oral comments at the hearing. During the comment period, FHWA and NYSDOT received 25 written submissions from elected officials, public agencies, interested groups, and individuals commenting on the Project. The comment letters, e-mails, and comment forms received during the DEIS comment period, as well as the transcript of the public hearing, are provided in the FEIS in Appendix 2, "Comments Received on the DEIS."

Comments received during the comment period were generally related to alternatives and to details regarding design of the Project. Some commenters noted their concern about demolition of the existing bridge and the associated impacts to historic and visual resources in Letchworth State Park. Others raised concern about the potential for trespassing on the new bridge by park visitors. In addition, commenters asked for information and future coordination regarding impacts during construction. A summary of the comments and responses are included in Section 2.6 of the FEIS.

Following publication of the DEIS and its Notice of Availability, minor changes were made to the proposed future property line between Norfolk Southern's railroad right-of-way and the surrounding parkland. These changes were made to correct the existing property line boundary between the park and the railroad right-of-way on the east side of the river, and to revise the future property line on the west side of the river so that the new Highbridge Parking Area and relocated Mary Jemison trailhead are located entirely on park property, rather than on Norfolk Southern property. As a result of these small changes, the acreage of property to be acquired from the park for the Project and the acreage of land to be transferred to Letchworth State Park changed slightly. These changes are reflected in the FEIS. In addition, while the DEIS stated that Norfolk Southern would acquire a permanent easement from OPRHP in a 0.21-acre area adjacent to the existing embankment where access for ongoing slope stabilization is required, this permanent easement is no longer being sought as part of the Project and the FEIS reflects this change.

Since publication of the NEPA DEIS, there have been no other changes to the Project, and public comments received on the DEIS did not necessitate Project changes or new environmental analyses. Therefore, consistent with Section 1319(b) of MAP-21, the FEIS and ROD for this Project have been developed as a single document.

Pursuant to Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), FHWA and NYSDOT identified and invited federal, state, and local agencies to participate in a coordinated review of the EIS. These agencies were responsible for identifying, as early as practicable, any issues of concern regarding the Project's potential environmental impacts that could substantially delay or prevent an agency from granting a permit or other approval and for providing input into the Project purpose and need, range of alternatives, and methodologies. The following agencies were invited to participate as Cooperating Agencies for the Project:

- Advisory Council on Historic Preservation (ACHP)
- U.S. Army Corps of Engineers (USACE)
- U.S. Department of Interior (DOI)
- U.S. Department of Interior, National Park Service (NPS)
- U.S. Environmental Protection Agency (USEPA)
- U.S. Fish and Wildlife Service (USFWS)
- New York State Department of Environmental Conservation (NYSDEC)
- New York State Historic Preservation Office (SHPO)
- New York State Office of Parks, Recreation and Historic Preservation (OPRHP)
- Federal Railroad Administration (FRA)

The following agencies were invited to participate as Participating Agencies for the Project:

- Surface Transportation Board
- Genesee Transportation Council
- Livingston County
- Wyoming County
- Town of Genesee Falls
- Town of Portage

Monthly agency conference calls and individual meetings with agencies occurred throughout the EIS process.

Per Section 6002 of SAFETEA-LU, NYSDOT and FHWA prepared and adhered to a Coordination Plan that describes the process and communication methods used to disseminate information about the Project, as well as to solicit and consider input from the public and other agencies. The Coordination Plan was posted on the Project website (www.dot.ny.gov/portagevillebridge) and updated during the EIS process.

The Project website was established during the scoping phase of the Project and has been maintained and updated regularly throughout the SEQRA and NEPA EIS processes. Information on the website has included the Project description and status, the Project Coordination Plan, meeting notifications

and materials, the SEQRA Project scoping materials and DEIS, and the NEPA Final Scoping Report and DEIS.

5 ALTERNATIVES CONSIDERED

5.1 NO ACTION ALTERNATIVE

The No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. The No Action Alternative would involve minimal capital investment to continue operation of the bridge to the extent feasible. Given the age of the bridge, it is anticipated that it would eventually be deemed unsafe for continued freight operations and then be taken out of service. This alternative would not meet the Project's purpose and need, but serves as the baseline for evaluating the potential impacts of the Preferred Alternative.

5.2 PREFERRED ALTERNATIVE

The Preferred Alternative would result in a new rail freight bridge built to support existing and anticipated future rail freight operations on the Southern Tier route. The new structure would be a single-track, 900-foot-long bridge. The centerline of the new bridge would be located approximately 75 feet south of the centerline of the existing bridge. The relocation of the bridge to the south would require a realignment of the railroad as it approaches the crossing from the east and from the west. New approach tracks would be laid approximately 1,200 feet east and 1,200 feet west of the existing bridge.

The Preferred Alternative includes acquisition by Norfolk Southern of approximately 2.84 acres of property for new railroad right-of-way to realign the rail tracks: approximately 2.08 acres that are currently part of Letchworth State Park and 0.76 acres of private property. In addition to these permanent acquisitions, Norfolk Southern would seek temporary easements for a total of 1.58 acres of Letchworth State Park for construction staging.

The new bridge would be built to meet industry weight standards (the Cooper E80 live load, which allows a load-carrying capacity of 286,000-pound freight cars). It would also be built to accommodate the potential wind load associated with double-stack train cars. The bridge would accommodate trains operating at 35 MPH, instead of the current speed of 10 MPH (the bridge itself would accommodate speeds of up to 60 MPH, but Norfolk Southern anticipates an operating speed of 35 MPH because of the curvature on approach tracks and the location of the facility within Letchworth State Park). Pedestrian access would be prohibited on the new bridge. Fencing, signage, and/or other safety devices would be implemented to discourage trespassing on the railroad right-of-way and new bridge.

With the Preferred Alternative, a portion of existing Park Road would be relocated to make space for the new bridge structure's foundations, and a small parking area (Highbridge Parking Area) would be relocated from an area south of the existing bridge within Norfolk Southern's right-of-way to parkland north of the right-of-way. In addition, the trailheads for two trails, the Mary Jemison Trail and the Gorge Trail, would be relocated from Norfolk Southern property to park property.

Following construction, the existing bridge, piers, and unused track would be removed. After construction of the new bridge and removal of the old bridge are complete, approximately 2.50 acres of the existing right-of-way encompassing the old bridge location would be conveyed to OPRHP for inclusion in the park.

5.3 ALTERNATIVES CONSIDERED AND ELIMINATED

Seven potential alternatives were considered and eliminated from further consideration. These alternatives are summarized below.

Alternative 2—Repair / Retrofit Existing Bridge

Alternative 2 would involve repairing and retrofitting the existing bridge to the capacity needed to meet current and future freight transport needs. Following an inspection of the existing bridge, Norfolk Southern determined that the extent of structural deficiencies precluded Alternative 2 from being a reasonable alternative. The necessary repairs and retrofits could not be feasibly undertaken while the bridge is open to rail traffic; therefore, Alternative 2 would require rail traffic to be rerouted for 18 months, depriving customers of the efficiencies of the Southern Tier route, including temporarily eliminating rail freight service to several locations and for several customers and requiring complex re-routing over other routes maintained by other railroads. Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. Moreover, Alternative 2 would not effectively extend the bridge's useful life nor increase its load carrying capacity to the Cooper E80 standard, and thus would do little to improve the efficiency of rail operations. Even with repairs and retrofits, fatigue and corrosion would continue to degrade structural elements of the bridge, and there would continue to be substantial maintenance requirements following the retrofit. The maintenance requirements would accelerate over time as the structure continues to age. For these reasons, Alternative 2 could jeopardize the long-term viability of the Southern Tier route and does not meet the Project's purpose and need. Therefore, Alternative 2 was eliminated from further consideration.

Alternative 3—New Bridge on Same Alignment

Alternative 3 would involve demolishing the existing bridge and piers, and constructing a new bridge at the same location and alignment. This would shut down the Southern Tier rail alignment during the 18- to 31-month construction period (the length of the construction period would depend on the type of replacement bridge constructed). As with Alternative 2, all rail freight would be rerouted to other rail lines, which would temporarily eliminate rail freight service to several locations and customers. As a result, Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. For these reasons, Alternative 3 was determined to be unreasonable and was eliminated from further consideration.

Alternative 5—New Bridge on Parallel Alignment / Convey Existing Bridge

Alternative 5 would involve construction of a new rail bridge approximately 75 feet south of the existing bridge, with the existing bridge remaining for a non-railroad purpose under new ownership. Rail tracks would be modified for about 1,200 feet on either side of the bridge to accommodate the new bridge alignment. Upon completion of the new bridge, Norfolk Southern would convey the existing bridge, as it would no longer serve freight rail purposes. Maintenance, repairs, and any modifications to the existing bridge would be the responsibility of the new owner.

While this alternative would allow the bridge structure (contributing resource to the National Register of Historic Places (NRHP)-listed Letchworth State Park) to remain in place, it would not avoid any of

the other adverse effects of the Preferred Alternative on historic resources related to relocation of a segment of Park Road, the Gorge Trail, the Mary Jemison Trail, the Highbridge Parking Lot and sign, and fieldstone walls. Furthermore, while Alternative 5 would preserve the majority of the existing bridge, some alterations to the bridge would nonetheless be required. Alternative 5 would also result in two side-by-side bridges, which would be more obstructive to scenic views of the gorge than a single bridge, and the presence of two bridges would constitute an adverse visual impact.

In addition, Alternative 5 would maintain the existing bridge piers within the Genesee River, which would not allow the river to return to free-flowing conditions. Alternative 5 would also be less compatible with the Genesee River's status as a protected river under the federal Genesee River Protection Act and as a New York State Scenic River, because of its adverse visual impacts.

The OPRHP, which is responsible for Letchworth State Park, has declined interest in acquiring the existing bridge. In addition, no other responsible entity was identified as a result of outreach to agencies, stakeholders and the public during review under SEQRA and NEPA over the past six years. Thus, an alternative suitable owner of the existing bridge that is able to bear the costs of acquisition, rehabilitation, and maintenance has not been identified.

For these reasons, Alternative 5 was determined to be unreasonable and was eliminated from further consideration.

Alternative 6—Southern Alignment / Remove Existing Bridge

Alternative 6 would shift the Southern Tier route to a new, 4.5-mile-long rail route and related infrastructure outside Letchworth State Park, to avoid impacts to the park, with a new crossing of the Genesee River outside the park. The new route would be south and west of the southern end of the park. After completion of the new route, the existing bridge would be demolished. Alternative 6 would include the construction of one new, major bridge (approximately one mile long); construction of two new, shorter overpasses; and crossing of three streams that are tributaries to the Genesee River.

Alternative 6 would avoid the use of Letchworth State Park for railroad right-of-way, but would have impacts on adjacent land and require the construction of three new at-grade crossings with local roadways, counter to New York State policy and Norfolk Southern policy to avoid new at-grade rail crossings. This alternative would require acquisition of approximately 54 acres of land, and would traverse or be adjacent to agricultural land, residential and agricultural structures, and historic cemeteries. The requirements to implement this alternative, including rail and bridge infrastructure and property acquisition, would cost more than $250 million, which is more than three times the cost of the Preferred Alternative.

Alternative 6 does not meet the Project purpose and need and was determined to be an unreasonable alternative. In addition, public comments during SEQRA scoping overwhelmingly opposed Alternative 6. Therefore, this alternative was eliminated from consideration.

Alternative 7—Southern Alignment / Convey Existing Bridge

Alternative 7 would involve construction of the same southern alignment outside Letchworth State Park as Alternative 6. However, Alternative 7 would not remove the existing bridge and would instead convey the bridge to a new owner. The new owner would be responsible for repairs, maintenance, or modification to the existing structure.

Alternative 7 would not meet the Project purpose of providing a modern rail crossing of the Genesee River at its current location. Like Alternative 6, Alternative 7 would involve Project costs that would be greater than other alternatives and would require approximately 54 acres of property acquisition. Alternative 7 would maintain the existing bridge, which could allow for a non-rail crossing of the Genesee River if a suitable new owner could be found. However, no suitable owner has been identified. Public comments during SEQRA scoping overwhelmingly opposed development of a southern alignment.

Alternative 7 does not meet the Project purpose and need and was determined to be an unreasonable alternative. Therefore, this alternative was eliminated from further consideration.

Alternative 8—Reroute Rail Traffic / Remove Existing Bridge

Under Alternative 8, Norfolk Southern would cease using a substantial portion of the Southern Tier route and remove the existing rail bridge over the Genesee River. This alternative would require that rail freight traffic use alternative routes between Binghamton and Buffalo. Alternative 8 would restrict or remove rail freight service to a number of communities and as such has the potential for negative impacts to the region's economy. Alternative 8 fails to meet the Project's purpose and need and therefore was eliminated from further consideration.

Alternative 9—Reroute Rail Traffic / Convey Existing Bridge

Like Alternative 8, Alternative 9 would cease using a portion of the Southern Tier route, resulting in adverse effects on Norfolk Southern's operations and the region's economy. Alternative 9 could allow for the existing bridge to provide non-rail travel across the Genesee River if a suitable new owner was found. However, no suitable alternative owner has been identified. Since this alternative would not meet the Project's purpose and need, it was eliminated from further consideration.

5.4 ENVIRONMENTALLY PREFERRED ALTERNATIVE

The CEQ NEPA regulations state that the federal agency, in issuing its ROD, shall specify the alternative or alternatives that are considered environmentally preferable. The guidance issued by CEQ indicates that the environmentally preferred alternative is the one that meets the project purpose and need and causes the least harm to the natural and physical environment. For this Project, based on the scoping and EIS process, the Preferred Alternative, as described above, is deemed the environmentally preferred alternative. As discussed in the following sections, the decision to select the Preferred Alternative is based on a thorough and careful consideration of all potential effects, mitigation of adverse effects, and satisfying the purpose, objectives, and need of the Project.

6 FACTORS IN THE DECISION MAKING PROCESS, INCLUDING MEASURES TO MINIMIZE HARM

The environmental effects of the Preferred Alternative were carefully evaluated and weighed along with social and economic factors and the ability of the Preferred Alternative to meet the purpose and need of the Project. The Preferred Alternative will address the following deficiencies as compared to the No Action Alternative:

- Structural deficiencies of the existing Portageville Bridge: The Preferred Alternative will replace a 140-year-old bridge that is at the end of its useful life as a freight rail structure with a new

bridge that meets current industry standards for freight rail operations. This will eliminate the risk that the bridge will eventually be deemed unsafe for freight operations and taken out of service. It will also eliminate operational constraints and the need for extensive ongoing maintenance, as noted below.

- Operational constraints along the Southern Tier route caused by the existing bridge: the Preferred Alternative will provide a new bridge across the Genesee River that will meet industry weight standards (the Cooper E80 live load) and allow train operations at 35 miles per hour. This will remove speed and load restrictions at the bridge that currently affect operations on Norfolk Southern's entire Southern Tier route across New York State.
- Ongoing maintenance: By eliminating the structural deficiencies of the existing bridge, the Preferred Alternative will reduce the need for extensive ongoing maintenance related to the existing bridge. Weekly inspections and 24-hour monitoring of vibration and fatigue, and associated repairs when issues are identified, will no longer be required.

The economic, social and environmental benefits of the Preferred Alternative were weighed against its effects in the analyses set forth in this section.

6.1 ENVIRONMENTAL IMPACT STATEMENT

The environmental record for the Portageville Bridge Project includes the NEPA DEIS and Draft Section 4(f) Evaluation and the FEIS and Final Section 4(f) Evaluation. These documents constitute the statements required by NEPA (42 USC 4321 *et seq.*) and 23 CFR Part 771, and NYSDOT's Procedures for the Implementation of SEQRA (17 NYCRR Part 15).

Consistent with NEPA and SEQRA, the FEIS identifies and provides discussion of:

- The social, economic, and environmental effects of the Project;
- Measures to mitigate the adverse effects of the Project;
- The adverse environmental effects that cannot be avoided;
- Alternatives to the Project; and
- Irreversible and irretrievable effects on the environment that may be involved with the Project should it be implemented.

The FEIS fully assessed the potential social, economic, and environmental effects from construction and operation of the Preferred Alternative. FHWA and other federal agencies have promulgated specific methodologies and criteria to assess potential environmental effects under NEPA, which were followed in completion of the technical analyses in the EIS. Where specific criteria are not provided by federal agencies, the FEIS relied on NYSDOT's The Environmental Manual (TEM) procedures and guidance.

The potential effects of the Preferred Alternative as identified in the NEPA DEIS and FEIS are summarized in Table 1 below.

Table 1
Summary of Effects of the Preferred Alternative

Environmental Category	Impacts	Measures to Mitigate Impacts*
Land Use	The Preferred Alternative will shift the railroad right-of-way slightly to the south, requiring use of some land that is currently parkland and the acquisition of a small amount of private property that is vacant rural land. These changes will not adversely affect land use in the park or surrounding area.	To compensate for the loss of parkland, replacement land will be provided to the park as required by Section 6(f) of the federal Land and Water Conservation Fund Act. Norfolk Southern will transfer 2.50 acres of existing railroad right-of-way to New York State to be added to the park.
Neighborhood and Community Cohesion; Social Groups Benefited or Harmed	None	None
Schools, Recreational Areas, and Places of Worship	No effects to schools or places of worship. See "Parklands and Recreational Resources" below.	None
Regional and Local Economies	The Project will address deficiencies of the existing bridge and support the long-term viability of the state's freight rail network by providing a safe and efficient crossing of the Genesee River.	None
Business Districts and Specific Business Impacts	None	None
Wetlands	Placement of fill in a 0.03-acre portion of a 0.09-acre freshwater wetland (Wetland A).	Impacts to Wetland A have been minimized to the extent possible and ecological functions of the remaining 0.06-acre portion of this wetland, including hydrological connections to other waters, will be maintained. Construction will be conducted in accordance with permit conditions and disturbed areas around the wetland will be restored with native vegetation.
Surface Waterbodies and Watercourses	Construction activities for the new bridge will occur outside of the stream bed and banks of the Genesee River. Removal of the existing bridge piers from the river would return the river to its natural, free-flowing condition, a long-term benefit to the river.	To minimize the potential for erosion during construction, soil erosion measures will be implemented as part of a Stormwater Pollution Prevention Plan (SWPPP). Mitigation measures, such as turbidity curtains, will be used to minimize potential effects on water quality of the Genesee River during removal of the piers from the river.

Table 1 (Cont'd)
Summary of Effects of the Preferred Alternative

Environmental Category	Impacts	Measures to Mitigate Impacts*
Wild and Scenic Rivers	The Genesee River is protected by the federal Genesee River Protection Act of 1989 as a federal Wild and Scenic Study River, is on the federal Nationwide Rivers Inventory, and is a designated New York State Scenic River. The Project will affect the river's within-channel conditions, upland conditions, and identified Outstandingly Remarkable Values (ORVs) as follows: • Free-flowing Conditions: The Project will improve the free-flowing condition of the river by removing the existing bridge piers from the river. While construction activities will temporarily affect the free-flowing condition, the Project will ultimately provide a long-term benefit. • Geologic Value (ORV): The Project will not affect the geology of the river within the gorge or the river's three significant waterfalls called out in its ORVs. • Recreational Value (ORV): The Project will not affect paddling opportunities downstream of the bridge. • Scenic Value (ORV): Construction activities will result in temporary visual impacts to viewers and viewsheds. In addition, removal of the existing bridge would result in an adverse visual impact; at the same time, removal of the bridge will open up more natural views of the gorge. • Within-Channel Conditions: The temporary construction activities in the river for the Project will not adversely affect within-channel conditions. • Riparian and Floodplain Conditions: No floodplains are present at the Project Site. • Upland and Offsite Conditions: Impacts of the Project related to natural resources are discussed below under "General Ecology and Wildlife Resources." Impacts related to cultural resources are discussed below under "Historic and Cultural Resources."	Mitigation measures identified in the discussions of visual resources, historic and cultural resources, general ecology and wildlife resources, and construction effects will address the Project's effects on the Genesee River related to its Wild and Scenic River status. This includes the following: • Placement of the new bridge close to the location of the existing bridge to minimize visual impacts. • The use of an arch structure for the new bridge to avoid construction of in-water supports, allow the river to return to free-flowing conditions, and enhance natural views in the gorge. • Design of the new bridge, which was selected to harmonize with its setting. • Removal of the piers of the existing bridge to return the river to a natural, free-flowing condition. • Use of drape netting where rock excavation is required on the gorge face to minimize visual impacts. • Replanting of upland areas affected by construction with native vegetation to allow for bank stabilization and erosion control. • Planting the narrow riparian zones on both banks of the river within the alignment of the existing bridge with native vegetation to allow for bank stabilization. • Coordination with NYSDEC to the extent feasible to address concerns related to the river's status as a New York State-designated Scenic River. • Implementation of measures set forth in the Project's Section 106 Memorandum of Agreement to resolve adverse effects on historic properties. • Minimizing potential impacts to water quality during construction through the use of stormwater management measures, erosion and sediment control measures, and measures such as the use of turbidity curtains to minimize in-water impacts during removal of the existing bridge piers in the river.
Navigable Waters	The Genesee River is considered navigable water by the U.S. Army Corps of Engineers (USACE), but the new bridge will not affect use of the river for navigation.	Construction will be conducted in accordance with the terms of a permit obtained from the USACE for work in a navigable waterway.
Floodplains	None	None
Coastal Resources	None	None
Groundwater Resource, Aquifers, and Reservoirs	If dewatering is required for construction of the new alignment, discharge of water will be conducted in accordance with applicable requirements.	None
Stormwater Management	The Project will involve relocation of stormwater drainage features in the vicinity of the new bridge.	A SWPPP will be developed and implemented that will include erosion and sediment control measures.

Table 1 (Cont'd)
Summary of Effects of the Preferred Alternative

Environmental Category	Impacts	Measures to Mitigate Impacts*
General Ecology and Wildlife Resources	The new rail right-of-way and bridge will require the removal of approximately 3 acres of forest and disturbance to approximately 1.1 acres of shale cliff and talus slope, which are relatively small in relation to the similar available habitat nearby and are edge communities that are already disturbed. Disturbed areas that will not be occupied by the Project will be restored according to a habitat restoration plan. Potential impacts to ecological resources during construction are described below under "Construction Effects." Continued operation of rail freight service on the railroad right-of-way through the park will not adversely affect ecology or wildlife once the Project is complete.	A habitat restoration plan, developed in coordination with OPRHP and the New York State Department of Environmental Conservation (NYSDEC), will be implemented after construction. It will include provisions for invasive and native nuisance weeds species management.
Critical Environmental Areas	None	None
Historic and Cultural Resources	Effects on historic and cultural resources were evaluated in compliance with Section 106 of the National Historic Preservation Act and implementing regulation, 36 CFR Part 800. The Preferred Alternative will have an Adverse Effect on Letchworth State Park, which is listed on the National Register of Historic Places (NRHP). Adverse effects are associated with the removal or alteration of a number of contributing resources; the removal and demolition of the existing Portageville Bridge and permanent alteration of the Gorge and Mary Jemison Trails, Highbridge Parking Area and Historic Marker, Park Road, and fieldstone walls, either through removal, relocation or modification.	Mitigation measures developed in consultation among FHWA, NYSDOT, the State Historic Preservation Office (SHPO), Norfolk Southern, OPRHP, the Seneca Nation of Indians, Tonawanda Seneca Nation, Tuscarora Nation, and other Consulting Parties are recorded in an executed Memorandum of Agreement (MOA). Mitigation incudes: • Development of a Construction Protection Plan to avoid inadvertent Project-related construction damage to historic park features. • Implementation of an Avoidance Plan and staging area limitations to prevent inadvertent disturbance to resources. • Educational and interpretive materials in Letchworth State Park, including kiosks and salvaged materials from the existing bridge. • Historic American Engineering Record recordation of the existing bridge. • Restoration of portions of Gorge Trail.
Parks and Recreational Resources	The Preferred Alternative will result in minor changes to park features in the area near the new bridge. A segment of Park Road near the new bridge will be shifted westward to make space for the new bridge's foundations at the top of the gorge. The Highbridge Parking area will be moved to the north side of the bridge, and the trailheads of the Gorge Trail (Trail #1) and Mary Jemison Trail (Trail #2) will be shifted slightly. The changes to these park features will not affect their recreational function or adversely affect park visitors' experience when using these features. Norfolk Southern will permanently acquire approximately 2.08 acres of parkland to accommodate the shifted alignment and another 0.42 acres of parkland will be used for the Project's entire construction period and then returned to the park (see "Construction Effects" below). Removal of the existing bridge will adversely affect visual resources of Letchworth State Park (see "Visual Resources" section below). Operation of trains at higher speeds across the new bridge will result in moderate noise impacts at locations within the park in the immediate vicinity of the bridge.	Measures to minimize harm to parkland were developed in accordance with the requirements of Section 4(f) of the U.S. Department of Transportation Act of 1966 and Section 6(f) of the federal Land and Water Conservation Fund Act., Norfolk Southern will transfer to OPRHP 2.50 acres of land to be incorporated into the park to compensate for parkland that must be used by the Project. Other measures will also be implemented during construction (see the discussion below under "Construction Effects"), some of which would result in permanent benefits to the park. These include restoration of portions of the Gorge Trail and creation of a new Castile Entrance to the park. As part of the Project, a new, larger Highbridge Parking Area will be created and Park Road will be straightened in an area that is currently prone to erosion and has limited sight distances for motorists. The arch design of the new bridge and removal of the existing bridge supports will enhance natural views.

Table 1 (Cont'd)
Summary of Effects of the Preferred Alternative

Environmental Category	Impacts	Measures to Mitigate Impacts*
Visual Resources	Removal of the existing bridge will result in an adverse impact on visual resources in Letchworth State Park. The bridge currently contributes to the scenic qualities of the park and is an iconic feature on park memorabilia.	The parallel alignment and proximity of the new bridge to the existing bridge location avoids additional impacts on established viewsheds. The arch design of the new bridge will allow enhanced views with no supports in the gorge or river. Use of an appropriate paint color for the bridge would minimize the visual effects of a new structure over the river. Drape netting will be used on newly exposed rock areas to minimize the visibility of excavation.
Farmlands	No land within the Project site is presently farmed and no impacts to agricultural land will occur as a result of the Project.	None
Air Quality	A regional benefit is expected as increased speeds and loads may reduce demand for freight movement by truck.	None
Energy/ Green House Gases	A long-term benefit is expected as increased speeds and loads may reduce demand for freight movement by truck.	None
Noise	The increased speeds of trains across the new bridge (35 MPH rather than 10 MPH) will increase train-related noise levels at locations in the park closest to the bridge and at the residences on Portageville Road (also known as Portage Road) close to the tracks. According to criteria used by the Federal Transit Administration (FTA) and FRA for evaluating noise impacts of projects, the increase in average noise levels that would result from the faster speed of the trains would constitute a "moderate" noise impact. The FTA/FRA criteria define a moderate impact as a change in noise level occurs that is noticeable to most people.	Since the Project will not have severe noise or vibration impacts on nearby receptors, no mitigation is required.
Asbestos	If asbestos containing materials (ACM) are present in the existing bridge or in the approaches (e.g., associated with existing utility lines), the demolition of the bridge would disturb the ACM.	All applicable regulations will be followed if ACM must be disturbed.
Hazardous Waste and Contaminated Materials	Demolition of the existing bridge could encounter contaminated and hazardous materials (CHM), including lead-based paint and contaminated soils. Construction of the new bridge could encounter CHM in soils and in the vicinity of an abandoned transformer near the right-of-way.	A Project-specific Health and Safety Plan (HASP) will be followed to protect workers and the environment during construction.

Table 1 (Cont'd)
Summary of Effects of the Preferred Alternative

Environmental Category	Impacts	Measures to Mitigate Impacts*
Construction Effects	Construction activities will result in temporary impacts to Letchworth State Park. During the Project's approximately 27-month construction period, a portion of Park Road, the Highbridge Parking Area, and a portion of the Gorge Trail and Mary Jemison Trail will be closed to the public. In addition, a portion of the Genesee Valley Greenway Trail will be closed occasionally during construction to protect the safety of the public. OPRHP will also close Park Road from the Portageville Entrance to the construction zone, and from the construction zone to the Upper/Middle Falls Area turn-off for the duration of construction. Park visitors and employees who would normally use the Portageville Entrance will have to detour to the Castile Entrance instead, a detour that will add approximately 1 to 5 miles to the trip. The detour is not expected to result in notable declines in patronage to the businesses that operate in the park or adverse impacts on the businesses. Throughout construction, cranes and other large pieces of equipment will be visible to park visitors, which will adversely affect scenic views. Construction activities will also create noise that will be audible elsewhere in the park. Depending on the construction activity occurring, the noise could be audible at times at the Glen Iris Inn and its associated cottages and at cabins within a mile of the construction site. Construction activities will result in the disturbance to 1.1 acres of shale cliff and talus community, which may provide suitable habitat for the coast creeping moss, a critically imperiled species in New York State, and the loss of approximately 3 acres of forest habitat (approximately 750 trees that are greater than or equal to 3 inches in diameter at breast height). Construction activities could also result in disruption to wildlife species that use the area near the Project site, including a pair of bald eagles known to nest in the vicinity of the Project site, and two species of bats (northern long-eared bat, proposed for listing as federally endangered; eastern small-footed bat, New York State Special Concern) that have been known to hibernate within a mile of the Project site and may use trees near the Project site for roosting.	The Project will include a wide variety of mitigation measures during construction to limit disruption to the extent practicable, including: • Provision of an upgraded entrance booth at the Castile Entrance. • Use of control measures during blasting to minimize rockfall into the Genesee River. • Use of drilled piles rather than driven piles to reduce noise. • Use of erosion and sediment control measures. • Use of turbidity curtains or other control measures for work in the river to remove the existing bridge piers. • Conducting tree cutting from October 31 to March 31 to avoid impacts to the northern long-eared bat and eastern small-footed bat. • Compliance with measures developed in coordination with the U.S. Fish and Wildlife Service (USFWS) as part of a permit pursuant to the federal Bald and Golden Eagle Protection Act to minimize disturbance to bald eagles that nest near the Project site. • Coordination with USFWS and NYSDEC regarding measures to minimize impacts to timber rattlesnakes during construction. • A tree planting and revegetation program developed in coordination with OPRHP and NYSDEC. • Use of protection measures to limit encroachment into the remaining 0.06-acre wetland area during construction. • Compliance with the terms of the Section 106 MOA to protect historic park features and archaeological resources. • Coordination between Norfolk Southern and OPRHP to provide signage on the Genesee Valley Greenway Trail to inform users of the status of trail closures due to Project construction. • Implementation of a HASP to protect workers from possible CHM. • Use of erosion and dust control measures. • Repair of Park Road and Portageville Road (also known as Portage Road) after construction.
Indirect Effects	By maintaining and improving operations on the Southern Tier route, the Project will avoid indirect adverse environmental effects associated with the loss of rail freight. In the long-term, it will reduce energy consumption and pollutant emissions by avoiding longer rail routings or increases to truck trips.	None
Cumulative Effects	None	

* Mitigation includes avoiding, minimizing, rectifying, reducing or eliminating, and compensating for impacts.

6.2 SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

The analysis of the Preferred Alternative's effects on historic and cultural resources in the DEIS and FEIS was prepared pursuant to Section 106 of the National Historic Preservation Act of 1966 (NHPA), as implemented by the federal regulations appearing in 36 CFR § 800, in consultation with the SHPO and other Consulting Parties. In addition to FHWA, NYSDOT, and the SHPO, participants in Section 106 consultation for this Project included Norfolk Southern, the National Park Service, OPRHP, three federally recognized Native American tribes, and three preservation organizations granted Consulting Party status by FHWA.

NYSDOT, in coordination with FHWA and in consultation with the SHPO, applied the Criteria of Adverse Effect (36 CFR 800.5(a)(1)) to identified historic properties within the Project's Area of Potential Effects, resulting in a finding of Adverse Effect for the Preferred Alternative, due to the proposed removal and demolition of the existing Portageville Bridge and removal and alterations of other contributing resources within Letchworth State Park, which is listed in the National Register of Historic Places.

Based on a review of a Finding Documentation prepared in accordance with 36 CFR 800.11(e), SHPO concurred with an Adverse Effect finding on February 20, 2014. FHWA, NYSDOT, and Norfolk Southern, in consultation with the SHPO, developed a Preliminary Draft Memorandum of Agreement (MOA) that identified measures to resolve the Project's adverse effect on historic properties. FHWA notified the Advisory Council on Historic Preservation (ACHP) of the Adverse Effect finding, providing a copy of the required documentation, SHPO concurrence, and the Preliminary Draft MOA, and invited the ACHP to participate in consultation to resolve adverse effects.

On March 6, 2014, NYSDOT distributed the Section 106 Finding Documentation and a Preliminary Draft MOA to the Section 106 Consulting Parties for this Project for a 30-day review period. NYSDOT and FHWA held a consultation meeting on March 20, 2014 to seek and consider the views of Consulting Party members regarding the Project's potential effects on identified historic properties and to consider input on possible measures to avoid, minimize, or mitigate adverse effects. Based on participation in this meeting, and subsequent discussion with SHPO, the ACHP declined to formally enter into consultation.

NYSDOT and FHWA, in consultation with the SHPO, considered comments made at the March 20, 2014 meeting, and written comments received from Consulting Parties by the close of the review period. The Preliminary Draft MOA was revised, and the revised Draft MOA was distributed for review by Consulting Parties on June 18, 2014. No comments on the Draft MOA were received from Section 106 Consulting Parties in response.

Documentation of the Project's Adverse Effect finding and the Draft MOA were made available to the public as part of Appendix C to the DEIS, providing an opportunity for public comment on the results of the Section 106 process. No public comments were received relating to the Project's effects on historic properties that had not been previously considered and addressed, and no public comments were received on the Draft MOA during the DEIS comment period.

The Section 106 process was concluded with an executed MOA, filed with the ACHP. The executed MOA is provided in Appendix 1 of the FEIS.

6.3 EXECUTIVE ORDER 11990, WETLANDS

The Project was reviewed for compliance with Executive Order 11990, Protection of Wetlands, and the U.S. Department of Transportation (USDOT) Order 5660.1A. The Preferred Alternative involves unavoidable impacts to 0.03 acres of wetlands. The impacts to wetlands of the Project site have been minimized to the extent possible and will be limited to 0.03 acres of Wetland A, a 0.09-acre wetland located on the Project site. The functions and values of the remaining 0.06-acre wetland will be maintained during the operation of the Preferred Alternative. Based upon the information contained in the DEIS in Chapter 4.4.1, "Wetlands," and in the FEIS in Section 2.2, "Only Practicable Alternative Wetland Finding," it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

6.4 EXECUTIVE ORDER 12898, USDOT ORDER 5610.2(A), FHWA ORDER 6640.23A, ENVIRONMENTAL JUSTICE

An analysis of environmental justice was included in Chapter 4.2.3 of the DEIS consistent with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," USDOT Order 5610.2(a), "Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," and FHWA Order 6640.23a, "FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." As stated in the DEIS, the Preferred Alternative will not result in disproportionate adverse effects on minority and low-income populations.

6.5 SECTION 7 OF THE ENDANGERED SPECIES ACT

The evaluation of ecological resources conducted for the DEIS identified the potential for the Preferred Alternative to affect the northern long-eared bat (*Myotis septentrionalis*), which has been proposed by the USFWS for listing as endangered and is considered to have the potential to occur within Wyoming and Livingston Counties. All tree cutting for the Project will be limited to the period from October 31 to March 31 to follow USFWS-recommended guidelines and avoid potential removal of an active roost tree.

Consultation was undertaken with the USFWS regarding the potential impacts of the Preferred Alternative on this species. Based on the conservation measures proposed, FHWA determined that the Project may affect, but is not likely to adversely affect, the proposed endangered northern long-eared bat. In a letter dated May 14, 2014, the USFWS concurred with this determination.

7 SECTION 4(f) OF THE U.S. DEPARTMENT OF TRANSPORTATION ACT

Section 4(f) of the Department of Transportation Act of 1966 applies to the transportation use of parks and recreational areas of national, state, or local significance that are both publicly owned and open to the public; publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public to the extent that public access does not interfere with the primary purpose of the refuge; and historic sites of national, state, or local significance in public or private ownership regardless of whether they are open to the public.

The Final Section 4(f) Evaluation, which is being published concurrent with the FEIS, describes that the Project will require the permanent use of land from Letchworth State Park, a property that

qualifies for protection under Section 4(f) because it is a publicly owned park that is open to the public and because it is listed on the National Register of Historic Places (NRHP). The Project will require the use of 2.08 acres of parkland that will be permanently incorporated into the railroad right-of-way and the use during construction of an additional 1.58 acres of parkland. The Project will also require the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing. These changes will result in an Adverse Effect on the park under Section 106 of the National Historic Preservation Act and constitute use of the Section 4(f) property.

The No Action Alternative would avoid the use of Section 4(f) properties but is not a feasible and prudent avoidance alternative because it does not meet the Project's purpose and need. The three other avoidance options identified (Alternative 2, Repair/Retrofit Existing Bridge; Alternative 7, Southern Alignment Alternative; and Alternative 9, Reroute Rail Traffic Alternative) were also found not to be feasible and prudent avoidance alternatives because they would not meet the Project's purpose and need. Alternative 2 (Repair/Retrofit Existing Bridge) does not meet the Project's purpose and need and therefore is not a feasible and prudent avoidance alternative.

Since there are no feasible and prudent avoidance alternatives to the use of Section 4(f) resources, FHWA and NYSDOT evaluated the remaining alternatives that use Section 4(f) property to identify the alternative that causes the least overall harm in light of the statute's preservation purpose. The analysis included consideration of Alternative 3, New Bridge on Same Alignment; Alternative 4, New Bridge on Parallel Alignment/Remove Existing Bridge; and Alternative 5, New Bridge on Parallel Alignment/Convey Existing Bridge. Alternative 3 and Alternative 5 were both found to be unreasonable during the evaluation conducted during the scoping process for NEPA.

For Alternative 4, the officials with jurisdiction agreed that adverse impacts to the Section 4(f) resource can be mitigated, as indicated by their participation in the development of measures to minimize harm. On balance, therefore, Alternative 4 is the alternative that causes the least overall harm in light of Section 4(f)'s preservation purpose. As a result of Section 106 consultation, the MOA records measures that minimize harm to Letchworth State Park as a historic property. Measures to minimize harm to Section 4(f) parkland are described in the FEIS in Section 2.5, "Project Commitments for Mitigation Measures."

FHWA provided the Draft Section 4(f) Evaluation for the Project to the DOI for review. In a letter dated September 12, 2014, DOI concurred that there is no prudent and feasible alternative to the proposed use of Section 4(f) lands consisting of Letchworth State Park. DOI noted that measures to minimize to historic resources had been developed in consultation with the SHPO and participating Consulting Parties in accordance with Section 106 and were set forth in a Draft MOA for the Project that will be executed prior to Project construction. The MOA was executed in December 2014, and is included in Appendix 1 of the FEIS.

The FEIS/Final Section 4(f) Evaluation has concluded that there is no feasible and prudent alternative to the use of Letchworth State Park, and the proposed action includes all possible planning to minimize harm to the Section 4(f) property resulting from such use.

8 MONITORING OR ENFORCEMENT PROGRAM

FHWA, in coordination with NYSDOT and Norfolk Southern, will ensure the implementation of mitigation commitments recorded in the Section 106 MOA, identified in Section 2.5 and Appendix 1 of the FEIS, including coordination with the SHPO and Concurring Parties with identified roles in carrying out these mitigation measures.

Norfolk Southern, as Project Sponsor, is responsible for implementing the other mitigation commitments identified in the FEIS in Section 2.5, "Project Commitments for Mitigation Measures," of the FEIS. Norfolk Southern will coordinate with relevant permitting agencies and Cooperating Agencies to ensure that the mitigation measures are implemented in accordance with the FEIS.

9 CONCLUSION

Having carefully considered the environmental record noted above, the written and oral comments offered by other agencies and the public on this record, and the written responses to the comments received, the FHWA and NYSDOT have determined that:

1) Adequate opportunity was afforded for the presentation of views by all parties with a substantive economic, social, or environmental interest;
2) Fair consideration has been given to the preservation and enhancement of the environment and to the interests of the communities in which the Preferred Alternative is located; and
3) All reasonable steps have been taken to minimize adverse environmental effects of the Preferred Alternative, and where adverse effects remain, there exists no reasonable alternative to avoid or further mitigate such effects.

On the basis of the careful evaluation and weighing of environmental effects with social, economic, and other considerations and the Portageville Bridge FEIS and this Joint ROD and Findings Statement as well as the written and oral comments offered by the public and public agencies, the FHWA determined in accordance with 23 CFR 771.105 and the NYSDOT certifies in accordance with 17 NYCRR Part 15, that:

- The requirements of 23 CFR 771 and ECL Section 8-0109 have been met as the DEIS and FEIS were duly prepared under NEPA, and the FEIS is sufficient to make the findings under 17 NYCRR Part 15.9 as permitted by 17 NYCRR Part 15.6;
- Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided through implementation of the mitigation measures identified herein;
- Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action to be directly undertaken, funded, or permitted by the department is an alternative which minimizes or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the environmental impact statement;
- The Project, to the fullest extent possible, incorporates all environmental investigations, reviews, and consultations in a single coordinated process;
- Compliance with all applicable environmental requirements is reflected in the environmental document required under NEPA, and as applicable, SEQRA; and
- Public involvement and a systematic interdisciplinary approach were essential parts of the development process for the Project.

Signatories:

Federal Highway Administration

Division Administrator

12/16/14

Date

NYS Department of Transportation

for Chief Engineer

12/15/14

Date

FINAL ENVIRONMENTAL IMPACT STATEMENT / FINAL SECTION 4(f) EVALUATION

For

Portageville Bridge Project

December 2014

FHWA-NY-EIS-14-03F

FINAL ENVIRONMENTAL IMPACT STATEMENT / FINAL SECTION 4(f) EVALUATION

For

Portageville Bridge Project

P.I.N. 4935.79
Wyoming and Livingston Counties, New York

Submitted Pursuant to 42 U.S.C. 4332(2)(c) and 49 U.S.C. 303 by
the U.S. Department of Transportation,
the Federal Highway Administration
and
the New York State Department of Transportation

Cooperating Agencies
Advisory Council on Historic Preservation
U.S. Army Corps of Engineers
Federal Railroad Administration
U.S. Department of Interior / National Park Service
U.S. Department of Interior / U.S. Fish and Wildlife Service
U.S. Environmental Protection Agency
New York State Office of Parks, Recreation and Historic Preservation

for Chief Engineer
New York State Department. of Transportation

12/15/14
Date of Approval

Division Administrator
Federal Highway Administration
New York Division

12/16/14
Date of Approval

This document describes the potential social, economic, and environmental effects that may result from the Portageville Bridge Project. Where adverse impacts are identified, measures to mitigate those effects are described. The Portageville Bridge spans the Genesee River within Livingston and Wyoming Counties, New York.

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River, at its current location, that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting Federal Railroad Administration Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed for Norfolk Southern Railway Company to continue to provide safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York. The alternatives considered included the No Action Alternative and an alternative to construct a new rail bridge at the same general location and remove the existing bridge (the Preferred Alternative).

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Section 1: Introduction

The Federal Highway Administration (FHWA), in cooperation with the New York State Department of Transportation (NYSDOT), has prepared this Final Environmental Impact Statement (FEIS) for the Portageville Bridge Project (the Project) in accordance with the National Environmental Policy Act (NEPA; 42 USC §§ 4321 et seq.). The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between Wyoming and Livingston Counties within Letchworth State Park and serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route. The Project would improve the rail crossing of the Genesee River on the Southern Tier route, so that the crossing meets modern freight rail standards necessary to maintain safe and efficient goods movement. This improvement would protect the long-term viability of New York State's freight rail network.

This FEIS was prepared in accordance with FHWA regulations *Environmental Impact and Related Procedures* (23 CFR § 771) and NYSDOT *Procedures for Implementation of State Environmental Quality Review Act* (17 NYCRR Part 15). The Project is classified as a State Environmental Quality Review Act (SEQRA) Non-Type II action, indicating that it has the potential for significant environmental impacts or substantial controversy on environmental grounds that should be evaluated under SEQRA. In accordance with 17 NYCRR Part 15, the NEPA and SEQRA processes for this Project are being coordinated; therefore, NYSDOT and other New York State agencies undertaking a discretionary action for this Project have no obligation to prepare an additional EIS under SEQRA.

The FHWA and NYSDOT, as the joint lead agencies, signed the cover sheet of the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Project on July 16, 2014 (NYSDOT) and July 21, 2014 (FHWA). A Notice of Availability for the DEIS was published in the Federal Register on August 1, 2014, which established the public comment period on the document. The public comment period remained open through the close of business on September 15, 2014. A public hearing was held by FHWA, NYSDOT, and the Project Sponsor, Norfolk Southern, on August 26, 2014 in Mount Morris, New York, at which individuals were offered the opportunity to provide oral and/or written comments on the findings of the DEIS. At the public hearing, engineering, environmental, and right-of-way aspects of the Project were described in a brief formal presentation. In addition, before and after the hearing, NYSDOT, FHWA, and Project Sponsor representatives were available to answer questions. A court reporter transcribed the proceedings. Written comments (submitted by mail, fax, email, and in person at the public hearing) were accepted through the close of the public comment period on September 15, 2014. Written comments received after this date were also considered.

Since publication of the DEIS, only minor changes to the Project have occurred (as described in Sections 2 and 3), and public comments received on the DEIS do not necessitate Project changes or new environmental analyses. The responses to the comments received are limited to factual corrections or to clarification as to why additional analyses are not warranted. Therefore, this FEIS was prepared using an abbreviated format, incorporating the DEIS analysis by reference. This FEIS provides information on the Preferred Alternative for the Project and commitments to mitigate potential adverse impacts. It also provides a summary of comments received on the DEIS and responses to those comments. The DEIS completed in July 2014 is available at www.dot.ny.gov/portagevillebridge.

1.1 ABBREVIATED FORMAT FOR FEIS

This FEIS uses an abbreviated format, as permitted by the federal Council on Environmental Quality's NEPA regulations (40 CFR 1503.4(c)), the FHWA Technical Advisory T6640.8A, (*Guidance for Preparing and Processing Environmental and Section 4(f) Documents*), and the *Moving Ahead for Progress in the 21st Century Act* (MAP-21) signed into law by President Obama on July 6, 2012. The use of an abbreviated format for the FEIS is intended to accelerate decision-making for projects undergoing environmental review. This approach may be used when the only changes needed to the DEIS are minor and consist of factual corrections and/or an explanation of why the comments received on the DEIS do not warrant further response.

1.2 CONTENTS OF THIS DOCUMENT

This abbreviated FEIS consists of three sections and two appendices as follows:

- **Section 1** is an introduction to the document.
- **Section 2** provides information needed in an FEIS, including:
  - Identification of the Preferred Alternative;
  - Only Practicable Alternative Wetland Finding pursuant to Executive Order 11990;
  - National Park Service concurrence with the Wild and Scenic Rivers Act Section 7 analysis;
  - Summary of further coordination efforts with respect to Section 106 of the National Historic Preservation Act;
  - List of Project commitments for mitigation measures;
  - Summaries of comments received on the DEIS and responses;
  - Final Section 4(f) Evaluation; and
  - Updated Section 6(f) Evaluation, incorporating the changes to the document identified in Section 3.
- **Section 3** identifies minor text changes to the DEIS in an errata format.
- **Appendix 1: Historic and Cultural Resources**
- **Appendix 2: Comments Received on the DEIS**

Section 2: Information Needed in an FEIS

Section 2.1: Identification of Preferred Alternative

This section identifies the Preferred Alternative and discusses the reasons why this alternative was selected.

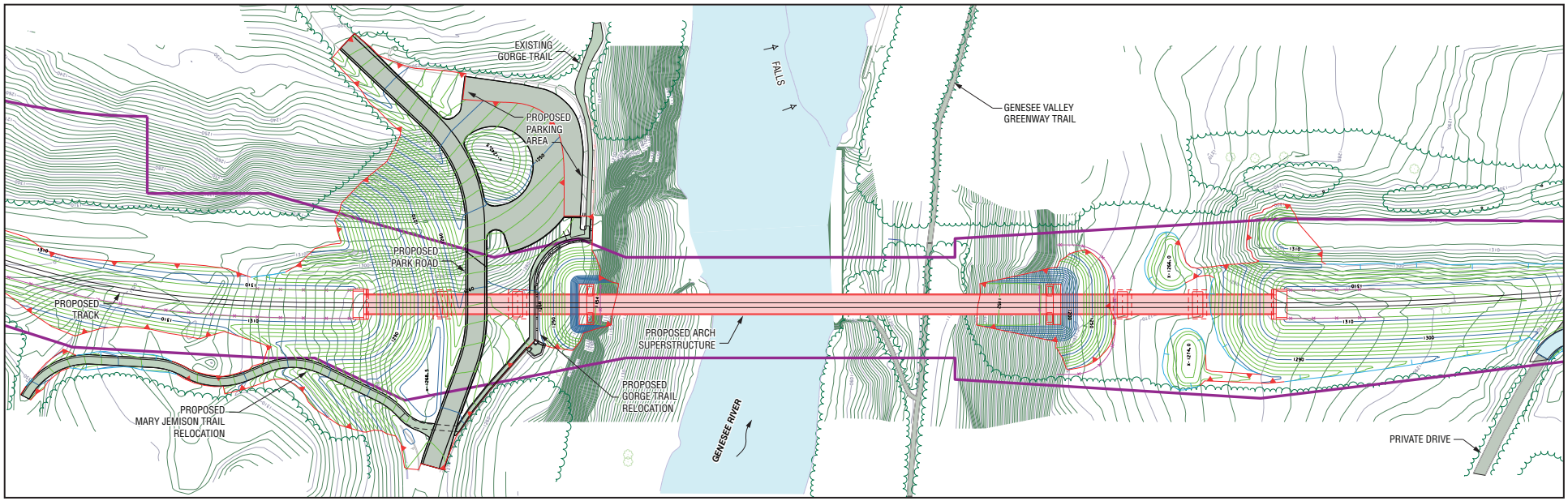
As described in the Draft Environmental Impact Statement (DEIS), nine potential alternatives for the Portageville Bridge Project were evaluated during the scoping phase of the Project. Only two alternatives were progressed for detailed evaluation in the DEIS: the No Action Alternative and Alternative 4 (New Bridge on Parallel Alignment / Remove Existing Bridge).

The Federal Highway Administration (FHWA) and New York State Department of Transportation (NYSDOT) have selected Alternative 4 (New Bridge on Parallel Alignment / Remove Existing Bridge) as the Preferred Alternative. This alternative would best meet the Project's purpose and need, and was determined to be reasonable in terms of engineering considerations, cost effectiveness, and environmental impacts. As compared to the No Action Alternative, the Preferred Alternative would meet the purpose and need of the Project by:

- Eliminating the structural deficiencies of the existing Portageville Bridge;
- Addressing operational constraints along the Southern Tier route caused by the existing bridge; and
- Reducing the need for extensive ongoing maintenance costs related to the existing bridge.

Section 3.1 of the DEIS describes each of the nine potential alternatives that were initially considered for the Project. Section 3.2 of the DEIS describes the seven potential alternatives that were eliminated from further study, and Section 3.3 of the DEIS describes the No Action and Preferred Alternatives.

Figure 2.1-1 provides a plan view of the new bridge. **Figure 2.1-2** shows the proposed alignment, including property requirements. These figures have been updated from those provided in the DEIS, to reflect small shifts made to the property boundaries, as discussed in Section 3.

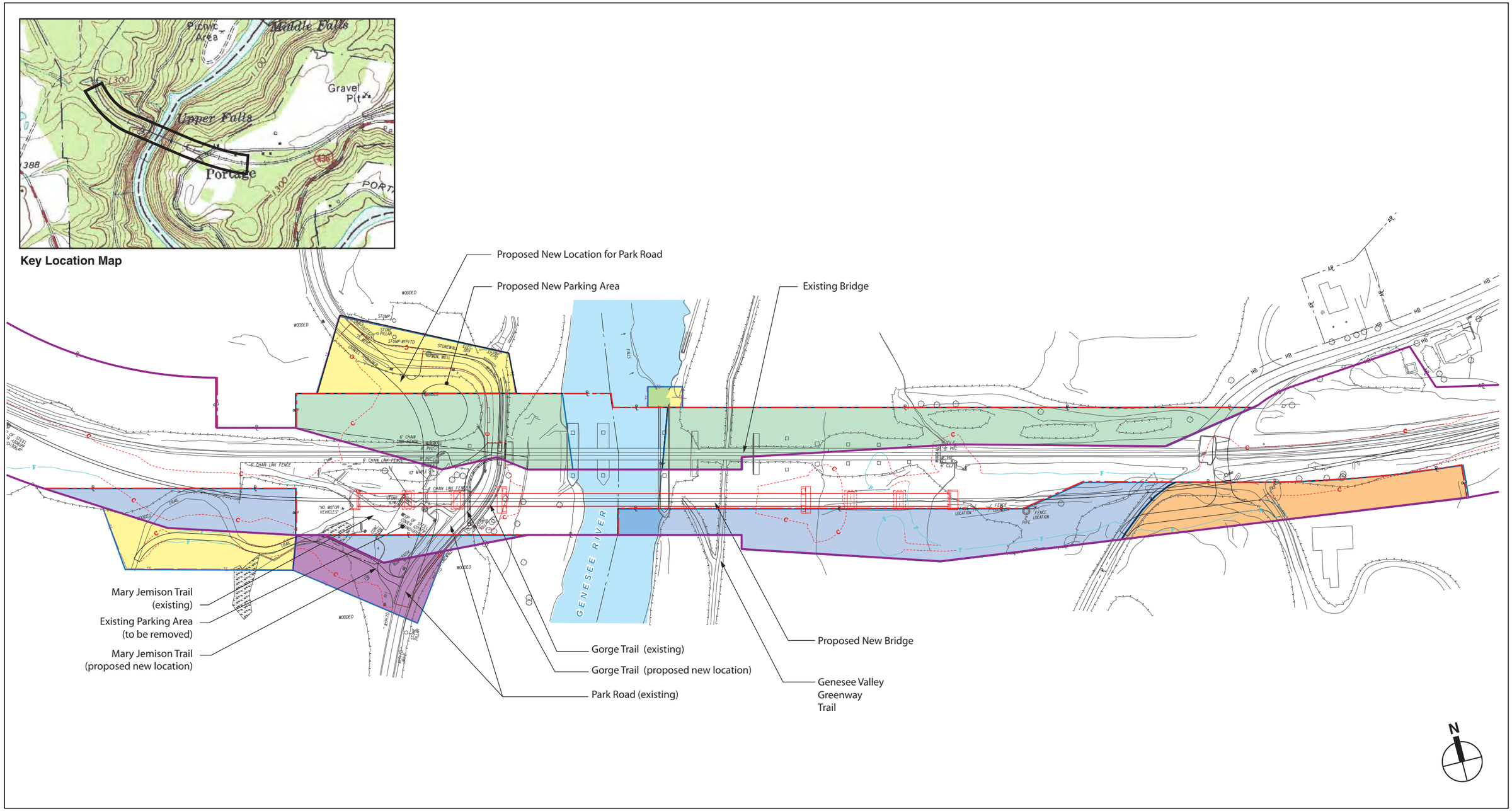


Norfolk Southern Property Line for Preferred Alternative

0 200 FEET
SCALE

Preferred Alternative
Figure 2.1-1

12.9.14



Existing Property Line

Proposed Property Lines

Property to be Transferred to Park (Give) - 2.50 Acres

Property to be Acquired from Park (Take) - 2.08 Acres

Property to be Acquired from Park (Take) - Construction Easement Greater than 6 Months - 0.42 Acres

Construction Easement Less than 6 Months - 1.16 Acres

Property Acquired from Private Landowner - 0.76 Acres

0 200 FEET
SCALE

Proposed Property Acquisition and Transfer
Figure 2.1-2

Section 2.2: Only Practicable Alternative Wetland Finding

The Project was reviewed for compliance with Executive Order 11990, Protection of Wetlands, and the U.S. Department of Transportation (USDOT) Order 5660.1A. The Preferred Alternative involves unavoidable impacts to 0.03 acres of wetlands. The impacts to wetlands have been minimized to the extent possible and would be limited to 0.03 acres of Wetland A, which is a 0.09-acre wetland located on the Project site. The functions and values of the remaining 0.06-acre wetland would be maintained during the operation of the Preferred Alternative. Based on information provided in Sections 4.4.1-4-2 and 4.4.1-5-1 of the Draft Environmental Impact Statement, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

Section 2.3: National Park Service Concurrence with the Wild and Scenic Rivers Act Section 7 Analysis

The portion of the Genesee River that would be affected by the Project is protected by federal legislation, the Genesee River Protection Act of 1989, which gives the portion of the river located in Letchworth State Park the same protection as a “Study River” designated under the federal Wild and Scenic Rivers program. Chapter 4.4.3, “Wild and Scenic Rivers” of the Draft Environmental Impact Statement (DEIS) provides a detailed evaluation of the Preferred Alternative’s effects on the qualities of the Genesee River that afford it protection pursuant to the Wild and Scenic Rivers Act (36 CFR Part 297).

In a letter dated September 18, 2014, the National Park Service conceptually concurred with the evaluation presented in the DEIS and indicated that it is supportive of the identified Preferred Alternative. A copy of this letter is included at the end of this section.

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United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region Office
15 State Street
Boston, Massachusetts 02109-3572

IN REPLY REFER TO:

September 18, 2014

Re: Portageville Bridge PIN 4935.79 DEIS, Treatment of Federal Wild and Scenic Rivers Protections

Jonathan McDade
Federal Highway Administration
Leo W. O'Brien Federal Building
11 A Clinton Ave, Suite 719
Albany, NY 12207

Dear Mr. McDade:

The National Park Service has reviewed the presentation and analysis of federal Wild and Scenic River considerations in relation to the Genesee River and the proposed Portageville Bridge bridge replacement project.

The DEIS correctly identifies that the Genesee River through Letchworth Gorge is protected under the provisions of Section 7 of the Wild and Scenic Rivers Act, and further concludes that review under Section 7 by the National Park Service is triggered because the proposed action involves federal permitting and assistance directly related to the free-flowing condition of the Genesee River.

The analysis contained in the DEIS concludes that there will be two main areas of impact/potential impact to federal Wild and Scenic River values: Free-Flowing condition; and Scenic values.

Free-Flow. The National Park Service agrees with the analysis and conclusions of the DEIS, that Free-Flowing conditions through the project area will be enhanced by the proposed action through the removal of in-water piers associated with the existing bridge. Short-term impacts associated with construction activities (removal of existing piers) will be treated in detail through the Army Corps permitting process, which will be subject to appropriate BMPs and reviewed by NPS to ensure minimization and avoidance of sedimentation or other potential short-term impacts.

Scenic Values. The scenic values of the river in the project area will be altered and impacted by the proposed removal of the existing bridge and construction of the new bridge. Improvements in scenic value can be expected through the opening up of the gorge by removal of the existing in-water piers. And, while the existing bridge has certain scenic value in itself, the replacement structure will also be of a pleasing aesthetic design.

Other aspects of potential impact to values cited in the Genesee's federal legislation (historic, cultural, natural) have been addressed in other portions of the DEIS and no significant impacts to river-related features have been documented or described.

In conclusion, the NPS concurs with the DEIS' treatment of the federal Wild and Scenic River protections, and is supportive of the identified preferred alternative.

Sincerely,

Jamie Fosburgh
New England Team Leader
NER Rivers Program
Jamie_fosburgh@nps.gov
617 223-5191

Section 2.4: Section 106 of the National Historic Preservation Act

As detailed in Chapter 4.4.11, "Historic and Cultural Resources," of the Draft Environmental Impact Statement (DEIS) for the Project, the Preferred Alternative's effects on properties have been evaluated and documented in accordance with Section 106 of the National Historic Preservation Act.

The New York State Department of Transportation (NYSDOT), in coordination with the Federal Highway Administration (FHWA) and in consultation with the State Historic Preservation Officer (SHPO), applied the Criteria of Adverse Effect (36 CFR 800.5(a)(1)) to identified historic properties within the Project's Area of Potential Effects. A finding of ***Adverse Effect*** was documented for the Preferred Alternative, due to the proposed removal and demolition of the existing Portageville Bridge and removal and alterations of other contributing resources within Letchworth State Park, a property listed in the National Register of Historic Places. FHWA advised the Advisory Council on Historic Preservation (ACHP) of this finding and invited the ACHP to participate in consultation for the resolution of adverse effects. Based on the required documentation, coordination with the SHPO, and consideration of input provided by Section 106 Consulting Parties, the ACHP declined to enter into formal consultation.

In accordance with 36 CFR 800.6(c), NYSDOT and FHWA, in coordination with Norfolk Southern and in consultation with the SHPO, developed a Draft Memorandum of Agreement (MOA) that identified measures to resolve the Project's adverse effects on historic properties, taking into consideration the views of Consulting Parties.

The availability of the Draft Environmental Impact Statement (DEIS) for public review served to notify the public of the Project's adverse effects on historic properties, also making available the Section 106 documentation specified in 36 CFR 800.11(e) and the Draft MOA, included in Appendix C to the DEIS. Members of the public were afforded an opportunity to comment concerning the resolution of adverse effects on historic properties through comments submitted during the public review period and public hearing for the DEIS. By the close of the public comment period on September 15, 2014, no comments were received relating to the Project's effects on historic properties that have not been previously considered and addressed, and no further discussion in this Final Environmental Impact Statement (FEIS) is warranted.

No comments were received from Section 106 Consulting Parties in response to the distribution of the Draft MOA to those parties on June 18, 2014, and no comments on the Draft MOA were received from Consulting Parties or the general public during the DEIS public comment period. Therefore, no changes were made to the agreement.

The MOA has been signed by required signatories to the agreement (SHPO and FHWA) and invited signatories that have a specific responsibility to carry out the terms of the MOA (Norfolk Southern Railway Company; NYSDOT; the New York State Office of Parks, Recreation and Historic Preservation; and the National Park Service). Consulting Parties in the Section 106 process were provided an opportunity to sign as Concurring Parties if they wished to indicate their agreement with the outcome of consultation.

The Section 106 process concluded with an executed MOA, filed with the ACHP. The executed MOA is provided in **Appendix 1** of this FEIS. Compliance with 36 CFR Part 800 for this Project will be completed with the implementation of the executed MOA.

Section 2.5: Project Commitments for Mitigation Measures

This section of the Final Environmental Impact Statement (FEIS) summarizes the Project commitments for mitigation measures (see **Table 2.5-1**). These measures were presented in the DEIS and have been refined, as appropriate, based on further coordination with resource agencies following publication of the DEIS.

Table 2.5-1
Project Commitments for Mitigation Measures

Category	Commitment
Bridge Design: Arch Bridge	Use of an arch bridge without supports in the river would open up views of the river and gorge.
Bridge Design: Location	Alignment of the new bridge parallel and close to that of the existing bridge would avoid additional impacts to views that would occur if the bridge were placed at a new location in the park.
Bridge Design: Pedestrian Safety	Fencing, signage, and/or other safety devices would be implemented to discourage trespassing on the railroad right-of-way and new river crossing.
Bridge Design: Paint Color	The bridge would be painted an earth-tone color, selected in coordination with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), to harmonize with the surrounding area.
Bridge Design: Landscaping	New vegetation would be planted to selectively screen portions of the new bridge structure, including the bridge abutment on the west side of the new bridge (which would be visible from Park Road) and along the relocated parking lot. Planting of new vegetation along the east side of the relocated parking lot would create a visual buffer between the parking lot and the Gorge Trail directly to its east.
Parking Lot	A new, larger parking lot (approximately 14,000 square feet) would be constructed north of the new bridge. The parking lot would be increased from 17 spaces to 34 spaces, with the new parking area including a grassy island to manage stormwater runoff, improve traffic flow, and minimize overall impervious surfaces.
Park Road within construction zone	The reconstruction of a segment of Park Road required for the Project would be conducted so as to also address ongoing erosion that has occurred near the railroad bridge and poor sight distances.
Gorge Trail within construction zone	For the portion of the Gorge Trail that would be relocated for the Project, Norfolk Southern would salvage, to the extent feasible, stone from the walls for reuse along the relocated portion of the Gorge Trail.
Gorge Trail outside construction zone	Norfolk Southern would provide certain funding to OPRHP for the restoration of the existing Gorge Trail between the proposed construction zone for the Project and the Middle Falls (outside the Project limits).
Other Park Features	OPRHP would be consulted regarding reconstruction of park features that would be removed for construction of the new bridge, including the southern trailheads for the Mary Jemison Trail and the Gorge Trail.
Castile Entrance	Due to the loss of entrance capacity at the Portageville Entrance during construction, Norfolk Southern would provide funds for the construction of a two-lane replacement entrance booth at the Castile Entrance.

Table 2.5-1 (Cont'd)
Project Commitments for Mitigation Measures

Category	Commitment
Project Design: Stormwater Management	The existing park stormwater drainage system in the Project area would be relocated and redesigned as necessary. To the extent practicable, vegetated swales would be used to direct stormwater and allow it to infiltrate the ground. The new parking area would include a grassy island to manage stormwater runoff and minimize overall impervious surfaces. Where necessary, new catch basins would be created along the new parking lot and new roadway to collect stormwater, which would be directed via pipes beneath Park Road, as occurs today. If needed and appropriate, additional surface water drainage facilities would be installed. Design of the stormwater management features would be coordinated with OPRHP.
Project Design: Cliff Face	Once the foundation area excavation of the gorge is complete, drape netting (a metal mesh curtain) would be applied to the newly exposed rock face to stabilize the rock face and minimize the visual impact on the gorge.
Construction Methods: Work Hours	Normal construction work hours would be 7 AM to 5 PM on weekdays, although some time-sensitive tasks might be performed outside those hours or on weekends.
Construction Methods: Equipment	Construction equipment would be equipped with air pollution control devices, where available and when not cost-prohibitive and unnecessary idling of trucks and equipment would be minimized.
Construction Methods: Erosion Control Measures	Construction would involve a State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). A Stormwater Pollution Prevention Plan (SWPPP) would be developed and implemented during construction.
Construction Methods: Work in the Water	A Section 10 permit under the Rivers and Harbors Act or a Section 404 permit under the Clean Water Act would be obtained from the U.S. Army Corps of Engineers (USACE) for the temporary construction access elements that would be placed within the river and for the removal of existing bridge piers. Measures, such as the use of turbidity curtains, would be employed where feasible and necessary to minimize impacts to the river. Clean rock fill without fines (very small soil particles) would be placed within the river for the temporary work trestle/cause way to further minimize any potential increases in suspended sediment within the river. Norfolk Southern would work with the New York State Department of Environmental Conservation (NYSDEC) to address the agency's concerns related to NYSDEC Protection of Waters permit and other regulations. Norfolk Southern would work with the NYSDEC and OPRHP to address concerns related to protection of the Genesee River, to the extent feasible and appropriate. The Project would also include coordination with NYSDEC to the extent feasible to address concerns of the NYSDEC related to the river's status as a New York State-designated Scenic River. Following the demolition of the piers for the old bridge, temporary construction access elements within the river (e.g., temporary fill and work trestle) would be removed and the area restored to natural grade; rock material would be placed within the river where the piers were removed only as necessary to establish natural looking contours.
Construction Methods: Blasting	Controlled blasting would be conducted using containment measures for falling rock. If rock does enter the river as a result of blasting, the contract documents would require that the contractor assess the existing containment strategies to make any corrections necessary, and coordinate with appropriate agencies, assess appropriate removal strategies, and, if appropriate, remove the fallen rocks from the river.
Construction Methods: Pile Drilling	If the approach span piers are pile-supported, the piles would be drilled rather than driven into place to reduce noise and vibration.
Construction Methods: Dewatering	If dewatering is required, discharge of water would be conducted in accordance with applicable requirements for such discharges to surface water.
Asbestos and Contaminated and Hazardous Materials	If any asbestos containing materials (ACM) require removal as part of the Project, existing applicable regulatory requirements would be adhered to, including those relating to testing, handling, removal, agency notification, and variances. Applicable regulatory requirements would be followed for any construction work with the potential to disturb contaminated and hazardous materials (CHM), including lead-based paint. *(Cont'd on next page)*

Table 2.5-1 (Cont'd)
Project Commitments for Mitigation Measures

Category	Commitment
Contaminated and Hazardous Materials *(Cont'd)*	Any subsurface work that involves the disturbance of soils would be conducted in accordance with a Project-specific Health and Safety Plan (HASP) and other applicable regulations and criteria to identify and manage any encountered or accidentally released CHM, such as releases of fuel or petroleum from on-site construction vehicles and equipment, and to protect public health, worker safety, and the environment. The abandoned transformer located east of the existing bridge would be removed; any associated contaminated soil would be disposed of off-site in accordance with applicable regulatory requirements including those related to spill reporting and those related to PCBs, in the event PCBs are identified. Removed creosote-treated ties and bridge timbers would either be retained for future railroad use or handled in accordance with applicable regulatory requirements.
Construction Methods: Wetland	Filling of Wetland A would be conducted in accordance with requirements of a permit from the U.S. Army Corps of Engineers. Protection measures would be employed to limit encroachment into the remaining 0.06-acre wetland area during construction. These will include the use of erosion and sediment control measures to protect the water quality of the wetland. Exclusion fencing would also be installed around the portion of the remaining 0.06-acre wetland within the area of disturbance to keep machinery and foot traffic out of the wetland during construction.
Construction Methods: Bald Eagles	The Project would include measures to minimize disturbance to bald eagles during construction, in accordance with the requirements of a permit to be obtained from the U.S. Fish and Wildlife Service (USFWS) pursuant to the federal Bald and Golden Eagle Protection Act.
Construction Methods: Bats	Tree cutting for the Project would be limited to the period from October 31 to March 31 to avoid impacts to roosting habitat for the northern long-eared bat and the eastern small-footed bat.
Construction Methods: Timber Rattlesnakes	Measures would be developed in coordination with OPRHP and NYSDEC regarding measures to minimize impacts to timber rattlesnakes during construction.
Construction Methods: Invasive Species Management	Prior to site disturbance, potential invasive species would be identified and methods to control and/or remove these species would be developed. Measures to minimize the spread of invasive species during construction of the Project would be employed, such as washing construction equipment prior to arrival on-site. In addition, the Project would practice good housekeeping measures, such as using only locally obtained clean topsoil during final grading. In consultation with OPRHP, construction would be undertaken using Best Management Practices related to invasive species management in state parks.
Construction Methods: Visual Impact	In consultation with OPRHP, measures to mitigate construction-period visual impacts to the extent practicable would be developed and implemented during construction.
Construction Methods: Construction Protection Plan for Historic Properties	Mitigation for historic properties developed in consultation among FHWA, NYSDOT, SHPO, Norfolk Southern, OPRHP, the Seneca Nation of Indians, Tonawanda Seneca Nation, Tuscarora Nation, and other Consulting Parties are recorded in an executed Memorandum of Agreement (MOA) prepared in accordance with Section 106 of the National Historic Preservation Act. A Construction Protection Plan (CPP) for historic properties would be developed in consultation with OPRHP and FHWA prior to the initiation of any excavation and construction activities. The CPP would describe measures to protect historic park features from vibration, excavation, and damage from heavy equipment, and measures for the control and/or management, to the extent practicable, of fugitive dust, erosion, noise, lighting and visual effects of construction. The CPP would include procedures to address the unanticipated discovery of historic or cultural materials during construction.
Construction Methods: Avoidance Plan for Cascade House Site	Consistent with the Section 106 MOA, an Avoidance Plan for the protection of the Cascade House Historic Site would be implemented to ensure that archaeologically sensitive areas located outside the construction footprint are undisturbed by construction. The Avoidance Plan requires orange construction fencing to be placed along the perimeter of the construction limits and that the area be labeled as "Environmentally Sensitive – Do Not Impact."

Table 2.5-1 (Cont'd)
Project Commitments for Mitigation Measures

Category	Commitment
Construction Methods: Staging Area Limitations	Consistent with the Section 106 MOA, for the protection of areas that may be archaeologically sensitive, restrictions would be placed on potential staging areas located on the east approach to the Portageville Bridge between Portageville Road and the existing Norfolk Southern right-of-way. The area can be used for parking for light trucks as long as no excessive rutting occurs. If the area is to be used as a storage area for materials, road fabric would be placed along the ground surface to act as a barrier and prevent any of the material from migrating into the surface soils. Upon completion of the Project, the fabric would be removed and the area would be re-seeded and restored. No construction activity associated with the Project can occur on the private property along the eastern approach to the bridge that is south of the proposed Norfolk Southern property line (see the discussion of Cascade House Site above).
Construction Methods: Genesee Valley Greenway Trail / Finger Lakes Trail	During construction, Norfolk Southern would coordinate with OPRHP to provide signage on the Genesee Valley Greenway Trail / Finger Lakes Trail to inform users of the status of trail closures or partial trail closure due to Project construction, including providing updates to such signage when subsequent phases of construction impact the trail.
Construction Methods: Lawns along Park Road	Norfolk Southern would coordinate with OPRHP to make suitable arrangements for maintenance of lawns normally accessed via the closed Park Road.
Historic Resources Educational and Interpretative Materials	Consistent with the Section 106 MOA, Norfolk Southern would provide certain funding to the New York State Natural Heritage Trust for OPRHP to prepare the following educational and interpretive materials at Letchworth State Park: 1) an interpretive plan; 2) salvage, conservation, and installation of a part of the base of Pier 11 of the Portageville Bridge, including portions of both legs, the connecting truss, and both date plates, to be conserved by OPRHP for display elsewhere in the park; 3) creation and installation of two interpretive kiosks; and 4) creation of a museum exhibit at the William Pryor Letchworth Museum, documenting the history of the Portage High Bridge within the context of rail history in Letchworth State Park.
Cultural Enhancement	Consistent with the Section 106 MOA, Norfolk Southern would provide certain funding to the New York State Natural Heritage Trust for the preparation of one additional interpretive kiosk in Letchworth State Park to acknowledge the cultural importance of the area to the Seneca Nation. The location and content of the interpretive kiosk would be determined by OPRHP through consultation among the Seneca Nation, FHWA, and the New York State Historic Preservation Office.
Historic Resources Interpretation	Consistent with the Section 106 MOA, Norfolk Southern would provide certain funding for the preparation of Historic American Engineering Record (HAER)-level recordation of the Portageville Bridge, including additional archival photography and a narrative that describes the physical characteristics of the Portageville Bridge and its history.
Tree Planting and Revegetation	Following construction, the portions of the Project area disturbed during construction that would not contain permanent structures (e.g., railroad infrastructure, park roadway, or parking area) would be revegetated according to a habitat restoration plan to be developed with OPRHP in coordination with NYSDEC. Upland areas affected by construction (including disturbed areas surrounding the remaining 0.06-acre wetland) would be planted with native vegetation, where feasible and in coordination with the OPRHP's native plant policy, to allow for bank stabilization and erosion control.
Mitigation for loss of coast creeping moss	Mitigation requirements for the potential loss of coast creeping moss within the Project area would be developed with OPRHP and in coordination with NYSDEC.
Repair of Park Road both within and south of construction zone	Once construction is complete, the segment of Park Road from the Portageville Entrance to the construction site would be repaired as necessary before the road is reopened to the public.
Repair of Portageville Road	Once construction is complete on the east side of the river, Portageville Road would be repaired as necessary.

Section 2.6: Response to Comments Received on the DEIS

2.6.1 INTRODUCTION

This document summarizes and responds to comments on the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Portageville Bridge Project. The Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT), acting as joint lead agencies, signed the cover sheet of the DEIS on July 16, 2014 (NYSDOT) and July 21, 2014 (FHWA). A Notice of Availability of the DEIS was published in the Federal Register on August 1, 2014, which established the public comment period on the document.

The public comment period remained open through the close of business on September 15, 2014. Written comments (mail, fax, email, and submissions at the public hearing) were accepted through that date; written comments received after the close of the comment period were also considered.

During the public comment period on the DEIS, copies of the DEIS were available for review on the Project's website (www.dot.ny.gov/portagevillebridge) and at the following locations during normal business hours:

New York State Department of Transportation:

Region 4 Office, 1530 Jefferson Road, Rochester, NY

New York State Office of Parks, Recreation and Historic Preservation:

Letchworth State Park Visitors' Center, Castile, NY

Public Libraries:

Bell Memorial Library, 16 East Street, Nunda, NY

Mt. Morris Library, 121 Main Street, Mount Morris, NY

Cordelia A. Greene Library, 11 S. Main Street, Castile, NY

Perry Public Library, 70 N. Main Street, Perry, NY

Pike Library, 65 Main Street W., Pike, NY

A public hearing was held by FHWA, NYSDOT, and the Project Sponsor, Norfolk Southern Railway Company, on August 26, 2014 in Mount Morris, New York, at which individuals were offered the opportunity to provide oral and/or written comments on the findings of the DEIS. At the public hearing, engineering, environmental, and right-of-way aspects of the project were described in a brief formal presentation. In addition, before and after the hearing, NYSDOT and Project Sponsor representatives were available to answer questions. A court reporter transcribed the proceedings.

This document provides a summary of substantive comments received on the DEIS during the public review period. **Section 2.6.2** of this document provides a list of the public agencies, elected officials, organizations, and individuals that commented on the DEIS. **Section 2.6.3** provides a summary of the comments and a response to each, with the name of the

commenter(s) who made the comment provided in parentheses after each comment. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together. A certification of the public hearing is provided at the end of this chapter.

A copy of all comments received, including the transcript of the public hearing, is provided in **Appendix 2** of the FEIS.

2.6.2 COMMENTERS

2.6.2.1 Elected Officials and Representatives of Federal, State, County, and Local Governments and Governmental Agencies

U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Erin M. Schnettler. E-mail dated July 31, 2013 transmitting letter of November 26, 2013 from Karen Greene, Reviewing Biologist, NMFS. (NMFS)

U.S. Department of the Interior, Andrew L. Raddant, Regional Environmental Officer. Letter dated September 12, 2014 transmitted by e-mail from Diane Lazinsky, September 12, 2014. (DOI)

U.S. Department of the Interior, National Park Service, Jamie Fosburgh, New England Team Leader, NER Rivers Program. Letter dated September 18, 2014 transmitted by e-mail from Diane Lazinsky, September 12, 2014. (NPS)

U.S. Environmental Protection Agency, Region 2, Judy-Ann Mitchell, Chief, Sustainability and Multimedia Programs Branch. Letter dated September 15, 2014. (USEPA)

New York State Office of Parks, Recreation and Historic Preservation (OPRHP), Charles King, Code Enforcement, Letchworth State Park. E-mail dated September 24, 2014. (OPRHP–King)

Livingston County EMC Board, Barry Ganzhorn, Sr. Written comments received September 4, 2015. (Livingston EMC–Ganzhorn)

Livingston County Emergency Management Council (EMC) Board, David Parish. Written comments received August 29, 2014. (Livingston EMC–Parish)

Wyoming County, A. Douglas Berwanger, Chairman, Wyoming County Board of Supervisors and Todd Gadd, Wyoming County Highway Superintendent. Letter dated September 11, 2014. (Wyoming)

Town of Portage, Ivan Davis, Supervisor. Comments made at public hearing. (Portage–Davis)

Town of Portage, Steve Howe, Highway Superintendent. Comments made at public hearing and e-mails dated September 1 and September 13, 2014. (Portage–Howe)

2.6.2.2 Representatives of Interest Groups

Finger Lakes Trail Conference (FLTC), Pat Monahan, President. E-mail dated September 12, 2014. (FLTC–Monahan)

Finger Lakes Trail Conference, Irene Szabo, Volunteer and Letchworth Branch Trail Coordinator. Letter dated September 11, 2014. (FLTC–Szabo)

2.6.2.3 Individuals

Tom Breslin, former Park Manager, Letchworth State Park, OPRHP. E-mail dated August 18, 2014. (Breslin)

John Cucinotta. Comments made at public hearing. (Cucinotta)

Leigh Davis. E-mails dated September 14 and 15, 2014. (L. Davis)

Karl Krause. E-mail dated August 29, 2014. (Kraus)

Ed Law. Written comment submitted at public hearing. (Law)

Martin V. Oulton, power of attorney for Kevin Oulton and Melissa Stermole, 307 Portageville Road (owners of private property to be purchased for the Project). Letters dated September 8 and 9, 2014. (Oulton)

PJL. E-mail dated August 21, 2014. (PJL)

Gail Rogers. Written comments received September 10, 2014. (Rogers)

Jan Vrooman, former Assistant Regional Director for the Genesee State Park Region, OPRHP. E-mail dated August 19, 2014. (Vrooman)

Ken Wallace. E-mail dated August 27, 2014. (Wallace)

Charlie Wilson. E-mail dated August 24, 2104. (Wilson)

Karla Wolcott and Linda Ries. Letter received September 12, 2014. (Wolcott–Ries)

2.6.3 SUMMARY OF AND RESPONSE TO COMMENTS RECEIVED

2.6.3.1 Preferred Alternative

Comment 1: I support the Project. Improving railroads is important for society. *(Cucinotta)*

Response: Comment noted.

Comment 2: I'm in favor of railroads, a new bridge at Letchworth over the Genesee River. Bring back passenger service. *(Law)*

Response: Comment noted.

Comment 3: I believe that the new bridge will be a strong draw to adventuresome park visitors, as the old bridge was. People trespass on that bridge despite warning signs. The danger of such a draw will be compounded by the possibility of faster and more frequent trains. Therefore, the deck of the new bridge should be constructed in such a manner that possible trespassers will not have their lives endangered. *(Breslin)*

What measures will be taken for the safety of tourists that seem to insist on climbing onto the current and probably the future bridge? Today, the slower train speed gives people time to exit the bridge before the train crosses. On the new bridge, it appears there are no safety railings and the speeds are predicted to be

35 MPH, which is not a good situation for anyone trespassing on the bridge. (*Wallace*)

I am concerned about the safety of people who are drawn to the new bridge because it will offer great views of the river from the bridge deck. It will be very difficult to keep trespassers off the bridge. I suggest that the bridge deck be wide enough to allow trains to safely pass persons on the bridge. I understand that the bridge is designed for Class 4 speeds up to 60 MPH. (*Vrooman*)

We are concerned about security and the possibility of someone causing harm to the bridge, which would have devastating consequences for everyone along the Genesee River all the way to Rochester. As it is right now it's almost impossible to keep folks off the bridge, but imagine a terrorist on the bridge. (*Wolcott–Ries*)

Response: As described in the DEIS (see Chapter 3, "Project Alternatives," Section 3.3.2 on page 3-7 and Section 3.4.1 on page 3-9), pedestrian access would be prohibited on the new bridge. Fencing, signage, and/or other safety devices would be implemented to discourage trespassing on the railroad right-of-way and new river crossing. As also described in the DEIS (see Chapter 3, "Project Alternatives," Section 3.4.2 on page 3-9), the U.S. Department of Homeland Security advises against pedestrian access to new freight bridges, given the importance of freight railways to the nation's economy and security. For the same reasons, Norfolk Southern prohibits pedestrian access on its bridges and pedestrian access would be prohibited on the new bridge. The bridge would be designed in accordance with the current American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering and comply with Norfolk Southern's design specifications (see the DEIS discussion on page 3-8 of Chapter 3). The bridge deck would be wide enough to allow train crews to walk beside a stopped train to inspect it. A handrail would be provided for the safety of railroad personnel. The bridge deck would not be wide enough to provide a safe location for pedestrians when trains are moving across the bridge.

Also, please note that Norfolk Southern anticipates an operating speed of 35 MPH across the bridge (see the discussion in the DEIS in Chapter 3, "Project Alternatives," Section 3.3.2 on page 3-7 and Section 3.3.3 on page 3-8).

Comment 4: What type of emergency plan is considered in case of a derailment at the bridge site above the river, below and downstream? Chemical containment, damage to the ecosystem? *(Livingston EMC–Ganzhorn)*

Response: Norfolk Southern has procedures in place that meet or exceed industry standards for managing accidents, such as derailments, throughout the Norfolk Southern system. These procedures are in effect today on the Southern Tier route, including the existing Portageville Bridge, and would continue to be used in the future with the new bridge. Norfolk Southern has an Emergency Action Plan that addresses responses in the event of a derailment. Through the use of emergency response planning and specialized contractors, Norfolk Southern conducts responses that address all necessary elements, including water and

wildlife protection and restoration. As part of the Emergency Action Plan, telephonic notifications related to emergency incidents and responses are provided as required by applicable law.

Comment 5: If the Project involves straightening the rail alignment, Norfolk Southern should consider reconstructing the overpass at Route 436. The curve there is tight and there have been five or six fatalities. *(Portage–Davis)*

Response: As described in the DEIS (see Chapter 3, "Project Alternatives," Section 3.3.2 on page 3-7), the Project includes a slight southward shift to the rail alignment so that the tracks can align with the new bridge, which would have its centerline approximately 75 feet south of the existing bridge's centerline. New approach tracks would be laid approximately 1,200 feet east and 1,200 feet west of the existing bridge. The full extent of the area affected is shown in the DEIS in Chapter 4.5, "Construction Effects," Figure 4.5-2. The eastern extent of the construction work is approximately 3,700 feet (0.7 miles) from the overpass at Route 436 cited in the comment; therefore, reconstructing the overpass is outside the scope of work for this Project.

Comment 6: Electric service is requested for the property just south of the new railroad right of way. An underground installation at the time of construction is desired. *(Oulton)*

Response: Provision of electric service to private property is the responsibility of the utility provider for the affected area, Rochester Gas & Electric, and is outside the scope of work for the Portageville Bridge Project.

Comment 7: Concerning the grade crossing to be installed, the new crossing should be connected directly to the existing Portageville Road to the south. It should be connected at a right angle, enabling safe crossing of vehicles and farm equipment, including large farm trucks. I suggest omitting entirely the proposed outlet to the east on the south of the crossing. A right-angle approach to the railway would then be possible. We can access the property further south on Portageville Road. *(Oulton)*

Response: The final design for the at-grade crossing at Portageville Road has not been completed. The anticipated design is a perpendicular (right-angle) alignment of the road with the railroad tracks. This is shown in the DEIS in Figure 3-5 in Chapter 3, "Project Alternatives."

Comment 8: Note that the correct name of the Town of Portage road leading to the construction site on the east side of the Genesee River is Portage Road, not Portageville Road. *(Portage–Davis)*

Response: Both names have been used by residents and town officials to refer to the cited road (which extends from Route 436 to the railroad right-of-way near the eastern approach to the bridge). The tax map for the Town of Portage (section 181.00, available from Livingston County Real Property Services) labels this

road as Portageville Road; thus, the name "Portageville Road" has been retained in the FEIS.

2.6.3.2 Wild and Scenic Rivers

Comment 9: The National Park Service (NPS) has reviewed the presentation and analysis of federal Wild and Scenic River considerations in relation to the Genesee River and the proposed Portageville Bridge project. The NPS concurs with the DEIS's treatment of the federal Wild and Scenic River protections and is supportive of the Preferred Alternative. The NPS agrees with the analysis and conclusions of the DEIS that free-flowing conditions through the Project area will be enhanced by the proposed action through the removal of in-water piers associated with the existing bridge. Short-term impacts associated with construction will be treated in detail through the U.S. Army Corps permitting process. The scenic values of the river in the Project area will be altered and impacted by the proposed removal of the existing bridge and construction of the new bridge. Improvements in scenic value can be expected through the opening up of the gorge by removal of the existing in-water piers. And, while the existing bridge has certain scenic value in itself, the replacement structure will also be of a pleasing aesthetic design. Other aspects of potential impact to values cited in the Genesee River's federal legislation (historic, cultural, natural) have been addressed in the DEIS and no significant impacts to river-related features have been documented or described. *(NPS)*

Response: The NPS concurrence related to Wild and Scenic Rivers is reflected in the FEIS.

2.6.3.3 Visual Resources

Comment 10: I appreciate the beauty of the area and was pleased to read that Norfolk Southern will salvage stone from existing walls to rebuild stone walls along the relocated trail. We hope that those who oversee the construction will be sensitive to leaving as small a permanent footprint of the Project on the surrounding landscape. *(L. Davis)*

Response: Comment noted.

Comment 11: The DEIS discusses the visual effects of the old bridge being dismantled and therefore not being part of the visual landscape. What views of Upper Falls in seasons when deciduous trees are leafless will no longer be visible from the Gorge Trail? Which vantage points during the time of necessary construction and which permanently due to trail placement change? *(L. Davis)*

Response: As described in the DEIS (see page 4.4.12-8 in Chapter 4.4.12, "Parks and Recreational Resources"), the only change to the Gorge Trail as a result of the Project would be to shift the trail slightly to the west for the segment between its start (which is currently just south of the existing bridge) to a point just north of the existing bridge. Shifting the affected segment of trail, which is approximately 150 feet long, would allow the face of the gorge to be excavated so that the new

bridge could be securely anchored into the gorge. Once the Project is complete, the Gorge Trail would continue to run along the edge of the gorge beneath the new bridge. No views of Upper Falls from the trail would be eliminated. Maps of the existing and future condition are provided in the DEIS in Chapter 3, "Project Alternatives"—see Figure 3-3 for the existing condition and Figure 3-4 for the future condition. The DEIS also provides a preliminary rendering that illustrates this section of the trail in Chapter 4.4.13, "Visual Resources"—see Figure 4.4.13-15 for existing conditions and Figure 4.4.13-19 for the future condition. For information about views during construction, please see the response to Comment 35.

2.6.3.4 Historic and Cultural Resources

Comment 12: The bridge is of historical significance and should not be demolished. Thousands of tourists take pictures of the landmark. The money to tear it down and dispose of it could be spent on a holistically landmark and close off to people. [sic] *(PJL)*

Do they need to tear down the old bridge? Why not keep it up as a historic treasure? *(Krause)*

Response: The DEIS documents the historic significance of the existing bridge as a contributing resource to Letchworth State Park's listing in the National Register of Historic Places (see Chapter 4.4.11, "Historic and Cultural Resources"). As such, the Portageville Bridge and entire park are afforded protection under Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 USC 303; 23 CFR 774), which required the consideration of Project alternatives that would avoid the use of these Section 4(f) resources. In Chapter 3, "Project Alternatives" (see Section 3.2.3 on page 3-4), and in Chapter 5, "Draft Section 4(f) Evaluation" (see Sections 5.7 and 5.8 on pages 5-19 – 5-25), the DEIS describes alternatives that would avoid the demolition and removal of the Portageville Bridge as part of the Project by removing rail traffic from the existing bridge and conveying ownership from Norfolk Southern to a new owner. Any alternative to retain the bridge would require rehabilitation of the structure, ongoing maintenance, and implementation of measures to ensure public safety. The New York State Office of Parks, Recreation and Historic Preservation (OPRHP), which has jurisdiction over Letchworth State Park, is unable to assume ownership. In addition, no other responsible entity was identified as a result of outreach to agencies, stakeholders and the public during review under the New York State Environmental Quality Review Act (SEQRA) and National Environmental Policy Act (NEPA) over the past six years. In the absence of a new owner, retaining the historic bridge was determined to be unreasonable and was eliminated from further consideration in the DEIS.

Comment 13: When the bridge is replaced, the old bridge could be used as an observation area. People use it now. $65 million isn't much money when it comes to economic value and safety. *(Wilson)*

Response: Please see the response to Comment 12. Please also note that $65 million is not the cost for demolishing the old bridge; it is the estimated cost for the entire Project (see Chapter 3, "Project Alternatives," Section 3.3.2, page 3-8).

Comment 14: In the public hearing presentation, several presenters mentioned nearby sensitive archaeological areas. Where are these located and what is their significance? *(Livingston EMC–Parish)*

Response: Chapter 4.4.11, "Historic and Cultural Resources" of the DEIS contains a detailed discussion of the archaeological resources investigations conducted for the Project. Archaeological testing within the Project's area of potential effects (APE) produced a sufficient sample of historic material to identify archaeological deposits associated with the Cascade House, a hotel that was located east of the Genesee River from the mid-19th century through the mid-20th century. Archaeologically sensitive areas located on private property immediately outside the Project APE have the potential to yield information on historic development of the area associated with the coming of the railroad in the mid-19th century. An avoidance plan will be implemented to protect these archaeologically sensitive areas from inadvertent disturbance during construction.

Comment 15: I believe the appearance of the proposed new bridge will be an improvement from the existing bridge and it makes sense to remove the old bridge as part of this Project. I agree that several pieces of the old bridge should be displayed in the park to commemorate its history and service. *(Vrooman)*

Response: Comment noted.

2.6.3.5 Parks and Recreational Resources

Comment 16: On behalf of those who maintain and enjoy the Finger Lakes Trail and Genesee Valley Greenway beneath the Norfolk Southern bridge at Letchworth State Park, the DEIS assurance that neither the canal prism nor the Pennsylvania Railroad bed will be altered by the upcoming construction is welcome. (*FLTC–Monahan, FLTC–Szabo)*

Response: Comment noted.

Comment 17: The NEPA DEIS, in the chapter on Recreational Uses, is incorrect in stating that the Greenway has a gap in the slide area. Although it is not a towpath, there is a continuous trail. It's not level and features seeps through the clay, but is heavily used by both hikers and intrepid bicyclists. *(FLTC–Monahan, FLTC–Szabo)*

Response: The information provided in this comment has been included in the FEIS.

Comment 18: What parts of the Gorge Trail will be permanently changed? None of the maps seem to be that specific. If the change above Upper Falls involves any of the viewing "benches," can they be reset on the new trail section even though the view will not be the same? *(L. Davis)*

Response: See the response to Comment 11. In the portion of the Gorge Trail that will be relocated, there are no viewing benches.

2.6.3.6 General Ecology and Wildlife Resources

Comment 19: The DEIS states that the areas to be cleared will be reforested with native plants. What will be the size and diversity of trees replanted? Will you be working with botanists/foresters local enough to gauge viability over several years? *(L. Davis)*

Are you replanting 750 trees and what kind would they be? (*Rogers*)

Response: As described in the DEIS, following construction, the portions of the Project area disturbed during construction that would not contain permanent structures (e.g., railroad infrastructure, park roadway, or parking area) would be revegetated according to a habitat restoration plan to be developed with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) in coordination with the New York State Department of Environmental Conservation (NYSDEC) after issuance of the Record of Decision for the Project. Upland areas affected by construction would be planted with native vegetation, where feasible and in coordination with the OPRHP, to allow for bank stabilization and erosion control. The palate of species for the plan would consist of locally-grown native herbaceous materials, shrubs, and trees that would likely occur in adjacent ecological communities. Development of the planting plan (including species, sizes, numbers, and locations) would occur during the final design stages in consultation with OPRHP.

Comment 20: The stream referred to in the DEIS as “Stream B,” just north of the Project limits, is correctly called Deh-Ge-Wa-Nus. This stream was named Deh-Ge-Wa-Nus by William Pryor Letchworth and the Nameless Club sometime in the 1860s. This group provided Indian names and as well as other names to various features around the Glen Iris Estate. Deh-Ge-Wa-Nus has special connotation as being the name given Mary Jemison by the Senecas. Deh-Ge-Wa-Nus has been known to be interpreted as meaning “Two Falling Voices.” *(OPHRP–King)*

Response: This correction has been made in the FEIS.

Comment 21: Based on National Marine Fisheries Service’s (NMFS) review pursuant to the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Magnuson-Stevens Fishery Conservation and Management Act, no threatened or endangered species under the jurisdiction of the NMFS are known to occur within the Project area; aquatic resources under the jurisdiction of the NMFS are not expected to occur within the Project area; and no essential fish habitat (EFH) has been designated within the Project area. Further coordination by the federal action agency will not be required. *(NMFS)*

Response: Comment noted.

Comment 22: The DEIS adequately responds to issues that the U.S. Environmental Protection Agency (USEPA) raised previously regarding mitigation resulting from the loss of the 0.03 acres of wetland and the 1.1 acres of shale cliff and talus slope community. *(USEPA)*

Response: Comment noted.

2.6.3.7 Construction Methods and Effects

Construction Methods

Comment 23: Are you hiring any local contractors? Do you have housing for workers? *(Rogers)*

Response: Construction of the Project would be conducted by a contractor selected by Norfolk Southern following a bidding process and would be managed by a construction manager selected in the same way. The firms selected for those roles may choose to hire local workers. Housing needs, if any, would be addressed by the contractor.

Comment 24: What are you going to do with all the trees you cut down? *(Rogers)*

Response: Norfolk Southern would work with New York State Office of Parks, Recreation and Historic Preservation (OPRHP) to determine how the trees removed from the Project site would be handled.

Comment 25: Where are you putting the rocks you take out of the cliffs? *(Rogers)*

Response: As described in the DEIS (see Chapter 4.5, "Construction Effects," Section 4.5-2-11 on page 4.5-6), at this time, it is anticipated that most if not all of the excavated rock from the arch buttress foundation excavation may be suitable for reuse at the Project site as embankment material for the new approaches. However, materials would need to be stockpiled after excavation since embankment construction would not yet be under way; in addition, earth and rock may need to be moved from the excavation zone on the west side of the river to the excavation zone on the east side. If materials that are unsuitable for reuse are encountered, these would need to be hauled away and structural backfill may need to be delivered.

Comment 26: Where are you leaving all your heavy equipment? *(Rogers)*

Response: Chapter 4.5, "Construction Effects," of the DEIS describes the general methods of construction to be used for the Project. As described (see Section 4.5-2-2 on pages 4.5-1 and 4.5-2), the construction zone would consist of an area close to the railroad tracks and existing bridge on both sides of the river. Staging areas would be set up within the construction zone from which construction activities would be managed and where construction equipment would be stored as needed. Construction staging and material laydown areas would be located within the right-of-way owned by Norfolk Southern (including the new area to be

acquired) and within temporary construction easements adjacent to the right-of-way. If necessary, the contractor may also seek approval to use other property as staging areas near the construction zone.

Comment 27: It is important to keep Portageville Road maintained during construction because there are several full-time residents on that road who need regular access and access for emergency vehicles. We are concerned about dust control (especially during summer months), pot holes, and snow removal. We request a copy of the road assessment that has been completed for this road. *(Portage–Howe, Portage–Davis)*

Response: As discussed in the DEIS in Chapter 4.5, "Construction Impacts" (Section 4.5-2-12 on page 4.5-7 and Section 4.5-3 on page 4.5-8), Portageville Road would be used by delivery vehicles and construction workers to access the construction zone on the east side of the river. The construction zone would be located close to the existing and future bridge sites, west of Portageville Road. For the majority of the construction period for the Project, it is estimated that five or fewer heavy truck deliveries to the site would occur each day. Contract documents would require the contractor to implement a Maintenance and Protection of Traffic Plan that would include measures to ensure Project work does not impede the residents' access along Portageville Road during construction. Erosion and dust control measures at the construction site would also be required by the contract and implemented during construction. Maintenance of Portageville Road, including snow plowing, would remain the responsibility of the Town of Portage.

No road assessment has yet been completed for the road; it is anticipated that a survey of the road's condition would be taken prior to construction in coordination with local government officials, to allow comparison of the road's existing condition with its condition at the end of the construction period. As described in the DEIS in Chapter 4.5, "Construction Impacts" (Section 4.5-2-9 on page 4.5-6), on the basis of this survey, once construction is complete, the contractor would either repair or fund the repair of the road to its pre-construction condition, in coordination with the local government.

Construction Effects on Transportation

Comment 28: During construction of the bridge there will be heavy truck traffic at the intersection of Route 436 and Portageville Road. A hazardous situation could develop. Blind curves, limited sight distances, high traffic speeds, vehicles turning left, being passed on the left by traffic from behind, plus a nearby railroad underpass, all will add to the problem. Two roads intersect Route 436 at this point also. There is also excessive roadside vegetation growth at the blind curve on the south side of Route 436 at the intersection. The 35 MPH recommended area speed signs are rarely adhered to. Route 436 is a major tractor-trailer route from the west to I-390 to the east. Five deaths and several other accidents have occurred at this spot in the past years. I suggest a traffic safety plan be developed and implemented for the area. *(Oulton)*

Response: Contract documents will require the contractor to implement a Maintenance and Protection of Traffic Plan to address traffic conditions affected by Project construction in order to prevent adverse impacts to road safety from the Project. As noted in response to Comment 27, for the majority of the construction period for the Project, it is estimated that five or fewer heavy truck deliveries to the site would occur each day. This volume of truck traffic is unlikely to warrant special consideration at the intersection of Portageville Road and Route 436. For construction periods when substantially greater volumes of truck traffic are anticipated, appropriate maintenance and protection of traffic measures would be implemented at this intersection.

Comment 29: The County of Wyoming strongly feels that improvements are necessary to the roads that lead to the Castile and Perry Road Entrances to Letchworth State Park—Denton Corners Road (Route 436) from Route 39 to the Castile Entrance and Schenk Road at Middle Reservation Road to the Perry Entrance. Improvements should be made at the beginning of the Portageville Bridge construction project to alleviate traffic congestion and safety issues that will be created by the Project as a result of the Portageville Entrance being closed during the construction period. According to the DEIS, 25 percent of the visitors to Letchworth State Park enter at the Portageville Entrance; with an annual average of 650,000 visitors to the park, that is equivalent to 162,500 visitors entering at the Portageville Entrance. During construction, these visitors will instead access the park from the Castile Entrance (Denton Corners Road) and the Perry Entrance (Schenk Road). These roads are too narrow (20' wide with gravel shoulders) and are not adequate to meet the increased traffic congestion and increased road wear and tear that will be created by the bridge replacement project. To meet the increased three-year traffic demands due to the Project, Wyoming County requests that these sections of road be widened to at least 10' lanes and 3' shoulders and overlaid to improve the rideability and safety characteristics of these sections of roadway to accommodate the number and type of larger vehicles associated with park visitors. The County feels it has done its part in supporting the traffic needs for the State Park's annual visitors, including approximately $5 million worth of improvements on roads to the Castile and Perry Entrances. The requested improvements should be incorporated into the Portageville Bridge replacement project. *(Wyoming)*

Response: As noted in the DEIS (see section 4.5-3-1 on page 4.5-8 of Chapter 4.5, "Construction Effects"), the Portageville Entrance is closed to vehicular traffic in the winter. During the Project's construction period of approximately 27 months, vehicles that would have entered the Portageville Entrance when it is opened would instead divert to one of the other park entrances (at Castile, Perry, and Mount Morris). Daily vehicle entrance information provided by the New York State Office of Parks, Recreation and Historic Preservation for June through October 2013 indicates that 16,900 vehicles entered the Portageville Entrance during that period (19 percent of the total vehicles that entered the park), while 19,700 entered at Castile (22 percent of the total), 13,400 entered at Perry (15 percent), and 39,200 entered at Mount Morris (44 percent). Daily 2013 vehicle information for weekdays shows a range of 11 to 156 vehicles per day, with an

average of 59; on weekends, data show a range of 59 to 293 vehicles, with an average of 175. The 2013 numbers for the Castile Entrance are slightly higher (weekday average of 63 and weekend average of 223). Thus, diversion of traffic from the Portageville Entrance would increase traffic on the roads leading to the Castile and Perry Entrances by an estimated 2 to 26 vehicle trips per hour on weekdays, or an average of 10 (including entering and exiting vehicles, assuming a 12-hour day). On weekends, the diversion would increase traffic by 10 to 49 vehicles per hour, with an average of 29. This does not represent an increase in traffic volumes that would impact roadway congestion, capacity, or pavement conditions.

Based on the 2010 *Highway Capacity Manua*l (HCM) methodology, a two-way, two-lane road segment of approximately 20 feet in width can carry approximately 1,200 vehicles/hour and still operate at LOS D or better (typically considered acceptable operating conditions). Average Annual Daily Traffic (AADT) counts conducted by NYSDOT on Denton Corners Road show volumes ranging from only 200 (2011) to 400 (2009).

Thus, the requested roadway improvements are outside the scope of work for the Portageville Bridge Project.

Construction Effects on General Ecology and Wildlife

Comment 30: I hope you don't start taking trees down until the fall color is gone. *(Rogers)*

Response: Tree cutting for the Project would occur only between October 31 and March 31, to avoid impacts to roosting habitat for the northern long-eared bat as well as the eastern small-footed bat. Tree cutting is anticipated to begin in early 2015, as soon as necessary approvals and permits have been received for the Project.

Comment 31: We are concerned that the noise during construction will drive wildlife from the area. *(Wolcott–Ries)*

Response: The DEIS includes an analysis of the effects of construction, including construction noise, on wildlife (see Chapter 4.5, "Construction Effects," beginning on page 4.5-14). That analysis concludes that although construction noise would occur, peak noise levels associated with construction would be lower than the peak levels associated with existing freight train traffic. Sensitive species that are intolerant of high noise levels or other human activities are unlikely to be present in the area, given the disturbances that already occur there. Therefore, wildlife communities in the habitats surrounding the bridge are likely composed of primarily disturbance-tolerant generalists, or specialists that have gradually habituated to the chronic disturbance of passing freight trains over time. As such, Project construction would be unlikely to alter species assemblages or otherwise negatively change wildlife in the surrounding area from its present state. Individual wildlife that do not habituate to or tolerate the construction activity would be expected to move north toward more interior habitat with lower levels of disturbance. Substantial areas of suitable habitat are

present throughout the 14,345-acre Letchworth State Park. Any displacement of wildlife from this small area relative to the total size of Letchworth State Park would be unlikely to adversely impact individuals, and less likely to affect the size or viability of local or regional populations of the species. Additionally, any such impacts from Project construction would be temporary, and would not have long-lasting, permanent effects on wildlife.

Comment 32: In the public hearing presentation, there was no mention of any mitigation needed for the large deer population in the entire park. *(Livingston EMC–Parish)*

Response: Areal surveys of white-tailed deer in Letchworth State Park in recent years have found approximately 75 to 100 individuals occurring in the southern portion of the park, which is thousands of acres in size. In regions of North America where white-tailed deer are the most overpopulated, densities typically reach, on average, less than one deer per acre. Construction disturbance within the approximately 19-acre construction site would, at most, be expected to potentially displace only a small number of deer and cause those individuals to temporarily occupy habitat elsewhere. Any such displacement of deer from the Project site would not substantially increase browsing pressure or the level of nuisance created by deer in neighboring areas. Temporary displacement of deer from the Project site during construction would likewise represent a negligible and short-term reduction in the amount of habitat available to deer within the 14,345-acre park, and would not have adverse effects on those deer or the greater population to which they belong. Overall, the Project would not create adverse impacts to the park or neighboring private properties from any deer temporarily displaced from the Project site, or to the deer themselves.

Construction Effects on Parks and Recreational Resources

Comment 33: There must be fair compensation for closing a large section of the park road during a period of construction of at least two years. Mitigation should include:

A. Reconstructing the park road from NYS Route 19A to and including the construction site. The existing road is not designed for heavy construction vehicles.

B. Constructing a new stone-faced entrance building at the Castile Entrance to the park. Most of the park visitors who would have entered from the Portageville Entrance will now enter at the Castile Entrance.

C. Mowing lawns and caring for the trees and shrubs along the closed portion of the park road during the period of construction. If this is not done, it will cost the Park a lot of money to return the laws to original condition.

D. Compensating the park and park concessionaires for loss of revenue caused by the disruption.

E. Including signs and displays at the proposed overlook describing the history of the wooden and steel bridges. *(Vrooman)*

Response: As discussed throughout the DEIS, Norfolk Southern has been consulting with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) regarding appropriate measures to address disruption to the park during the construction period. A list of the Project commitments is provided in Section 2.5 of this FEIS. As described in the DEIS in Chapter 4.5, "Construction Impacts" (Section 4.5-2-9, page 4.5-6), once construction is complete, the segment of Park Road from the Portageville Entrance to the construction site would be repaired as necessary before the road is reopened to the public. The portion of Park Road within the construction zone would be completely rebuilt as part of the Project.

The DEIS discusses the diversion of park visitors from the Portageville Entrance to the Castile Entrance and describes Norfolk Southern's commitment to provide funding to improve the Castile Entrance. As stated on page 4.5-9 in Chapter 4.5, to avoid congestion on busy days at the Castile Entrance because of the loss of entrance capacity at the Portageville Entrance during construction, Norfolk Southern would fund construction of a replacement entrance booth at the Castile Entrance with a two-lane entrance booth to provide greater capacity.

Regarding lawn mowing, the Project Sponsor would work with OPRHP to make suitable arrangements related to maintenance of lawns normally accessed via the segment of Park Road that would be closed during construction.

Regarding loss of revenue, the analysis presented in the DEIS (see Chapter 4.5, section 4.5-3-3 on page 4.5-10) concludes that given the attractiveness of the park and businesses in the park as destinations for visitors who travel from outside the region, the detour is not expected to result in notable declines in patronage to the businesses that operate in the park or adverse impacts on the businesses.

As described in the DEIS in the discussion of historic and cultural resources (Chapter 4.4.11), a Memorandum of Agreement has been prepared that describes the measures to be taken to mitigate the Project's Adverse Effect on historic resources. One of those measures is that Norfolk Southern would provide certain funding to the New York State Natural Heritage Trust for OPRHP to prepare educational and interpretive materials at Letchworth State Park, including the creation and installation of two interpretive kiosks in locations selected by the State Historic Preservation Office (SHPO) and OPRHP. One of the kiosks may potentially be located at the proposed new upper parking lot by the new bridge and one at the Upper Falls Overlook adjacent to the Gorge Trail.

Comment 34: Typical users of the section of the Finger Lakes Trail and Genesee Valley Greenway that passes beneath the Norfolk Southern bridge enter from either the Park's Parade Grounds entrance road or the parking area immediately to the northwest of the NY 436 bridge over the Genesee River at Portageville. When temporary closures are required to the trail for the bridge construction, if there is no advanced warning, people walking long distances could have to backtrack to walk around the detoured area. If the Finger Lakes Trail Conference had notice from the construction company at least 24 hours before closure, we could add it

to our Trail Conditions section of the website. We also ask that the construction company be required to put up useful signage at those two points, the Parade Grounds Road crossing and the parking area on Route 436, indicating closure ahead and showing a small map of the route around the closure. Also, we request that the contractor be responsible for opening and closing the two signs, since they are right in the neighborhood, while our nearest volunteer lives a dozen miles away. *(FLTC–Monahan, FLTC–Szabo)*

Response: As described in the DEIS in Chapter 4.5, "Construction Effects" (see page 4.5-27 and the summary of mitigation on page 4.5-37), during construction, Norfolk Southern would work with the New York State Office of Parks, Recreation and Historic Preservation to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction, including providing updates to such signage when subsequent phases of construction impact the trail.

Comment 35: Is it possible to have a map at the Letchworth State Park office or marking on the two affected trails and in the wooded areas of specifically where the construction zone will be and what areas will be inaccessible? Can we know what construction areas will be logged? What parts of the Gorge Trail will be either changed or closed for some time? Is it possible to know the boundaries of the actual areas that will be closed for the duration of construction? *(L. Davis)*

Response: The DEIS shows the construction zone in maps provided in Chapter 4.5, "Construction Effects." Figure 4.5-1 shows the area of the park that would be affected by construction. More detailed information is shown in the subsequent figures in that chapter. Areas where clearing of forested areas would occur are shown on Figure 4.5-4. As shown in the figures and discussed in the text (see page 4.5-28), the southern end of the Gorge Trail, an area of approximately 320 linear feet, would have to be closed for construction. This consists of the area from the southern trailhead to approximately the stone steps that are north of the existing rail bridge. Other than in this small segment directly beneath and close to the bridge, no other locations would be closed.

Construction Effects on Noise and Vibration

Comment 36: Our property on Route 19A is the closest property to the old bridge and the construction site and therefore we are concerned about things like blasting and constant construction in our back yard. Our property backs directly to the lot/trails to the train trestle and even now we are aware of the rattling of our windows due to passing trains. How much noise will there be when construction starts? *(Wolcott–Ries)*

Response: The DEIS includes a detailed evaluation of the potential impacts to nearby properties from construction activities in Chapter 4.5, "Construction Effects." Noise and vibration during construction are evaluated in the analysis that begins on page 4.5-31 of that chapter. As discussed, to provide a conservative analysis of the potential noise impacts during construction of the Project, noise levels

were calculated for the noisiest construction activity anticipated—pile drilling activities. Pile drilling would occur for only a short time (anticipated to be two months on each side of the gorge), but this activity was used to evaluate the Project's worst-case construction noise levels. Noise was calculated for "sensitive" locations near the construction site—including the area of park immediately adjacent to the construction site, the Glen Iris Inn, and the residences at the end of Portageville Road, which are immediately adjacent to the construction site and closer than the property referenced in the comment. The analysis concluded that construction activities for the Project would result in short-term noise increases in the vicinity of the work site, including Letchworth State Park and residences along Portageville Road, for the duration of the construction. Even during the noisiest activities anticipated, these noise levels are predicted to be below the impact threshold levels defined by the Federal Railroad Administration and Federal Transit Administration for use in evaluation of rail projects. The noisiest construction activity, pile drilling, may be audible for up to a mile from the construction site. Controlled blasting activities, anticipated to occur once or twice per week and for a very short time period (less than a minute per blast) may be audible for up to ½ mile from the site. Other construction equipment, such as dump trucks, could be audible for ¼ mile from the site, and when multiple pieces of equipment are operating simultaneously, this would be audible for greater distances. Figure 4.5-9 in Chapter 4.5 (following page 4.5-8) provides an illustration of those distances from the construction zone.

Construction Effects on Contaminated and Hazardous Materials

Comment 37: The DEIS adequately responds to issues the U.S. Environmental Protection Agency (USEPA) raised previously regarding contaminated and hazardous materials that might be released during construction. *(USEPA)*

Response: Comment noted.

2.6.3.8 Section 4(f) Evaluation

Comment 38: The U.S. Department of the Interior concurs that there is no prudent and feasible alternative to the proposed use of Section 4(f) lands, which consist of Letchworth State Park, and would be permanently used for the Project. Letchworth State Park qualifies for protection under Section 4(f) as a public park and historic property that is listed on the National Register of Historic Places (NRHP). The use includes the permanent incorporation of 1.95 acres of parkland into the Project right-of-way, the acquisition of an easement for the use of 0.20 acres; the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing, changes that would result in an Adverse Effect on the park in accordance with Section 106 of the National Historic Preservation Act; and the temporary use during construction of 1.55 acres of parkland. We note that measures to minimize harm to historic resources have been developed in consultation with the State Historic

Preservation Office and participating Consulting Parties in accordance with Section 106 and are set forth in a Draft Memorandum of Agreement for the Project that will be executed prior to Project construction. We recommend that a signed copy of the agreement be included in the final documentation for this Project. *(DOI)*

Response: The U.S. Department of the Interior's concurrence is reflected in the Final Section 4(f) Evaluation for the Project. The executed Memorandum of Agreement for the Project is included in this FEIS.

2.6.3.9 Section 6(f) Conversion

Comment 39: Formal request for permission to convert a Land and Water Conservation Fund (LWCF) assisted property in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer (SLO) or the Alternate SLO to the National Park Service (NPS) in writing and conform to the prerequisites set forth in 36 CFR 59. The NPS LWCF Program requests that the FHWA and NYSDOT continue to coordinate with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) in order to complete the conversion request. *(DOI)*

Response: FHWA, NYSDOT, and Norfolk Southern will coordinate with OPRHP to provide the needed materials to support the conversion request.

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

WWW.DOT.NY.GOV

JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

December 8, 2014

Mr. Jonathan McDade
Division Administrator
Federal Highway Administration
Leo W. O'Brien Federal Building, Suite 719
Albany, NY 12207

Certification in Accordance with Title 23
United States Code 128
Portageville Bridge Project
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Project Identification Number 4935.79

Dear Mr. McDade:

This is to certify that a public hearing on the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Portageville Bridge Project was held in accordance with federal and state public involvement/public hearing procedures. The public hearing took place on August 26, 2014 in Mount Morris, Livingston County, New York. The session began with an open house at 4:30 PM, at which Project information was available for review and informal discussion. The open house was followed by a Project presentation at 5:30 PM, after which an opportunity was provided for public comments.

A notice announcing the public hearing was published in the following local newspapers:

- *The Daily News* (Batavia, Genesee County, NY): August 2, August 4, August 5, August 6, August 7, August 8, August 9, August 11, August 12, August 13, August 14, 2014.
- *The Democrat and Chronicle*: July 26, July 29, August 1, 2014.
- *The Livingston County News*: August 7, August 14, August 21, 2014.
- *Warsaw's Country Courier*: August 7, August 14, August 21, 2014.

The DEIS Notice of Availability was published in the *Federal Register* on August 1, 2014. Comments were accepted through the close of business on September 15, 2014.

At the public hearing, a total of three speakers provided comments on the Project. A total of 25 written submissions were received, including letters, e-mails, and comment forms submitted at the public hearing

Mr. McDade
December 8, 2014
Page 2 of 2

or later by mail or e-mail. Written comments included four letters from federal agencies; one e-mail from a state agency; six submissions from local elected officials or agencies; two submissions from an interest group; and 13 submissions from individuals. All of the comments and the transcript from the public hearing are included in the Final Environmental Impact Statement.

I hereby certify that the hearing was held at the location indicated, all material presented was duly recorded and full consideration has been given to the economic and social effects of the location, its impact on the environment, and its consistency with the goals and objectives of such planning as has been promulgated by the community.

If you have any questions regarding this issue, please contact me at (518) 457-8075

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight & Passenger Rail Bureau

Section 2.7: Final Section 4(f) Evaluation

2.7.1 INTRODUCTION

This document is the Final Section 4(f) Evaluation for the Portageville Bridge Project (the Project). This evaluation was prepared in coordination with the Portageville Bridge Final Environmental Impact Statement (FEIS) to satisfy the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (in 1983, Section 4(f) of the USDOT Act was codified as 49 USC § 303(c), but this law is still commonly referred to as Section 4(f)). This evaluation was also prepared in accordance with the Federal Highway Administration (FHWA) implementing regulations for Section 4(f) at 23 CFR Part 774, as well as the FHWA's Section 4(f) Policy Paper, July 20, 2012. The Preferred Alternative (also referred to as the Project) would require the use of park features and historic elements of Letchworth State Park that are protected under Section 4(f). This use cannot be avoided and, therefore, the FHWA has identified measures to minimize harm to this property.

The Project is also subject to Section 6(f) of the Land and Water Conservation Fund (LWCF) Act, which applies due to the proposed use of land from a park where LWCF funds have been used. The Project's compliance with Section 6(f) is discussed in Section 2.8 of the FEIS.

2.7.2 PURPOSE AND NEED

The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between the Town of Genesee Falls (Wyoming County) and the Town of Portage (Livingston County) in western New York. The bridge serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route between Buffalo and Binghamton, New York. The bridge is located on right-of-way owned by Norfolk Southern as part of its Southern Tier route, as it passes through Letchworth State Park. The adjacent parkland is primarily wooded, but includes a park road and park trails that pass beneath the existing bridge (within the railroad right-of-way), and a visitor parking lot that is located adjacent to the bridge (also partly within the railroad right-of-way).

The Portageville Bridge was constructed by the Erie Railway Company in 1875. The bridge and the Southern Tier route became part of the Conrail's national freight network on April 1, 1976; Norfolk Southern began operating, pursuant to operating and lease agreements, the entire Southern Tier route, including the Portageville Bridge, on June 1, 1999. On August 27, 2004, Norfolk Southern acquired the route through merger. The Southern Tier route is a critical freight rail link between Buffalo and Binghamton, New York and provides connections to Canada and the eastern seaboard. In addition to serving as a critical rail freight link for Norfolk Southern, the Southern Tier route is used by Canadian Pacific Railway and provides interchange connections to 11 short line railroads. It also serves communities in western and southern New York State and northern and eastern Pennsylvania.

The Portageville Bridge is a vital, yet currently deficient, component of the Southern Tier route. The bridge is a single track, truss structure that spans approximately 819 feet across and 245 feet above the Genesee River gorge. It is at the end of its useful life as a freight rail structure, and as such, Norfolk Southern must substantially restrict the speed and tonnage of trains that cross the Genesee River. Without action to upgrade or replace the bridge, the crossing may need to be taken out of service. This would greatly impair Norfolk Southern's ability to operate

on a substantial portion of the Southern Tier route and would negatively impact the economies of the many locations it serves.

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River at its current location that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting FRA Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed in order for Norfolk Southern to continue safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

In support of the Project's purpose and need, Norfolk Southern, the New York State Department of Transportation (NYSDOT), and FHWA have identified the following objectives for the Project:

1) Eliminate the structural deficiencies of the existing bridge;
2) Address operational constraints along the Southern Tier route caused by the existing bridge; and
3) Reduce the need for extensive ongoing maintenance costs related to the existing bridge.

2.7.3 PROJECT ALTERNATIVES

As described in the Draft Environmental Impact Statement (DEIS), nine potential alternatives for the Portageville Bridge Project were evaluated during the scoping phase of the Project. Two alternatives were progressed for detailed evaluation in the DEIS: the No Action Alternative and Alternative 4 (New Bridge on Parallel Alignment / Remove Existing Bridge), which would replace the existing bridge with a new bridge on a parallel alignment.

2.7.3-1 No Action Alternative

The No Action Alternative involves no work in the Project area other than that planned by others or implemented as part of routine maintenance. The No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. Rail traffic would continue to be restricted, as the bridge cannot accommodate the weight of industry-standard rail cars and allows operations only at a very low speed. This alternative would not meet the Project's purpose and need, but it was evaluated in the DEIS that is incorporated as part of the FEIS and in this Section 4(f) Evaluation as the baseline for comparison to the Preferred Alternative.

2.7.3-2 Preferred Alternative (New Bridge on Parallel Alignment / Remove Existing Bridge)

The Preferred Alternative includes the construction of a new single-track railroad bridge approximately 75 feet south of the centerline of the existing bridge. The relocation of the bridge to the south would require a realignment of the railroad as it approaches the crossing from the east and from the west. New approach tracks would be laid approximately 1,200 feet east and 1,200 feet west of the existing bridge. The new bridge would be built to meet industry weight standards and to accommodate the potential wind load associated with double-stack train cars. The bridge would accommodate trains operating at 35 miles per hour (MPH), instead of the current speed of 10 MPH (the bridge itself would accommodate speeds of up to 60 MPH, but Norfolk Southern anticipates an operating speed of 35 MPH because of the curvature on approach tracks and the location of the facility within Letchworth State Park). The new bridge would be dedicated to freight rail traffic, and pedestrian access would be prohibited.

With the Preferred Alternative, a portion of existing Park Road would be relocated to make space for the new bridge structure's foundations, and a small parking area (Highbridge Parking Area) would be relocated from an area south of the existing bridge within Norfolk Southern's

right-of-way to parkland north of the right-of-way. In addition, the trailheads for two trails, the Mary Jemison Trail and the Gorge Trail, would be relocated from Norfolk Southern property to park property. **Figure 2.7-1** illustrates the location of the existing Portageville Bridge in comparison to the Preferred Alternative.

The existing bridge would remain operational until construction is complete, and then rail traffic would be shifted to the new bridge. Upon opening of the new bridge, the existing bridge and its piers, and the existing tracks between the diverted right-of-way and the existing bridge would be removed.

2.7.4 APPLICABILITY OF SECTION 4(f) TO THE PROJECT

Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 USC § 303; 23 CFR § 774) prohibits the FHWA from approving any program or project that requires the "use" of (1) any publicly owned parkland, recreation area, or wildlife and waterfowl refuge of national, state, or local significance; or (2) any land from a historic site of national, state, or local significance (collectively "Section 4(f) resources"), unless there is no feasible and prudent avoidance alternative to the use of such land; and the action includes all possible planning to minimize harm to the park, recreation area, wildlife refuge, or historic resource resulting from such use; or it is determined that the use of the property, including measures to minimize harm, will have a *de minimis* impact on the property.

A project "uses" a Section 4(f) resource when:

1) It permanently incorporates land from the resource into a transportation facility;
2) It temporarily but adversely occupies land that is part of the resource (e.g., when all or part of the Section 4(f) property is required for project construction-related activities); or
3) It "constructively" uses the resource, which occurs "when the transportation project does not incorporate land from a Section 4(f) resource, but the proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired" (23 CFR Part 774.15(a)).

The Project would require the permanent use of land from Letchworth State Park, a property that qualifies for protection under Section 4(f). Protected features include parkland features as well as historic features of the park.

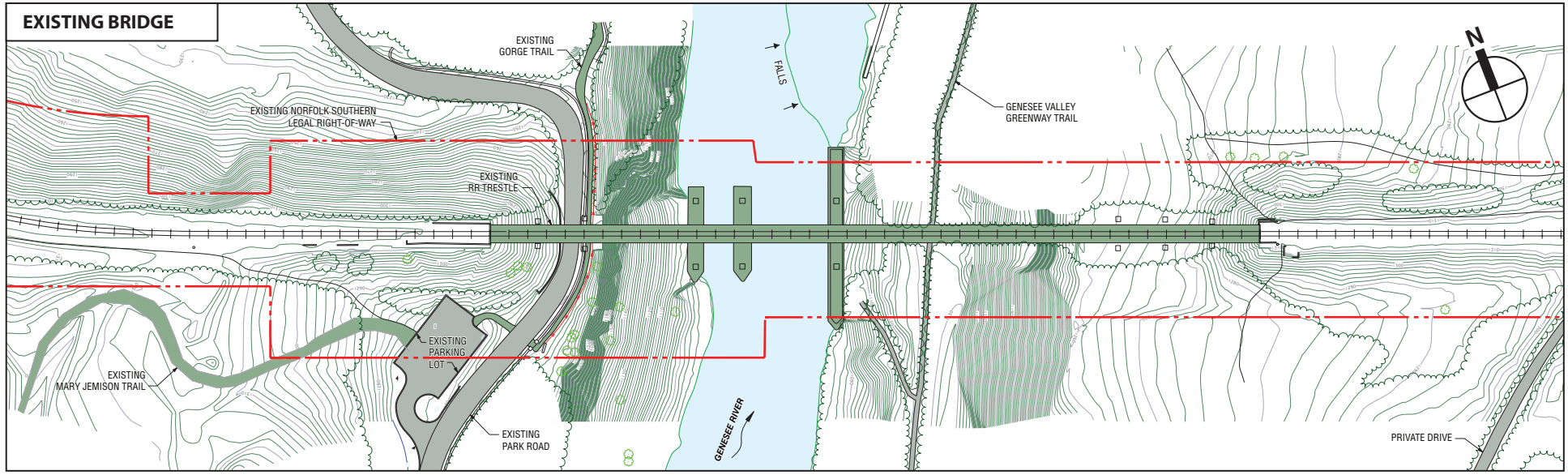
Whenever a Section 4(f) property must be used for a transportation project, documentation must be prepared to demonstrate that:

- No feasible and prudent alternative exists to the use of the Section 4(f) property; and
- The project includes all possible planning to minimize harm to the property.

As defined in 23 CFR § 774.17, an alternative is not feasible if it cannot be built as a matter of sound engineering judgment. An alternative is not prudent if:

- It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- It results in unacceptable safety or operational problems;
- After reasonable mitigation, it still causes:
  - Severe social, economic, or environmental impacts;
  - Severe disruption to established communities;
  - Severe disproportionate impacts to minority or low income populations; or
  - Severe impacts to environmental resources protected under other federal statutes;

10.7.14



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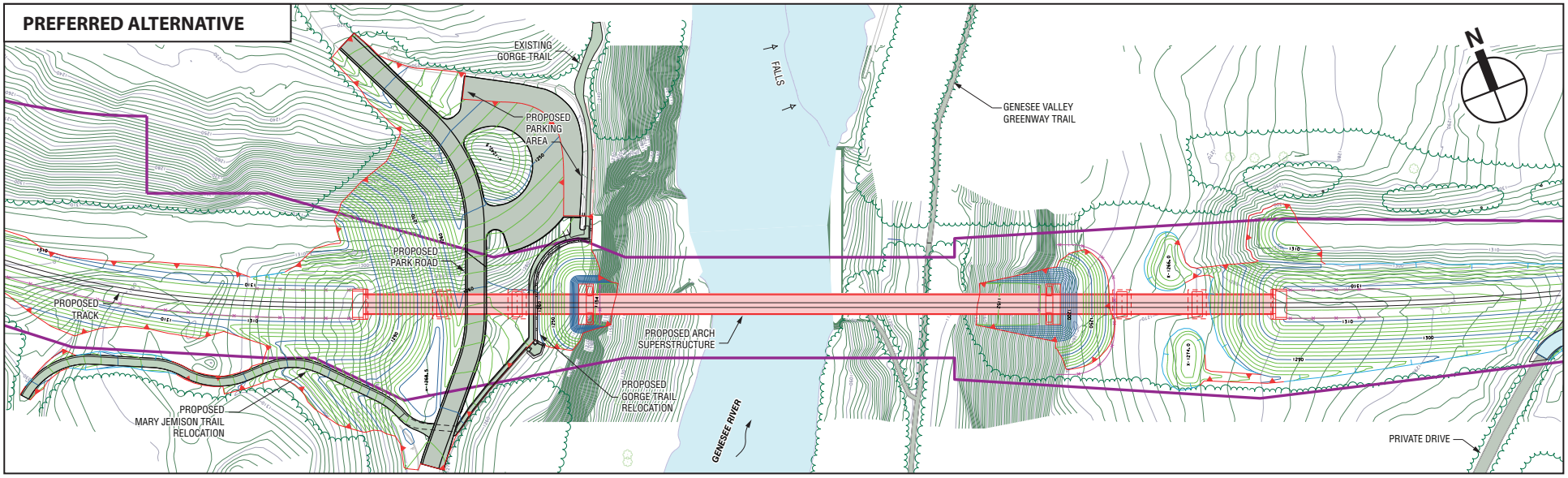
SCALE

Existing Property Line



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SCALE

Norfolk Southern Property Line for Preferred Alternative

Existing and Proposed Bridges

Figure 2.7-1

- It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- It causes other unique problems or unusual factors; or
- It involves multiple factors of the above, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

If there is no feasible and prudent avoidance alternative, FHWA may approve only the alternative that causes the least overall harm in light of the statute's preservation purpose. As stated in 23 CFR § 774.3, the "least overall harm" is determined by balancing the following list of factors:

- The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);
- The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
- The relative significance of each Section 4(f) property;
- The views of the official(s) with jurisdiction over each Section 4(f) property;
- The degree to which each alternative meets the purpose and need for the project;
- After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
- Substantial differences in costs among the alternatives.

As set forth in 23 CFR § 774.5, the Section 4(f) evaluation should be provided for coordination and comment to the U.S. Department of the Interior (DOI) and to officials with jurisdiction over the Section 4(f) resource that would be used by the Project—in this case the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), and the State Historic Preservation Officer (SHPO) (see Section 2.7.10 below).

This document is the Final Section 4(f) Evaluation for the Portageville Bridge Project. It contains the following:

1) A description of the basis for concluding that there are no prudent and feasible alternatives to the use of the Section 4(f) property, including a demonstration that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties, or that the cost, social, economic, and environmental impacts or community disruption resulting from the alternatives reach extraordinary magnitudes;
2) A description of the basis for concluding that the proposed action includes all possible planning to minimize harm; and
3) A summary of appropriate formal coordination with the DOI.

FHWA, acting as the lead federal agency, is issuing this Final Section 4(f) finding in conjunction with issuance of the Final Environmental Impact Statement (FEIS) for the Project.

2.7.5 DESCRIPTION OF SECTION 4(f) PROPERTIES

Section 4(f) applies to parks and recreation areas of national, state, or local significance that are both publicly owned and open to the public; publicly owned wildlife and waterfowl refuges of national, state, or local significance that are open to the public; and historic sites of national, state, or local significance in public or private ownership, regardless of whether they are open to the public. In addition, Section 4(f) applies to those portions of federally designated Wild and Scenic Rivers that are publicly owned and function as, or are designated in a management plan as, a significant park, recreation area, or wildlife and waterfowl refuge (23 CFR § 774.11(g)).

The Project site is within and adjacent to Letchworth State Park, which qualifies as a Section 4(f) property: 1) as publicly owned land designated by the State of New York as a state park and determined by OPRHP to be a park and recreation area as its primary purpose; and 2) as a property listed on the National Register of Historic Places (NRHP).

2.7.5-1 Parklands and Recreational Areas: Letchworth State Park

The Project site is located at the southern end of Letchworth State Park, a 14,345-acre park that extends approximately 17 miles along the Genesee River in New York's Wyoming and Livingston Counties. **Figure 2.7-2** provides a map of Letchworth State Park and the Project's location in the park, and **Figure 2.7-3** is OPRHP's visitor map of the park. The park is generally wooded with hilly terrain. Within the park, the Genesee River flows northward toward Rochester and Lake Ontario through a deep gorge and over three major waterfalls that are in the southern section of the park: Upper Falls, Middle Falls, and Lower Falls. Letchworth State Park is noted for its scenic features, which include the Genesee River, waterfalls, and gorge; vistas and overlooks, including views of the Portageville Bridge; and the historic built features in the park—the picturesque stone walls and staircases along the park's roads and trails, stone structures (comfort stations, concession stands, picnic tables, etc.), and a number of historic structures such as the Glen Iris Inn and Council Grounds, where historic cabins have been reconstructed. The main park road, known as Park Road, runs along the western side of the river with turnoffs leading to viewpoints and other park areas. On the eastern side of the river, park roads provide access to the south and north ends of the park, but there is no continuous park road along this side of the river. A number of trails also run along both sides of the river for the length of the park.

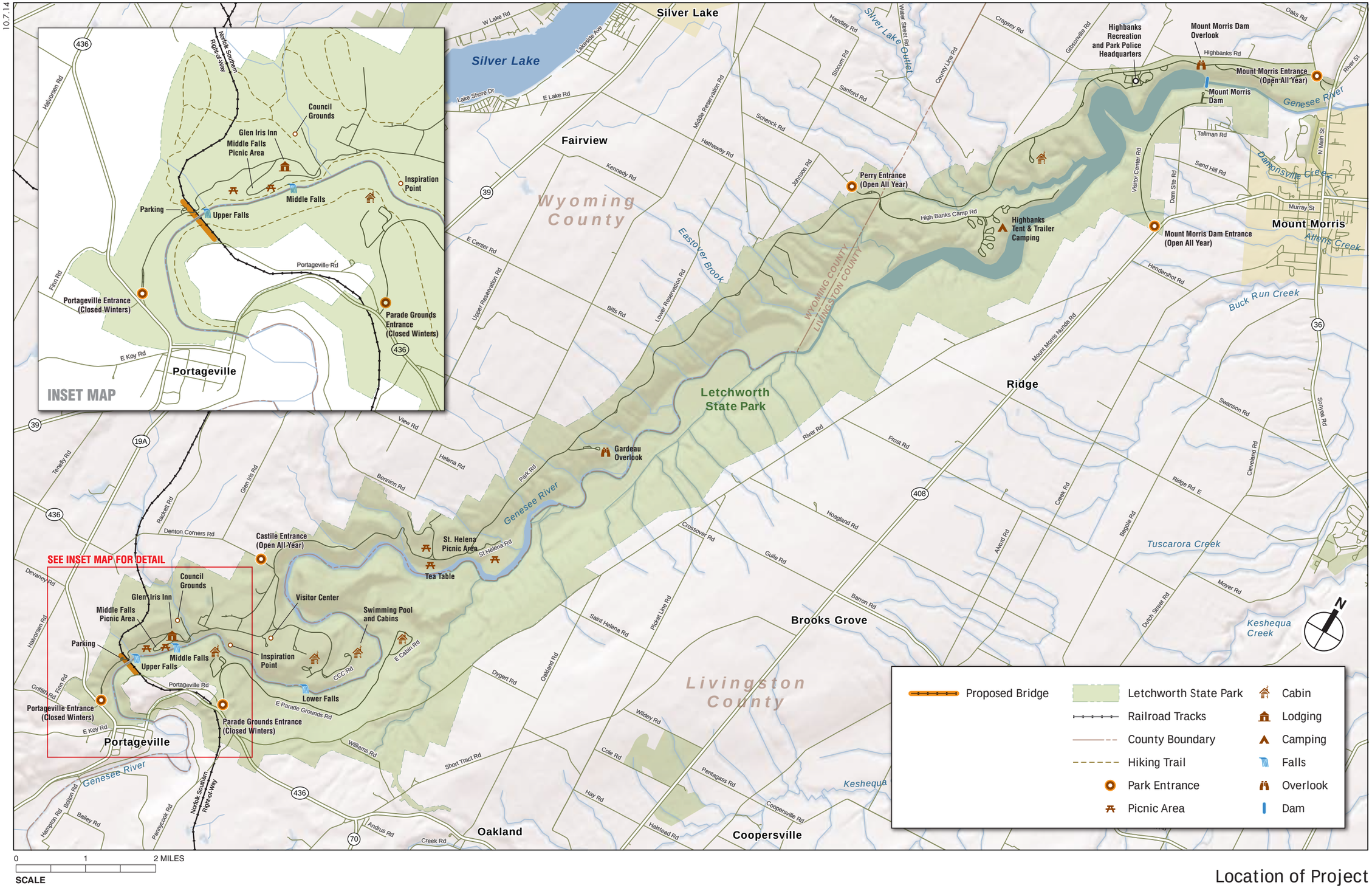
According to OPRHP, Letchworth State Park is used by approximately 650,000 annual visitors. The park hosts a variety of recreational features and activities, all organized along and around the scenic Genesee River and gorge. These include scenic roads and 66 miles of trails that can be used for hiking, biking, horseback riding, snowmobiling, and cross-country skiing. There are over 270 campsites, 82 cabins, numerous picnic areas, two swimming pools, and the historic Glen Iris Inn, the former home of William Letchworth. Hunting and fishing are allowed, as well as whitewater rafting, kayaking, and hot air ballooning. The park has a number of scenic viewing locations, including the scenic overlooks that are located along the edge of the Genesee River gorge, connected to the park trail system.

The south end of the park is notable for the river gorge and three major waterfalls, the scenic overlooks, and a concentration of the park's historic structures and sites. Park features in the south end of the park near the Project site include (but are not limited to) the following features (see also **Figure 2.7-2** and **Figure 2.7-3**):

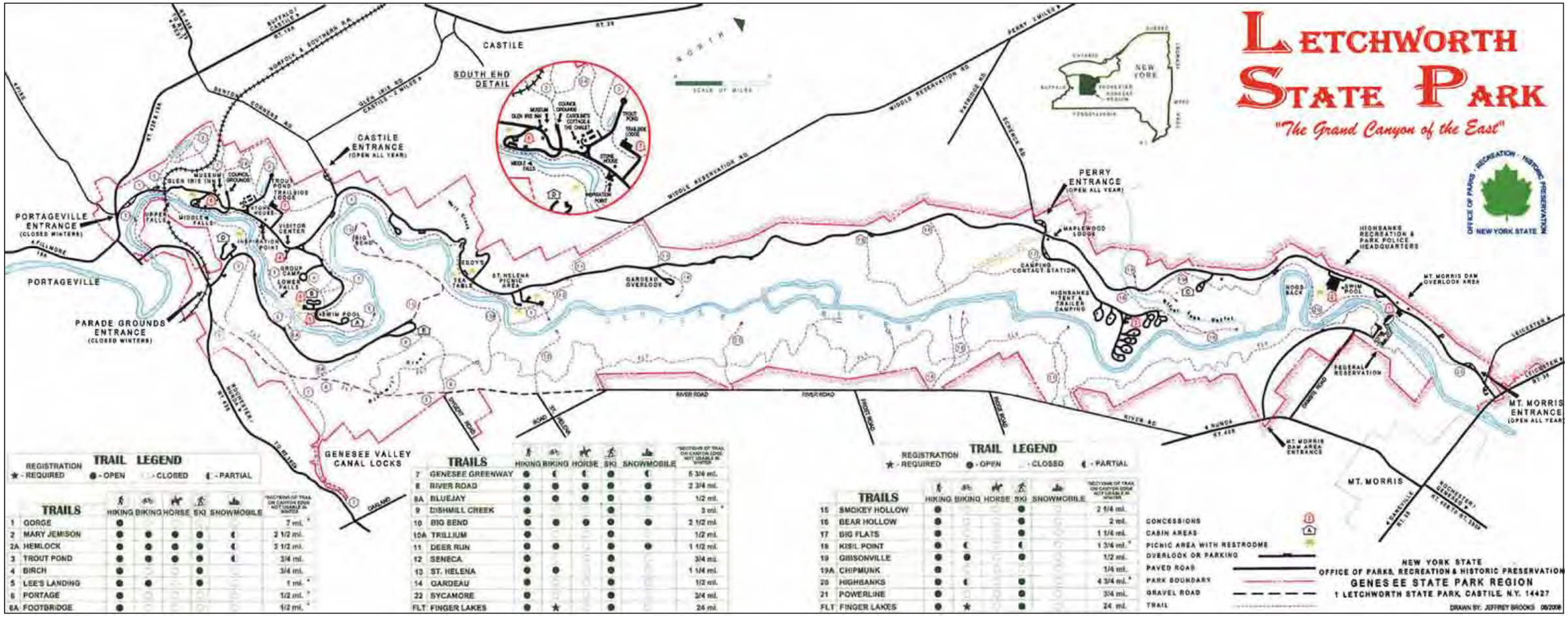
- *Genesee River Gorge and Waterfalls.* The Genesee River gorge forms the spine of the park, with park features arranged around the river. In the southern end of the park, the river has three major waterfalls: Upper Falls, located almost beneath the Portageville Bridge; Middle Falls, about ½ mile downstream (to the north); and Lower Falls, about 1¼ mile farther downstream from Middle Falls. Within the boundary of Letchworth State Park, the Genesee River is publicly owned by the State of New York.

  Under the Genesee River Protection Act of 1989, the Genesee River is part of the National Wild and Scenic Rivers system from the southern end of Letchworth State Park at Portageville, downstream to Mount Morris, unique for its permanent status as a Study River under the Wild and Scenic Rivers Act (WSRA). The Nationwide Rivers Inventory lists this segment of the Genesee River for its three "outstandingly remarkable values": geologic value related to the river's three major waterfalls; recreational value in a six-mile stretch downstream of Lower Falls; and scenic value.

10.7.14



Location of Project
in Letchworth State Park
Figure 2.7-2



OPRHP Map of Letchworth State Park
Figure 2.7-3

The designation of a river under the WSRA does not in itself invoke Section 4(f) in the absence of significant Section 4(f) attributes and qualities. To qualify as a Section 4(f) property, a river included in the WSRA must be both publicly owned, and designated for its recreational value. The Project site is located upstream of the Lower Falls, outside the segment of the river designated for its recreational value. Therefore, the Genesee River within the Project area is not considered a Section 4(f) resource, and is not subject to Section 4(f) evaluation for this Project.

- *Scenic Vistas.* The park provides a number of scenic overlooks of the gorge and each of the waterfalls. The bridge is a scenic feature in views from a number of those locations. The bridge is a particularly prominent feature in views from the Upper and Middle Falls Picnic Area. The widest vista is from the park's Inspiration Point, approximately 1½ miles north of the Portageville Bridge. From this location, the bridge is visible as a small element crossing through the tree canopy above the river gorge.
- *Park Road and Park Entrances.* Park Road runs north–south along the west side of the Genesee River gorge, for the length of Letchworth State Park, providing access to recreational features throughout the park. Park Road passes directly through the Project site and under the existing Portageville Bridge. Park Road has four public entrances: the Portageville Entrance at the south end of the park, the Castile Entrance farther north, and still farther north, the Perry Entrance and Mt. Morris Entrance (at the north end of the park near the Mt. Morris Dam). During the winter, most of Park Road (and the Portageville Entrance) is closed and remains unplowed, which allows its use for winter recreational activities. The portion of Park Road between the Portageville Entrance and the Project site is part of a designated snowmobile trail that connects to the statewide trail system.
- *Highbridge Parking Area.* This small parking area is located on the west side of Park Road just south of the Portageville Bridge, within the Project site. It currently serves park visitors using the southern trailheads for the Mary Jemison Trail and Gorge Trail (discussed below) and is part of a snowmobile trail in the winter.
- *Trails.* Three trails are close to the Project site:
  - *Gorge Trail*. The Gorge Trail, designated as Trail #1 on OPRHP's park map (see **Figure 2.7-3**), extends seven miles along the western edge of the Genesee River gorge from a trailhead near the base of the existing rail bridge to the St. Helena Picnic Area in the middle of the park. Access to this trail is available from many points throughout the park. Near the Portageville Bridge, the Gorge Trail begins within the Project site, just south of the bridge across Park Road from the Highbridge Parking Area, and passes beneath the bridge as it heads north along the edge of the gorge. A portion of the trail is located within the current railroad right-of-way. The edge of the trail is lined with a rustic stone wall and just north of the rail bridge, the trail descends on a picturesque stone staircase.
  - *Mary Jemison Trail.* This trail, designated as Trail #2 on OPRHP's park map, is a 2.5-mile-long trail that runs from the Highbridge Parking Area to the Council Grounds site. This trail is used for hiking, biking, horseback riding, skiing and snowmobiling, in the winter and archery hunting in the fall as part of the deer management program in the park. For snowmobilers, the Mary Jemison Trail provides a connection from the south (via the Park Road beginning at the Portageville Entrance) to a larger corridor trail (State Corridor Trail 3) to the north. In addition, OPRHP sometimes uses the southern end of the Mary Jemison trail for interpretive programs. The southern trailhead of this trail is on the Project site, with a portion of the trail located within the current railroad right-of-way.
  - *Genesee Valley Greenway Trail.* On the east side of the river, the Genesee Valley Greenway Trail, designated as Trail #7 on OPRHP's park map, currently runs 5.75 miles

within Letchworth State Park and is part of a longer trail being developed that will extend 90 miles between Rochester and Cuba, New York (at I-86 in the Southern Tier). Most of the Genesee Valley Greenway Trail between Rochester and the hamlet of Portageville, including the segment in Letchworth State Park, is now open. In the park, the trail runs close to the east side of the river and passes beneath the Portageville Bridge through the Project site. The segment of the Genesee Valley Greenway Trail in the park is also part of the Finger Lakes Trail, which extends 26 miles from Mt. Morris at the northern end of the trail to the hamlet of Portageville at the southern end and connects there with the main Finger Lakes Trail system that runs east and west across upstate New York.

- *Upper and Middle Falls Picnic Area.* On the west side of the river between the Upper and Middle Falls, a large picnic area is located along the west bank of the river, close to the level of the water. It has a large paved parking area, lawns with trees and stone picnic tables, a concession stand, and a comfort station. The Gorge Trail runs along the edge of the picnic area close to the river's edge. At the south end of the picnic area, a path leads to a vista point of the Upper Falls and Portageville Bridge. The northern part of the picnic area overlooks the Middle Falls. The Upper and Middle Falls Picnic Area is not on the Project site, but has direct views of the Project site from the scenic vista point.
- *Glen Iris Inn and Other Accommodations.* The historic Glen Iris Inn is west of and uphill from the Upper and Middle Falls Picnic Area. This mid-19th century structure was originally the home of William Pryor Letchworth and now is a destination in the park that provides lodging and meals. The Glen Iris Inn has a large, grassy lawn lined with trees and a stone terrace overlooking the Genesee River gorge above the Middle Falls. Near the inn, the Pinewood Lodge and three other rental houses also provide accommodations. The inn and lodge are closed during the winter (November through Good Friday).
- *Camping and Cabins.* Letchworth State Park includes a number of different overnight accommodations. In addition to the Glen Iris Inn and the nearby accommodations discussed above, these include campgrounds and cabins. The closest camping areas and cabins to the Portageville Bridge are approximately 1 mile away near Inspiration Point.
- *East Side of River.* The east side of the Genesee River in Letchworth State Park has few developed park features in comparison to the west side. Close to Portageville Bridge, the only developed features are the Genesee Valley Greenway Trail (discussed above) and a cabin area near Inspiration Point. This cabin area is closed during the winter.

2.7.5-2 Wildlife and Waterfowl Refuges

There are no designated wildlife or waterfowl refuges in or near the Project site.

2.7.5-3 Historic Properties: Letchworth State Park

As defined in the Section 4(f) regulations (23 CFR § 774.11(e)), Section 4(f) applies to historic sites listed on or determined eligible for listing on the NRHP. Historic properties protected under Section 4(f) are identified in accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended, and implementing regulations, 36 CFR Part 800 – *Protection of Historic Properties*. In accordance with Section 106, FHWA established an area of potential effects (APE) for the Project, which is defined as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if such properties exist" (36 CFR § 800.16[d]). The Project APE is bisected by the Genesee River and includes areas on its eastern and western shores. To facilitate the analysis of effects, the APE has been subdivided to indicate the area in which the proposed Project could cause potential direct effects and the area in which it could cause indirect effects.

The portion of the Project APE in which there is the potential for the Project to cause direct effects consists of the limits of ground disturbance for the Project, which encompasses the existing railroad bridge alignment, areas of proposed construction to the north and south including the area of the new railroad right-of-way for the bridge approaches as well as the area affected by the relocation of a portion of Park Road and the Highbridge Parking Area and areas affected by temporary construction activities.

The portion of the Project APE in which indirect effects could occur encompasses an area within approximately 500 feet, ¼ mile, and ½ mile of the direct effects area. The APE includes areas that would have the most proximate and unobstructed views to the Project and areas where the replacement bridge could potentially adversely affect the character or setting of historic properties. In total, the Project APE encompasses areas that would be directly affected within Letchworth State Park, areas to the north and south in the park that would have the most proximate views and relationship with the elements of the park to be altered by the Project, and areas outside the park to the east that could fall within visual and audible range of the Project. Beyond the APE, the Project would not be anticipated to alter the character or setting of historic properties as distance, topography, and view obstructing vegetation decreases the potential for adverse visual, audible, or atmospheric effects.

The Project is located within the boundaries of Letchworth State Park, which qualifies as a Section 4(f) historic site because it is listed on the NRHP. Letchworth State Park was listed on the NRHP on November 4, 2005 under provisions of the NHPA. The park meets NRHP criteria A, B, C, and D and is significant at local, state, and national levels:[1]

- Criterion A*:* Letchworth State Park meets NRHP Criterion A for its association with events that have made a significant contribution to the broad patterns of history in the categories of agriculture, conservation, engineering, recreation/preservation, entertainment/recreation, ethnic heritage, exploration/settlement, industry, military, science, social history, and transportation.
- Criterion B: Letchworth State Park meets NRHP Criterion B for its association with the lives of persons significant in the past, William Letchworth and Mary Jemison.
- Criterion C: Letchworth State Park meets NRHP Criterion C in the category of architecture for the range of historic building types, styles, and construction techniques represented throughout the park that reflect multiple layers of history; is significant in the category of art for the statue of Mary Jemison at the Council House Grounds; is significant in the category of engineering for structures in the park including the Genesee Valley Canal, the Portage High Bridge, the Mount Morris Dam, and roads, bridges, and trails built by the Civilian Conservation Corps; and is significant in the category of landscape architecture for its distinctive examples of landscape design spanning from 1860 through the 1940s.
- Criterion D: Letchworth State Park meets NRHP Criterion D as a property that has yielded, or is likely to yield, information important in prehistory or history. The area of the park was historically occupied by early pre-Iroquoian Native Americans, through the Seneca period, and into the era of settlement and transportation development by European Americans. Letchworth State Park is a significant resource under Criterion D for both precontact and historic archaeological remains of Native American settlements, and historic resources from the European settlement period. There are 15 known archaeological sites in the park, with the potential for other precontact and historic period resources.

[1] The description of the NRHP criteria for which Letchworth State Park has been determined significant is taken from the NRHP Registration (Nomination) Form for Letchworth State Park, Section 8, June 16, 2003, pp. 1-10.

The NRHP nomination includes 338 inventoried contributing resources located in the park. These include resources that span a period of significance from 1000 B.C. to 1952. According to the NRHP nomination, the contributing resources of the park include resources from the following historical eras:

- Native American Era (pre-1792)
- Settlement Era (ca. 1792-1850)
- Transportation: Canal (ca. 1836-1878) and Railroad (ca. 1851-present) Eras
- William Pryor Letchworth Era (1859-1907)
- Civil War Era (1862)
- American Scenic & Historic Preservation Society Era (1907-1930)
- New York State Park Era (1930-Present)

Park elements that are identified as contributing resources include archaeological sites, as well as built features such as remaining portions of the Genesee Valley Canal, trails, roads, overlooks, culverts, stone walls, footbridges, and parking lots. There are a number of contributing structures throughout the park, including the Glen Iris Inn, comfort stations, contact stations, administrative and other park buildings, cabins, bathhouses (pools), and picnic shelters. Smaller features also include historic markers and stone posts, water fountains, picnic tables, benches, and fireplaces. The Portage High Bridge is also identified as a contributing resource, as discussed in more detail below. The NRHP nomination also includes 137 non-contributing properties.

The Genesee River Valley region was occupied by the Seneca tribe, including the land in which the park is located. The Seneca settled in three areas within what are now the park boundaries: on the east side of the Genesee River between the Lower Falls and Portageville, and on the west side of the river north of the Lower Falls and toward the north end of the park. During the Revolutionary War, a number of Seneca villages were destroyed, with the land on the east side of the river confiscated by New York as punishment for the Seneca tribe's alliance with the British. The Treaty of Big Tree signed in 1797 established a number of reservations for the Seneca, two of which—the Squawkie Hill and Gardeau Reservations—were located partially within the modern park boundaries. However, all the Seneca's land rights were eliminated by the Treaty of Buffalo Creek in 1826, by which the land, including the reservations, was sold.

The east and west sides of the Genesee River were settled by Europeans at the turn of the 19th century, primarily by speculators and settlers. The first settlement of Portageville was established in 1807, with subsequent industry and development including sawmills, gristmills, with inns and churches soon following. Sometime after 1836, construction of the Genesee Valley Canal commenced on the east side of the river. Its goal was to provide a navigable canal from the Erie Canal in Rochester through the Genesee Valley to the Allegany River.

The canal, completed in 1863, was never financially successful and was abandoned in 1878. In 1880, the canal property was sold to the Genesee Valley Canal Railroad (later part of the Pennsylvania Railroad). In 1851, construction of the Attica and Hornellsville Railroad (later part of the Erie Railroad) was completed with the exception of a crossing at the Genesee River. This crossing was accomplished the next year through the construction of a wooden high bridge. Destroyed by fire in 1875, the wooden bridge was replaced by the current iron bridge, the Portage High Bridge, described in greater detail below.

William Pryor Letchworth is the most significant figure associated with the park's history. Letchworth, a Buffalo merchant, purchased over 1,000 acres of land around the park's three waterfalls in 1859, constructing a home, Glen Iris, on the west side of the river in what is now the south end of the park. Letchworth was a social reformer and follower of the picturesque movement, and was also dedicated to conservation of natural resources and Native American

heritage, as seen by his retention of the Seneca's Council House ground buildings, and erection of a monument in honor of Mary Jemison.[2]

Mr. Letchworth deeded the lands to the State of New York in 1907, and the park was established four years later. His home, a two- and three-story clapboard house, now operates as the Glen Iris Inn, with remnants of the original historic landscaping, including stonework, trees, and shrubs, still extant.

Between 1910 and 1930, the original 1,000 acres of parkland were administered by the American Scenic and Historic Preservation Society (ASHPS). The ASHPS made changes to facilitate automobile access, including construction of comfort stations, new parking areas, and expansion of the road system. During the 1920s and 1930s, the park was expanded through the acquisition of land toward the north and along the east side of the Genesee River. During the Great Depression, the Civilian Conservation Corps, instituted by President Roosevelt in 1933, made numerous improvements to the park. New planning and landscaping tactics were employed to separate recreational and wilderness areas, and to screen the recreational areas from the roads. New trails were built and additional roads constructed to extend access into the north end of the park.

In 1944, a flood control dam was authorized to be built on the Genesee River, 17 miles downstream (north) of the Lower Falls. The dam, Mt. Morris Dam, was completed in 1951 at the north end of the park. During 1960s, the park system was restructured. During the 1950s through the 1970s, the large influx of visitors to the park led to the construction of additional recreational facilities, including camping facilities and cabins, as well as expanded roadways. Today, Letchworth State Park is under the jurisdiction of OPRHP.

Contributing Resources of Letchworth State Park in the Direct Effects Portion of the APE

As described above, the APE for direct effects encompasses the existing railroad bridge alignment, areas of proposed construction to the north and south including the area of the new railroad right-of-way for the bridge approaches as well as the area affected by the relocation of a portion of Park Road and the Highbridge Parking Area and areas affected by temporary construction activities. Contributing resources in this area are as follows (see **Figure 2.7-1** for the location of the resources):

- *Portageville Bridge (Portage High Bridge).* The Portage High Bridge was built in 1875, replacing an earlier wood bridge that was destroyed by fire. The Portageville Bridge operates as part of Norfolk Southern's Southern Tier route. The bridge is an 819-foot-long steel viaduct carrying a single railroad track approximately 245 feet above the Genesee River gorge. The bridge is listed as a contributing element in the NRHP nomination for Letchworth State Park.

  The bridge was designed by engineer George Morison, and built in a few months by the Watson Manufacturing Company of Paterson, New Jersey. The bridge was built with a single track, and composed of 13 cast and wrought iron Pratt deck trusses. It was built with approximately 1.3 million pounds of iron. The trusses were carried on six large towers, two of which are set in masonry piers in the river and four on the river banks. The bridge has subsequently undergone several alterations. In 1903-04 the superstructure was replaced, with only the bents and masonry piers retained. Approximately 260 tons of the original iron was replaced with new steel. The bridge was subsequently reinforced and modified during

[2] Mary Jemison had been taken captive by the Seneca and adopted into the Seneca Tribe. The log house she had built for her daughter was purchased by Letchworth and moved to the Council House Grounds on his estate. He also had her body moved to the Council House Grounds for reinterment. In addition, Deh-ga-wa-nus Falls, or "Two Falling Voices," located under Gorge Trail near the Upper Falls, is named after Mary Jemison.

the 1940s. The bridge presently consists of ten plate-girder spans, and three Pratt deck trusses.

- *Trails.* Portions of two trails that are contributing resources to the park's NR listing fall within the direct effects portion of the APE. The Gorge Trail runs approximately seven miles along the west bank of the Genesee River. The trail is one of the oldest in the park, and originated as a footpath of the Seneca Indians during the 1700s. The trail is bordered by stone walls and has stone stairs at various points. The trail provides vistas of the Genesee River gorge, its waterfalls, and in a number of locations, the Portageville Bridge.

  The Mary Jemison Trail extends west from a small parking lot (the Highbridge Parking Area) located west of Park Road and just south of the Portageville Bridge, also on the west bank of the Genesee River. It is a gravel and dirt path constructed on what was once originally farmland, extending 2.5 miles from the parking lot to a site known as the Council Grounds, primarily through woodland. The trail is named after Mary Jemison, taken captive by the Seneca and adopted into the Tribe, who is a significant person associated with the NRHP listing of Letchworth State Park.

- *Roads.* The main park road (known as Park Road) is a contributing element of Letchworth State Park, with the southern portion of the road originally laid out by William Letchworth and the American Scenic and Historic Preservation Society. It is a paved two-lane road bordered by low fieldstone walls that crosses beneath the Portageville Bridge.

- *Parking Lots.* The small Highbridge Parking Area located west of Park Road and south of the Portageville Bridge, located partially in Norfolk Southern's right-of-way, is a contributing resource to Letchworth State Park. The parking lot is paved and was constructed before 1940. The parking lot provides access to the beginning of the Gorge Trail located across Park Road, and to the beginning of the Mary Jemison Trail, which is accessed from the west end of the parking lot.

- *Historic Markers.* A historic marker is located at the small Highbridge Parking Area near the Portageville Bridge. The marker consists of a metal sign set on a wood post that reads "Portage Bridge Replaces Largest Wooden Bridge in the World Built in 1852. 300 acres of Timber used in Construction. Burned in 1875." The marker indicates it was installed by the State Education Department in 1935.

- *Fieldstone Walls.* Fieldstone walls were built by William Letchworth, the American Scenic and Historic Preservation Society, the Civilian Conservation Corps, and the Genesee State Park Region throughout the park, including those that border Park Road and the Gorge Trail in the APE.

Contributing Resources of Letchworth State Park in the Indirect Effects Portion of the APE

As described above, the portion of the Project APE in which indirect effects could occur encompasses an area within approximately 500 feet, ¼ mile, and ½ mile of the direct effects area. The contributing resources within that area are as follows (see **Figure 2.7-2** for the location of the resources):

- *The Glen Iris Inn.* The inn, built by William Letchworth, is located approximately ½ mile north of the Portageville Bridge on the west side of the Genesee River. It is a two- and three-story frame house built in the mid-19th century and designed in the Greek Revival style. The house has a wrap-around two-story colonnaded porch and has a gable roof. The Glen Iris Inn has a large lawn lined with trees. A stone terrace faces the Genesee River gorge, and provides an overlook above the Middle Falls. The Portageville Bridge is partially visible from this location, above and behind the tree canopy of the Upper and Middle Falls Picnic Area located to the southeast. The bridge is not visible from other locations at the Glen Iris Inn,

including the lawn and colonnaded porch. Other contributing elements associated with the Glen Iris Inn include a metal plaque honoring William P. Letchworth, located above the Middle Falls on the low stone wall bordering the Glen Iris Inn overlook. The plaque reads "In Grateful Memory of William Pryor Letchworth L.L.D. Humanitarian Conservationist Donor of Glen Iris and His Estate Comprising the Original 1000 of the Park Includes Upper, Middle, and Lower Falls so that this Gorge Might Remain a Place of Inspiration and Beauty Forever." A number of parking lots associated with the Glen Iris Inn and landscaping elements, including memorial trees, are also contributing elements.

- *Genesee Valley Greenway/Finger Lakes Trail*. On the east side of the Genesee River, the Genesee Valley Greenway/Finger Lakes Trail runs along the gorge. The path follows the route of the former Pennsylvania Railroad, and railroad ties and also remnants of the preceding Genesee Valley Canal system are visible. The trail and elements of the former Genesee Valley Canal, including railroad remains, are contributing elements of the park. The Genesee Valley Greenway Trail crosses under the Portageville Bridge. In most other locations, the Portageville Bridge is not visible due to trees and dense vegetation.
- *Other Contributing Resources*. Other contributing resources in the indirect effects portion of the APE include stone walls, scenic overlooks, including those at the Middle Falls and at Glen Iris, and elements associated with the Upper and Middle Falls picnic areas, located north of the Portageville Bridge. These include comfort stations and picnic shelter built in 1929/1930, stone picnic tables and water fountains, and stone steps leading from the upper to lower parts of the picnic areas The large paved Upper and Middle Falls parking lot is also a contributing element constructed circa 1930. The Portageville Bridge is visible from the edge of the Upper and Middle Falls picnic area along the gorge, but has a limited visibility from within the interior portions of this recreational area due to trees and dense vegetation that obscure most views.

Archaeological Resources

As part of the Section 106 process, archaeological investigations were conducted within the portion of the APE with the potential for the Project to cause direct effects. As a result of archaeological investigations in these areas, it was determined that there are no archaeological resources listed on or determined eligible for listing on the NRHP present within the APE that would qualify as Section 4(f) properties.

2.7.6 IMPACTS ON SECTION 4(f) RESOURCES

As described above in Section 2.7.4, "use" of a Section 4(f) resource can occur in three ways:

1) When land is permanently incorporated into a transportation facility;
2) When there is temporary occupancy of land that is adverse; or
3) When there is a constructive use (i.e., effective use resulting from proximity).

The permanent incorporation of land into a transportation facility occurs when land from a Section 4(f) property is purchased outright as transportation right-of-way, or when a project acquires a property interest that allows permanent access onto a property such as a permanent easement for maintenance. As discussed in more detail below, temporary occupancy results when a Section 4(f) resource is used for project-construction related activities, but for less than the full construction period and with only minor, temporary impacts; and constructive use occurs when there is no permanent incorporation or temporary occupancy of land, but the proximity

impacts of a project are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired.[3]

This section describes the No Action Alternative and the Preferred Alternative and their use of Section 4(f) resources according to those three categories.

2.7.6-1 No Action Alternative

The No Action Alternative represents future conditions if the Preferred Alternative is not constructed. The No Action Alternative would maintain the existing Norfolk Southern right-of-way through Letchworth State Park for use as a rail corridor. The No Action Alternative would not result in the use, temporary occupancy, or constructive use of Section 4(f) resources. As noted above, this alternative would not meet the Project's purpose and need and objectives, but it is evaluated in the FEIS and this Section 4(f) Evaluation as the baseline for comparison to the Preferred Alternative.

2.7.6-2 Preferred Alternative

Norfolk Southern's Southern Tier rail freight route passes through the southern end of Letchworth State Park on property owned by Norfolk Southern. This route has been in operation since 1852, prior to creation of the park in 1906. Norfolk Southern's right-of-way includes the existing Portageville Bridge over the Genesee River, near the Upper Falls in the southern end of the park. On the west side of the river, several park features encroach within Norfolk Southern's right-of-way, including an approximately 160-foot-long segment of Park Road, the southern trailheads of the Gorge Trail and Mary Jemison Trail, and half of a small parking lot (the Highbridge Parking Area) that provides access to those two trailheads. On the east side of the river, a portion of the Genesee Valley Greenway Trail encroaches within Norfolk Southern's right-of-way.

The area that would be affected by the Project includes the existing rail bridge and right-of-way (bridge approaches) to its east and west, which are privately owned by Norfolk Southern and are not parkland. However, to construct the new rail bridge parallel to, but approximately 75 feet south of, the existing bridge, the Project would have to shift the railroad right-of-way southward on either side of the bridge so that the bridge approaches align with the new bridge. This would require the permanent use of a small area of parkland south of the existing railroad right-of-way (see **Figure 2.7-1**). To replace that parkland, the Project would convey an equivalent amount of land for incorporation into the park, consistent with the requirements of Section 6(f). In addition, in small areas of parkland in the immediate vicinity of the existing bridge, permanent changes would be made to historic features of the park, although these areas would remain parkland.

Use of Parkland and Historic Properties

Use of Parkland

The Project would require the use of land that is currently mapped as parkland as part of Letchworth State Park, a New York State park. As discussed below, a total of 3.66 acres of parkland would be used by the Project: 2.08 acres of land that would be acquired and incorporated into the railroad right-of-way, and 1.58 acres of land that would be part of construction easements and would be returned to the park after construction.

The 2.08 acres of parkland that would be acquired by Norfolk Southern, the Project sponsor, and would be permanently incorporated into the new railroad right-of-way would include land on both sides of the river, as follows:

[3] Federal Highway Administration. *Section 4(f) Policy Paper*. Office of Planning, Environment and Realty, Project Development and Environmental Review, Washington, D.C., July 20, 2012.

- On the west side of the river, approximately 0.66 acres that is predominantly wooded, and also includes approximately half of the Highbridge Parking Area (the other half of which is already within Norfolk Southern's right-of-way), approximately 40 linear feet of Park Road (approximately 160 additional feet are located within Norfolk Southern's right-of-way), approximately 200 linear feet of the Mary Jemison Trail (the first 140 feet of this trail is currently located in Norfolk Southern's right-of-way), and an area of the gorge face.
- On the east side of the river, approximately 1.42 acres that is predominantly wooded, and also includes a small area of the river itself, the steep river bank, and approximately 50 linear feet of the Genesee Valley Greenway Trail.

In addition, the Project's construction would involve temporary construction-related activities affecting 1.58 acres of parkland that is part of Letchworth State Park. This land would be used for construction easements and staging on the west side of the river, immediately adjacent to the existing and new railroad right-of-way. Of this, 0.42 acres would be used for the full construction period (estimated at approximately 27 months) and the remaining 1.16 acres would be used for less than six months in order to effect modifications to a trail, Park Road, a parking area, and the existing bridge. As outlined in the following section, based on the Section 4(f) regulations, the Project's construction easements/staging areas are also considered a Section 4(f) use rather than a temporary occupancy.

Use of Historic Properties

The Preferred Alternative would result in the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing, changes that would result in an Adverse Effect on the park in accordance with Section 106 of the NHPA. Based on review of documentation prepared by NYSDOT in accordance with 36 CFR 800.11(e), the SHPO concurred with an Adverse Effect finding on February 20, 2014, and FHWA formally issued an Adverse Effect determination for the Project on May 30, 2014. These changes would constitute use of the Section 4(f) property, due to a permanent incorporation of land from the historic site into the transportation facility. These include:

- The demolition of Norfolk Southern's existing Portageville Bridge (Portage High Bridge), located within Norfolk Southern's right-of-way.
- The removal and relocation of the southern trailheads of the Gorge Trail and Mary Jemison Trail, each located partially within Norfolk Southern's right-of-way.
- The removal and relocation of the Highbridge Parking Area west of Park Road and just south of the Portageville Bridge, located partially within Norfolk Southern's right-of-way. As the Highbridge Parking Area is located within the footprint of the proposed new bridge approach spans and railroad right-of-way, the parking area would be removed and relocated to parkland north of the railroad right-of-way.
- The reorientation of a portion of Park Road at the new bridge. The Preferred Alternative would result in a westward shift of approximately 700 linear feet of Park Road. The westward shift is required to move the road out of the area where the proposed new bridge foundations must be anchored in the western gorge wall.
- The removal and relocation of the historic marker at the Highbridge Parking Area. When the Highbridge Parking Area is relocated under the Preferred Alternative, the historic marker would also have to be relocated.
- The removal of historic fieldstone walls along the portion of the Park Road that would be shifted and at the trailhead of the Gorge Trail, where the trail would be removed and relocated.

Temporary Occupancy

As defined in the Section 4(f) regulations, use of a Section 4(f) resource can occur when there is temporary occupancy of land that is adverse. Temporary occupancy results when a Section 4(f) property, or part of the property, is required for project construction-related activities. The property is not permanently incorporated into a transportation facility but the activity is considered to be adverse in terms of the preservation purpose of Section 4(f). Under the provisions of 23 CFR 774.13(d), a temporary occupancy does not constitute a Section 4(f) use if the following conditions are met:

1) The duration is less than the time needed for the project's construction, and there is no change in ownership of land;
2) The scope of work is minor, in that both the nature and magnitude of changes to the 4(f) property are minimal;
3) No permanent, adverse physical impacts are anticipated, and there will be no temporary or permanent interference with the protected activities, features, or attributes of the property;
4) The land is fully restored, and returned to a condition at least as good as that which existed prior to the project; and
5) The agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions is documented.

If one of more of these conditions is not met, there is a use of the Section 4(f) property, even though the duration of construction-related activities is temporary.

As noted above, the Project's construction would involve temporary construction-related activities affecting 1.58 acres of parkland that is part of Letchworth State Park. Each of the five factors defined in the regulations (23 CFR 774.13(d)) and noted above was evaluated to determine whether the temporary construction activities can be considered as a temporary occupancy that is not adverse, which would mean that the activities are not a Section 4(f) use:

- *Duration is less than the time needed for the project's construction, and there is no change in ownership of land:* As noted, 0.42 acres of the construction easement/staging areas would be used for the full construction period, and therefore would not meet this criterion. The other 1.16 acres would be used for less than six months.
- *The scope of work is minor, in that both the nature and magnitude of changes to the 4(f) property are minimal:* The 1.58 acres of construction easement/staging areas includes historic properties that are contributing elements to Letchworth State Park's NRHP listing. In both the 0.42-acre area that would be used for the full construction period and the 1.16-acre area that would be used for less than six months, permanent changes would be made to these historic properties. Therefore the construction easement/staging areas would not meet this criterion.
- *No permanent, adverse physical impacts are anticipated, and there will be no temporary or permanent interference with the protected activities, features, or attributes of the property:* As discussed above, the 1.58 acres of construction easement/staging areas includes historic properties that are contributing elements to Letchworth State Park's NRHP listing. In both the 0.42 acres that would be used for the full construction period and the 1.16 acres that would be used for less than six months, permanent changes would be made to these historic properties. Therefore the construction easement/staging areas would not meet this criterion.
- *The land is fully restored, and returned to a condition at least as good as that which existed prior to the project:* The construction easement/staging areas would be fully restored upon completion of the construction activities and would therefore meet this criterion.

- *The agreement of the official(s) with jurisdiction over the Section 4(f) property regarding the above conditions is documented*: SHPO, the official with jurisdiction over the Section 4(f) historic site, has concurred that permanent changes to contributing resources, as described above, contribute to the Project's adverse effects on historic properties.

If one or more of these conditions for temporary occupancy is not met, there is a use of the Section 4(f) property, even though the duration of construction-related activities is temporary. As outlined above, three of the conditions would not be met by the Project and therefore the Project's temporary construction activities in 1.58 acres of construction easement/staging areas will result in a Section 4(f) use.

Constructive Use

As defined in the Section 4(f) regulations, the "constructive use" of a Section 4(f) resource does not involve the permanent incorporation or temporary occupancy of land, but occurs when the proximity impacts of a project are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. As stated in the FHWA Section 4(f) Policy Paper (p. 7), "As a general matter this means that the value of a resource, in terms of its Section 4(f) purpose and significance, will be meaningfully reduced or lost." The Policy Paper also states (p. 33), "Constructive use of Section 4(f) property is only possible in the absence of a permanent incorporation of land … that constitutes a Section 4(f) use." Constructive use can occur during a Project's construction or due to a Project's completed condition.

The Section 4(f) regulations at 23 CFR 774.15(e) identify specific project situations where constructive use would and would not occur. These situations identified where constructive use would occur include the following (among others):

1) The projected noise level increase attributable to a project substantially interferes with the use and enjoyment of a Section 4(f)-protected property, such as hearing performances in an outdoor amphitheater or sleeping in a campground.

2) The proximity of a proposed project substantially impairs the aesthetic features or attributes of a property protection by Section 4(f), where such features or attributes are considered important contributing elements to the value of the property. Examples of substantial impairment to visual or aesthetic qualities include the location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a Section 4(f) property which derives its value in substantial part due to its setting.

3) The project results in a restriction of access that substantially diminishes the utility of a significant publicly owned park, recreation area, or historic site.

As discussed above under "Use of Parkland and Historic Properties," the Project would involve the use of certain areas of Letchworth State Park. This analysis considers whether the Project would result in impacts in other areas of the park or for other historic elements of the park because of proximity that would constitute a constructive use under Section 4(f), either during construction or at completion of the Project.

Evaluation of Constructive Use during Construction

During construction, the Project's construction activities would result in some temporary disruptions in the portions of the park near, but not within, the construction site, but these disruptions would not result in constructive use (i.e., proximity impacts) of areas of the park near the construction zone, as discussed below.

- *Noise Effects on Park.* During construction, there would be noise generated by vehicles, equipment, and rock excavation through controlled blasting, as well as potentially by pile

drilling if that is required. The noisiest construction activity, pile drilling, may be audible for up to a mile from the construction site. Controlled blasting activities may be audible for up to ½ mile from the site. Other construction equipment, like dump trucks, could be audible for ¼ mile from the site, and when multiple pieces of equipment are operating simultaneously, this would be audible for greater distances. Normal construction work hours would be 7 AM to 5 PM on weekdays, although some time-sensitive tasks might be performed outside those hours or on weekends. These construction hours would limit to the extent possible the disruption to guests at the Glen Iris Inn, cabins, and campgrounds in the park, which are the most noise-sensitive locations nearby, since they accommodate overnight park visitors. Overall, the noise from construction activities would not "substantially interfere with the use and enjoyment of a Section 4(f)-protected property."

- *Visual Effects on Park.* There would be temporary visual impacts to viewers and viewsheds during the demolition of the existing bridge and construction of the new bridge, including closure of trails and associated viewing locations, and the operation of heavy machinery, including construction cranes, which would be visible above the vertical limits of the existing bridge. Park users would be visually aware of construction activities from most of the same viewpoints that were considered in the analysis of long-term visual impacts associated with the Project. These temporary visual impacts would be most discernable to the viewers on the Gorge Trail, the Genesee Valley Greenway Trail and at the Upper and Middle Falls scenic overlook, where the bridge is a principal component of the view—i.e., when the bridge is a large presence in the views. At distances removed from viewpoints at the southern end of the park, visual elements contributing to the scenic quality of Letchworth State Park would not be affected during construction. None of these temporary impacts can be considered to "substantially impair the aesthetic features or attributes" of the scenic qualities of Letchworth State Park, however, given the size of the park and the scenic and aesthetic qualities that would remain during construction, and therefore the temporary construction activities would not result in a constructive use in terms of visual effects.

- *Changes to Access for Park Elements outside the Construction Zone.* During construction, approximately 700 linear feet of Park Road would be closed because it would be within the construction zone. In addition, because the short segment of road from the Portageville Entrance to the construction site (approximately ½ mile) does not provide access to any activities in Letchworth State Park south of the bridge construction area, OPRHP has decided that it will close this segment and the Portageville Entrance itself to vehicular traffic during construction. Similarly, there are no destination points and no existing adequate places to turn around between the construction closure and the Upper/Middle Falls Area turn-off on Park Road, north of the Project site. Consequently, OPRHP has decided that it will close this roadway segment for the duration of construction. Closure of the ½-mile-long segment of Park Road between the Portageville Entrance and the Upper/Middle Falls Area turn-off would not "substantially diminish the utility" of Letchworth State Park. The only park features located between the Portageville Entrance and the Upper/Middle Falls Area turn-off (approximately ½ mile to the north) are the southern trailheads for the Mary Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction (see below). The rest of Park Road—i.e., the area north of the Upper/Middle Falls Area turn-off—would be unaffected by the bridge construction project. This section of the road would remain accessible via the other park entrances (the Castile Entrance, Perry Entrance, and Mt. Morris Entrance).

  Similarly, the closure of several other park features that are within the construction zone would also not adversely affect access to areas outside the construction zone in a way that substantially diminishes the utility of the park. As noted earlier, the southern trailheads for the Gorge Trail and the Mary Jemison Trail and the Highbridge Parking Area would be within the construction area and therefore inaccessible to the public during construction. The

Gorge Trail would remain accessible from numerous other points along its seven-mile-long length, and the Mary Jemison Trail would remain accessible outside the construction zone from the northern trailhead at Council Grounds. The Project's use of the Highbridge Parking Area would also not diminish the recreational value of the park, since the parking area serves the southern trailheads of the Gorge Trail and the Mary Jemison Trail, and those trailheads would not be available during construction.

The Project's construction would also require temporary and intermittent closures to the portion of the Genesee Valley Greenway Trail that is within the construction zone, to protect the public. When this is necessary, Norfolk Southern will work with OPRHP to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction. This would minimize any adverse effects to people using the portions of the trail outside the construction zone.

Overall, therefore, the Project's construction would not result in a "restriction of access that substantially diminishes the utility of" Letchworth State Park and would not result in a constructive use related to loss of access.

- *Other Construction-Related Changes that Could Affect Areas outside the Project's Construction Zone.* During construction of the new bridge and particularly during demolition of the existing bridge, some work in the water would be required. However, measures would be implemented to preserve water quality and to maintain the flow of the river to the extent possible, and therefore the recreational value for the six-mile stretch downstream of Lower Falls would not be adversely affected.

In conclusion, none of the Project's construction activities would substantially impair or reduce the recreational features or scenic, visual, or aesthetic values of Letchworth State Park that qualify it for protection under Section 4(f), and therefore no Section 4(f) constructive use would occur during the Project's construction.

Evaluation of Constructive Use at Project Completion

Once the Project is complete and operational, it also would not result in proximity impacts that would substantially impair the protected activities, features, or attributes that qualify Letchworth State Park for protection under Section 4(f). The reasons for this conclusion are outlined below.

- *Noise Effects on Park*. With the Preferred Alternative, train speeds on the new bridge would increase from 10 MPH to 35 MPH approaching and traversing the bridge, which would result in a small increase in noise levels associated with train operations. This would not result in noise impacts that would be considered severe, and, therefore, would not substantially diminish the protected activities, features, or attributes of Letchworth State Park.
- *Visual Effects on Park*. In terms of visual effects, the Project would result in the loss of the existing Portageville Bridge, which would result in an adverse impact for viewers in locations where the bridge is a principal element of the view. However, the removal of the Portageville Bridge would not result in an adverse impact on Letchworth State Park as a whole, since Letchworth State Park is an approximately 14,345-acre park with numerous significant visual elements. While the Portageville Bridge is one of many elements that contribute to the park's aesthetic and visual character, it is only visible from certain locations at the south end of the park. In addition, the new bridge's arch structure would have a positive effect in terms of natural features in views of the Genesee River, as the bridge supports would no longer be included in the viewshed, and the bridge structure would obscure less of the landscape beneath and behind it.
- *Changes to Access for Park Elements*. When the Project is complete, all park elements near the Project site would again be accessible for park visitors, including Park Road, the new

Highbridge Parking Area, and the Gorge Trail, Mary Jemison Trail, and Genesee Valley Greenway Trail.

- *Other Changes that Could Affect Areas outside the Project Site*. When the Project is complete, the existing bridge piers that are within the Genesee River's bed would be gone, and the river would be returned to its natural, free-flowing condition. Thus, recreational opportunities for paddlers upstream of the Project site would be maintained or enhanced.

For these reasons, the completed Project would not result in proximity impacts to nearby areas of Letchworth State Park that substantially impair the protected activities, features, or attributes that qualify the park for protection under Section 4(f), and no constructive use would occur.

2.7.6-3 Conclusion

Table 2.7-1 provides a summary of the Section 4(f) use of Letchworth State Park for the Preferred Alternative. The No Action Alternative would not result in any Section 4(f) use or temporary occupancy of Section 4(f) resources.

Table 2.7-1
Section 4(f) Uses at Letchworth State Park for the Preferred Alternative

Alternative / Feature of Letchworth State Park Affected	Use of Section 4(f) Resources
Park and Recreational Features of Letchworth State Park	
3.66 Acres of Parkland that is Part of Letchworth State Park	Use: Permanent acquisition of 2.08 acres of parkland
	Use: construction easement/staging in additional 1.58 acres of parkland
Historic Properties (Contributing Resources to Letchworth State Park's NRHP Listing)	
Portageville Bridge (Portage High Bridge)	Use: demolition and removal
Mary Jemison and Gorge Trails	Use: removal and relocation of southern trailheads
Park Road	Use: removal and shift of 700 linear feet of the roadway
Highbridge Parking Area and Historic Marker	Use: removal and relocation
Fieldstone Walls at Project Site	Use: removal of sections
Genesee Valley Greenway Trail	No use: minor changes to viewshed, no physical changes
Glen Iris Inn	No use: minor changes to viewshed, no physical changes
Other Contributing Resources	No use: minor changes to viewshed, no physical changes

2.7.7 AVOIDANCE ALTERNATIVES

FHWA may not approve the use of a Section 4(f) property if there is a "feasible and prudent" avoidance alternative. Therefore, if any feasible and prudent avoidance alternatives are available, one must be selected. As defined in the regulations (23 CFR § 774.17), an alternative that would not require the use of any Section 4(f) property is an avoidance alternative. Feasible and prudent avoidance alternatives are those that avoid using any Section 4(f) property and do not cause other severe problems that substantially outweigh the importance of protecting the Section 4(f) property (see the discussion in Section 2.7.4 above for more information on the definitions of feasibility and prudence).

A total of nine alternatives were developed for the Project during the NEPA evaluation. Of these, four would avoid the need to use Section 4(f) property. However, these potential avoidance alternatives were found not to be feasible and prudent avoidance alternatives. Alternatives were eliminated if they were not feasible and prudent in terms of meeting the Project's purpose and

need, or because they were found to have unacceptable safety or operational problems; severe social, economic, or environmental impacts; substantial additional costs; or other unique problems, as defined in the Section 4(f) regulations and outlined above. In addition, a fifth alternative to avoid parkland was also considered, but was found not to fully avoid the need to use Section 4(f) property and therefore cannot be considered an avoidance alternative. The avoidance alternatives are discussed below.

2.7.7-1 No Action Alternative (Alternative 1)

As discussed above in Section 2.7.3, the No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. This alternative would not require the use of any parkland or historic resource that is protected under Section 4(f). However, the No Action Alternative does not meet the Project's purpose and need and therefore is not a feasible and prudent avoidance alternative.

2.7.7-2 Repair / Retrofit Existing Bridge Alternative (Alternative 2)

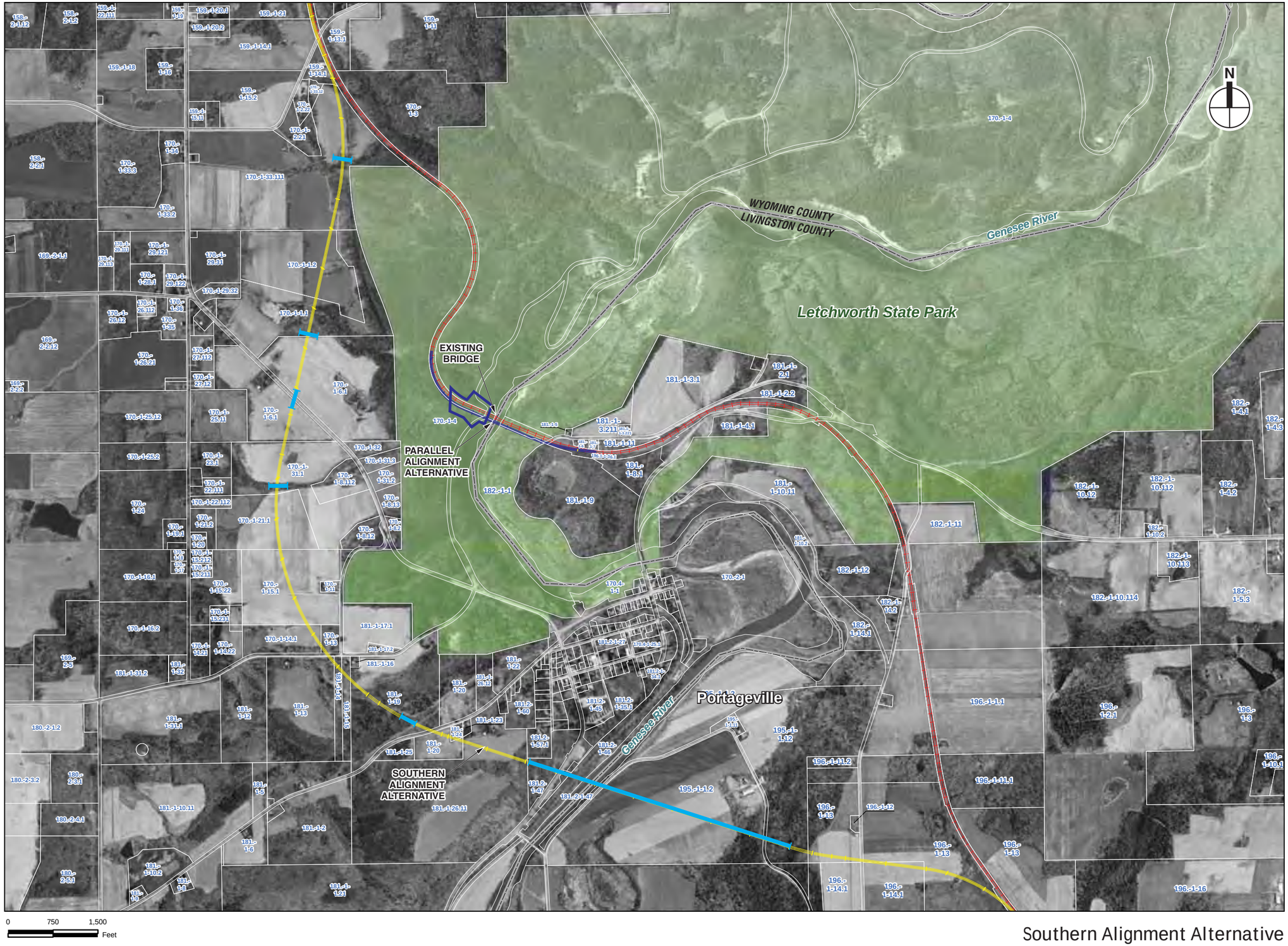
This alternative would involve repairing and retrofitting the existing bridge to the capacity needed to meet current and future freight transport needs. This alternative would retain the existing historic bridge, and would avoid the use of other contributing historic resources and parkland.

However, following an inspection of the existing bridge, Norfolk Southern determined that this alternative is not reasonable given the extent of structural deficiencies at the existing bridge. The necessary repairs and retrofits could not be feasibly undertaken while the bridge is open to rail traffic; therefore, the Repair / Retrofit Alternative would require rail traffic to be rerouted for 18 months while the bridge is repaired. This would deprive Norfolk Southern's customers of the efficiencies of the Southern Tier route, including temporarily eliminating rail freight service to several locations and for several customers and requiring complex rerouting of trains over other routes maintained by other railroads. Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. Moreover, this alternative would not effectively extend the bridge's useful life nor increase its load carrying capacity to the Cooper E80 standard, and thus would do little to improve the efficiency of rail operations. Even with repairs and retrofits, fatigue and corrosion would continue to degrade structural elements of the bridge, and there would continue to be substantial maintenance requirements following the retrofit. The maintenance requirements would accelerate over time as the structure continues to age. For these reasons, the Repair / Retrofit Alternative could jeopardize the long-term viability of the Southern Tier route and does not meet the Project's purpose and need. Therefore, this alternative is not a feasible and prudent avoidance alternative.

2.7.7-3 Southern Alignment Alternative (Alternative 7)

The Southern Alignment Alternative in Alternative 7 would reroute the Southern Tier rail freight route entirely outside of Letchworth State Park, which would avoid the use of parkland. This alternative would reroute the Southern Tier route using a new, 4.5-mile railroad route outside of Letchworth State Park. The new route would be south and west of the southern end of the park (see **Figure 2.7-4**). In Alternative 7, the existing bridge would remain in place and would be conveyed to a suitable owner once it is no longer needed for freight rail purposes. Alternative 7 would avoid the use of any parkland or historic properties.[4]

[4] Another variation of the Southern Alignment Alternative, Alternative 6, was also considered in the NEPA evaluation. That alternative was the same as Alternative 7, but also removed the existing Portageville Bridge. Therefore, that alternative is not an avoidance alternative for the Section 4(f) evaluation.



Southern Alignment Alternative
Figure 2.7-4

The Southern Alignment Alternative would have land use impacts, would require acquisition of approximately 54 acres of land, would cost more than three times the cost of the Project, and was overwhelmingly opposed during public review. The Southern Alignment Alternative was eliminated from consideration because it does not meet the Project's purpose and need and has impacts and costs that make it unreasonable. Therefore, Alternative 7 is not a feasible and prudent avoidance alternative to the use of Section 4(f) resources.

2.7.7-4 Reroute Rail Traffic Alternative (Alternative 9)

In the Reroute Rail Traffic Alternative, Norfolk Southern would cease using a substantial portion of the Southern Tier rail route, eliminating the need for a Genesee River crossing. No parkland would be used for this alternative. In Alternative 9, the existing bridge would remain in place and would be conveyed to a suitable owner once it is no longer needed for freight rail purposes. Thus, Alternative 9 would avoid the use of any parkland or historic properties.[5]

Instead of using the Southern Tier route between Binghamton and Buffalo, rail freight traffic would use alternative rail freight routes, adding at least five hours to the route and substantial cost for Norfolk Southern (and its customers). As noted above for the previous alternative, this would restrict or remove rail freight service to a number of communities and customers and as such has the potential for substantial negative impacts to the region's economy.

Since this alternative would not provide a modern rail crossing of the Genesee River at its current location, it does not meet the Project's purpose and need and, therefore, is not a feasible and prudent avoidance alternative to the use of Section 4(f) resources.

2.7.7-5 New Bridge on Same Alignment Alternative (Alternative 3)

An alternative that replaces the existing rail bridge in the same location and same alignment was evaluated as a way to avoid the need to acquire land from Letchworth State Park. However, this alternative would nonetheless require the use of some parkland and would also require removal of the existing bridge, and therefore cannot be considered an avoidance alternative. Alternative 3 is discussed below in the evaluation of "least harm" alternatives.

2.7.7-6 Avoidance Alternatives: Conclusion

No feasible and prudent alternative exists to the use of Letchworth State Park, a property that qualifies for protection under Section 4(f) as a public park and NRHP-listed historic property.

2.7.8 LEAST HARM ALTERNATIVES

As set forth in the Section 4(f) regulations, if the analysis conducted concludes that there is no feasible and prudent avoidance alternative, then FHWA must approve, from among the remaining alternatives that use Section 4(f) property, the alternative that causes the least overall harm in light of the statute's preservation purpose (23 CFR § 774.3). During development of alternatives for the Project, three alternatives were considered that would not constitute avoidance alternatives, because the use of Section 4(f) resources would still be required, as discussed in this section.

2.7.8-1 New Bridge on Same Alignment Alternative (Alternative 3)

As noted above, this alternative, which would replace the existing rail bridge in the same location and same alignment as the existing bridge, was evaluated as a way to avoid the need to acquire land from Letchworth State Park. However, this alternative cannot fully avoid the use of Section

[5] Another variation of the Reroute Rail Traffic Alternative, Alternative 8, was also considered in the NEPA evaluation. That alternative was the same as Alternative 9, but also removed the existing Portageville Bridge. Therefore, that alternative is not an avoidance alternative for the Section 4(f) evaluation.

4(f) resources. This alternative would involve demolishing the existing rail bridge, which is protected under Section 4(f) because it is a contributing element to Letchworth State Park's NRHP listing, and constructing a new bridge at the same location and alignment. During construction, some parkland adjacent to the bridge alignment may need to be used for staging and access. The overall amount of parkland used for this alternative would be less than with Alternative 4 or 5.

However, this alternative would shut down most of the Southern Tier route during the 18- to 31-month construction period, the duration being dependent on the type of replacement bridge. This alternative would therefore have the same disadvantages as the Repair / Retrofit Existing Bridge Alternative (Alternative 2): all rail freight would be routed to other rail lines, which would temporarily eliminate rail freight service to several locations and customers. As a result, Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs as result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. For these reasons, this alternative was determined to be unreasonable in the NEPA evaluation of alternatives conducted for the DEIS.

2.7.8-2 New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4 / Preferred Alternative)

As described above in Section 2.7.6.2, the Preferred Alternative (also known as Alternative 4) includes the construction of a new single-track railroad bridge approximately 75 feet south of the existing bridge. New approach tracks would also be constructed for approximately 1,200 feet on either side of the bridge to realign rail traffic through the new crossing. The existing bridge would remain operational during construction of the new bridge. Upon the opening of the new bridge, the existing bridge and the existing tracks between the diverted right-of-way and the existing bridge would be removed. The new bridge would be dedicated to rail traffic, and pedestrian access would be prohibited. This alternative meets the purpose and need for the Project and is the alternative evaluated as the Preferred Alternative in this Section 4(f) Evaluation.

2.7.8-3 New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5)

This alternative would be essentially the same as the Preferred Alternative, with a new rail bridge approximately 75 feet south of the existing bridge, but the existing bridge would remain for a non-railroad purpose under new ownership. Upon completion of the new bridge, Norfolk Southern would convey the existing bridge, as it would no longer serve freight rail purposes. Maintenance, repairs, and any modifications to the existing bridge would be the responsibility of the new owner. The other changes to the recreational features and historic elements of Letchworth State Park (e.g., Park Road, Highbridge Parking Area, the two trails, and the historic marker) would be the same as with the Preferred Alternative. Thus, other than with respect to the existing rail bridge, this alternative would require the same use of Section 4(f) resources as Alternative 4.

Throughout the preparation and public review of the previous DEIS prepared for this Project in accordance with the New York State Environmental Quality Review Act (SEQRA), which was completed in 2012, and throughout the scoping process for the NEPA DEIS and the public comment period on the NEPA DEIS, the OPRHP, which is responsible for Letchworth State Park, has declined to assume ownership of the existing bridge, due to the cost of rehabilitation and ongoing maintenance responsibilities to retain the structure and ensure public safety. Over the past six years as the SEQRA DEIS and the NEPA DEIS and FEIS have been prepared, including multiple public review periods during that time, no other entity has come forward offering to take responsibility for the bridge. Thus, an alternative suitable owner of the existing

bridge that is able to bear the costs of acquisition, rehabilitation, and maintenance has not been identified.

For these reasons, Alternative 5 was determined to be unreasonable in the NEPA evaluation of alternatives conducted for the DEIS.

2.7.8-4 Least Harm Alternative: Conclusion

As discussed above in Section 2.7.4, if there is no feasible and prudent avoidance alternative, FHWA may approve only the alternative that causes the least overall harm in light of the statute's preservation purpose. According to the regulations (23 CFR § 774.3), the "least overall harm" is determined by balancing the following seven factors:

1) The ability to mitigate adverse impacts to each Section 4(f) property (including any measures that result in benefits to the property);
2) The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
3) The relative significance of each Section 4(f) property;
4) The views of the official(s) with jurisdiction over each Section 4(f) property;
5) The degree to which each alternative meets the purpose and need for the project;
6) After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
7) Substantial differences in costs among the alternatives.

As outlined in the FHWA Section 4(f) Policy Paper, the first four criteria relate to the degree of harm to Section 4(f) properties, which allows the FHWA to consider all relevant concerns to determine which alternative would cause the least overall harm in light of the statute's preservation purpose. The other three criteria relate to any substantial problems on issues beyond Section 4(f). FHWA may determine that a serious problem identified in these factors might outweigh relatively minor net harm to a Section 4(f) resource. An evaluation of the three potential "least harm" alternatives outlined in this section was conducted with respect to the seven factors in the regulations, as discussed below.

Ability to Mitigate Adverse Impacts to Each Section 4(f) Property

- *New Bridge on Same Alignment Alternative (Alternative 3):* This alternative would require the use of less parkland than Alternatives 4 and 5; mitigation for that use would be similar to mitigation for the uses in Alternatives 4 and 5. Demolition and removal of the Portage High Bridge, which is a contributing resource for Letchworth State Park's NRHP listing, would be required. This could be mitigated through the same measures related to demolition of the bridge as are proposed for the Preferred Alternative, as outlined below in Section 2.7.9. As described there, these are: the development of educational and interpretive materials for the park related to the existing bridge, including use of a salvaged pier from the bridge, and Historic American Engineering Record-level recordation of the bridge.
- *New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4/ Preferred Alternative):* The adverse effects of the Preferred Alternative on parkland and historic resources can be mitigated through the measures outlined below in Section 2.7.9. As noted there, mitigation for the use of parkland includes replacement of that parkland with the same amount of new parkland, so that there is no net loss, as well as restoration of affected park features.
- *New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5):* This alternative would have the same impacts and same mitigation as Alternative 4, except with

respect to the existing rail bridge. In this alternative, the existing rail bridge would remain in place and no mitigation would be needed related to its demolition.

Relative Severity of the Remaining Harm, after Mitigation, to Section 4(f) Properties

- *New Bridge on Same Alignment Alternative (Alternative 3):* The park features affected would be restored. After implementation of mitigation, Alternative 3 would still result in an adverse effect to a historic site, because of the loss of a contributing element to Letchworth State Park's NRHP listing. It would also adversely affect views in Letchworth State Park of the rail bridge, because the existing rail bridge, which is considered an important scenic feature, would be replaced by a new bridge.
- *New Bridge on Parallel Alignment / Remove Existing Bridge Alternative (Alternative 4/ Preferred Alternative):* The park features affected would be restored. After implementation of mitigation, Alternative 4 would have the same effect as Alternative 3 in terms of the adverse effect to a historic site, because of the loss of a contributing element to Letchworth State Park's NRHP listing. It would also adversely affect views in Letchworth State Park of the rail bridge, because the existing rail bridge, which is considered an important scenic feature, would be replaced by a new bridge.
- *New Bridge on Parallel Alignment / Convey Existing Bridge Alternative (Alternative 5):* The park features affected would be restored. By retaining the existing rail bridge, this alternative would not result in the demolition of a contributing element to Letchworth State Park's NRHP listing. However, this alternative would still require removal of some components of the existing bridge. Further, having two parallel bridges would be more obstructive to scenic views than a single bridge, resulting in adverse visual impacts on Letchworth State Park.

Relative Significance of Each Section 4(f) Property

For all three potential least harm alternatives, the same Section 4(f) property would be affected, Letchworth State Park.

Views of Official(s) with Jurisdiction over each Section 4(f) Property

As discussed in Section 2.7.10 of this Section 4(f) Evaluation, the officials with jurisdiction over Letchworth State Park are the OPRHP and the SHPO. As noted in the description of Alternative 5 above, the OPRHP, which is responsible for Letchworth State Park, is unable to assume ownership of the new bridge. Alternatives 3 and 4 are equivalent in terms of effects on the bridge and viewshed. For Alternative 4, the officials with jurisdiction have agreed that adverse impacts to the Section 4(f) resource can be mitigated, as indicated by their participation in measures to minimize harm (discussed below in Section 2.7.9), including a Memorandum of Agreement prepared in accordance with Section 106 to resolve adverse effects on the historic site.

Degree to Which Each Alternative Meets the Purpose and Need for the Project:

All three potential least harm alternatives meet the purpose and need for the Project equally.

After Reasonable Mitigation, the Magnitude of Any Adverse Impacts to Resources Not Protected by Section 4(f)

Except as relates to the existing Portageville Bridge, Alternatives 4 and 5 would have the same effects. Alternative 3 would have similar effects in most areas, but would require less parkland and therefore less tree clearing and smaller effects on natural habitats. Compared to Alternatives 4 and 5, Alternative 3 would have much greater impact during construction on Norfolk Southern's rail freight operations. As discussed above in the description of Alternative 3, this alternative would require a shutdown of most of the Southern Tier route for the alternative's

entire construction period, which would temporarily eliminate rail freight service to several locations and customers, and would cause notable delays to other customers and the potential for permanent loss of affected customers. For these reasons as well as its additional cost, Alternative 3 was found to be unreasonable during the evaluation conducted during the scoping process for NEPA and was eliminated from further review.

Substantial Differences in Costs Among the Alternatives

Alternatives 4 and 5 would have similar construction costs, estimated at $67.5 million for Alternative 4 and $67 million for Alternative 5. Alternative 3 would cost an estimated $22 million more ($89.5 million, which is 33 percent more than the other alternatives), because of the need to reroute rail traffic around the Southern Tier route during construction.

Conclusion

The least harm analysis considered three potential alternatives that would require the use of the Section 4(f) resource, Letchworth State Park. Alternative 3 would result in negative impacts on Norfolk Southern's rail freight operations, and would cost substantially more than Alternatives 4 or 5. For these reasons, Alternative 3 was found to be unreasonable during the evaluation conducted during the scoping process for NEPA and was eliminated from further review. Alternative 5 was determined unreasonable as a result of the NEPA evaluation, and cannot be implemented in the absence of a new owner. For Alternative 4, the officials with jurisdiction have agreed that adverse impacts to the Section 4(f) resource can be mitigated, as indicated by their participation in measures to minimize harm (discussed below in Section 2.7.9), including a Memorandum of Agreement prepared in accordance with Section 106 to resolve adverse effects on the historic site. On balance, therefore, Alternative 4 is the alternative that causes the least overall harm in light of Section 4(f)'s preservation purpose.

2.7.9 MEASURES TO MINIMIZE HARM

When there is no feasible and prudent alternative to the use of a Section 4(f) resource, the Project must include all possible planning to minimize harm to the Section 4(f) property. The Preferred Alternative will include the following measures to minimize harm to the recreational features and historic sites that contribute to Letchworth State Park that would be affected by the Project.

2.7.9-1 Measures to Minimize Harm to Parkland/Recreational Features

Measures to minimize harm to the park's recreational features have been developed in coordination with OPRHP and include the following:

- By placing the new bridge close to the existing bridge (approximately 75 feet to the south, measured from center line to center line of the railroad right-of-way), the Project would minimize the amount of parkland that must be acquired to accommodate the shift in the railroad right-of-way.
- In place of the 2.08 acres of parkland that would be permanently used by the Project as well as an additional 0.42 acres that would be used for the duration of construction but then returned to the park, 2.50 acres of land that is currently part of the railroad right-of-way will be conveyed to OPRHP for incorporation into the park, so there is no net loss of parkland. Consistent with the requirements of Section 6(f) of the Land and Water Conservation Fund Act, this new parkland will have equivalent recreational usefulness as the parkland that would be used by the Project.
- Park features that would be used during construction will be restored. This includes a segment of Park Road, the Highbridge Parking Area, and the southern trailheads for the Mary Jemison Trail and the Gorge Trail.

- The reconstruction of a segment of Park Road will address ongoing erosion that has occurred near the existing railroad bridge as well as poor sight distances for motorists.
- The Highbridge Parking Area will be rebuilt in a new location. As part of the Project, it will be increased in size to accommodate additional park visitors, and will include have an improved design with stormwater management features.
- Improvements to the Castile Entrance to the park, to upgrade the entrance booth there and increase vehicular capacity. This will allow the Castile Entrance to better serve traffic diverted from the Portageville Entrance during construction and will be a permanent enhancement to park facilities following completion of the Project.
- A portion of Gorge Trail outside of the Project area will be restored.
- The selection of an arch bridge structure for the new bridge will minimize the potential for adverse visual effects, by eliminating piers and supports from the river and enhancing the view of natural park features through the gorge.
- Visual effects will be minimized through the selection of an appropriate, earth-tone paint color, and the use of drape netting on areas of newly exposed rock to control erosion in a way that is not visually intrusive.
- To mitigate for loss of trees in the new right-of-way, the former right-of-way converted to parkland will be revegetated through a tree planting program. Other areas disturbed during construction would also be replanted with native vegetation.

2.7.9-2 Measures to Minimize Harm to Historic Properties

Mitigation measures have been developed in consultation with the SHPO and participating Consulting Parties in accordance with Section 106 of the NHPA, and are set forth in an executed Memorandum of Agreement for the Project that is provided in **Appendix 1 to the FEIS**. Measures included in the Memorandum of Agreement to minimize harm to Letchworth State Park, which qualifies for Section 4(f) protection as a historic site, are as follows:

- Construction Protection Plan (CPP). The CPP will set forth measures to protect historic park features outside the construction zone from accidental damage associated with construction activities.
- An Avoidance Plan. An Avoidance Plan will be implemented to ensure that construction-related activity does not disturb archaeologically sensitive areas associated with the NRHP-eligible Cascade House Historic Site, an archaeological site located outside the construction zone.
- Educational and interpretive materials will be developed related to the old bridge for Letchworth State Park, including the salvage, conservation, and installation of a part of the base of Pier 11 of the Portageville Bridge; creation and installation of two interpretive kiosks; and creation of an exhibit related to the bridge in the William Pryor Letchworth Museum in the park.
- Historic American Engineering Record (HAER)-level recordation of the Portageville Bridge, will be prepared, including additional archival photography and a narrative that describes the physical characteristics of the Portageville Bridge and its history.
- Restoration of Portions of the Gorge Trail. For the portion of the Gorge Trail that will be relocated for the Project, stone from the walls will be salvaged, to the extent feasible, for reuse along the relocated portion of the Gorge Trail. The existing Gorge Trail between the proposed construction zone for the Project and the Middle Falls (outside the Project limits), will be restored, as identified as necessary by OPRHP.

- An interpretive kiosk will be developed and installed in Letchworth State Park as a cultural enhancement, to acknowledge the cultural importance of the area to the Seneca Nation of Indians.

2.7.10 COORDINATION

2.7.10-1 Coordination with Officials with Jurisdiction Over the Section 4(f) Resource

As required by the Section 4(f) regulations (23 CFR § 774.5), the Draft Section 4(f) Evaluation for the Project was provided for coordination and comment to the officials with jurisdiction over the Section 4(f) resource that would be used by the Project. As defined in the regulations (23 CFR § 774.17), for public parks, recreation areas, and wildlife and waterfowl refuges, the officials with jurisdiction are those that own or administer the property in question—in this case, OPRHP. For historic sites, the official with jurisdiction is the SHPO, as well as the federal Advisory Council on Historic Preservation (ACHP) if they are participating in the Section 106 review for the Project. For this Project, ACHP is a Cooperating Agency for the Project's NEPA review, but has declined to participate in the Section 106 review. Thus, for the Project, the officials with jurisdiction are the OPRHP and the SHPO.

OPRHP and the SHPO were involved in the development and evaluation of the Project's alternatives and impacts during review of the previous SEQRA DEIS prepared for this Project in 2012, and during preparation of the NEPA DEIS and this FEIS, and were involved in the preparation of the Draft Section 4(f) Evaluation for the Project.

FHWA provided the Draft Section 4(f) Evaluation for the Project to the DOI for review. In a letter dated September 12, 2014, DOI concurred that there is no prudent and feasible alternative to Project's proposed use of Section 4(f) resources, which consist of Letchworth State Park, and would be permanently used for the Project. DOI noted that measures to minimize to historic resources have been developed in consultation with the State Historic Preservation Office and participating Consulting Parties in accordance with Section 106 and are set forth in a Draft Memorandum of Agreement for the Project that will be executed prior to Project construction. DOI recommended that a signed copy of the agreement be included in the final documentation for this Project; as noted earlier, the executed Memorandum of Agreement is included in **Appendix 1** to the FEIS. A copy of the DOI letter is included at the end of this Section 4(f) Evaluation.

DOI also noted that a formal request for permission to convert a Land and Water Conservation Fund assisted (Section 6(f)) property in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer (SLO) or the Alternate SLO to the National Park Service (NPS) in writing and conform to the prerequisites set forth in 36 CFR 59. The NPS LWCF Program requests that the FHWA and NYSDOT continue to coordinate with the OPRHP in order to complete the conversion request. FHWA and NYSDOT will continue to coordinate with the OPRHP regarding the conversion request following issuance of the FEIS and Record of Decision. FHWA provided the Draft Section 6(f) Evaluation to NPS for review as part of the DEIS and requested an initial review of the proposed conversion of parkland prior to submission of a formal conversion request. In an e mail dated November 20, 2014, NPS indicated its conceptual approval of the conversion proposal as described in the DEIS. A copy of that correspondence is included at the end of Section 2.8 of the FEIS.

FHWA, NYSDOT, and Norfolk Southern have had additional coordination with OPRHP during development of the Project alternatives, environmental documents, and this Section 4(f) Evaluation because of OPRHP's jurisdiction over Letchworth State Park. This has included meetings, phone calls, and other communications related to Project issues, the possibility of retaining the existing Portageville Bridge, the identification of adverse effects resulting from the Project, and the development of mitigation.

As noted earlier, this Project is being reviewed in accordance with Section 106 of the NHPA, concurrently with its review under NEPA and Section 4(f). OPRHP, the SHPO, and the National Park Service are all Consulting Parties for the Section 106 review, and as such, have contributed to the development of mitigation measures for the Project's Adverse Effect on historic properties that are set forth in the Section 106 Memorandum of Agreement for the Project. Additional Consulting Parties with an interest in the historic preservation issues for the Project have also been involved and have participated in the development of mitigation measures.

2.7.10-2 Public Involvement

The Draft Section 4(f) Evaluation was available for public review and comment during the public review period for the NEPA DEIS, which extended from publication of the DEIS on August 1, 2014 through the end of the comment period on September 15, 2015.

The public comment period remained open through the close of business on September 15, 2014. Written comments (mail, fax, email, and submissions at the public hearing) were accepted through that date; written comments received after the close of the comment period were also considered.

During the public comment period on the DEIS, copies of the DEIS were distributed to the Project mailing list and were made available for review on the Project's website (www.dot.ny.gov/portagevillebridge) and at a number of publicly accessible repositories. In addition, a joint public hearing was held by FHWA, NYSDOT, and the Project Sponsor, Norfolk Southern Railway Company, on August 26, 2014 in Mount Morris, New York to accept public comments on the DEIS.

Section 2.6 of the FEIS provides a summary of substantive comments received on the DEIS and Draft Section 4(f) Evaluation during the public review period. During the public review period, no comments on the Draft Section 4(f) Evaluation were received from the general public.

2.7.11 CONCLUSION

Based on the above considerations, there is no prudent and feasible alternative to this use of land from Letchworth State Park, and the proposed action includes all possible planning to minimize harm to Letchworth State Park resulting from such use.

United States Department of the Interior
OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572

September 12, 2014

9043.1
ER 14/0468

Jonathan McDade
Federal Highway Administration
Leo W. O'Brien Federal Building
11 A Clinton Avenue, Suite 719
Albany, NY 12207

RE: Draft Environmental Impact Statement (DEIS) and Section 4(f) Evaluation for the Portageville Bridge Project, NY.

Dear Mr. McDade:

The U.S. Department of the Interior (Department) has reviewed the Section 4(f) Evaluation for the proposed Portageville Bridge Project (the Project). The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between Wyoming and Livingston Counties within Letchworth State Park, and serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route. The Federal Highway Administration (FHWA), in cooperation with the New York State Department of Transportation (NYSDOT) is proposing to improve the rail crossing of the Genesee River on the Southern Tier route, so that the crossing meets modern freight rail standards necessary to maintain safe and efficient goods movement. The following comments on this project are offered for your consideration.

Section 4(f) Evaluation Comments

The Department concurs that there is no prudent and feasible alternative to the proposed use of 4(f) lands, which consists of Letchworth State Park, and would be permanently used for the Project. The Project would require the use of 1.95 acres of land that is currently mapped as parkland as part of Letchworth State Park, a New York State park. This land would be acquired by Norfolk Southern, the Project sponsor, and would be permanently incorporated into the new railroad right-of-way. In addition, as part of the Project, Norfolk Southern would acquire a permanent easement from the New York State Office of Parks, Recreation and Historic Properties (OPRHP) in a 0.21-acre area adjacent to the existing railroad embankment on the west

side of the river where access for ongoing slope stabilization is required. Letchworth State Park qualifies for protection under Section 4(f) as a public park and historic property that is listed on the National Register of Historic Places (NRHP).

The Preferred Alternative would result in the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing, changes that would result in an Adverse Effect on the park in accordance with Section 106 of the NRHP. Based on review of documentation prepared by NYSDOT in accordance with 36 CFR 800.11(e), the State Historic Preservation Officer (SHPO) concurred with an Adverse Effect finding on February 20, 2014, and FHWA formally issued an Adverse Effect determination for the Project on May 30, 2014. These changes would constitute use of the Section 4(f) property, due to a permanent incorporation of land from the historic site into the transportation facility. These include:

- the demolition of Norfolk Southern's existing Portageville Bridge (Portage High Bridge), located within Norfolk Southern's right-of-way;
- the removal and relocation of the southern trailheads of the Gorge Trail and Mary Jemison Trail, each located partially within Norfolk Southern's right-of-way;
- the removal and relocation of the Highbridge Parking Area west of Park Road and just south of the Portageville Bridge, located partially within Norfolk Southern's right-of-way;
- the reorientation of a portion of Park Road at the new bridge; the Preferred Alternative would result in a westward shift of approximately 700 linear feet of Park Road;
- the removal and relocation of the historic marker at the Highbridge Parking Area; and,
- the removal of historic fieldstone walls along the portion of the Park Road that would be shifted and at the trailhead of the Gorge Trail, where the trail would be removed and relocated.

The Project's construction would involve temporary construction-related activities affecting 1.55 acres of parkland that is part of Letchworth State Park. This land would be used for construction easements and staging on the west side of the river, immediately adjacent to the existing and new railroad right-of-way. Of the 1.55 acres, 0.38 acres would be used for the full construction period (estimated at approximately 27 months) and the remaining 1.17 acres would be used for less than six months in order to effect modifications to a trail, Park Road, a parking area, and the existing bridge.

The Project's construction activities in 1.55 acres of construction easement/staging areas will result in a Section 4(f) use. The Project's construction easements/staging areas are considered a Section 4(f) use rather than a temporary occupancy.

We note that measures to minimize harm to these historic resources have been developed in consultation with the SHPO and participating Consulting Parties in accordance with Section 106 of the National Historic Preservation Act (NHPA), and are set forth in a Draft Memorandum of Agreement for the Project that will be executed prior to Project construction. We recommend that a signed copy of the agreement document be included in the final documentation for this project to reflect the procedures for protecting cultural resources determined in consultation with the SHPO.

3

Formal requests for permission to convert a Land and Water Conservation Fund (LWCF) assisted property in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer (SLO) or the Alternate SLO to the National Park Service (NPS) in writing and conform to the prerequisites set forth in 36 CFR 59. The NPS LWCF Program requests that the Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT) continue to coordinate with the New York State Office of Parks, Recreation and Historic Preservation in order to complete the conversion request.

Thank you for the opportunity to review and comment on this project. Should you have questions about these comments, please contact Liam Strain, National Park Service, at (215) 597-1953. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer

CC: SHPO-NY (John.Bonafide@parks.ny.gov)
NYDOT (Raymond.Hessinger@dot.ny.gov)

Section 2.8: Updated Section 6(f) Evaluation

2.8.1 INTRODUCTION

Norfolk Southern Railway Company provides rail freight service across New York State via its Southern Tier route, a critical freight rail line between Buffalo and Binghamton and provides connections to Canada and the Eastern Seaboard of the United States. The Southern Tier route is also used to transport Canadian Pacific Railway freight and provides interchange connections to 11 short line freight railroads. In addition to regional and national service, it serves communities in western and southern New York State and northern and eastern Pennsylvania. The Southern Tier route passes through Letchworth State Park in western New York, on right-of-way owned by Norfolk Southern but within the boundaries of the park. This right-of-way within the park boundaries includes the Portageville Bridge, which provides the crossing over the Genesee River between Wyoming and Livingston Counties. The bridge, which opened to rail traffic in 1875, has reached the end of its useful life as a freight rail structure and must now be upgraded or replaced. This action, the Portageville Bridge Project (the Project) requires the conversion of a small area of parkland that has received funding through the federal Land and Water Conservation Fund (LWCF) Act, 16 USC §§ 460l-4 to 460l-11 (commonly referred to as Section 6(f), as the provision was originally contained in Section 6(f)(3) of the LWCF Act, Public Law 88-578 of 1962, before codification), and this evaluation was prepared to comply with the requirements of that act.

The LWCF Act established the LWCF State Assistance Program, a nationwide program for funding the acquisition and development of public outdoor recreation resources. As set forth in the statute and its implementing regulations (36 CFR Part 59), property that is acquired or developed with LWCF assistance must be retained and used for public outdoor recreation. Any property so acquired and/or developed cannot be wholly or partly converted to other than public outdoor recreation uses without the approval of the National Park Service (NPS) pursuant to Section 6(f)(3) of the LWCF Act and the implementing regulations.

This statute and its implementing regulations prescribe the conditions that must be satisfied for the use or transfer of parklands or open spaces that have been improved with funds received through the LWCF. As discussed below, Letchworth State Park has received such funding and therefore the involved agencies have concluded this statute applies to the Project. As described in this document, an approval pursuant to Section 6(f) is required because the Project requires the permanent use of small areas of land, adjacent to the current railroad right-of-way, that are currently part of the park. This land is proposed to be permanently converted from outdoor recreation use. In addition, the Project requires the extended temporary use of another small area for a construction easement, and such temporary use also requires the permanent conversion of the area from land that is protected for outdoor recreation use. Replacement land would be provided to the park by Norfolk Southern in accordance with the requirements of Section 6(f).

A Section 6(f) Evaluation was included in the Draft Environmental Impact Statement (DEIS) prepared for the Project in July 2014. This updated evaluation reflects small changes in the acreage of the proposed conversion since completion of the DEIS. These changes result from shifts to the proposed future property line between Norfolk Southern's railroad right-of-way and the surrounding parkland to correctly reflect the existing property line and to revise the future

property line so that the new Highbridge Parking Area and relocated Mary Jemison trailhead are located entirely on park property, rather than partially within Norfolk Southern's property as was shown in the DEIS. As a result of these changes, the acreage of property to be acquired from the park for the Project and the acreage of land to be transferred to Letchworth State Park has changed.

2.8.2 REGULATORY FRAMEWORK

The U.S. Department of the Interior (DOI), through the NPS, provides funding under the LWCF for state and local efforts to plan, acquire, or develop land to advance outdoor recreational activities (16 USC § 4601-4). The New York State Office of Parks, Recreation and Historic Preservation (OPRHP) serves as the New York State agency that administers LWCF funds received from DOI. Using LWCF funds creates certain limitations on future changes to LWCF-funded parks or recreational facilities. Once LWCF funds are used for a particular recreation project, conversion of that park facility for any non-recreational purpose is conditioned on NPS approving such non-recreational use in accordance with Section 6(f). Prior approval by NPS is required for the conversion and replacement of parkland subject to this regulation and any NPS approval must be based on a determination that the conversion meets the conditions under Section 6(f) described in more detail below (16 USC § 4601-8[f][3]). Responsibility for compliance and enforcement of the requirements rests with the state, and in New York State with OPRHP.

Under the LWCF Act and applicable federal Department of the Interior regulations (36 CFR Part 59), conversion of parkland may be approved only if NPS finds that the following nine criteria have been met:

1) All practical alternatives to the proposed conversion have been evaluated;
2) The fair market value of the park property to be converted has been established and that the property proposed for substitution is of at least equal fair market value, as established by an approved appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, excluding the value of structures or facilities that will not serve recreational purposes;
3) The proposed replacement property is of reasonably equivalent usefulness and location as the converted property;
4) The property proposed for substitution meets the eligibility requirements for LWCF-assisted acquisition;
5) For properties that are proposed to be partially rather than wholly converted, the impact of the converted portion on the remainder must be considered and the unconverted area must remain recreationally viable, or be replaced as well;
6) All necessary coordination with other federal agencies has been satisfactorily accomplished, including compliance with Section 4(f) of the U.S. Department of Transportation Act of 1966;
7) The guidelines for environmental evaluation have been satisfactorily completed and considered by the National Park Service during its review of the conversion proposal;
8) If the proposed conversion constitutes a significant change to the original LWCF project, State intergovernmental clearinghouse review procedures have been adhered to; and
9) The proposed conversion is in accordance with the applicable Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreational plans.

NPS's LWCF State Assistance Program Manual[1] (referred to in this evaluation as the NPS Program Manual) defines "small conversions" as those that affect no more than 10 percent of the Section 6(f) protected area, or five acres, whichever is less. The NPS Program Manual indicates that small conversions are less complex and therefore NPS review and decision-making can be facilitated, when 1) minor or no environmental impacts would result, including impacts to historic resources evaluated under Section 106 of the National Historic Preservation Act; 2) the proposed conversion is not controversial; and 3) the replacement property is contiguous to the land to original Section 6(f) area. The proposed conversion for the Portageville Bridge project would affect less than 5 acres, and far less than 10 percent of the total land area of Letchworth State Park, but is not considered a small conversion because of the Project's environmental impacts, including impacts to historic and visual resources, as described in Chapters 3 and 4 of the DEIS prepared for the Project. Therefore, a full conversion evaluation for compliance with the requirements of Section 6(f) is provided in this chapter.

This Section 6(f) Evaluation describes the applicability of Section 6(f) to the Project (in **Section 2.8.3** of this evaluation) and then considers the Project's proposed conversion and replacement of parkland for its compliance with the nine regulatory criteria outlined above (see **Section 2.8.4** below). The final section of this document (**Section 2.8.5**) describes agency coordination efforts that have been and will be undertaken with respect to Section 6(f).

2.8.3 APPLICABILITY OF SECTION 6(f) TO THE PROJECT

2.8.3-1 Park Overview

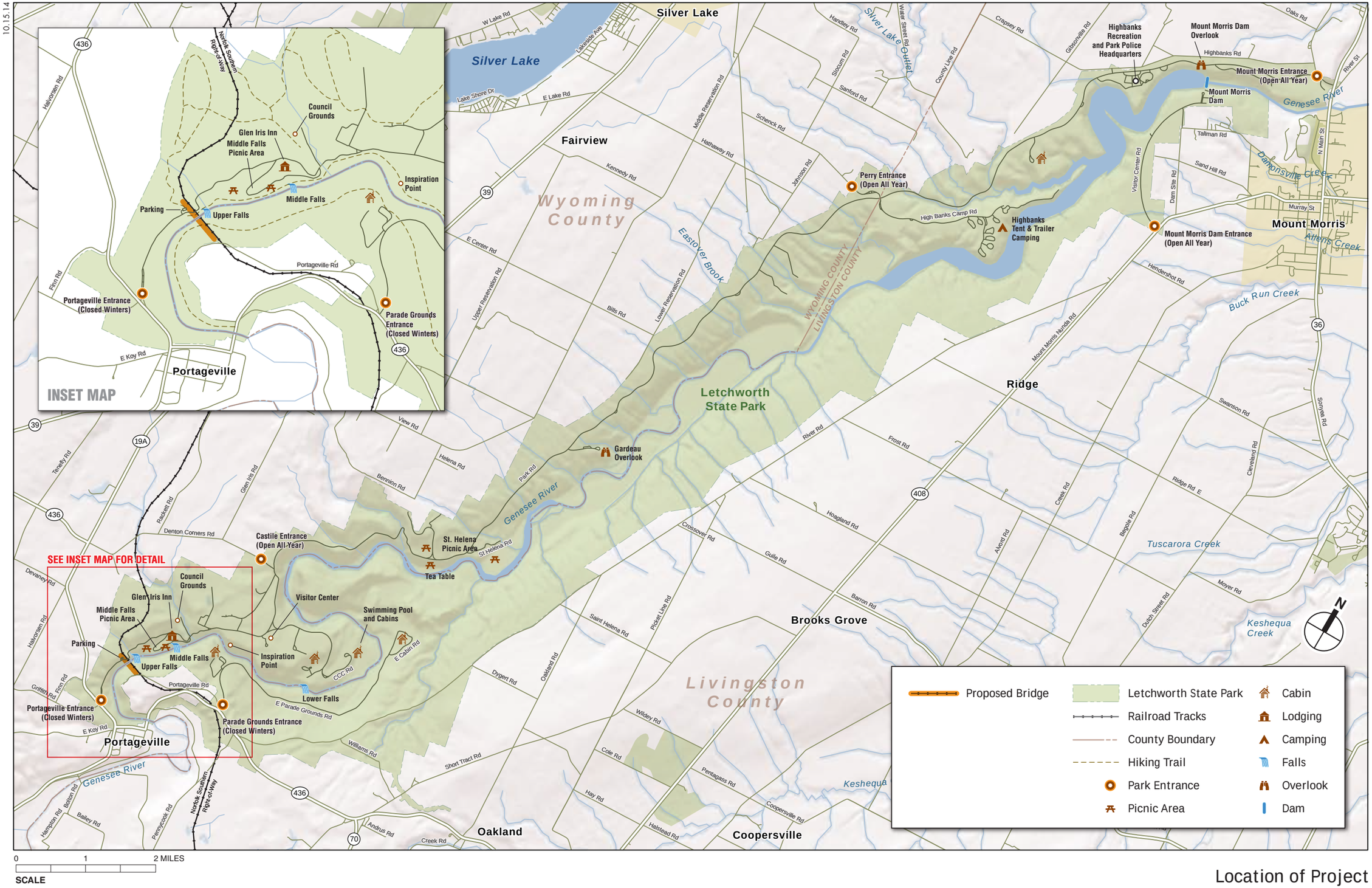
Letchworth State Park is a 14,350-acre park that extends approximately 17 miles along both sides of the Genesee River. The park is generally wooded with winding roads and hilly terrain. Within the park, the Genesee River flows from south to north through a deep gorge and over three major waterfalls that are in the southern section of the park: Upper Falls, Middle Falls, and Lower Falls. **Figure 2.8-1** provides a map of the park with the Portageville Bridge location noted.

The park hosts a variety of recreational features and activities, all organized along and around the scenic Genesee River and gorge. These include scenic roads and 66 miles of trails that can be used for hiking, biking, horseback riding, snowmobiling, and cross-country skiing. There are over 270 campsites, 82 cabins, numerous picnic areas, two swimming pools, and the historic Glen Iris Inn. Hunting and fishing are allowed, as well as whitewater rafting, kayaking, and hot air ballooning. The park has a number of scenic viewing locations, including the scenic overlooks that are located along the edge of the Genesee River gorge, connected to the park trail system. The park is characterized by the scenic gorge and by the picturesque stone walls and staircases, stone structures (comfort stations, concession stands, picnic tables), and a number of historic sites and structures such as the Glen Iris Inn and Council Grounds, where historic cabins have been reconstructed.

Letchworth State Park is referred to as the "Grand Canyon of the East," because of its dramatic topography. The park's scenic features include its natural elements—including the forested gorge, majestic waterfalls, and scenic vistas—and its historic elements—including the railroad bridge, stone walls and staircases along the park's roads and trails, stone structures (comfort stations, concession stands, etc.) and picnic tables, and a number of historic structures such as the Glen Iris Inn. Many of the most scenic elements of the park are located in the southern half of the park, which houses the three major waterfalls, scenic overlooks, and most of the historic structures in the park. The Portageville Bridge contributes to the scenic character of this end of the park and is depicted on park postcards and memorabilia. As a state park that is listed on the

[1] U.S. Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance Program, Federal Financial Assistance Manual Volume 69, Effective Date: October 1, 2008. Available at: http://www.nps.gov/ncrc/programs/lwcf/manual/lwcf.pdf.

10.15.14



Location of Project
in Letchworth State Park
Figure 2.8-1

State and National Registers of Historic Places, Letchworth State Park is an aesthetic resource of statewide significance. The Genesee River and gorge, waterfalls, and the Portageville Bridge are contributing elements of this aesthetic resource. The north end of the park has fewer scenic sites of this nature, and is characterized predominantly by the Mt. Morris Dam on the Genesee River. This end of the park also has a large trailer and tent camping area.

The main park road, Park Road, runs along the western side of the river with turnoffs leading to viewpoints and other park areas. On the eastern side of the river, park roads provide access to the south and north ends of the park, but there is no continuous park road along this side of the river. A number of trails also run along both sides of the river for the length of the park.

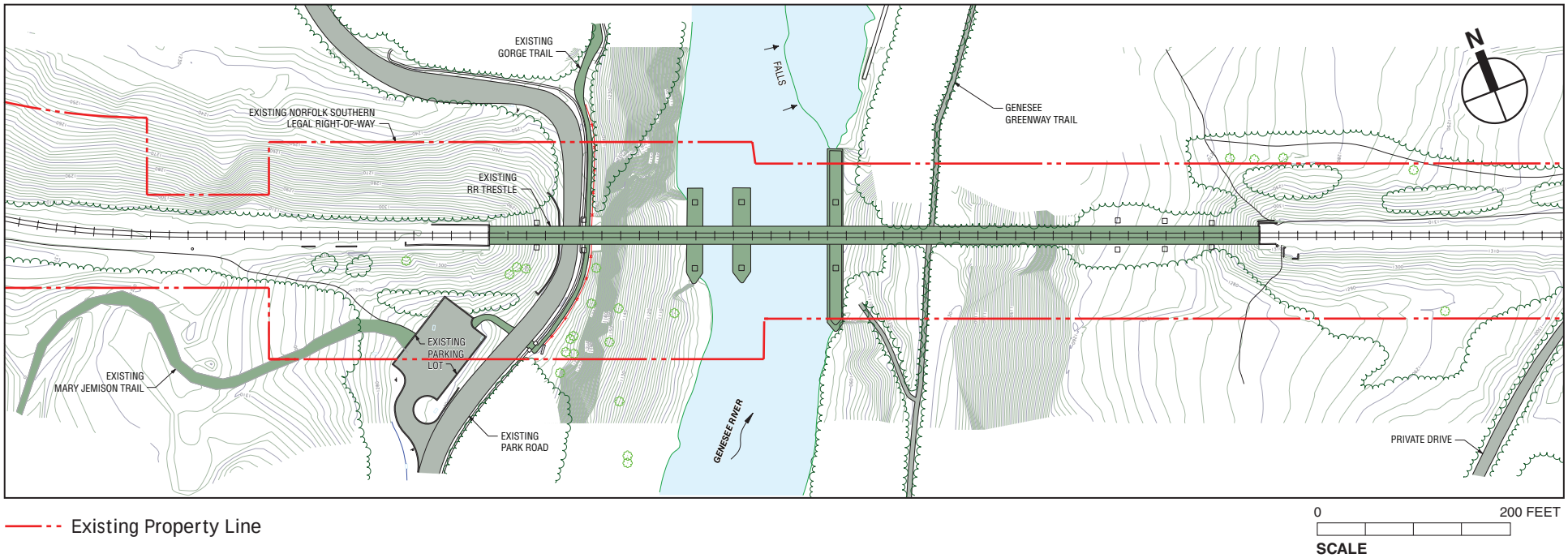
According to OPRHP, Letchworth State Park is used by approximately 650,000 annual visitors, and the south end of the park is the most intensely used area of the park and supports the greatest number of visitors.

2.8.3-2 Location of Railroad Right-of-Way Through Park

As shown in **Figure 2.8-1**, Norfolk Southern's Southern Tier rail freight route passes through the southern end of Letchworth State Park. This route is owned by Norfolk Southern and surrounded by the parkland of Letchworth State Park. Norfolk Southern currently operates 12 to 14 trains per day on this route. Norfolk Southern's right-of-way includes the existing Portageville Bridge over the Genesee River, near the Upper Falls in the southern end of the park (see **Figure 2.8-2**). On the west side of the river, several park features encroach within Norfolk Southern's right-of-way, including an approximately 160-foot-long segment of Park Road, the southern ends of the Mary Jemison Trail and Gorge Trail, and half of a small parking lot (the Highbridge Parking Area) that provides access to those two trailheads (see **Figure 2.8-3**). On the east side of the river, a portion of the Genesee Valley Greenway Trail encroaches within Norfolk Southern's right-of-way.

2.8.3-3 LWCF Funding at Letchworth State Park

Between 1976 and 2004, Letchworth State Park received 12 grants under the LWCF for improvements to facilities within the park. Information on these grants is set forth in **Table 2.8-1** below, based on information provided by OPRHP. According to OPRHP, these grants were used for rehabilitation of roads in the park and for general improvements to the park. NPS regulations (36 CRF § 59.1) as well as the NPS Program Manual indicate that the OPRHP's responsibilities to protect the funded park generally exceed the area that actually received LWCF assistance, so as to assure the protection of a viable recreation area (see NPS Program Manual, page 8-3). Therefore, Section 6(f) applies to the Portageville Bridge Project due to the development of Letchworth State Park facilities using LWCF funding in the past.

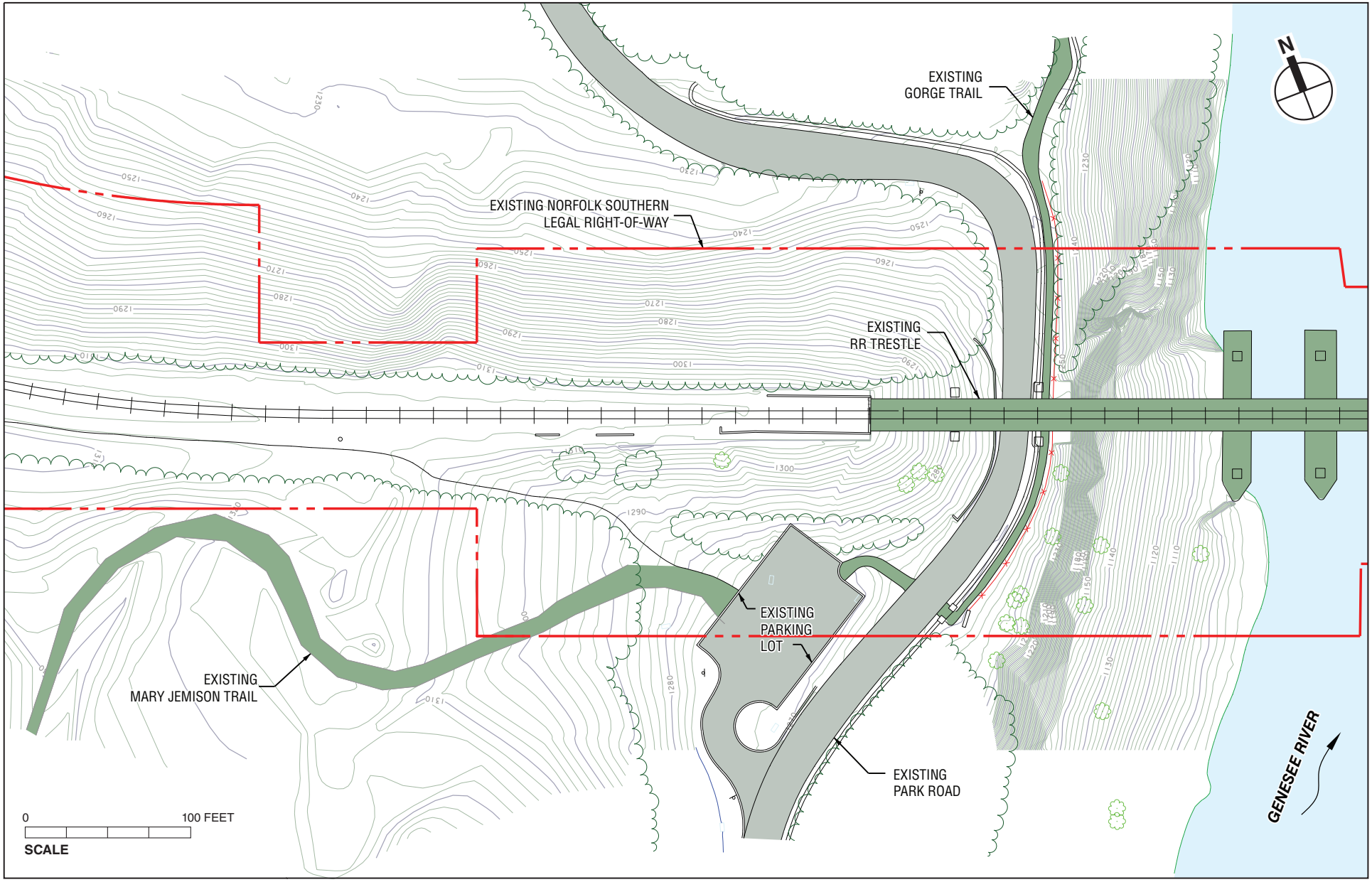


Existing Property Line

0 200 FEET
SCALE

Existing Norfolk Southern Right-of-Way
at Genesee River Crossing
Figure 2.8-2

10.15.14



Existing Property Line

Existing Norfolk Southern Right-of-Way,
West Side of Genesee River
Figure 2.8-3

Table 2.8-1
Land and Water Conservation Fund Act Grants to Letchworth State Park

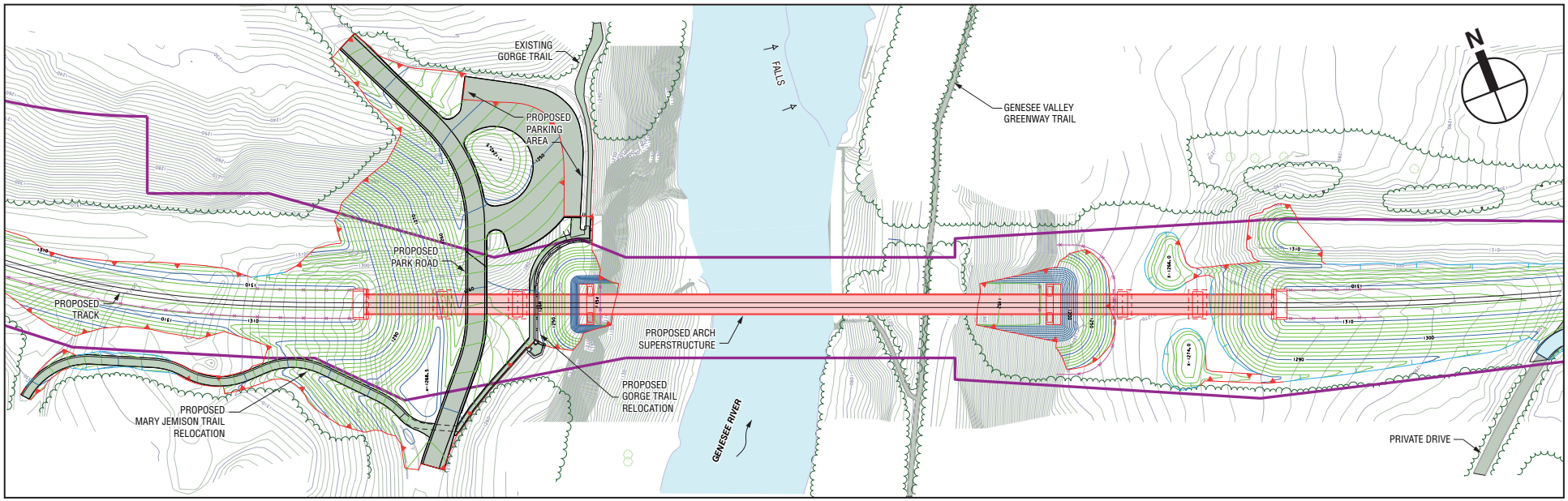
Grant ID	Project Name	Year	Status	Description
36-01270	Letchworth Sanitary System	2004	Active	Renovation development of support facilities (utilities)
36-01156	Letchworth State Park	1991	Closed	Lower Falls pedestrian bridge and adjacent trail.
36-01016	Letchworth State Park	1983	Closed	Roadway rehabilitation, including resurfacing of park road and shoulder and drainage work.
36-00991D	Darien Lake State Park / Letchworth State Park	1981	Active	In Letchworth State Park: Lower Falls / Highbanks Pools rehabilitation of filter room and plumbing, handicapped accessibility
36-00958C	Multi-Site Project	1981	Closed	In Letchworth State Park: modifications to administration building
36-00887C	79-80 Handicapped	1981	Closed	Modifications for handicapped accessibility.
36-00881	Letchworth State Park Roads	1980	Closed	Rehabilitation of support facilities.
36-00868	Letchworth State Park Road Rehabilitation	1980	Closed	Rehabilitation of support facilities.
36-00833	Letchworth State Park Reconstruction	1979	Closed	Reconstruction of support facilities.
36-00709	78/79 Rehab	1978	Closed	In Letchworth State Park: Replacement of sewage system at Loop B, replacement of plumbing at Lower Falls pool.
36-00638	Highland Camping Area	1978	Closed	Rehabilitation of sewage system, resurfacing of camping area roads
36-00471	Letchworth State Park	1976	Closed	Rehabilitation of Upper Falls comfort station, three cabins and shower and laundry building in Cabin Area C and Lower Falls concession building, major repairs to picnic shelter at Barracks Grounds and Tea Table Rock, and roads in Highbanks camping area.
Source: OPRHP, letter dated September 27, 2010.				

2.8.3-4 Need for Conversion of Section 6(f) Property

The purpose of the Project is to address the existing deficiencies at the Portageville Bridge by providing a modern rail crossing of the Genesee River, at its current location, that is capable of carrying current industry standard freight rail loads and that to the greatest degree possible meets the Federal Railroad Administration's Class 4 speeds, while reducing ongoing maintenance efforts and costs. The Project is needed for Norfolk Southern to continue to provide safe, reliable, and efficient rail operations on the Southern Tier route. These operations are critical to the economic viability and growth of the Southern Tier and other affected areas of New York.

The Preferred Alternative would involve construction of a new bridge parallel to the existing rail bridge that crosses the Genesee River within Letchworth State Park. It would also require relocation of a segment of existing Park Road within the vicinity of the bridge to make space for the new bridge structure's foundations as well as relocation of the Highbridge Parking Area from an area south of the existing bridge within Norfolk Southern's right-of-way to parkland north of the right-of-way. Once the new bridge is complete, the old bridge would be removed. **Figure 2.8-4** illustrates the Preferred Alternative, and **Figure 2.8-5** provides a closer view of the Preferred Alternative on the west side of the Genesee River.

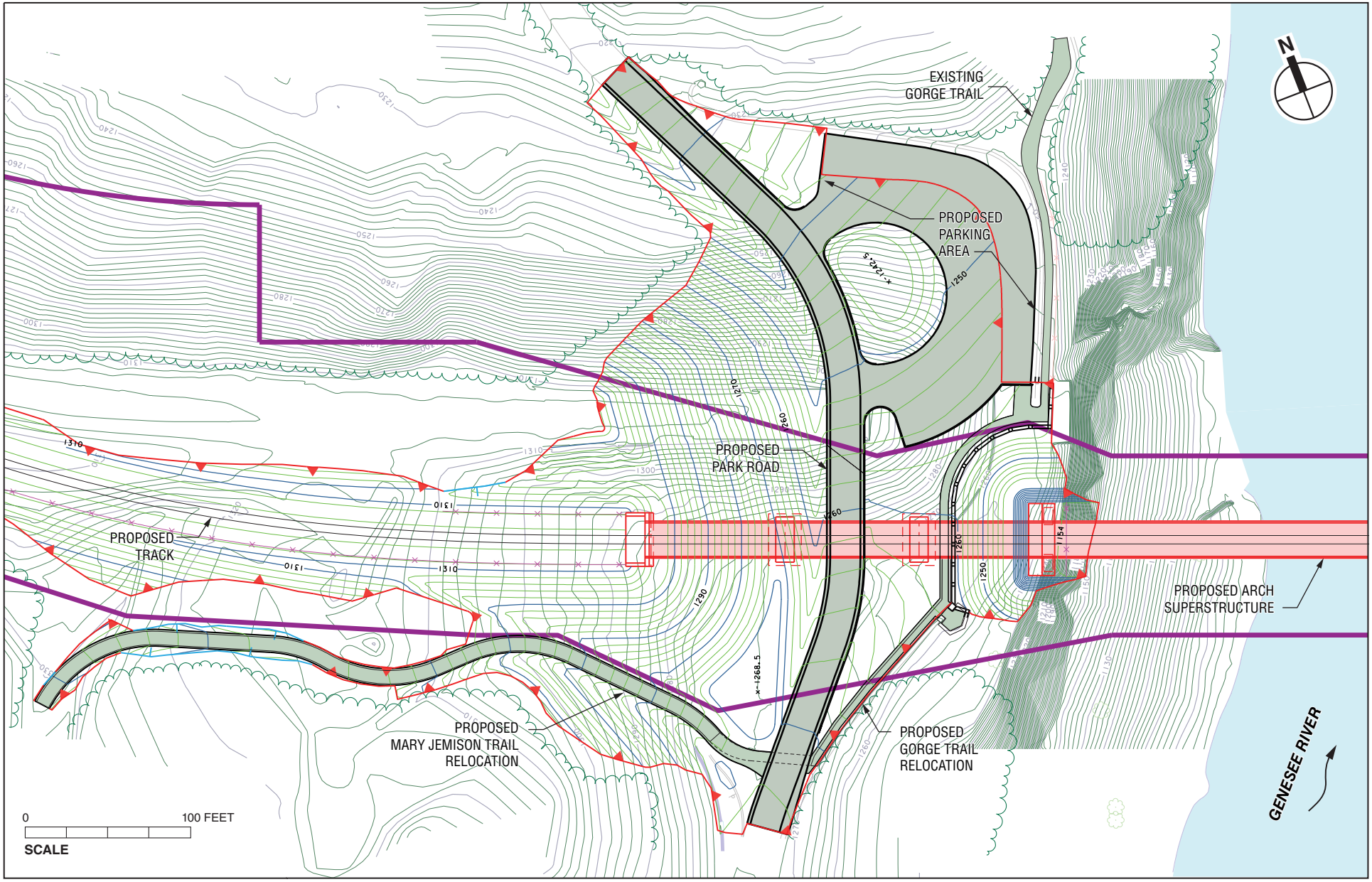
As can be seen by comparing **Figure 2.8-2** to **Figure 2.8-4**, and **Figure 2.8-3** to **Figure 2.8-5**, the Preferred Alternative would shift the railroad right-of-way slightly southward from its existing



Norfolk Southern Property Line for Preferred Alternative

0 200 FEET
SCALE

Preferred Alternative
Figure 2.8-4



Norfolk Southern Property Line for Preferred Alternative

Preferred Alternative,
West Side of Genesee River
Figure 2.8-5

location, in order to align with the new bridge. The railroad right-of-way would be shifted southward to accommodate the location of the replacement bridge approximately 75 feet (measured from center line to center line) to the south of the existing bridge. To implement this shift, the Project would require the permanent conversion from parkland of an area of Letchworth State Park immediately south of the existing right-of-way.

Construction activities for the Project would occur within Norfolk Southern's existing right-of-way and the new right-of-way area to be acquired for the Project. During the Project's construction period, estimated at approximately 27 months, the area on the west side of the river within the Norfolk Southern right-of-way would be closed to the public to facilitate construction of the new bridge and the associated shift in Park Road that is required. For the duration of the construction period, therefore, the segments of Park Road, the Highbridge Parking Area, the Mary Jemison Trail, and the Gorge Trail located within the Norfolk Southern right-of-way would have to be closed to the public.

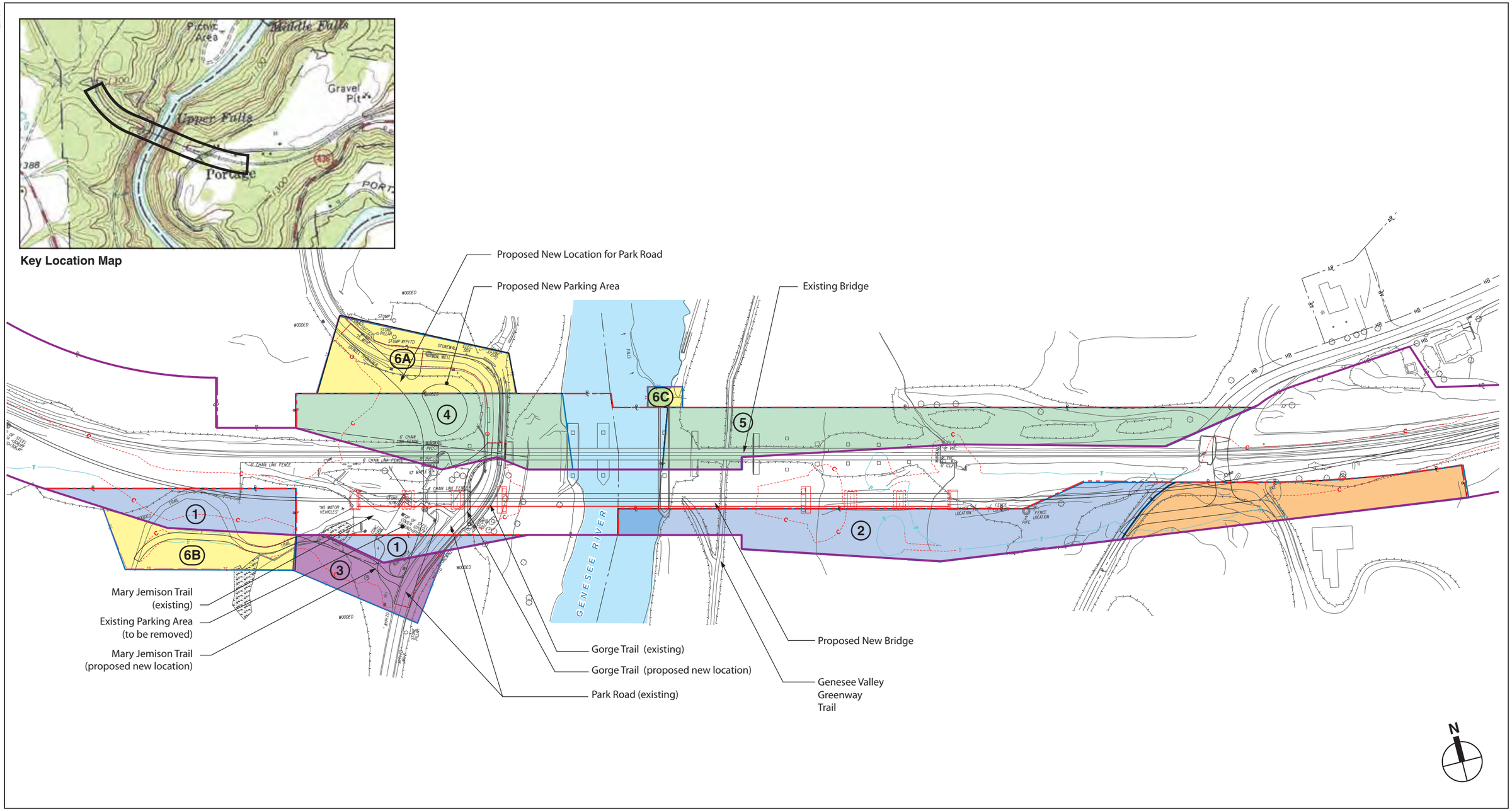
In addition, land adjacent to the existing and proposed right-of-way would be required during the construction period for contractor access and staging areas. This land would not be permanently transferred from parkland to railroad use, but would be required for either all or a portion of the construction period of approximately 27 months.

2.8.3-5 Identification of Section 6(f) Properties

Conversion Area

A total of approximately 2.50 acres would be converted from protected outdoor recreational parkland for the Project, including approximately 2.08 acres to be acquired by Norfolk Southern to become a permanent part of the railroad right-of-way, and an additional 0.42 acres of parkland to be used for the duration of construction (i.e., use for more than six months) and then returned to the park once construction is complete. According to the NPS Program Manual, use of parkland for more than six months will not be considered temporary, but will result in conversion of parkland and will require provision of replacement property pursuant to Section 6(f). The conversion areas are identified in **Table 2.8-2** and shown in **Figures 2.8-6 and 2.8-7**.

12.9.14



Existing Property Line

Proposed Property Line

Property to be Transferred to Park (Replacement Area) - 2.50 Acres

Property to be Acquired from Park (Conversion Area) - 2.08 Acres

Property to be Acquired from Park (Conversion Area) - Construction Easement Greater than 6 Months - 0.42 Acres

Construction Easement Less than 6 Months - 1.16 Acres (not included in conversion)

Property Acquired from Private Landowner - 0.76 Acres (not included in conversion)

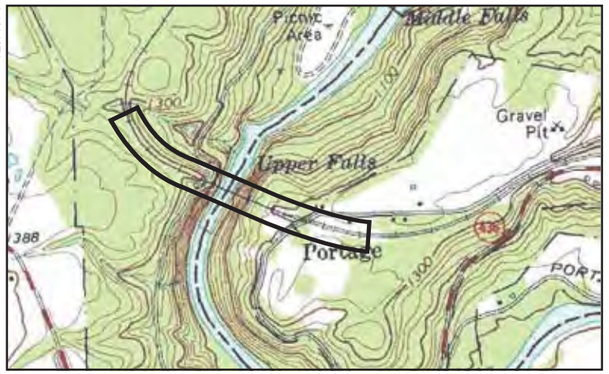
0 200 FEET
SCALE

(1) Refer to Tables 2.8-2 and 2.8-3 for more information

PORTAGEVILLE BRIDGE

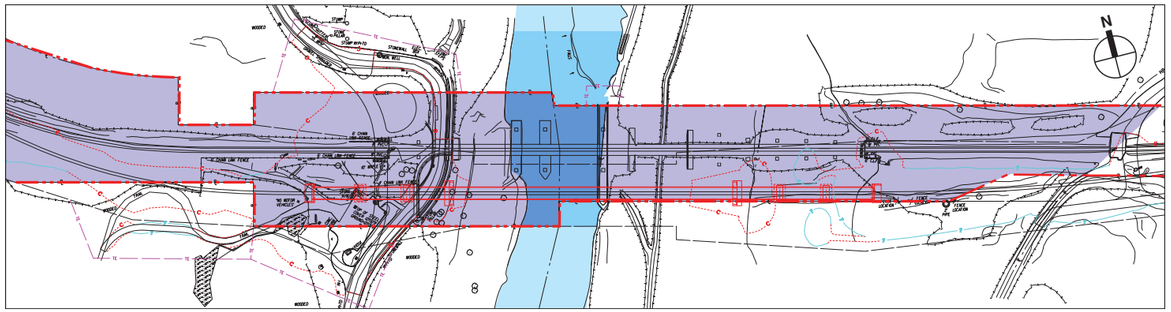
Proposed Park Conversion and Replacement
Figure 2.8-6

12.11.14



Key Location Map

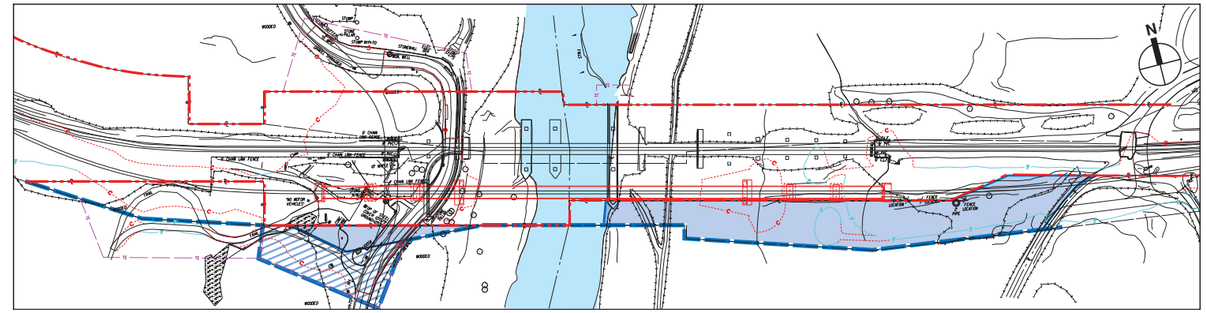
A. Existing Park Boundaries, Letchworth State Park at Portageville Bridge



Existing boundary between park and railroad right-of-way

Existing railroad right-of-way through park at bridge

B. Proposed Conversion Area (land to be converted from parkland)



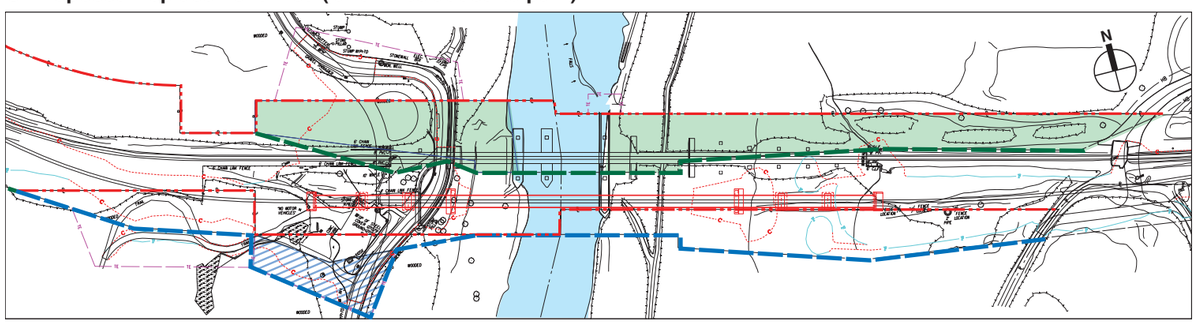
Existing boundary between park and railroad right-of-way

Proposed new boundary south of railroad

Conversion area

Conversion for construction easement

C. Proposed Replacement Area (land to be added to park)



Existing boundary between park and railroad right-of-way north of railroad

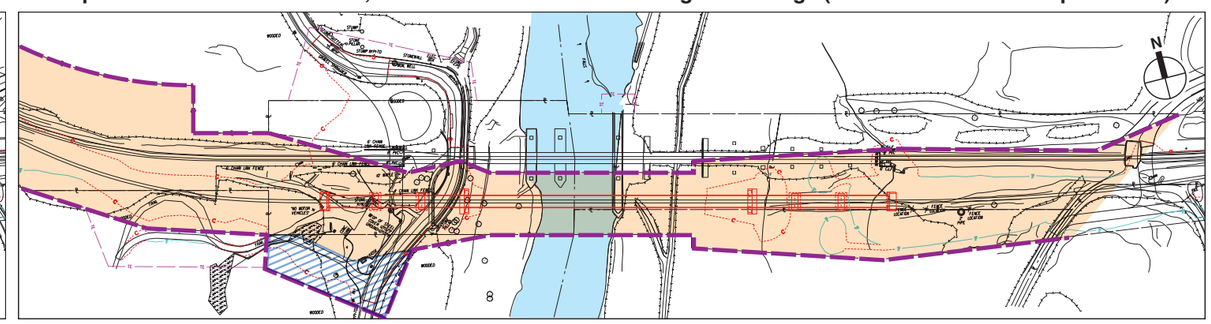
Proposed new Section 6(f) boundary south of railroad

Conversion for construction easement

Proposed new boundary north of railroad

Replacement area

D. Proposed New Park Boundaries, Letchworth State Park at Portageville Bridge (after conversion and replacement)



Proposed boundary between Section 6(f) park and railroad right-of-way

Proposed railroad right-of-way through park at bridge

Conversion for construction easement

Proposed Park Conversion and Replacement

Figure 2.8-7

Table 2.8-2
Conversion Area and Replacement Area

Property*	Owner	Estimated Area (acres)	Existing Uses	Need for Conversion / Proposed Use
Park Areas to be Converted for Permanent Railroad Use				
1	People of the State of New York – Genesee State Park Commission	0.66	Wooded area on the west side of the river that includes approximately half of a parking lot (the other half of which is already within railroad right-of-way), approximately 40 linear feet of Park Road (approximately 160 additional feet are located within Norfolk Southern's right-of-way), approximately 200 linear feet of the Mary Jemison Trail (the first 140 feet of this trail is currently located in Norfolk Southern's right-of-way), and an area of the gorge face. (Wyoming County)	Required for new railroad right-of-way and associated embankment and retaining wall. Will also continue to include relocated Park Road. Parking lot and Mary Jemison Trail to be removed and relocated to replacement parcel (see below).
2	People of the State of New York – Genesee State Park Commission	1.42	Waters of Genesee River, portion of footing of existing bridge, steep river bank on east side of river, approximately 50 linear feet of the Genesee Valley Greenway Trail, wooded area. (Livingston County)	Required for new bridge and railroad right-of-way. Will also continue to include waters of the Genesee River, area adjacent to new railroad right-of-way beneath bridge span, and Genesee Valley Greenway Trail.
Subtotal - Permanent Conversion		*2.08*		
Park Areas to be Converted to Allow Construction for Longer Than 6 Months				
3	People of the State of New York – Genesee State Park Commission	0.42	Wooded area on west side of river south of proposed right-of-way. Includes approximately 120 linear feet of Park Road. (Wyoming County)	Construction easement for entire construction period (27 months). This area would be restored at completion of construction so that no permanent damage occurs to the parkland. The relocated trailhead for the Mary Jemison Trail would be located within this area when construction is complete.
Subtotal – Temporary Conversion		*0.42*		
TOTAL CONVERSION AREA		**2.50**		
Replacement Area to be Transferred to the Park				
4	Norfolk Southern	1.05	Wooded area on west side of river that currently abuts parkland. Includes approximately 80 linear feet of existing railroad right-of-way, including a portion of the existing rail bridge. Also includes steep banks on the west side of river and approximately 100 linear feet of Park Road and Gorge Trail (Wyoming County).	No longer needed for railroad right-of-way; following construction, this replacement parcel will be located north of the new right-of-way. Park Road to remain, although shifted slightly. Gorge Trail and steep slopes and wooded areas to remain.
5	Norfolk Southern	1.45	Wooded area on east side of the river that currently abuts parkland. Includes approximately 260 linear feet of railroad right-of-way, including a portion supporting the existing rail bridge. Also includes steep banks on the east side of river and approximately 100 linear feet of the Genesee Valley Greenway Trail on east side of river. (Livingston County).	No longer needed for railroad right-of-way; following construction, this replacement parcel will be located north of the new right-of-way. Genesee Valley Greenway Trail and steep slopes and wooded areas to remain.
TOTAL REPLACEMENT AREA		**2.50**		

Note: * Refer to **Figure 2.8-6**.

Replacement Area

The LWCF regulations require that any parkland protected under Section 6(f) that is converted from parkland must be replaced by new parkland that is of at least equal fair market value and reasonably equivalent usefulness and location to the converted parkland. In accordance with that requirement, Norfolk Southern would transfer approximately 2.50 acres of land that is part of the current railroad right-of-way associated with the configuration of the existing bridge to OPRHP (see **Table 2.8-2** and **Figures 2.8-6 and 2.8-7**). This land would be available when construction is complete and at that time would become part of Letchworth State Park, with legal public access.

Temporary Non-Conforming Use for Less than Six Months

According to the NPS Program Manual, all requests for temporary uses of parkland for non-recreational use must be reviewed by NPS, and use for less than six months can generally be considered temporary. As set forth in the NPS Program Manual, NPS will consider the following criteria in evaluating proposals for temporary use of parkland:

- The size of the parkland area affected by any temporary non-recreation use shall not result in a significant impact on public outdoor recreation use. This means that the site of the temporary activity should be sufficiently small to restrict its impacts on other areas of the park.
- A temporary use shall not result in permanent damage to the park site, and appropriate mitigating measures will be taken to ensure no residual impacts on the site once the temporary use is concluded.
- No practical alternatives to the proposed temporary use exist.
- All applicable federal requirements for approval are met.

Three temporary construction easements, totaling approximately 1.16 acres, would be required for a period of less than six months in total to facilitate construction of the Project. These areas are shown in **Figures 2.8-6 and 2.8-7** and described in **Table 2.8-3** below. As noted in the table, these areas include a segment of Park Road and the Gorge Trail north of the existing right-of-way (Area 6A), an area south of the existing railroad right of way that includes a portion of the Mary Jemison Trail (Area 6B), and a portion of an existing bridge pier and immediate area (Area 6C). These areas would be restored at completion of construction so that no permanent damage occurs to the parkland.

Table 2.8-3
Park Areas to be Used During Construction for Less Than Six Months

Property (see Figure 2.8-6)	Owner	Estimated Area (acres)	Existing Uses	Need for Conversion / Proposed Use
6A	People of the State of New York – Genesee State Park Commission	0.67	Wooded, sloped area on the west side of the river north of the existing railroad right-of-way. Includes approximately 300 linear feet of Park Road and approximately 80 linear feet of the Gorge Trail.	Construction easement for less than six months. Park Road and Gorge Trail to be closed in this area during construction. Easement needed to construct relocated Highbridge Parking Area, relocated Gorge Trail segment, and relocated Park Road segment.
6B	People of the State of New York – Genesee State Park Commission	0.45	Wooded area on west side of river south of proposed right-of-way. Includes approximately 210 linear feet of the Mary Jemison Trail.	Construction easement for less than six months. Easement needed for reconstruction of a portion of the Mary Jemison Trail, which would be permanently shifted into this area.
6C	People of the State of New York – Genesee State Park Commission	0.04	Bridge support within Genesee River	Construction easement for less than six months to facilitate demolition of old bridge.
TOTAL TEMPORARY AREA		**1.16**		

2.8.4 CONSISTENCY WITH REGULATORY REQUIREMENTS

This section considers the proposed conversion and replacement of parkland for its compliance with the nine regulatory requirements that must be met by NPS before approval of a conversion proposal can be issued. As discussed below, one of these criteria does not apply to the Project and the Project is consistent with the eight relevant criteria.

2.8.4-1 Alternatives to Conversion of Section 6(f)-Protected Land

Section 6(f) requires an evaluation of all practical alternatives to the proposed conversion of the Section 6(f) resource (36 CFR § 59.3(b)(1)). As outlined in the NPS Program Manual, NPS must find that all practical alternatives to the conversion have been evaluated and rejected on a sound basis before a conversion can be approved.

A number of potential alternatives were developed for the Project, including alternatives that would avoid the need to convert parkland. As described in Chapter 3, "Project Alternatives," of the DEIS, nine potential Project alternatives were developed during the scoping process for the DEIS completed for the Project in 2012 in accordance with New York's State Environmental Quality Review Act (SEQRA). Of these, seven would avoid the need for conversion of parkland in Letchworth State Park (see **Table 2.8-4** below). The SEQRA DEIS discussed the potential alternatives that were considered and eliminated from further study based on a previous alternatives analysis, and studied additional alternatives in detail. Using the previous analyses conducted for the SEQRA DEIS, and in consideration of public and agency input received during development of the SEQRA DEIS, public review of the SEQRA DEIS, and the scoping phase for this DEIS prepared in accordance with the National Environmental Policy Act (NEPA), a number of potential alternatives were eliminated from further study in the NEPA DEIS. Among the alternatives that would avoid the need for parkland conversion, Alternatives 1, 2, 6, 7, 8, and 9 were found not to meet the Project's purpose and need, and Alternative 3 was found to be unreasonable. Therefore, these alternatives were eliminated from further consideration. Alternative 5 (New Bridge on Parallel Alignment / Convey Existing Bridge) would require conversion of the same amount of parkland as the Project and was also determined to be unreasonable. Alternative 4 (New Bridge on Parallel Alignment / Remove Existing Bridge) was selected as the Preferred Alternative. The following section describes the potential alternatives that would avoid conversion of parkland and why they were eliminated from further study in the NEPA DEIS.

Table 2.8-4
Potential Alternatives
that Would Avoid Parkland Conversion

Alternative	Description
1	No Action Alternative
2	Repair / Retrofit Existing Bridge
3	New Bridge on Same Alignment
6 and 7	Southern Alignment
8 and 9	Reroute Rail Traffic

Alternative 1—No Action

The No Action Alternative assumes that the existing Portageville Bridge will remain in service and will be subject only to required maintenance. With the No Action Alternative, there would be no change to parkland compared to existing conditions. No parkland would be converted for the

new railroad right-of-way. However, this alternative would maintain the existing deficiencies of the Portageville Bridge and could jeopardize the long-term viability of the Southern Tier route.

Under this alternative, given the age and condition of the bridge, it is anticipated that the bridge would eventually be deemed unsafe for continued freight operations, at which time it would have to be closed to rail traffic. Without a bridge across the Genesee River, Norfolk Southern would either have to 1) eliminate rail freight service to several locations and for several customers, and reroute trains over other routes maintained by other railroads, which is logistically complex and would add five-hour service delays; and/or 2) cease the use of the Southern Tier route altogether, which would result in the loss of customers and routes. This alternative would not meet the Project's purpose and need but is carried forward to serve as the baseline for evaluating the potential impacts of the Preferred Alternative in the NEPA DEIS. Therefore, the No Action Alternative is not a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternative 2—Repair / Retrofit Existing Bridge

Alternative 2 would involve repairing and retrofitting the existing bridge to the capacity needed to meet current and future freight transport needs and would not require permanent conversion of parkland. Following an inspection of the existing bridge, Norfolk Southern determined that the extent of structural deficiencies precluded Alternative 2 from being a reasonable alternative.

The necessary repairs and retrofits could not be feasibly undertaken while the bridge is open to rail traffic; therefore, Alternative 2 would require rail traffic to be rerouted for 18 months, depriving customers of the benefits of the Southern Tier route, including the efficiencies associated with it. This alternative would require the temporary elimination of rail freight service to several locations and for several customers, and the required complex rerouting of trains over other routes maintained by other railroads. Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers.

Alternative 2 does not meet the Project's purpose and need, and is not considered a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternative 3—New Bridge on Same Alignment

Alternative 3 would involve demolishing the existing bridge and piers, and constructing a new bridge at the same location and alignment. Thus, no permanent conversion of parkland would be required. Alternative 3 would shut down a portion of the Southern Tier route during the 18- to 31-month construction period (the construction period would depend on the type of replacement bridge constructed). As with Alternative 2, all rail freight would be routed to other rail lines, which would temporarily eliminate rail freight service to several locations and customers. As a result, Norfolk Southern estimates that this alternative would require an additional $22 million in operating costs and result in five-hour service delays during construction and the potential permanent loss of affected customers to other modes or other freight carriers. As such, Alternative 3 does not meet the Project's purpose and need and is not a practical alternative to avoid conversion of parkland in Letchworth State Park.

Alternatives 6 and 7—Southern Alignment

Alternatives 6 and 7 would reroute the Southern Tier rail freight route entirely outside of Letchworth State Park, which would avoid the need for conversion of parkland. These two alternatives would reroute the Southern Tier route using a new, 4.5-mile rail line and related infrastructure constructed outside of Letchworth State Park. The new route would be south and west of the southern end of the park. In Alternative 6, the existing bridge, piers, and railroad

tracks through Letchworth State Park would be removed upon completion of the new railroad alignment; in Alternative 7, the existing bridge and piers would remain but the railroad tracks through Letchworth State Park would be removed.

Alternatives 6 and 7 would avoid the conversion of any area of Letchworth State Park for railroad right-of-way, but would have land use impacts, would require acquisition of approximately 54 acres of land, would cost more than three times the cost of the Project, and were overwhelmingly opposed during public review. Alternatives 6 and 7 were eliminated from consideration because they do not meet the Project's purpose and need. Therefore, Alternatives 6 and 7 are not practical alternatives to avoid conversion of parkland in Letchworth State Park.

Alternatives 8 and 9—Reroute Rail Traffic

Under Alternatives 8 and 9, Norfolk Southern would cease using a substantial portion of the Southern Tier rail route, eliminating the need for a Genesee River crossing. In Alternative 8, the existing bridge and piers would be removed upon completion; in Alternative 9 the existing bridge would remain in place. Without through rail freight service on the route, Alternatives 8 and 9 would restrict or remove rail freight service to a number of communities and customers and as such have the potential for negative impacts to the region's economy (see the discussion of Alternative 1, the No Action Alternative). Alternatives 8 and 9 do not meet the Project's purpose and need and are not considered practical alternatives to avoid conversion of parkland in Letchworth State Park.

2.8.4-2 Appraisal of Fair Market Value

Prior to approving a conversion of Section 6(f) parkland to non-park use, NPS must find that the fair market value of the park property to be converted has been established and that the property proposed for replacement is of at least equal fair market value, as established by an appraisal performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, excluding the value of structures or facilities that would not serve recreational purposes (36 CFR § 59.3(b)(2)). Alternatively, as described in the NPS Program Manual (page 4-22; Chapter 4, Section D.7.D), the State may waive the appraisal and prepare a waiver valuation when "the valuation problem is uncomplicated and the estimated value of the real property is $10,000 or less based on a review of available data;" this waiver valuation cap can be increased to up to $25,000 if the acquiring agency offers the owner the option to have an appraisal, and the owner elects to have the agency prepare a waiver valuation instead. For this Project, OPHRP has waived the appraisal and will prepare a waiver valuation in accordance with applicable regulations.

2.8.4-3 Evaluation of Reasonably Equivalent Usefulness and Location

In order to approve a conversion, NPS must also find that the property proposed for replacement (the replacement property) is of reasonably equivalent usefulness and location as the property being converted (36 CFR § 59.3(b)(3)).

Criteria for Evaluation

As set forth in the NPS Program Manual, depending on the situation, and at the discretion of NPS, the replacement property need not provide identical recreation experiences or be located at the same site as the conversion property, provided it is in a reasonably equivalent location. The applicable U.S. Department of the Interior regulations, which are incorporated into the NPS Program Manual, set forth the following criteria that are used to determine whether a replacement parcel is of equivalent usefulness and location to the converted property:

- The property to be converted must be evaluated to determine what recreation needs are being fulfilled by the existing facilities and the types of outdoor recreation resources and opportunities available. The property proposed for replacement must then be evaluated in a

similar manner to determine if it will meet recreation needs that are at least like in magnitude and impact to the user community as the conversion parcel.

- The replacement property need not necessarily be directly adjacent to or close by the converted site, but it should normally serve the same community. The replacement property should generally be administered by the same political jurisdiction as the converted property.
- The acquisition of one parcel of land may be used to satisfy several approved conversions.

These factors are discussed below for the Portageville Bridge Project's conversion proposal.

Evaluation of the Conversion Proposal for the Portageville Bridge Project

Conversion Proposal

The Portageville Bridge Project would require conversion of a total of 2.50 acres of Letchworth State Park from parkland. In exchange, a total of 2.50 acres that is in close proximity to the conversion area would be transferred from Norfolk Southern to the park as the replacement property.

The specific area to be converted and the replacement area are illustrated in **Figure 2.8-6** and listed in **Table 2.8-2**, above. As shown in the figures and detailed in the table, the parkland to be converted consists of sloped, wooded areas adjacent to the existing railroad right-of-way; a portion of a small, paved parking lot (the Highbridge Parking Area) just south of the existing bridge (the rest of the parking lot is located on land currently owned by Norfolk Southern); a small segment of Park Road (with an adjacent segment located on land currently owned by Norfolk Southern); a short segment of the Mary Jemison Trail close to the southern end of the trail (the trail begins at the parking lot on property owned by Norfolk Southern); an area of gorge face on the west side of the Genesee River; a small area of waters of the Genesee River that may be needed during construction; an area of the eastern bank of the river; and a small segment of the Genesee Valley Greenway Trail (adjacent to another segment located on land owned by Norfolk Southern). All of the parkland proposed for conversion is located in Letchworth State Park, and is in close proximity to the current Norfolk Southern railroad right-of-way and to the existing rail bridge across the Genesee River. An estimated 1.84 acres of the conversion area are on the west side of the Genesee River in Wyoming County; the other 0.66 acres of land to be converted are on the east side of the river in Livingston County.

The replacement property is also located within Letchworth State Park and is adjacent and in close proximity to the conversion property. The replacement property is currently owned by Norfolk Southern. As shown in the figure and table, the replacement property currently includes existing railroad right-of-way, including the existing rail bridge and the northern portion of its three piers. The water area beneath the existing bridge—including the area occupied by the existing bridge's piers—was not included in acreage for the replacement parcel. The railroad infrastructure, including the tracks, ballast, and the old rail bridge (including its piers in the Genesee River) would be removed as part of the conversion proposal. The replacement property also includes wooded land that already functions as open space for users of Letchworth State Park, even though it is not currently parkland. It includes a segment of Park Road, the Gorge Trail, and the gorge face on the west side of the river, waters of the Genesee River, steep banks on the east side of the river, and an area of the Genesee Valley Greenway Trail on the east side of the river. An estimated 1.45 acres of the replacement property are located in Wyoming County and the other 1.05 acres are in Livingston County.

The replacement parcel is located in close proximity to the parcels to be converted and has essentially the same uses as the conversion parcel. As such, NPS can find that the replacement property is of reasonably equivalent usefulness and location as the conversion property, as described below.

Replacement Property Can Meet the Same Recreation Needs as the Conversion Property

The replacement property is located within the larger boundaries of Letchworth State Park, as are the conversion properties. Like the conversion properties, the replacement property provides a mix of wooded areas, steep slopes, segments of trails, a segment of Park Road, and areas close to an active freight railroad right-of-way.

Replacement Property is Close to the Conversion Property and Can Serve the Same Community

The replacement property is located adjacent and in close proximity to the conversion properties and would serve visitors to Letchworth State Park, the same community served by the conversion properties.

Acquisition of One Parcel of Land to Satisfy Several Approved Conversions

As noted above, under the Section 6(f) regulations, the acquisition of one parcel of land may be used to satisfy several approved conversions. This criterion does not apply to the Project. The Portageville Bridge Project involves one conversion proposal, with the use of several privately owned properties as the replacement parcel for the conversion of several park areas.

2.8.4-4 Replacement Property Meets the Eligibility Requirements for Acquisition

In order to approve a conversion, NPS must find that the property proposed as a replacement property would itself meet the eligibility requirements for LWCF-assisted acquisition (36 CFR § 59.3(b)(4)). As set forth in the regulations and the NPS Program Manual, this means that the parcel must be accessible to the public and must constitute or be part of a viable recreation area. Land currently in public ownership must not be used as a replacement property unless additional criteria can be met. Further, if full development of the replacement property will be delayed beyond three years from the date of the conversion approval, the conversion proposal must explain why this is necessary (NPS Program Manual, page 8-6).

The replacement property would become part of Letchworth State Park, a viable recreation area that currently surrounds the property. It would be accessible to the public in the same way that the conversion properties currently are. The replacement property would be available for use as parkland once the construction of the new railroad right-of-way and new rail bridge are complete. Following receipt of all required approvals, including approval for the conversion of parkland from NPS, the Project is expected to take no more than three years to complete, including final design and construction.

2.8.4-5 Remaining Park Area Must Remain Recreationally Viable

For parks where only a portion of the Section 6(f) property is proposed to be converted, the impact of the conversion on the remaining area must also be considered and the unconverted area must remain recreationally viable or be replaced as well (36 CFR § 59.3(b)(5)).

Letchworth State Park is a 14,350-acre park that extends approximately 17 miles along the Genesee River. As described earlier in Section 2.8.3-1, the south end of the park is notable for the river gorge and three waterfalls, the scenic overlooks, and a concentration of the park's historic structures and sites, which include the Portageville Bridge itself. According to OPRHP, the south end of the park is the most intensely used area of the park and supports the greatest number of visitors. The north end of the park has fewer scenic sites of this nature, and is characterized predominantly by the Mt. Morris Dam on the Genesee River. This end of the park also has a large trailer and tent camping area. The Portageville Bridge Project involves conversion of a small area of outdoor recreation land in the southern portion of Letchworth State Park—adjacent to an active freight railroad right-of-way. This conversion of a total of 2.50 acres (permanent and temporary) would affect only a small area of the park, although the affected

area would be within the portion of the park that has some of the most notable scenic areas and is most heavily visited. As described below, with the conversion proposal, the remaining unconverted area of Letchworth State Park would remain recreationally viable. The effects of the conversion proposal on the remaining area of Letchworth State Park during construction and upon completion of the bridge replacement project are described below.

Park Viability During Construction

The conversion of parkland is required for construction of the Project. During construction, the area where work is occurring would be closed to the public. Within Norfolk Southern's existing property (not subject to Section 6(f) approval), this would result in closure of the segment of Park Road, a portion of the Highbridge Parking Area, and the segments of the Gorge Trail and the Mary Jemison Trail that are located within Norfolk Southern's existing right-of-way. The segment of the existing Genesee Valley Greenway Trail that passes through Norfolk Southern's right-of-way on the east side of the river (also not subject to Section 6(f) approval) would also have intermittent closures of less than six months total. Within the conversion areas, the rest of the parking lot and small additional areas of Park Road and the Mary Jemison Trail would be affected. A total of 2.50 acres of parkland, representing less than 0.02 percent of the 14,350-acre park, would be disturbed.

The effects of the construction activity within Norfolk Southern's right-of-way and within the conversion areas would be as follows.

Park Road

Park Road runs north–south for the length of Letchworth State Park, from the Portageville Entrance on the south to the Mount Morris Entrance on the north, providing access to all of the park areas on the west side of the Genesee River.

During the winter, most of Park Road is closed and remains unplowed, which allows its use for winter recreational activities. During winter months, the Portageville Entrance is closed. The other three park entrances are open year-round, but provide access only to short segments of Park Road during winter months, when the rest of the road is closed. In the winter, Park Road is open between the Mt. Morris Entrance and Perry Entrance, and from the Castile Entrance to Glen Iris Inn and other recreational features near the Middle Falls. South of Middle Falls, including in the area alongside the Portageville Bridge, Park Road is closed in the winter and serves as part of a designated snowmobile trail.

During construction, a total of approximately 600 linear feet of Park Road within the construction zone would be closed to the public, including the area within the construction easement area needed for the duration of the construction as well as the portion within the existing and proposed (future) Norfolk Southern right-of-way. Another 120 feet of the roadway would be within a short-term construction area (in use for less than six months).

Because the short segment of road from the Portageville Entrance to the construction site (approximately ½ mile) does not provide access to any activities in Letchworth State Park north of the existing bridge, OPRHP has decided that it will close this ½-mile long roadway segment and the Portageville Entrance itself to vehicular traffic during construction. Similarly, there are no destination points and no existing adequate places to turn around between the construction closure and the Upper/Middle Falls Area turn-off on Park Road, north of the Project site. Consequently, OPRHP has decided that it will close this roadway segment for the duration of construction. **Figure 2.8-8** illustrates the segments of road that would be closed during construction.

The only park features located between the Portageville Entrance and the Upper/Middle Falls Area turn-off (approximately 0.5 miles to the north) are the southern trailheads for the Mary Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction

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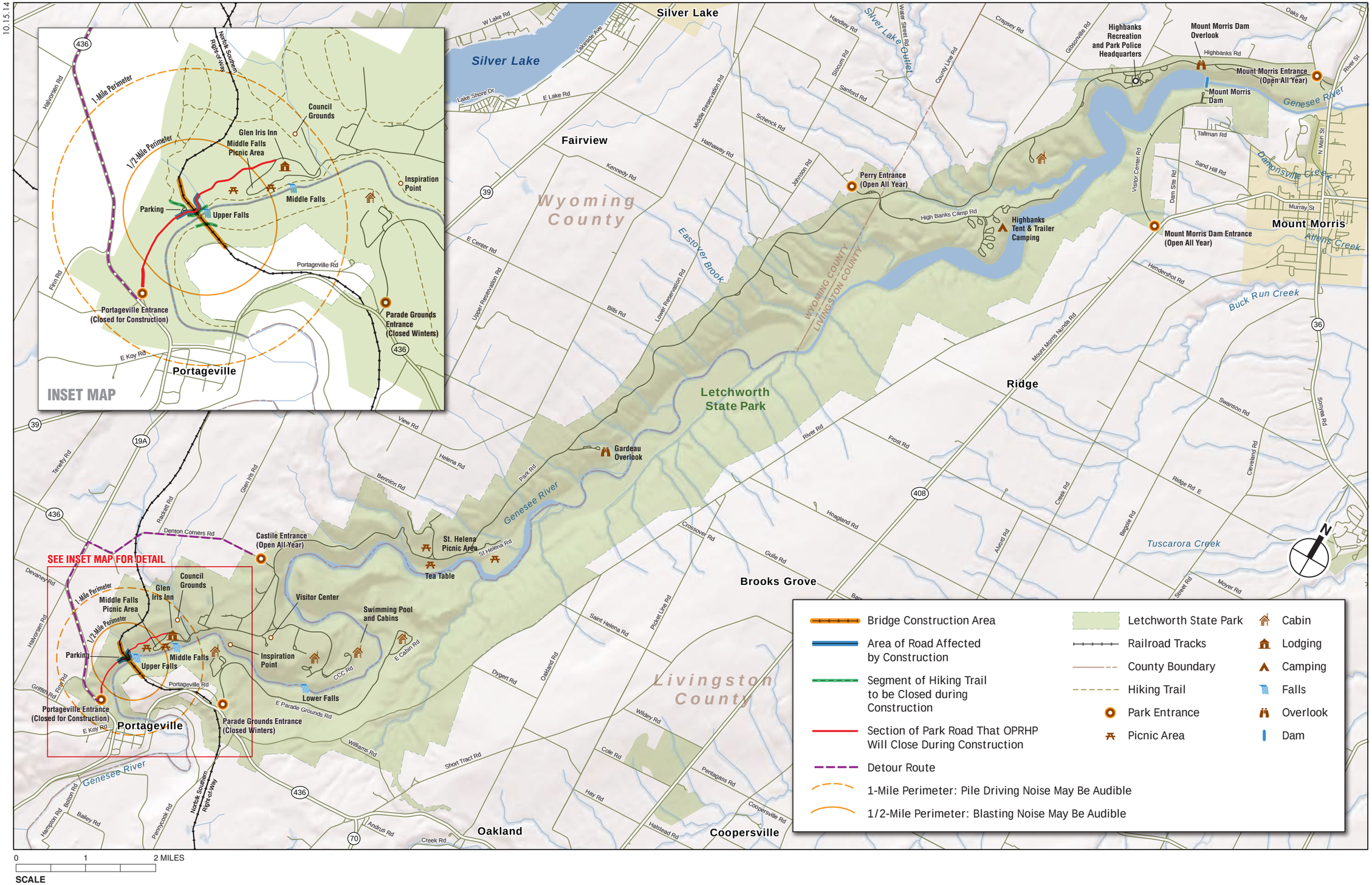

Construction Activities in Letchworth State Park
Figure 2.8-8

(see below). In addition, in the winter when the Portageville Entrance is closed to vehicles, the segment of Park Road between that entrance and the Highbridge Parking Area/Mary Jemison Trail serves as part of a snowmobile trail (see the discussion of the Mary Jemison Trail below).

The rest of Park Road—i.e., the area north of the Upper / Middle Falls Area turn-off—would be unaffected by the bridge construction project. This section of the road would remain accessible via the other park entrances (the Castile Entrance, Perry Entrance, and Mt. Morris Entrance). Visitors to the park who come from the south would have to detour around the Portageville Entrance to the Castile Entrance (see **Figure 2.8-8**). For visitors, employees, and deliveries to the southern end of the park, the detour from the Portageville Entrance to the Castile Entrance would add approximately 2 to 5 miles to the trip, depending on the destination in the park. For vehicles bound for the northern part of the park that would have used the Portageville Entrance, the detour would add 1 mile to the trip.

To avoid congestion on busy days at the Castile Entrance because of the loss of entrance capacity at the Portageville Entrance during construction, Norfolk Southern will provide funds for construction of a replacement entrance booth at the Castile Entrance with a two-lane entrance booth rather than the existing single lane, to provide greater capacity.

Highbridge Parking Area

This small parking area is located on the west side of Park Road just south of the Portageville Bridge. It currently serves park patrons using the southern trailheads for the Mary Jemison Trail and Gorge Trail (discussed below) and is part of a snowmobile trail in the winter.

The Highbridge Parking Area, including the portion located within Norfolk Southern's right-of-way and the portion on park property, is in the path of the proposed new track alignment and Park Road realignment and must be relocated. As part of the Project, a new parking area would be created on the north side of the railroad right-of-way within the replacement park property that would be available once construction is complete. This parking area currently serves the southern trailheads for the Mary Jemison Trail and Gorge Trail, but both of these trailheads would be closed during construction (see below), so the temporary loss of the parking area would not affect activities in the rest of Letchworth State Park.

Mary Jemison Trail

The Mary Jemison Trail, designated as Trail #2 on OPRHP's map of Letchworth State Park, is a 2.5-mile-long trail that runs from the Highbridge Parking Area to the Council Grounds site. This trail is used for hiking, biking, horseback riding, skiing and snowmobiling (in the winter), and archery hunting (in the fall) as part of the deer management program in the park. For snowmobilers, the Mary Jemison Trail provides a connection from the south (via the Park Road beginning at the Portageville Entrance) to a larger corridor trail (State Corridor Trail 3) to the north. In addition, OPRHP sometimes uses the southern end of the Mary Jemison trail for interpretive programs.

The southern end of the Mary Jemison Trail, approximately 570 linear feet, would be closed because of its location within the construction zone. Upon completion of construction, this end of the trail would be relocated and rebuilt outside the railroad right-of-way. The northern trailhead at Council Grounds would remain accessible during construction, and the remainder of the trail would remain open to the public throughout construction.

Gorge Trail

The Gorge Trail extends seven miles along the western edge of the Genesee River gorge from a trailhead near the base of the existing rail bridge to the St. Helena Picnic Area in the middle of the park. Access to this trail is available from a number of points throughout the park. Near the Portageville Bridge, the Gorge Trail begins just south of the bridge across Park Road from the Highbridge Parking Area, and passes beneath the bridge as it heads north along the edge of the

gorge. The southern end of this trail, a total of approximately 320 linear feet, would have to be closed because of its location within the construction zone. Outside of the construction zone, the rest of the trail would remain open.

Genesee Valley Greenway Trail

On the east side of the river, the Genesee Valley Greenway Trail currently runs 5.75 miles within Letchworth State Park using the abandoned railroad bed of the Pennsylvania Railroad, which had originally been developed as the Genesee Valley Canal. In the park, the trail runs close to the east side of the river and passes beneath the Portageville Bridge. The segment of the Genesee Valley Greenway Trail in Letchworth State Park is part of a longer trail being developed on the canal tow path and rail bed that will extend 90 miles between Rochester and Cuba (at I-86 in the Southern Tier). The segment of the Genesee Valley Greenway Trail in the park is also part of the Finger Lakes Trail, which extends 26 miles from Mt. Morris at the northern end of the trail to the hamlet of Portageville at the southern end and connects there with the main Finger Lakes Trail system that runs east and west across upstate New York. Approximately 200 linear feet of this trail, which passes beneath the railroad bridge on the east side of the river, would be subject to intermittent closures during construction to protect the safety of the public. The total amount of time this trail would be affected would be less than six months. During construction, Norfolk Southern will work with OPRHP to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction, including providing updates to such signage when subsequent phases of construction impact the trail.

Other Park Resources

In addition to these direct effects on recreational elements of Letchworth State Park, construction of the replacement bridge would also result in some temporary disruptions in the portions of the park nearby. Specifically, construction-related activities would result in temporary visual intrusions and create intermittent noise that may be audible for up to a mile in the park:

- Visual Impacts: There would be temporary visual impacts to viewers and viewsheds during the demolition of the existing bridge and construction of the new bridge, associated with the partial closure of some trails and associated viewing locations and the operation of heavy machinery, including construction cranes, which would be visible above the vertical limits of the existing bridge. During construction, both the existing bridge and the new bridge under construction would be present in the viewshed for a period of 2.5 to 3 years.
- Noise Impacts: There would be noise generated by vehicles, equipment, and rock excavation through controlled blasting, as well as potentially by pile drilling if that is required. The noisiest construction activity, pile drilling, may be audible for up to a mile from the construction site (see **Figure 2.8-8**). Controlled blasting activities may be audible for up to ½ mile from the site (see **Figure 2.8-8**). Controlled blasting would occur once or twice per week and for a very short time period each time, but for a duration of 4 to 8 months on the west side and 6 to 11 months on the east side of the river, Other construction equipment, like dump trucks, could be audible for ¼ mile from the site, and when multiple pieces of equipment are operating simultaneously, this would be audible for greater distances. Normal construction work hours would be 7 AM to 5 PM on weekdays, although some time-sensitive tasks might be performed outside those hours or on weekends. These construction hours would limit to the extent possible the disruption to guests at the Glen Iris Inn and cabins, as well as those attending events at the Glen Iris Inn.

These construction-related inconveniences would not change the overall character of the park, however, nor result in any areas of the park becoming recreationally unviable. The noise and visual changes would be noticeable from the immediate area of the park near the construction site, and at times noise would be audible at greater distances. Even so, given the attractiveness

of this segment of the park, the construction activities are not expected to result in notable declines in patronage to the park.

The vast majority of the park would be unaffected during construction. As noted above, in the southern segment of the park, construction would be audible, but otherwise would not affect park activities. This area would include attractions such as the Glen Iris Inn, Upper/Middle Falls Picnic Area, and Council Grounds. Farther away, construction would be barely noticeable, if at all. These locations would include Lower Falls, Inspiration Point (other than distant views of the bridge), the Visitor Center, Swimming Pool and Cabins, Tea Table, St. Helens Picnic Area, Gardeau Overlook, Highbanks Camping Area, Highbanks Recreation Headquarters, Mount Morris Dam Overlook, Mount Morris Dam Visitor Center, and miles of trails and acres of natural areas. These facilities and recreational opportunities would continue to draw patrons to the park for the duration of the construction period.

Long-Term Park Viability After Conversion

The conversion of 2.50 acres of land protected under the LWCF from parkland, and the provision of 2.50 acres of replacement land, would not change the overall character of Letchworth State Park nor cause any unconverted areas of the park to become recreationally non-viable. The Project would shift an existing freight railroad right-of-way some 75 feet to the south of its current location and would provide replacement parkland on the north side of the new alignment, within a very short distance from the converted parkland. Once construction is completed, all park features affected during construction would be restored to their original function, as follows.

Park Road

Park Road would continue to run north–south for the length of Letchworth State Park. It would continue to pass through the right-of-way owned by Norfolk Southern and beneath the railroad bridge, as well as through the conversion property and the replacement property. The alignment of the roadway would be shifted slightly to the west to accommodate the new bridge foundations. As a benefit of the roadway relocation, an area of Park Road that is currently prone to erosion would be reconstructed to address this issue.

Highbridge Parking Area

The small parking area south of the existing railroad tracks (half of which is within property currently owned by Norfolk Southern) would be relocated to a new site north of the right-of-way located entirely within parkland. The new parking lot would be larger than the existing lot, providing additional parking capacity for park patrons. The parking lot would be increased from 17 spaces to 34 spaces, with the new parking area including a grassy island to manage stormwater runoff, improve traffic flow, and minimize overall impervious surfaces. The relocated parking lot would continue to serve park visitors using the Mary Jemison and Gorge Trails, as it does today.

Mary Jemison Trail

The southern trailhead for the Mary Jemison Trail would be shifted slightly to the south, and would be located entirely within parkland. With this shift, the trail would retain its existing functionality and recreational usefulness.

Gorge Trail

The southern trailhead for the Gorge Trail would be shifted slightly to the south and west, to meet the relocated Park Road. With this shift, the trail would retain its existing functionality and recreational usefulness. In the area where the Gorge Trail must be relocated, Norfolk Southern will salvage stone from existing walls to rebuild stone walls along the relocated trail, using a design similar to the existing historic stone walls. In addition, as part of the Project, Norfolk

Southern would provide certain funding to be used by OPRHP for its restoration of the existing Gorge Trail between the construction zone and Middle Falls, as identified as necessary by OPRHP. This work to be directed by OPRHP would include repointing selected walls, replacing and repairing certain damaged stairs, and replacing selected timber railings.

Other Park Resources

The vast majority of the park would be unaffected following construction of the Project. The park would continue to include the same attractions as it did before the construction project, and these facilities and recreational opportunities would have the same value as prior to the construction.

In the immediate vicinity of the bridge, the Project (and associated conversion proposal) would result in some effects to the surrounding park area, but these effects would not change the overall character of the park or the recreational viability of the park. These effects are discussed below.

Once the new bridge is in place, freight trains would operate at higher speeds through the park (35 miles per hour rather than 10 miles per hour). This would result in slightly increased noise levels associated with train operations that would be audible in the immediate vicinity of the railroad right-of-way in the park but no significant adverse noise impact would result.

Based on review under Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations (36 CFR Part 800), the Project would cause an adverse effect to historic properties, due to the proposed demolition of the existing bridge, a contributing historic resource within the State and National Register-listed Letchworth State Park, and the permanent alternative or relocation of other contributing resources, including the Gorge and Mary Jemison Trails, Highbridge Parking Area and Historic Marker, Park Road, and fieldstone walls, as previously discussed.

As a visual resource, the existing Portageville Bridge contributes to the scenic qualities of the southern portion of Letchworth State Park, which is an aesthetic resource of statewide significance. The loss of the existing bridge would result in an adverse impact to viewers in locations where the bridge is a principal element of the view. However, the removal of the Portageville Bridge would not result in an adverse visual impact on Letchworth State Park as a whole, since Letchworth State Park is an approximately 14,350-acre park with numerous significant visual elements. While the Portageville Bridge is one of many elements that contribute to the park's aesthetic and visual character, it is only visible from certain locations at the south end of the park.

The new bridge proposed by the Project would not obstruct views of the natural features that compose Letchworth State Park, and would in fact enhance views of the river by eliminating the existing iron bridge supports that currently obstruct natural views within the river gorge. This would also return the river to its free-flowing condition.

As part of the Project, Norfolk Southern would provide funding to be used by OPRHP for its creation of interpretive materials describing the history of the existing bridge, including outdoor kiosks and an exhibit at the William Pryor Letchworth Museum.

Overall, the Preferred Alternative would not change the recreational viability of Letchworth State Park. A relocated parking area would be provided for access to the Gorge Trail and Mary Jemison Trail, and the southern segment of both trails would be relocated. Vistas of the scenic Genesee Gorge, including its three waterfalls, would remain notable in the park and the recreational areas from which those vistas are available would not be altered by the Project. All park facilities and all types of activity available in the park would continue to be available upon completion of the Project.

2.8.4-6 Coordination with Federal Agencies Has Been Accomplished

The sixth criterion that must be satisfied for conversion of Section 6(f) parkland is that all necessary coordination with other federal agencies has been satisfactorily accomplished prior to the conversion (36 CFR § 59.3(b)(6)).

The Project's location and implementation requires coordination with several federal and state agencies with jurisdiction over parklands, waterways, and natural and ecological resources. The lead federal agency for the environmental review, which is being conducted in accordance with NEPA, is the Federal Highway Administration (FHWA). In accordance with the FHWA's NEPA procedures, FHWA and the New York State Department of Transportation (NYSDOT) prepared a Coordination Plan that was distributed to federal and state agencies with potential jurisdiction over aspects of the Project. Consistent with and through that plan, FHWA and NYSDOT have identified and invited appropriate federal and state agencies to become Cooperating Agencies (i.e., those that have jurisdiction by law or special expertise with respect to any environmental impact involved in a proposed project or project alternative) or Participating Agencies (agencies that do not have jurisdiction or special expertise, but that are interested in the project) for the Project. Those agencies, and their responsibilities as they pertain to the Project, are summarized in **Table 2.8-5**.

FHWA, NYSDOT, and Norfolk Southern have undertaken coordination with the U.S. Army Corps of Engineers (USACE) regarding potential permits required for the Portageville Bridge Project. In addition, the Project Sponsor is coordinating with the U.S. Fish and Wildlife Service (USFWS) regarding potential effects to species protected under the Endangered Species Act and the Bald and Golden Eagle Protection Act, as documented in Chapter 4.4.9, "General Ecology and Wildlife Resources," of the NEPA DEIS. Coordination has also occurred with NPS and the New York State Department of Environmental Conservation (NYSDEC) related to the Genesee River's protected status under the Genesee River Protection Act. As discussed in Section 2.3 of this FEIS, in a letter dated September 18, 2014, NPS concurred with the evaluation presented in the DEIS related to the federal Wild and Scenic Rivers program and indicated that it is supportive of the identified Preferred Alternative. A copy of the letter is included in Section 2.3 of the FEIS.

In addition, FHWA provided the Draft Section 6(f) Evaluation to NPS for review as part of the DEIS and requested an initial review of the proposed conversion of parkland prior to submission of a formal conversion request. In an e mail dated November 20, 2014, NPS indicated its conceptual approval of the conversion proposal as described in the DEIS. A copy of that correspondence is included at the end of this updated Section 6(f) Evaluation.

2.8.4-7 Guidelines for Environmental Evaluation Have Been Met

The guidelines for environmental evaluation must have been satisfactorily completed and considered by the NPS during its review of the conversion and replacement proposal (36 CFR § 59.3(b)(7)).

The environmental effects of the Portageville Bridge Project have been evaluated in accordance with NEPA, with FHWA and NYSDOT as lead agencies for that review. In accordance with NEPA, a DEIS and this FEIS were prepared to evaluate the Project's environmental effects. In addition, FHWA and NYSDOT have conducted analysis and outreach in accordance with Section 106 of the National Historic Preservation Act. On the basis of the analysis conducted, FHWA, in coordination with NYSDOT and in consultation with the SHPO, determined that the Preferred Alternative would result in an Adverse Effect on Letchworth State Park, which is listed on the State and National Registers of Historic Places (S/NRHP), because it would involve removing or altering a number of contributing elements to the park's S/NRHP listing, including the removal and demolition of the existing Portageville Bridge and removal and alterations of

other contributing resources within Letchworth State Park. A Draft Memorandum of Agreement (MOA) that identified measures to resolve the Project's adverse effect on historic properties was prepared in accordance with Section 106, in consultation with Consulting Parties identified for the Project. On March 6, 2014, the Section 106 Finding Documentation and a Preliminary Draft Memorandum of Agreement (MOA) presenting measures to mitigate adverse effects on historic properties were distributed to the Section 106 Consulting Parties for this Project for review and comment. The Preliminary Draft MOA was developed through extensive consultation among FHWA, NYSDOT, OPRHP, the SHPO, and Norfolk Southern. The Consulting Parties were given until April 8, 2014 to provide written comments. On March 20, 2014, NYSDOT and FHWA held a Consulting Party meeting to seek and consider the views of Consulting Party members regarding the Project's potential effects on identified historic properties and to consider input on possible measures to avoid, minimize, or mitigate adverse effects. In consultation with the SHPO, NYSDOT and FHWA considered all Consulting Party comments received at the Consulting Party meeting and during the comment period provided, and the Preliminary Draft MOA was revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised Draft MOA distributed for review by Consulting Parties on June 18, 2014.

The Draft MOA was made available to the public as part of the DEIS for the Project, published on August 1, 2014. The DEIS comment period and public hearing satisfy the requirement to provide the public with information specified in 36 CFR 800.11(e) and an opportunity to express their views concerning the resolution of the Project's adverse effects on historic properties. No public comments were received relating to the Project's effects on historic properties that have not been previously considered and addressed. No comments on the Draft MOA were received from Section 106 Consulting Parties in response to correspondence sent on June 18, 2014 or during the public comment period, and no comments on the Draft MOA were received from the public during the DEIS comment period.

The Section 106 process has been concluded with an executed MOA, filed with the Advisory Council on Historic Preservation (ACHP). The executed MOA is provided in **Appendix 1** of the FEIS. **Appendix C** to the DEIS contains the previous Section 106 documentation for this Project, including the Draft MOA.

The Project also requires consideration under Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) prohibits FHWA from approving any program or project that requires the "use" of (1) any publicly owned parkland, recreation area, or wildlife and waterfowl refuge of national, state, or local significance; or (2) any land from a historic site of national, state, or local significance (collectively, "Section 4(f) properties"), unless there is no feasible and prudent avoidance alternative to the use of such land and the action includes all possible planning to minimize harm to the park, recreation area, wildlife refuge, or historic site resulting from such use; or it is determined that the use of the property, including measures to minimize harm, will have a *de minimis* impact on the property.

One Section 4(f) property, Letchworth State Park, would be permanently used for the Project—the same park area that is subject to review under Section 6(f). Letchworth State Park qualifies for protection under Section 4(f) both as a public park and as a historic property that is listed on the S/NRHP. A Draft Section 4(f) evaluation was provided in Chapter 5 of the DEIS and a Final Section 4(f) Evaluation is provided in Section 2.7 of this FEIS. As discussed in the evaluation, no feasible or prudent alternative exists to the use of Letchworth State Park; therefore, measures have been developed in accordance with Section 106 to minimize harm to contributing resources to the park's historic character, as discussed above. Measures have also been developed and will be implemented to minimize harm to Letchworth State Park's recreational features.

As discussed in Section 2.7 of this FEIS ("Final Section 4(f) Evaluation"), DOI reviewed the Project's Draft Section 4(f) Evaluation and concurred with its conclusions in a letter dated September 12, 2014. A copy of that letter is provided at the end of Section 2.7.

FWHA, as the lead federal agency, is making its final Section 4(f) finding in conjunction with issuance of the combined FEIS and Record of Decision (ROD) for the Project.

Table 2.8-5
Lead and Invited Cooperating and Participating Agencies

Agency	Role	Responsibilities
Federal Highway Administration (FHWA)	Federal Lead Agency	Manage environmental review process; prepare EIS and decision document; provide opportunity for public and agency involvement; arbitrate and resolve issues
New York State Department of Transportation (NYSDOT)	State Lead Agency	Manage environmental review process; prepare EIS and decision document; provide opportunity for public and agency involvement; arbitrate and resolve issues
Advisory Council on Historic Preservation	Cooperating Agency	Section 106, National Historic Preservation Act
U.S. Army Corps of Engineers (USACE)	Cooperating Agency	Section 404, Clean Water Act permit Section 10, Rivers and Harbors Act permit
U.S. Department of Interior (DOI)	Cooperating Agency	Section 4(f), U.S. Department of Transportation Act
U.S. Department of Interior, National Park Service (NPS)	Cooperating Agency	Section 6(f), Land and Water Conservation Fund Act approval Section 7, National Wild and Scenic Rivers Act and Genesee River Protection Act approvals
U.S. Environmental Protection Agency (USEPA)	Cooperating Agency	Section 309, Clean Air Act Section 404, Clean Water Act National Environmental Policy Act
U.S. Fish and Wildlife Service (USFWS)	Cooperating Agency	Section 7, Endangered Species Act Bald and Golden Eagle Protection Act permit
New York State Department of Environmental Conservation (NYSDEC)	Cooperating Agency	Section 401 Certification, Clean Water Act State Pollutant Discharge Elimination System (SPDES) for construction activities Section 7, National Wild and Scenic Rivers Act and Genesee River Protection Act consultation
State Historic Preservation Officer (SHPO)	Cooperating Agency	Section 106 Consultation, National Historic Preservation Act; Section 4(f), U.S. Department of Transportation Act
New York State Office of Parks, Recreation and Historic Preservation (OPRHP)	Cooperating Agency	Section 6(f), Land and Water Conservation Fund Act; Section 4(f), U.S. Department of Transportation Act Construction clearances and approval of improvements within Letchworth State Park
Federal Railroad Administration (FRA)	Cooperating Agency	Consultation
Surface Transportation Board	Participating Agency	Consultation
Genesee Transportation Council	Participating Agency	Consultation
Livingston County	Participating Agency	Consultation
Wyoming County	Participating Agency	Consultation
Town of Genesee Falls	Participating Agency	Consultation
Town of Portage	Participating Agency	Consultation

2.8.4-8 State Intergovernmental Clearinghouse Review Procedures

In addition, if the proposed conversion and replacement proposal constitute significant changes to the original LWCF project, state intergovernmental clearinghouse review procedures must be followed (36 CFR § 59.3(b)(8)).

The proposed conversion and replacement for the Project do not constitute a significant change to the LWCF projects at Letchworth State Park and therefore this criterion does not apply to the Project. Further, New York State has chosen not to participate in the intergovernmental review process.

2.8.4-9 Consistency of the Proposed Conversion and Replacement with the Statewide Comprehensive Outdoor Recreation Plan

The ninth criterion for a conversion proposal is that NPS must make a determination that the proposed conversion and replacement are in accordance with the applicable State Comprehensive Outdoor Recreation Plan (SCORP) (36 CFR § 59.3(b)(9)). For Letchworth State Park, the applicable SCORP is *The New York State Statewide Comprehensive Outdoor Recreation Plan and Generic Environmental Impact Statement 2014-2019* (OPHRP, 2014).

New York State's SCORP serves as OPRHP's "status report and as an overall guidance document for recreation resource preservation, planning and development of the State's resources through 2019."[2] The document sets forth nine programmatic goals intended to provide direction and support for protection and management of natural, cultural, and recreation resources; for each of those policies it also provides recommendations that support and explain those policies. The nine goals are framed by three overarching themes: 1) enhancing and revitalizing the state outdoor recreation system; 2) improving connections between recreation, economics, sustainability, and healthy lifestyles; and 3) strengthening the link between people, nature, recreation, and resource stewardship. The goals are as follows:

Enhancing and Revitalizing the State Outdoor Recreation System

1. *Increase and deepen the visitor experience by reinventing and redesigning our parks and historic sites.* The recommendations under this goal include rehabilitating and/or adaptively reusing existing recreation and historic facilities; promoting compatible multiple uses and maximizing the length of activity seasons; and protecting natural and cultural resources in operation, maintenance, and management activities; and facilitate inventories and analyses of park, recreation, natural and historic resources, among others.
2. *Build a 21st century green and sustainable park system; fix and green the aging infrastructure of our parks and historic sites and open new facilities.* For this goal, recommendations include improving and expanding the statewide commitment toward environmental sustainability in parks, recreation and historic sites; developing policies and procedures for reductions in energy consumption and production of greenhouse gases; and maximizing energy efficiency and the use of sustainable / green building materials.

Improving Connections between Recreation, Economics, Sustainability, and Healthy Lifestyles

3. *Launch a statewide "Explore Your Outdoors" campaign in conjunction with Empire State Development Corporation and the "I Love NY" program.* This goal is intended to promote outdoor recreation opportunities statewide and to highlight New York's unique landscape and diverse recreation opportunities.

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[2] SCORP, p.3, available at http://parks.ny.gov/inside-our-agency/master-plans.aspx.

4. *Continue to improve, repair, and expand outdoor recreation facilities to attract visitors.* Recommendations for this goal include evaluating existing infrastructure to address critical repair needs; evaluating vulnerable coastal parks and lands and embracing improvements that will prepare facilities to better handle future weather events; and continuing to improve recreation facilities to ensure universal access.
5. *Reconnect children and adults with nature and recreation by improving access to outdoor recreation opportunities.* Recommendations include identifying new outdoor recreation opportunities for underserved communities; improving access to outdoor recreation opportunities through public transit, bikeways, and greenways; and encouraging the use of trails to increase physical activity.
6. *Continue to develop a comprehensive, interconnected recreation-way, water trails, greenway and blueway trail system*. For this goal, recommendations include identifying and encouraging the creation of recreation-ways, greenways, water trails, and blueways in and around metropolitan areas, along major water corridors, and along other natural, abandoned railroad and utility corridors; and fostering partnerships between government, not-for-profit organizations, trail groups, and private landowners in the development and maintenance of trails.
7. *Continue to protect natural connections between parks and open spaces*. This goal includes recommendations to continue to inventory and identify important ecosystems and natural connectors; ensure that the acquisition of open space resources is consistent with the recommendations of the New York State Open Space Plan; and encourage open space preservation by assessing lands adjacent to parks and forests to gauge their potential for future acquisition.

Strengthening the Link between People, Nature, and Resource Stewardship

8. *Engage park visitors through programming at parks and historic sites.* For this goal, recommendations include expanding environmental and cultural education and interpretation programs throughout the state park and historic site system; and expanding partnerships with established park, trail, and advocacy groups.
9. *Continue efforts to restore, conserve, and protect the biodiversity of state lands.* This includes continuing to work toward eradicating invasive species; and continuing wildlife management efforts to improve biodiversity in parks and natural areas.

The conversion proposal for Letchworth State Park land as part of the Portageville Bridge Project would be consistent with the SCORP. It would maintain the existing recreational resources at Letchworth State Park and would be conducted in a way that is compatible with environmental characteristics and responsible stewardship of land and water resources that sustain plant and animal species and their habitats, that would protect habitat corridors and buffer areas, and that would comply with state and federal environmental and historic preservation regulations. The Project would result in adverse impacts to a small wetland and small areas of forested land, but measures to minimize these impacts have been developed, in consultation with OPRHP, and these would not change the overall character of the park or ecological significance of or function of the park. Mitigation for any adverse effects to natural resources developed in consultation with OPRHP will be incorporated into the Project. Similarly, while the Project would result in an adverse effect to Letchworth State Park, which is listed on the S/NRHP, mitigation for this impact has been developed in accordance with Section 106 of the National Historic Preservation Act. The mitigation includes opportunities to repair existing infrastructure in the park, including expanding the Highbridge Parking Area, addressing erosion issues on a portion of Park Road, improving drainage and stormwater management (using green infrastructure) within the Project area, and providing funding for a new Castile Entrance.

As noted in the discussion of the seventh goal ("*continue to protect natural connections between parks and open spaces"*), one of the recommendations of the SCORP is to ensure that the acquisition of open space resources is consistent with the approaches and recommendations of the New York State Open Space Plan. The Open Space Conservation Plan, prepared by the New York State Department of Environmental Conservation (NYSDEC) and updated periodically, is intended to guide the investment of land protection funds from the state's Environmental Protection Fund. The plan presents overarching themes and goals, and then identifies specific regional priority conservation projects in the different regions of the state.

The plan currently in effect, the 2009 New York State Open Space Conservation Plan, identifies two regional priority projects relevant to Letchworth State Park: protection of habitats and landscapes along the Genesee River, including enhancing public access to public lands and protecting migratory and resident bird habitats; and acquisition of land to complete the Genesee Greenway on its 90-mile route from Rochester to Cattaraugus County. The Open Space Conservation Plan also identifies as statewide priorities the protection and enhancement of state parks and state historic sites; and protection and preservation of long-distant trail corridors, networks, and linkages, including the Finger Lakes Trail. An updated plan, the Draft New York State Open Space Conservation Plan, dated September 2014, was recently issued for public review. The 2014 draft plan continues to identify as regional priority projects the protection of the Genesee River corridor from the Pennsylvania border to Lake Ontario, and pursuing additional acquisition along the Genesee Valley Greenway. The draft Open Space Conservation Plan also continues to identify as priorities the protection and enhancement of state parks and state historic sites; protection and preservation of long-distant trail corridors, networks, and linkages, including the Finger Lakes Trail and Genesee Valley Greenway. The conversion proposal for Letchworth State Park land as part of the Project would be consistent with the priorities identified in the current Open Space Conservation Plan and the proposed draft plan. As noted above, the Project would protect and enhance historic features, recreational features, and natural features in the Project area. The conversion proposal would not adversely affect the priority projects of the Open Space Conservation Plan, including the ongoing development of the Genesee Valley Greenway Trail, or the protection of the Genesee River corridor as an ecological corridor.

2.8.5 COORDINATION

When applications to convert Section 6(f) parkland to non-park use are proposed, the state resource agency is responsible for coordination with NPS and for provision of all required application materials. For the Portageville Bridge Project, FHWA and NYSDOT will continue to coordinate with OPRHP to complete the conversion request consistent with the prerequisites set forth in the Section 6(f) regulations. The Alternate State Liaison Officer at OPRHP will submit a formal conversion request to NPS, including an LWCF amendment form for Letchworth State Park as well as other documentation.

From: Lang, Megan [mailto:megan_lang@nps.gov]
Sent: Thursday, November 20, 2014 11:57 AM
To: Grimaldi, Joseph (ALB)
Cc: Jack Howard; Kowalczyk, Michael (FHWA)
Subject: Letchworth State Park proposed conversion

Joe,

We have received the request for conceptual consultation by the Land and Water Conservation Fund (LWCF) Program for the proposed Section 6(f)(3) conversion. A conversion of approximately 2.33 acres of 6(f)(3) protected parkland within the Letchworth State Park would occur due to the replacement of the Portageville Bridge, as described in the Draft Environmental Impact Statement (DEIS) for the Portageville Bridge Project, dated July 2014.

Please be reminded that a formal request for permission to convert LWCF assisted properties in whole or in part to other than public outdoor recreation uses must be submitted by the New York State Liaison Officer (SLO) to National Park Service in writing and conform to the prerequisites set forth in 36 CFR 59. However, we understand that the discussion in the Section 6(f) Evaluation of the DEIS for the Portageville Bridge Project will contribute to the formal conversion request materials. Therefore, please be advised that we are comfortable in concept with the conversion proposal as described in the DEIS and look forward to reviewing the formal conversion application.

Please let us know if you require any additional information.

Thanks,

Megan

Megan Lang
Planner, State & Local Assistance Programs
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Section 3: Changes to the DEIS

This section describes the factual changes made to the Draft Environmental Impact Statement (DEIS) following its completion in July 2014 and changes in acreages of land to be temporarily and permanently acquired for the Project that have occurred since the DEIS. The changes to the DEIS are described and itemized below. In addition, a Final Section 4(f) Evaluation (see **Section 2.7**) and an updated Section 6(f) Evaluation (see **Section 2.8**), reflecting the changes described below, are included in this Final Environmental Impact Statement (FEIS).

Comments received on the DEIS and responses to the comments are provided in **Section 2.6** of this FEIS. Three comments identified factual corrections, which are noted below. The other comments received did not identify new, substantive issues that required new analysis. Where clarification was requested, it is provided in the response to the comments in Section 2.6.

The Federal Highway Administration (FHWA) has determined that this FEIS is sufficient and that supplemental study is not required. If new information becomes available or Project refinements occur that may change the findings of the EIS, FHWA may determine that a re-evaluation of the EIS is needed consistent with 23 CFR 771.130, which states that:

(a) A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever the Administration determines that:

1. Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or
2. New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(b) However, a supplemental EIS will not be necessary where:

1. The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS.

The DEIS completed in July 2014 is available at www.dot.ny.gov/portagevillebridge.

3.1 GLOBAL CHANGES

Global changes to the DEIS are as follows:

- The road referred to in the DEIS as **Portageville Road** may also be referred to as **Portage Road**. This occurs on pages 1-11, 1-13, 2-6, 2-8, 4.2.1-2, 4.2.1-5, 4.3.3-1, 4.4.11-19, 4.4.13-4, 4.4.13-5, 4.4.17-7, 4.4.17-8, 4.4.17-9, 4.4.17-11, 4.5-6, 4.5-7, 4.5-8, 4.5-10, 4.5-26, 4.5-33, 4.5-35, 4.5-36, and 4.5-37 of the DEIS.
- The stream referred to in the DEIS as **Stream B** should be referred to by its correct name, **Deh-Ge-Wa-Nus**. This occurs on pages 4.4.1-3, 4.4.2-1, 4.4.2-3, 4.4.2-4, 4.4.4-2, 4.4.4-3, 4.4.8-1, 4.4.8-2, 4.4.9-6, 4.4.9-15, 4.4.9-17, 4.5-11, 4.5-12, and 4.5-25 of the DEIS.
- The DEIS stated that Norfolk Southern **would acquire** 0.76 acres of private land adjacent to Letchworth State Park. Since publication of the DEIS, Norfolk Southern **has purchased** the

private property. This private property acquisition is referenced in the DEIS on pages 1-6, 1-8, 3-7, 3-9, 3-10, 4.2.1-5, 4.2.2-1, 4.4.14-3, 4.4.19-1, 4.4.19-2, 4.5-1, 4.6-1, 7-2, and 7-5.

- The DEIS stated that Norfolk Southern would acquire a permanent easement from OPRHP in a 0.21-acre area adjacent to the existing embankment where access for ongoing slope stabilization is required. This permanent easement is no longer being sought as part of the Project. The permanent easement is referenced in the DEIS on pages 1-6, 3-7, 3-9, and 4.2.2-1.
- Small changes have been made to the proposed future property line between Norfolk Southern's railroad right-of-way and the surrounding parkland. These changes were made as follows:
  - To correct the existing property line boundary between the park and the railroad right-of-way on the east side of the river;
  - To revise the future property line so that the new Highbridge Parking Area and relocated Mary Jemison trailhead are located entirely on park property, rather than partially within Norfolk Southern's property as was shown in the DEIS.

As a result of these changes, the acreage of property to be acquired from the park for the Project and the acreage of land to be transferred to Letchworth State Park has changed. The changes are noted in **Table 3-1**. The updated property lines are illustrated in **Figures 2.1-1 and 2.1-2**, provided in Section 2.1 of this FEIS. The revised acreages are also provided in the Final Section 4(f) Evaluation and Updated Section 6(f) Evaluation included as part of this FEIS in **Sections 2.7 and 2.8**, respectively.

Table 3-1
Changes in Acreages Identified in the DEIS

Label	DEIS Acreage	FEIS Acreage	Text changes on Pages
Property that Norfolk Southern would transfer to Letchworth State Park	2.33	2.50	1-7, 1-10, 1-16, 1-17, 3-8, 3-9
Property that Norfolk Southern would permanently acquire from Letchworth State Park	1.95	2.08	3-7, 3-9, 4.2.2-1, 4.4.12-7, 4.4.12-10
Total property for new railroad right-of-way (parkland and private property)	2.71	2.84	1-6, 3-7, 3-9, 4.2.2-1
Property to be acquired from Letchworth State Park for a construction easement of longer than six months	0.38	0.42	1-10, 1-17
Total property to be acquired from Letchworth State Park for a construction easement (including land to be used for less than six months and land to be used for longer than six months)	1.55	1.58	1-6, 3-7, 3-9

3.2 SPECIFIC TEXT CHANGES

In addition to the changes noted above, two corrections are made to the text of the DEIS, as follows:

- A correction is made to the text of the DEIS in **Chapter 4.4.9, "General Ecology and Wildlife Resources"** on page 4.4.9-16. In Section 4.4.9-4-2 of that chapter, the DEIS in

correctly stated that construction activities for the Preferred Alternative would require "…the removal of approximately 1.1 acres of shale cliff and talus slope." The text on this page should instead read that the construction activities for the Preferred Alternative would require "…the potential disturbance of approximately 1.1 acres of shale cliff and talus slope." This information is correctly provided elsewhere in the DEIS, including on page 4.4.9-17 of Chapter 4.4.9; Table 1-2 in Chapter 1, "Executive Summary" (page 1-9); and page 4.5-14 of Chapter 4.5, "Construction Effects."

- A correction is made to the text on page 4.5-29 of the DEIS in **Chapter 4.5, "Construction Effects,"** describing the Genesee Valley Greenway Trail/Finger Lakes Trail in Letchworth State Park. This correction was made as a result of public comments on the DEIS. The correction is the deletion of three sentences of the paragraph describing the trail, because they are no longer correct, as follows:

  "*Genesee Valley Greenway Trail*: In Letchworth State Park, the Genesee Valley Greenway Trail runs close to the east side of the river and passes beneath the Portageville Bridge. The segment of the Genesee Valley Greenway Trail in Letchworth State Park is part of a longer trail being developed on the canal tow path and rail bed that will extend 90 miles between Rochester and Cuba (at I-86 in the Southern Tier). The segment of the Genesee Valley Greenway Trail in the park is also part of the Finger Lakes Trail, which extends 26 miles from Mt. Morris at the northern end of the trail to the hamlet of Portageville at the southern end and connects there with the main Finger Lakes Trail system that runs east and west across upstate New York. Approximately 200 linear feet of the trail, which passes beneath the railroad bridge, in this area would be subject to intermittent closures during construction to protect the safety of the public. ~~The portion of the trail in the park is 5.75 miles long, but there is a break in the trail in the park across from Inspiration Point as a result of a slide/slope failure. The detour around this slide area takes trail users out of the park and avoids the portion of the trail that runs along the river gorge beside the Upper and Middle Falls and beneath the Portageville Bridge. Temporary closure of the segment of this trail near the existing bridge would have a similar effect, requiring trail users to take the same detour.~~ During construction, Norfolk Southern will work with OPRHP to provide signage on the trail to inform users of the status of trail closures or partial trail closure due to Project construction, including providing updates to such signage when subsequent phases of construction impact the trail."

Appendix 1
Historic and Cultural Resources

Information Included in Appendix 1, Historic and Cultural Resources

1-A Executed Memorandum of Agreement

1-B Section 106 Correspondence Following Completion of the DEIS

Appendix 1: Historic and Cultural Resources

1-A Executed Memorandum of Agreement

MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION (FHWA)
NORFOLK SOUTHERN RAILWAY COMPANY (NS)
THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT)
THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (OPRHP)
THE NATIONAL PARK SERVICE (NPS)
AND THE
NEW YORK STATE HISTORIC PRESERVATION OFFICER (NYSHPO)
REGARDING THE
PORTAGEVILLE BRIDGE PROJECT
IN WYOMING AND LIVINGSTON COUNTIES, NEW YORK

WHEREAS, the Federal Highway Administration (FHWA), in coordination with the New York State Department of Transportation (NYSDOT), and Norfolk Southern Railway Company (NS) proposes to undertake the Portageville Bridge Project, and this undertaking is partially funded by FHWA; and

WHEREAS, FHWA is the federal lead agency responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA, codified at 16 USC 470f, and herein "Section 106"), and implementing regulations, 36 CFR Part 800 – *Protection of Historic Properties;* and

WHEREAS,the purpose of the project is to address the existing deficiencies at Norfolk Southern's Portageville Bridge (also known as the "Portage High Bridge") by providing a modern rail crossing of the Genesee River at its current location that is capable of carrying current industry standard freight rail loads, to the greatest degree possible meeting Federal Railroad Administration Class 4 speeds, while reducing ongoing maintenance efforts and costs for Norfolk Southern to provide safe, reliable, and efficient rail operations on the Southern Tier route in the State of New York; and

WHEREAS, Norfolk Southern's Southern Tier route passes through Letchworth State Park (LSP), comprised of approximately 14,350 acres located on both sides of the Genesee River in Livingston and Wyoming Counties, New York, and LSP is administered by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) **(Exhibit A – Project Location**, attached hereto and made a part hereof); and

WHEREAS, Letchworth State Park is a historic property listed in the National Register of Historic Places in 2005 under National Register Criteria A, B, C, and D, and includes 338 inventoried contributing resources, including the Portage High Bridge (the Portageville Bridge); and

WHEREAS, FHWA has invited the NYSDOT, OPRHP, NS, and National Park Service (NPS) to sign this Agreement as invited Signatories; and

WHEREAS, FHWA in coordination with NYSDOT, has consulted with the New York State Historic Preservation Office (SHPO) in accordance with the requirements of 36 CFR Part 800, and the SHPO is a signatory to this Memorandum of Agreement; and

WHEREAS, FHWA in coordination with NYSDOT has established an Area of Potential Effect (APE) for the Project as defined by 36 CFR 800.16(d) established in consultation with NYSHPO; and

WHEREAS, the Project APE encompasses the area within which direct and indirect effects to historic properties may occur, with the "direct effect area" consisting of the limits of disturbance for the Project, which encompass the existing railroad and bridge alignment, areas of proposed construction to the north and south (including the area of the new rail right-of-way as well as the area affected by the relocation of Park Road and the Highbridge Parking Area and areas affected by temporary construction activities), and with the "indirect effect area" encompassing an area within approximately 500 feet, ¼ mile, and ½ mile of the direct effect area (the APE for the Project is depicted on the map presented in **Exhibit B – Area of Potential Effect and Locations of Historic Properties** attached hereto and made a part hereof); and

WHEREAS, FHWA, in cooperation with NYSDOT and NS, is preparing an Environmental Impact Statement (EIS) for the Project in accordance with the National Environmental Policy Act (NEPA), and the EIS identifies the New Bridge on Parallel Alignment / Remove Existing Bridge as the Preferred Alternative ("the Project"); and

WHEREAS, the Project would require the removal and demolition of the existing Portageville Bridge and the removal or alteration of other contributing resources of Letchworth State Park within the direct effect area, including Gorge Trail (Trail #1), Mary Jemison Trail (Trail #2), Park Road, Highbridge Parking Area, a Historic Marker commemorating construction of the Portage High Bridge and stone walls; and

WHEREAS, FHWA, in coordination with NYSDOT and NS, and in consultation with NYSHPO has determined that the proposed removal and demolition of the Portageville Bridge and permanent alteration of other contributing resources of Letchworth State Park would constitute an Adverse Effect as defined by 36 CFR 800.5(a)(1), and has determined that it is appropriate to enter into this Memorandum of Agreement (Agreement) pursuant to 36 CFR 800.6 of Section 106; and

WHEREAS, Historic American Engineering Record (HAER) photographic documentation was previously prepared for the Portageville Bridge and is catalogued in the Library of Congress (HAER NY-54), which includes five photographs taken in 1971 and two historic photographs, and HAER has agreed to prepare additional documentation in accordance with HAER standards; and

WHEREAS, FHWA notified the Advisory Council on Historic Preservation (ACHP) of the Project's Adverse Effect, invited ACHP to participate in the Section 106 process for this Project, and ACHP has declined; and

WHEREAS, the Project is located within the identified area of interest of three federally recognized Indian tribes, and FHWA has consulted with the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Tuscarora Nation on a government-to-government basis in accordance with 36 CFR Part 800.2(c)(ii), and invited them to sign this Agreement as concurring parties; and

WHEREAS, through consultation with FHWA, the Seneca Nation has requested that the Project incorporate an educational benefit conveying the historic and cultural importance of Letchworth State Park to the Seneca Nation; and

WHEREAS, in keeping with 36 CFR 800.2(c)(3) and (5), FHWA identified representatives of local governments, individuals, and organizations with a demonstrated interest in the undertaking, approved requests to participate in Section 106 consultation for the Project, and invited these Consulting Parties to sign this Agreement as concurring parties (the Section 106 Consulting Parties for the Project are presented in **Exhibit C – Consulting Parties** attached hereto and made a part hereof); and

WHEREAS, FHWA in coordination with NYSDOT has provided the Consulting Parties and the public opportunities to review Section 106 documents and findings and to comment on the resolution of adverse effects; and

WHEREAS, archaeological investigations completed within the portion of the APE subject to direct effects identified the presence of historic-period archaeological remains related to the Cascade House Historic Site in the east portion of the APE, and these archaeological deposits within the APE as tested were determined not eligible for the National Register based on their lack of further research potential; and

WHEREAS, the NYSHPO concurred with these findings, and with an Avoidance Plan prepared by NS presented hereto as **Exhibit D – Avoidance Plan**, to ensure that construction disturbance does not inadvertently occur in the portion of the Cascade House Historic Site which extends outside the APE to the south; and

WHEREAS, pursuant to 36 CFR 800.2(d)(3), the public is being provided information and an opportunity to provide their views on the resolution of adverse effects under Section 106 in coordination with public involvement procedures carried out in compliance with NEPA, including the distribution of the draft Section 106 Agreement as part of the Draft EIS, with a 45-day public comment period; and

NOW, THEREFORE, FHWA, NPS, NYSHPO, NS, NYSDOT, and OPRHP agree that the Project shall be implemented in accordance with the following stipulations to take into account the effects of the Project on historic properties.

STIPULATIONS

FHWA, in coordination with NYSDOT and NS, shall ensure that the following stipulations are implemented.

I. ARCHAEOLOGICAL RESOURCES

A. Avoidance Plan

NS will implement the recommendations listed below in this subsection for the protection of the Cascade House Historic Site as follows and as set forth in **Exhibit D** hereto:

1. Prior to construction, orange construction fencing will be placed along the perimeter of the construction limits marked in the field and indicated on the site plans.

2. The archaeologically sensitive area located beyond the proposed construction footprint is located outside the APE and privately owned by others. This area will remain undisturbed by Project activities and will be identified on the site plans as "Environmentally Sensitive – Do Not Impact."

3. If future development is proposed for the environmentally sensitive sections of the property it will need to be approved by NYSHPO and may require further archaeological investigation.

B. Staging Area Limitations

To avoid potential effects on known or potential archaeological resources, NS shall impose staging area limitations on the Project contractor as follows:

1. If the parcel on the east approach to the bridge between Portageville Road and the existing NS right-of-way is used for construction staging, the contractor will ensure no subsurface activities in this area occur, to avoid impacting possible archaeological resources. This parcel lies in a historically sensitive area and the type or limits of cultural resources have not yet been determined. This parcel can be used for parking light trucks as long as excessive rutting does not occur. If used for materials storage, road fabric will be installed to prevent material from migrating into surface soils. This parcel will be re-seeded upon completion of construction.

2. No construction activity associated with the Project can occur on the private property along the eastern approach that is south of the proposed NS property line. This is an archaeologically sensitive area protected by the Cascade House Avoidance Plan (see I.A above).

II. ARCHITECTURAL RESOURCES

NS shall undertake the following measures to minimize and mitigate adverse effects to historic properties:

A. Educational and Interpretive Materials

NS shall, as previously agreed upon with NYSHPO, provide certain funding to the New York State Natural Heritage Trust (the "Materials Funding") for OPRHP to prepare the following educational and interpretive materials at Letchworth State Park:

1. An interpretive plan.

2. Salvage, conservation, and installation of a certain amount of the base of Pier 11 of the Portageville Bridge, to include portions of both legs, connecting truss, and both date plates.

3. Two interpretive kiosks, in locations selected by NYSHPO and OPRHP, including potentially one to be located at the proposed new upper parking lot by the new bridge and one at the Upper Falls Overlook adjacent to the Gorge Trail.

4. An interpretive exhibit at the William Pryor Letchworth Museum, documenting the history of the Portage High Bridge within the context of rail history in Letchworth State Park .

NS will have no responsibility with respect to educational and interpretive materials other than the Materials Funding.

B. Historic American Engineering Record (HAER)-Level Recordation

NS shall provide certain funding, as previously agreed upon among NS, NPS, and NYSHPO (the "HAER funding"), to HAER for the preparation of additional HAER-level recordation of the Portageville Bridge through NPS's Heritage Documentation Program. This recordation shall include the following:

1. Archival photography (30 views) of the Portageville Bridge. Photographs, prints, and duplicates will meet appropriate HAER archival standards; and

2. A 10- to 20-page narrative that describes the physical characteristics of the Portageville Bridge and its history.

The submission of copies of the HAER report to appropriate repositories shall be the responsibility of NPS. Copies of the HAER report will be provided to NYSHPO, OPRHP, NS, the New York State Archives, and a local repository such as the William Pryor Letchworth Museum in Letchworth State Park.

NS will have no responsibility with respect to HAER recordation other than the HAER funding.

C. Restoration of Portions of the Gorge Trail

1. For the portion of the Gorge Trail that will be relocated to accommodate the Project, NS will incorporate the following measures in the relocated trail:

   a) Salvage, to the extent feasible, stone from walls in Letchworth State Park that need to be removed by the Project.

   b) Reuse as feasible portions of salvaged stone to rebuild stone walls along the portion of the Gorge Trail to be relocated, using a design similar to the existing historic stone walls. **Exhibit E – Area of Relocated Gorge Trail,** attached hereto and made a part hereof, shows the area where the new stone wall will be created.

2. In addition, NS shall provide, as previously agreed upon among NS and OPRHP, certain funding to OPRHP toward the restoration of the existing Gorge Trail between the existing construction zone for the Project (at the stone staircase north of the existing bridge) and the Middle Falls (located outside the Project's construction area). OPRHP and NS have agreed that the funding will be used to repoint certain identified walls, replace and repair certain damaged stairs, and replace or repair timber railings as identified and agreed upon between OPRHP and NS.

D. Construction Protection Plan

To avoid inadvertent Project-related construction damage to historic park features, NS, in consultation with OPRHP, will develop a Construction Protection Plan for historic properties.

1. The Construction Protection Plan shall be developed and submitted to OPRHP and FHWA for review and approval prior to initiation of any excavation and construction activities.

2. The Construction Protection Plan shall describe measures to protect historic park features from vibration, excavation, and damage from heavy equipment.

3. The Plan shall describe measures for the control and/or management of fugitive dust, erosion, noise, lighting and visual effects of construction activities to the extent practicable.

4. The Construction Protection Plan shall include procedures to address the unanticipated discovery of historic or cultural materials during construction. If new historic properties are discovered, procedures for notification and consultation for *Post-Review Discoveries* shall be implemented, pursuant to the applicable provisions of 36 CFR 800.13(b)(3). Any such objects shall not be destroyed or removed, and shall be protected from disturbance pending notification to the appropriate authorities, NS personnel, and representatives of FHWA, NYSHPO, and NYSDOT. The site shall be inspected by qualified professional archaeologists,

and construction in the immediate vicinity of the discovery shall be temporarily suspended until an appropriate treatment is determined as specified in the Construction Protection Plan.

5. NS shall ensure that historic park features that may be subject to damage by construction activities are covered by the Construction Protection Plan and thereafter ensure that the provisions of the Construction Protection Plan are implemented by the Project contractors.

III. CULTURAL ENHANCEMENT

As an enhancement, NS shall provide certain funding to the New York State Natural Heritage Trust for the preparation of one additional interpretive kiosk in Letchworth State Park to acknowledge the cultural importance of the area to the Seneca Nation. The location and content of the interpretive kiosk will be determined by OPRHP through consultation among the Seneca Nation, FHWA, and NYSHPO.

IV. DISPUTE RESOLUTION

Should any party to this Agreement object in writing to FHWA, or NYSDOT as its designee, regarding any action carried out or proposed with respect to the undertaking or to the implementation of this Agreement, FHWA or NYSDOT as its designee shall consult with the objecting party to resolve the objection. If after initiating consultation, FHWA, or NYSDOT as its designee, determines in coordination with NS that the objection cannot be resolved through consultation, FHWA shall:

A. Forward all documentation relevant to the objection to ACHP, including FHWA's proposed response to the objection, and request that ACHP, within 30 days after receipt of all pertinent documentation, provide FHWA with its advice on the resolution of the objection FHWA will take ACHP's advice into account in reaching a final decision regarding its response to the objection.

B. If ACHP does not provide its advice regarding the dispute within the thirty day time period, FHWA may make a final decision on the dispute and proceed accordingly.

C. FHWA's responsibility to carry out all actions under this Agreement that are not subject to the dispute shall remain unchanged.

V. DURATION, AMENDMENT AND TERMINATION

A. This Memorandum of Agreement shall take effect on the date it is signed by the last Signatory, and will remain in effect for a period of five (5) years from the date of its execution. At such time, the terms of the MOA may be reconsidered, and upon the mutual written consent of all signatories (FHWA, NYSHPO, NS, NYSDOT, and OPRHP), the agreement may be extended.

B. Any Signatory to this Agreement (FHWA, NYSHPO, NS, NYSDOT, and OPRHP) may request that it be amended, whereupon the Signatories will consult to reach a consensus on the proposed amendment. 36 CFR 800.6(c)(7) shall govern the execution of any such amendment. Where no consensus can be reached, the Agreement will not be amended.

C. Any Signatory to this Agreement (FHWA, NYSHPO, NS, NYSDOT, and OPRHP)may terminate it by providing thirty (30) days' notice to the other Signatories, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of the Agreement will be governed by 36 CFR 800.6(c)(8).

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Signatory:

Federal Highway Administration

By: _____ Date: 12/12/2014

For Robert M. Davies, District Engineer

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Signatory:

New York State Historic Preservation Officer

By: Ruth A Pierpont Date: 11/10/14

Ruth Pierpont, Deputy Commissioner/Deputy SHPO

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Invited Signatory:

New York State Office of Parks, Recreation and Historic Preservation

By: _____ Date: 11-17-14

Tom Alworth, Deputy Commissioner for Natural Resources

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Invited Signatory:

Norfolk Southern Railway Company

By: _____ Date: 10/17/2014

John H. Friedmann, Vice President

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Invited Signatory:

New York State Department of Transportation

By: _____ Date: 10-8-14

Daniel P. Hitt, RLA, (acting) co-Director, Office of Environment

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Invited Signatory:

National Park Service

By: _____ Date: 10.29.14

Richard O'Connor, PhD, Chief, Heritage Documentation Programs

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Concurring Party:

Seneca Nation of Indians

By: Jay Tuck Archeologist Date: 12/08/14

Name and Title

Portageville Bridge Project – Memorandum of Agreement

EXECUTION OF THIS MEMORANDUM OFAGREEMENT and implementation of its Stipulations evidences that FHWA has taken into account the effects of the Project on historic properties and afforded the ACHP an opportunity to comment on those effects.

Concurring Party:

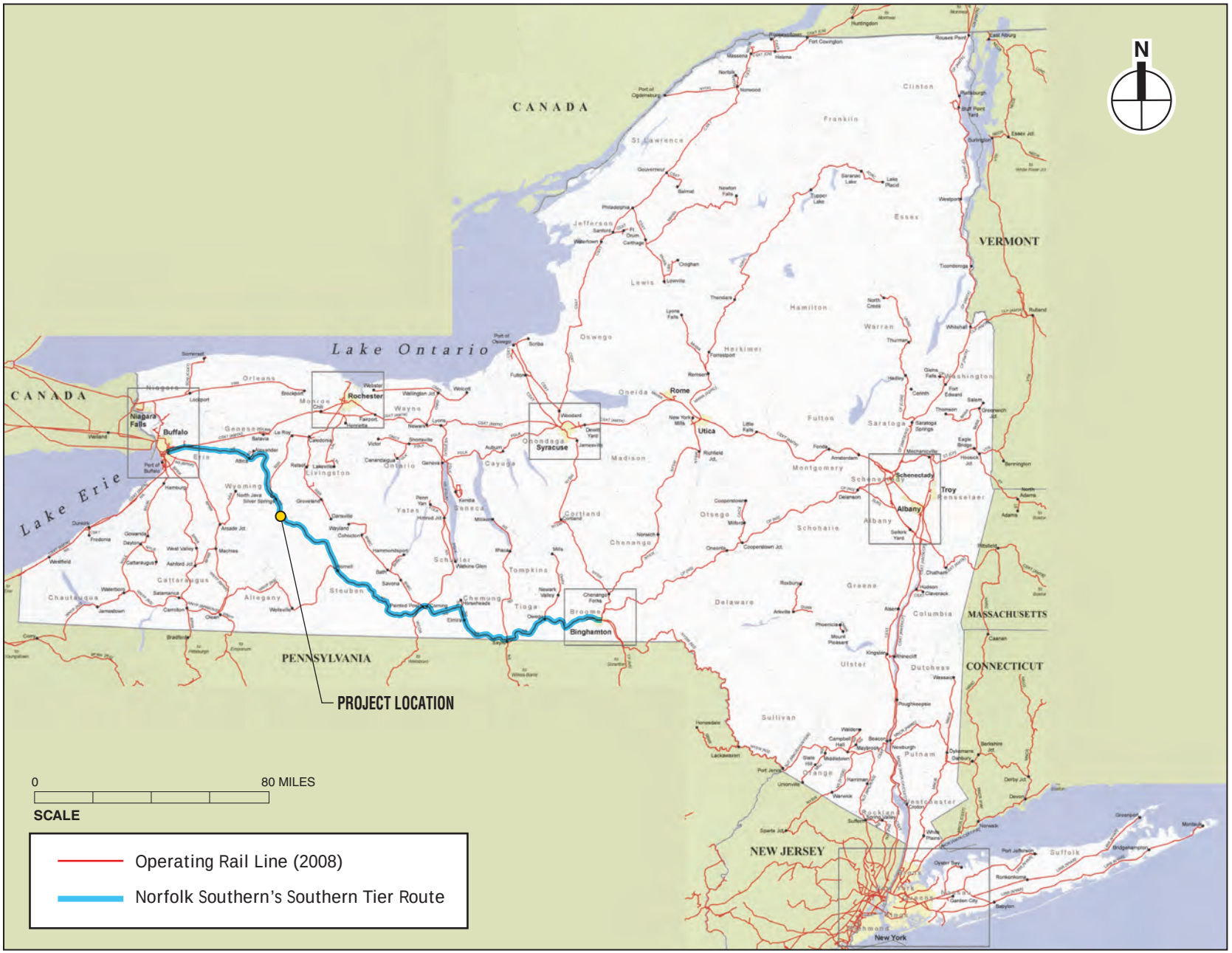
Friends of the Genesee Valley Greenway

By: Joan Schumaker, President Date: 11-29-14

Name and Title

EXHIBIT A
PROJECT LOCATION

1.6.14

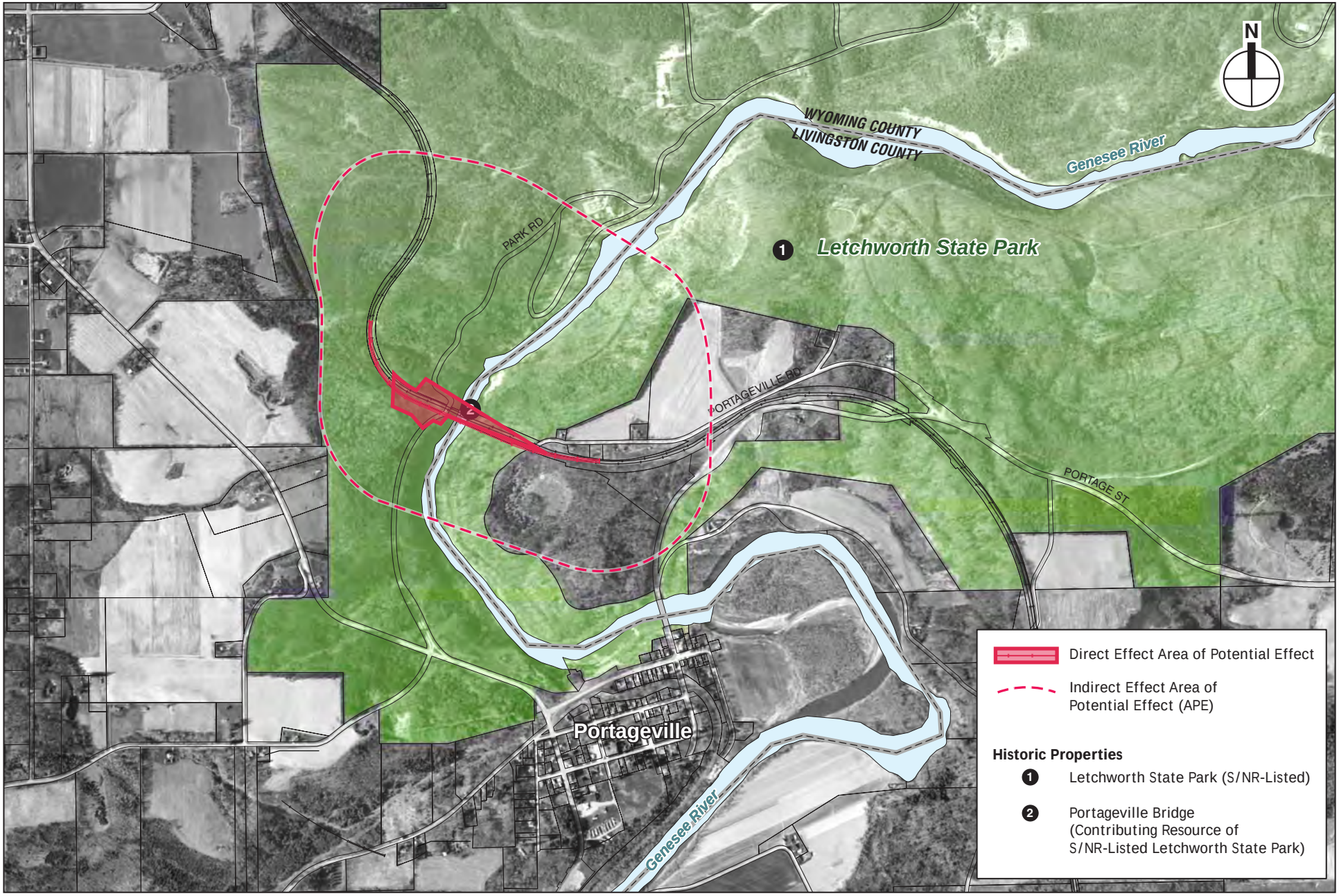


Source: New York State Rail Plan, 2009

Project Location
Exhibit A

EXHIBIT B
AREA OF POTENTIAL EFFECT AND
LOCATIONS OF HISTORIC PROPERTIES

2.10.14



0 1000 2000 FEET

SCALE

PORTAGEVILLE BRIDGE

Area of Potential Effect and Locations of Historic Properties

Exhibit B

EXHIBIT C
CONSULTING PARTIES

EXHIBIT C
SECTION 106 CONSULTING PARTIES

NAME	ADDRESS	PHONE/EMAIL
Landmark Society of Western New York Ms. Caitlin Meives, Preservation planner	133 S. Fitzhugh Street Rochester, NY 14608	Phone: (585)-546-7029 ext. 27 Fax: (585)-546-4788 cmeives@landmarksociety.org
Friends of the Genesee Valley Greenway Edward Holmes Joan Schumaker	Box 42 Mt. Morris, NY 14510	Phone:(585)-658-2569 fogvg@frontiernet.net
HistoricBridges.Org Nathan Holth	12534 Houghton Drive DeWitt, MI 48820	Phone: (269)-290-2593 nathan@historicbridges.org
Seneca Nation of Indians Melissa Bach Tribal Historic Preservation Officer (THPO) Jay Toth, Tribal Archaeologist	90 O:hi'yoh Way Salamanca, NY 14779	Phone: (716) 945-1790, ext. 3580 Emergency: (716) 244-1735 Melissa.bach@sni.org Jay.toth@sni.org
Tonawanda Seneca Nation Chief Darwin Hill	Tonawanda Seneca Nation Office 7027 Meadville Road Basom, New York 14013	Phone: (716)-542-4244 Fax:(716)- 542-4008 tonseneca@aol.com
Tuscarora Nation Bryan Printup Tuscarora Environment Office	5226 E Walmore Road Tuscarora Nation Lewiston, NY 14092	Phone:(716)-264-6011, ext. 103 bprintup@hetf.org
NYS Office of Park, Recreation and Historic Preservation-State Parks Dave Herring, Capital Facilities Manager	One Letchworth State Park Castile, NY 14427	Phone 585-493-3602 Mobile 585-322-5671 Fax 585-493-5272 David.herring@parks.ny.gov

EXHIBIT D
AVOIDANCE PLAN

Norfolk Southern Corporation
1200 Peachtree Street, NE
Atlanta, GA 30309-3579
Phone: (404) 529-1408

J. N. Carter, Jr.
Chief Engineer
Bridges and Structures

K. G. Hauschildt, PE
Engineer Structures
Kevin.Hauschildt@nscorp.com
(404) 527-2529

Portageville, NY: Bridge No. SR-361.66 - Avoidance Plan

July 23, 2012
File: BR0027339 KGH

The avoidance plan is designed for the protection of the Cascade House Historic Site. The provenience data obtained from the Phase II study prepared by Hartgen Archeological Associates, Inc. indicate the cultural deposits are located along a fairly narrow construction easement corridor located parallel to the railroad tracks. The foundation remains of the Cascade House (Feature 1) and most of the surrounding property lie outside the proposed APE. Although the cultural deposits encountered within the construction easement are considered to be part of the National Register Eligible Cascade House Historic Site, a sufficient sample of historic material was obtained from the Phase II shovel test and unit excavations. Any additional excavations would result in the accumulation of similar material. Individually, the cultural deposits are not considered National Register Eligible, and no further investigation is warranted. The Office of Parks, Recreation, and Historic Preservation has concurred with this recommendation.

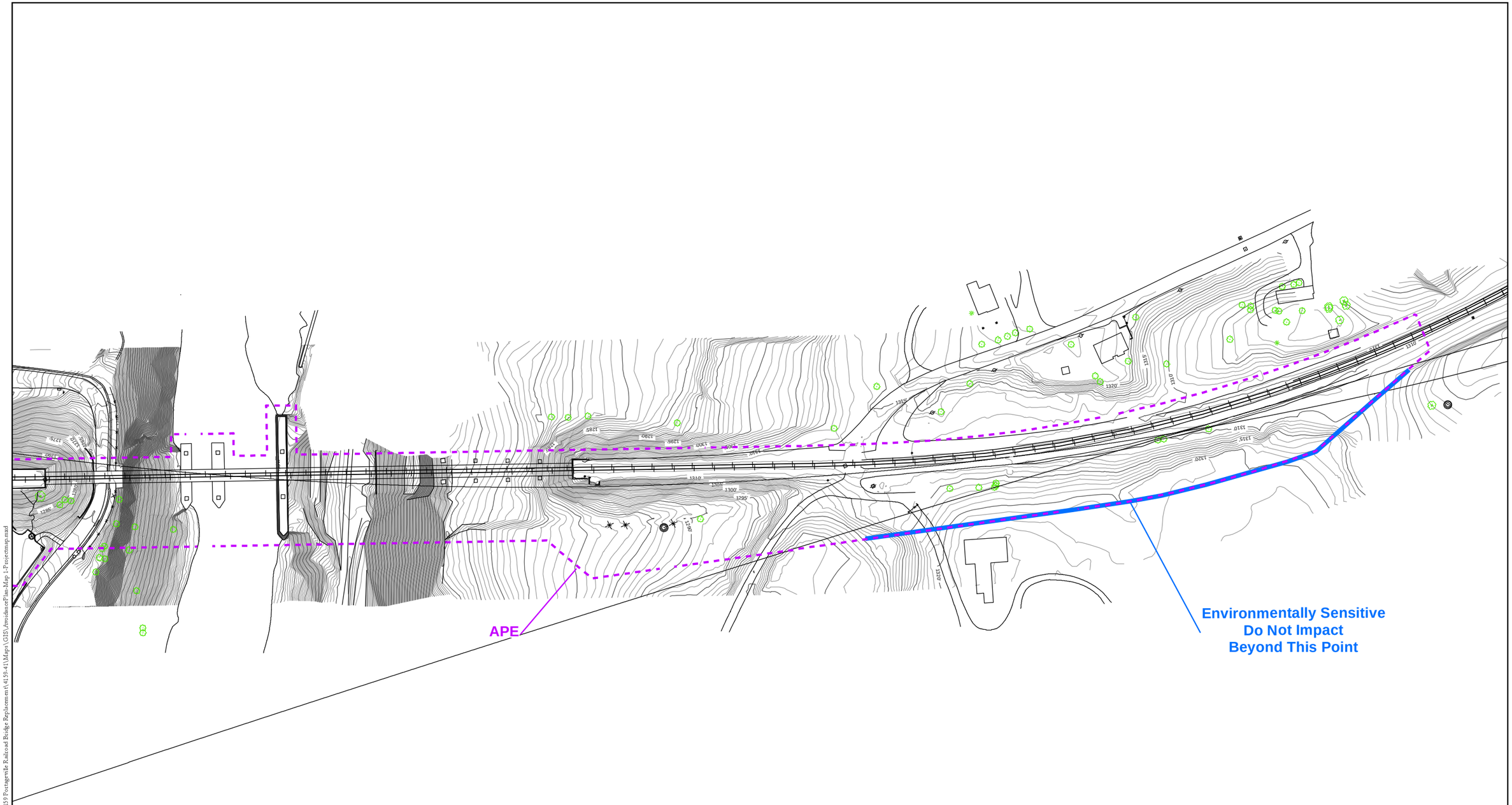
The archeologically sensitive area located beyond the proposed construction footprint will remain undisturbed by the project and identified on the site plans as **"Environmentally Sensitive Do Not Impact"** (Map 1). The site limits have been marked in the field by an archeologist from Hartgen Archeological Associates. The following measures will be undertaken to prevent impacts to the archeologically sensitive areas located beyond the construction corridor and after construction.

- Prior to construction, orange construction fencing will be placed along the perimeter of the construction limits marked in the field and indicated on the site plans.
- The property south of the construction limits is located outside the APE and privately owned by others. As indicated above, this area will be protected during construction.
- If future development is proposed for the environmentally sensitive sections of the property, it will need approval from OPRHP and may require further archeological investigation.

With the protection of the Cascade House Historic Site during project construction, no further archeological investigation is recommended by Hartgen Archeological Associates for the proposed Norfolk Southern Portage Railroad bridge replacement project.

J. N. Carter, Jr. /KGH

J. N. Carter, Jr.



N

75 0 75 150 Feet

20 0 20 40 Meters

Note: Contour interval is 5 feet.

Legend

- Limits of Disturbance (APE)
- Site Limit

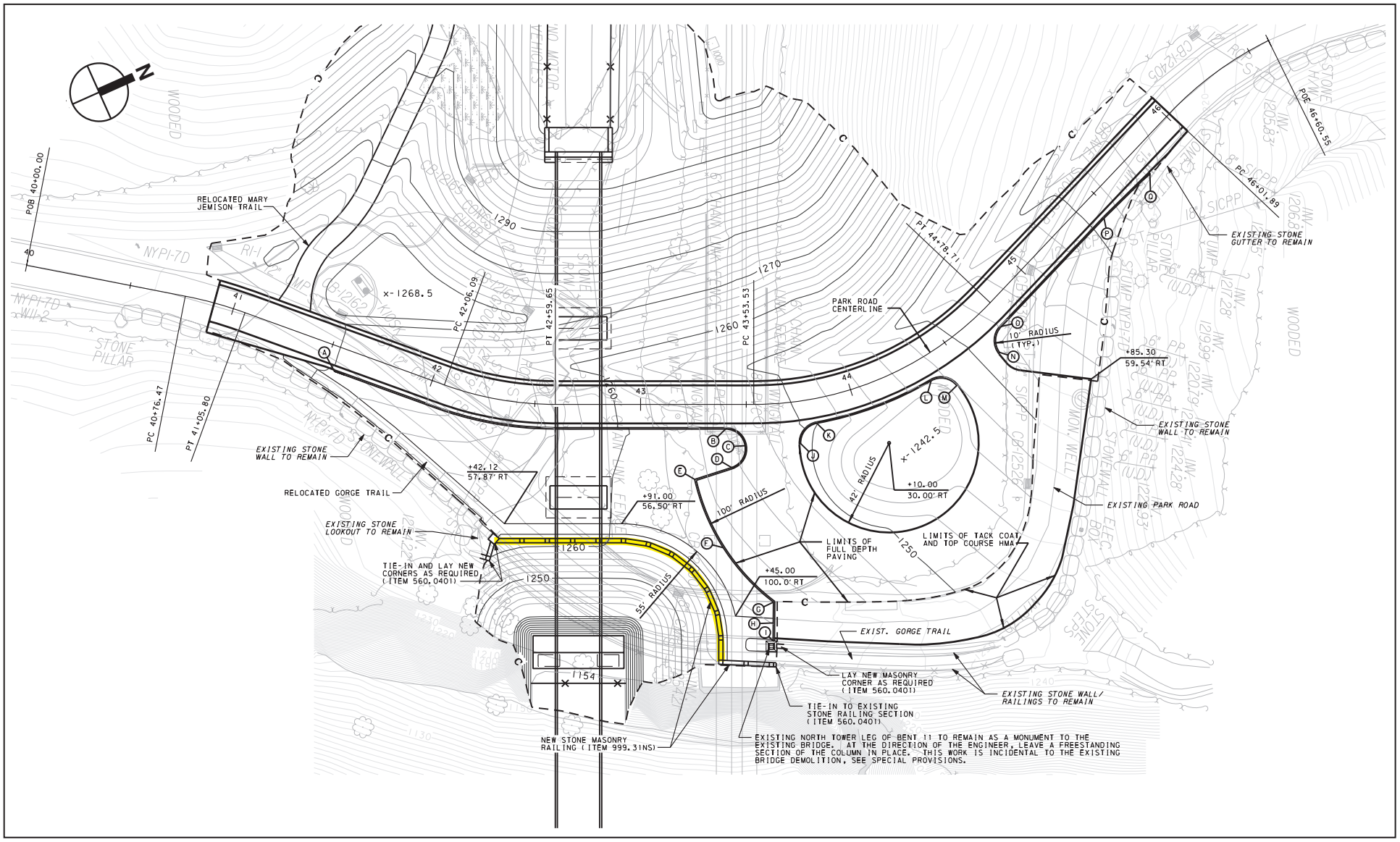
Phase II Project Map Overview
(Modjeski and Masters 2010, Hartgen 2011)

HARTGEN
archeological associates inc

Map 1

ES June 14, 2012 R:\Active Projects\4159 Portageville Railroad Bridge Replacement\4159-41\Maps\GIS\AvoidancePlan\Map 1-Projectmap.mxd

EXHIBIT E
AREA OF RELOCATED GORGE TRAIL



Relocated Gorge Trail Wall

0 80 FEET
SCALE

Area of Relocated Gorge Trail
Figure E

Appendix 1: Historic and Cultural Resources

1-B Section 106 Correspondence
Following Completion of the DEIS

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

October 27, 2014

Julian W. Adams
Director, Bureau of Community Preservation Services
New York State Office of Parks, Recreation and Historic Preservation
Division for Historic Preservation
Peebles, Island, P.O. Box 189
Waterford, NY 12188-0189

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Mr. Adams:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

The MOA was developed by the New York State Department of Transportation (NYSDOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). A Preliminary Draft MOA was distributed for review by Consulting Parties in advance of the Consulting Party meeting held on March 20, 2014, at the NYSDOT Region 4 offices in Rochester. That document was then revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised Draft MOA distributed for review by Consulting Parties on June 18, 2014.

The revised Draft MOA was made available to the public as part of the Draft Environmental Impact Statement (DEIS) for the Project, published on August 1, 2014.

No comments were received from Consulting Parties on the MOA circulated on June 18, 2014 and no comments were received by the public on the MOA during the public review of the DEIS. Therefore, the content of the MOA has not changed since June 18, 2014.

At this time, we are requesting signature of the MOA by Ruth Pierpont, Deputy Commissioner/Deputy SHPO and a signatory to the MOA; and Tom Alworth, Deputy Commissioner for Natural Resources of OPRHP, and an invited signatory to the MOA. The MOA has been signed by the Norfolk Southern Railway Company and NYSDOT, indicating their agreement with the measures developed to mitigate the Project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

We have enclosed 13 signature pages each for Ruth Pierpont and Tom Alworth to sign in the original. Please return all signed pages to:

Claudia Cooney
Vice President
AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Upon signature of the MOA by all signatories, the MOA will be assembled and distributed to Consulting Parties so they may have the opportunity to indicate their concurrence with the outcome of the Section 106 consultation. Upon signature of the MOA by any Concurring Parties, and subsequent signature by FHWA, two copies of the fully executed MOA with original signatures, one each for SHPO and OPRHP, will be provided to you.

Sincerely,

Daniel P. Hitt, RLA
(acting) co-Director, Office of Environment

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Raymond Hessinger, NYSDOT Freight and Passenger Rail Bureau
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

October 27, 2014

Christopher H. Marston
Architect and Project Leader
National Park Service, Historic American Engineering Record
1201 Eye Street, NW, 2270
Washington, DC 20005

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Mr. Marston:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA was developed by the New York State Department of Transportation (NY5DOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places. One of the agreed-upon measures is the provision of funding by the Norfolk Southern Railway Company to the Historic American Engineering Record (HAER) for the preparation of additional HAER-level recordation of the Portageville Bridge through the National Park Service's Heritage Documentation Programs. This commitment is included as Stipulation II.B of the MOA.

At this time, we are requesting signature of the MOA by Richard O'Connor, Ph.D, Chief of the Heritage Documentation Programs, as an invited signatory to the MOA. The MOA has been signed by the Norfolk Southern Railway Company and NYSDOT, indicating their agreement with the measures developed to mitigate the Project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

We have enclosed 13 signature pages for Richard O'Connor to sign in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Upon signature of the MOA by all signatories and invited signatories, the MOA will be assembled and distributed to Consulting Parties so they may have the opportunity to indicate their concurrence with the outcome

of the Section 106 consultation. Upon signature of the MOA by any Concurring Parties, and subsequent signature by FHWA, one copy of the fully executed MOA with original signatures will be provided to you.

Sincerely,

Daniel P. Hitt, RLA
(acting) co-Director, Office of Environment

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Raymond Hessinger, NYSDOT Freight and Passenger Rail Bureau
Christopher Caraccilo, NYSDOT Region 4

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ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Melissa Bach, THPO
Seneca Nation of Indians
90 O:hi'yoh Way
Salamanca, NY 14779

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Melissa Bach:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

The MOA was developed by the New York State Department of Transportation (NYSDOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). A Preliminary Draft MOA was distributed for review by Consulting Parties in advance of the Consulting Party meeting held on March 20, 2014, at the NYSDOT Region 4 offices in Rochester. That document was then revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised MOA distributed for review by Consulting Parties on June 18, 2014.

The revised Draft MOA was made available to the public as part of the Draft Environmental Impact Statement (DEIS) for the Project, published on August 1, 2014.

No comments were received from Consulting Parties on the June 18, 2014 MOA submission and no comments were received from the public on the MOA during the public review of the DEIS, and, therefore, the content of the MOA has not changed since June 18, 2014. Therefore, the MOA is considered final, and we are not seeking any further review or comments.

At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Jay Toth, Seneca Nation Tribal Archeologist
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

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DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Chief Darwin Hill
Tonawanda Seneca Nation
7027 Meadville Road
Basom, NY 14013

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Chief Hill:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

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The revised Draft MOA was made available to the public as part of the Draft Environmental Impact Statement (DEIS) for the Project, published on August 1, 2014.

No comments were received from Consulting Parties on the June 18, 2014 MOA submission and no comments were received from the public on the MOA during the public review of the DEIS, and, therefore, the content of the MOA has not changed since June 18, 2014. Therefore, the MOA is considered final, and we are not seeking any further review or comments.

At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
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ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Bryan Printup
Tuscarora Environmental Office
5226 E Walmore Road
Tuscarora Nation
Lewiston, NY 14092

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Bryan Printup:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

The MOA was developed by the New York State Department of Transportation (NYSDOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). A Preliminary Draft MOA was distributed for review by Consulting Parties in advance of the Consulting Party meeting held on March 20, 2014, at the NYSDOT Region 4 offices in Rochester. That document was then revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised MOA distributed for review by Consulting Parties on June 18, 2014.

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No comments were received from Consulting Parties on the June 18, 2014 MOA submission and no comments were received from the public on the MOA during the public review of the DEIS, and, therefore, the content of the MOA has not changed since June 18, 2014. Therefore, the MOA is considered final, and we are not seeking any further review or comments.

At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
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ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Joan Schumaker
Friends of the Genesee Valley Greenway
PO Box 42
Mt. Morris, NY 14510

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Joan Schumaker:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

The MOA was developed by the New York State Department of Transportation (NYSDOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). A Preliminary Draft MOA was distributed for review by Consulting Parties in advance of the Consulting Party meeting held on March 20, 2014, at the NYSDOT Region 4 offices in Rochester. That document was then revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised MOA distributed for review by Consulting Parties on June 18, 2014.

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No comments were received from Consulting Parties on the June 18, 2014 MOA submission and no comments were received from the public on the MOA during the public review of the DEIS, and, therefore, the content of the MOA has not changed since June 18, 2014. Therefore, the MOA is considered final, and we are not seeking any further review or comments.

At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Nathan Holth
Historic Bridges.org
12534 Houghton Drive
DeWitt, MI 48820

Re: Portageville Bridge Project
PIN 4935.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Nathan Holth:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

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At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

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JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

November 24, 2014

Ms. Caitlin Meives, Preservation Planner
Landmark Society of Western New York
133 S. Fitzhugh Street
Rochester, NY 14608

Re: Portageville Bridge Project
PIN 493S.79.101/08PR04896
Towns of Portage and Genesee Falls, Wyoming and Livingston Counties
Section 106 Memorandum of Agreement

Dear Caitlin Meives:

Enclosed is the Memorandum of Agreement (MOA) for the Portageville Bridge Project. The MOA documents agreed-upon measures to mitigate the Project's adverse effects on historic properties due to the removal and demolition of the Portageville Bridge (also referred to as the Portage High Bridge), which is a contributing resource in Letchworth State Park, and associated alterations to other contributing resources in Letchworth State Park, which is listed in the National Register of Historic Places.

The MOA was developed by the New York State Department of Transportation (NYSDOT) and Norfolk Southern Railway Company, in coordination with the Federal Highway Administration (FHWA) and in consultation with the New York State Historic Preservation Office (SHPO). A Preliminary Draft MOA was distributed for review by Consulting Parties in advance of the Consulting Party meeting held on March 20, 2014, at the NYSDOT Region 4 offices in Rochester. That document was then revised based on a consideration of comments and discussion at the Consulting Party meeting, and written comments received from Consulting Parties by the end of the 30-day review period, with a revised MOA distributed for review by Consulting Parties on June 18, 2014.

The revised Draft MOA was made available to the public as part of the Draft Environmental Impact Statement (DEIS) for the Project, published on August 1, 2014.

No comments were received from Consulting Parties on the June 18, 2014 MOA submission and no comments were received from the public on the MOA during the public review of the DEIS, and, therefore, the content of the MOA has not changed since June 18, 2014. Therefore, the MOA is considered final, and we are not seeking any further review or comments.

At this time, we are offering you the opportunity to sign the MOA as a Concurring Party, which would indicate your concurrence with the terms of the MOA and the outcome of the Section 106 process. Consulting Parties are not required to sign the MOA. The MOA has been signed by the signatories and invited signatories, indicating their agreement to carry out the measures developed to mitigate the project's adverse effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Copies of the signature pages are included in the MOA provided herein.

If you elect to sign the MOA, we have enclosed 13 signature pages to be signed in the original. Please return all signed pages to:

Claudia Cooney
Vice President, AKRF, Inc.
440 Park Avenue South
New York, NY 10016

Signed pages must be returned by Monday, December 8, 2014 for assembly of the final executed agreement. Upon signature by all parties, one copy of the fully executed MOA with original signatures will be provided to Concurring Parties to the MOA. The executed MOA will be provided in the Final EIS for the Project.

Sincerely,

Raymond F. Hessinger, P.E.
Director, Freight and Passenger Rail Bureau

Encl: Section 106 MOA

cc: Robert Davies, FHWA
Michael Kowalczyk, FHWA
Chris Wilson, ACHP
Julian Adams, OPRHP/SHPO
Daniel Hitt, NYSDOT Office of Environment
Christopher Caraccilo, NYSDOT Region 4

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
www.dot.ny.gov

JOAN MCDONALD
COMMISSIONER

ANDREW M. CUOMO
GOVERNOR

December 11, 2014

Michael Kowalczyk
Area Engineer
Federal Highway Administration, New York Division
Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, New York 12207

Re: PORTAGEVILLE BRIDGE PROJECT - PIN 4935.79
TOWNS OF PORTAGE AND GENESEE FALLS, LIVINGSTON AND WYOMING COUNTY
SECTION 106 REVIEW PROCESS – MEMORANDUM OF AGREEMENT
09PR04063

Dear Mr. Kowalczyk:

Please find enclosed for signature, a Memorandum of Agreement (MOA) for the Portageville Bridge Project pursuant to 36 CFR §800.6, to resolve adverse effects on historic properties as determined by the Federal Highway Administration (FHWA) on May 30, 2014. This MOA was developed by the New York State Department of Transportation (NYSDOT) and the Norfolk Southern Railway Company in coordination with FHWA, and in consultation with the New York State Historic Preservation Office (SHPO) and other Consulting Parties participating in the Section 106 process, including the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Tuscarora Nation.

The MOA has been signed by the SHPO, a required signatory; by NYSDOT, the New York State Office of Parks, Recreation and Historic Preservation, the National Park Service, and the Norfolk Southern Railway Company (NS), as invited signatories; and by the Seneca Nation of Indians and the Friends of the Genesee Valley Greenway, as concurring parties.

All other Section 106 Consulting Parties declined the opportunity to sign the MOA, or did not respond by December 8, 2014, the date requested by NYSDOT for the return of signatures by those electing to sign the MOA as a concurring party.

At this time, we respectfully request that FHWA sign the MOA and forward the executed agreement to the Advisory Council on Historic Preservation, pursuant to 36 CFR §800.6(b)(1)(iv), thereby completing the requirements of 36 CFR Part 800.

Sincerely,

Catherine Szesui

for DANIEL P. HITT, RLA
(acting) co-Director, Office of Environment

DPH/MCS

Cc without enclosure: Reid, Nelson, ACHP
Chris Wilson, ACHP
Ruth Pierpont, NYSHPO
Julian Adams, NYSHPO
Christopher P. Caraccilo, NYSDOT Region 4
Raymond F. Hessinger, NYSDOT Main Office

U.S. Department of Transportation
Federal Highway Administration

New York Division

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

December 12, 2014

In Reply Refer To:
HED-NY

Mr. Chris Wilson, Program Analyst
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

Subject: **PIN 4935.79 – Section 106 Consultation**
Portageville Bridge Project
Towns of Portage and Genesee Falls, Livingston and Wyoming Counties

Dear Mr. Wilson:

The final Memorandum of Agreement (MOA) to mitigate for the *Adverse Effect* on the Portageville Bridge Project was signed by the Norfolk Southern Railway Company, the State Historic Preservation Office, the State Office of Parks, Recreation, and Historic Preservation, the New York State of Department of Transportation, the National Park Service, the Seneca Nation of Indians, the Friends of the Genesee Valley Greenway, and our office.

The proposed work associated with the replacement of the Portageville Bridge in the Towns of Portage and Genesee Falls involves the removal and demolition of the Portageville Bridge and alterations of other contributing resources within Letchworth State Park, a property that is listed in the National Register of Historic Places.

Background documentation for the subject project was sent to your office via our March 5 letter advising your agency of our *Adverse Effect* determination. Therefore, this MOA is required based on the adverse impacts to Letchworth State Park, which is listed in the National Register of Historic Places. We have received your response dated March 27 indicating that your participation in the consultation to resolve the *Adverse Effect* is not needed.

In accordance with the provisions of 36 CFR 800.6(b)(1)(iv), we are providing your office with a copy of the fully executed MOA.

The requirements of 36 CFR Part 800 have been satisfied for this project. The Section 106 process is complete.

If you have any questions, please feel free to contact me at (518) 431-8892.

Sincerely,

Michael S. Kowalczyk
Area Engineer

Signed MOA

cc: R. Pierpont, SHPO (08PR04896) (w/o enclosure)
R. Nelson, Director, ACHP (w/o enclosure)
J. Adams, SHPO (08PR04896) (w/o enclosure)
C. Caraccilo, NYSDOT Region 4 (w/o enclosure)
R. O'Connor, NPS (w/ signed MOA)
J. Toth, SNI (w/ signed MOA)
R. Hessinger, NYSDOT MO (w/ 5 signed MOAs)

Preserving America's Heritage

December 15, 2014

Mr. Michael S. Kowalczyk
Area Engineer – Region 6 & 8
Federal Highway Administration
New York Division
Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207

Ref: *Proposed Portageville Bridge Project*
Wyoming and Livingston Counties, New York

Dear Mr. Kowalczyk:

The Advisory Council on Historic Preservation (ACHP) has received the Memorandum of Agreement (MOA) for the above referenced project. In accordance with Section 800.6(b)(1)(iv) of the ACHP's regulations, the ACHP acknowledges receipt of the MOA. The filing of the MOA, and execution of its terms, completes the requirements of Section 106 of the National Historic Preservation Act and the ACHP's regulations.

We appreciate your providing us with a copy of the MOA and will retain it for inclusion in our records regarding this project. Should you have any questions or require additional assistance, please contact Ms. Najah Duvall-Gabriel at 202-517-0210 or via e-mail at ngabriel@achp.gov.

Sincerely,

LaShavio Johnson

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

Appendix 2
Comments Received on the DEIS

Information Included in Appendix 2, Comments Received on the DEIS

2-A	Transcript of Public Hearing
2-B	Comments of Elected Officials, Agencies, and Municipalities
2-C	Comments of Interest Groups
2-D	Comments of Individuals

2-A Transcript of Public Hearing

IN THE MATTER OF PORTAGEVILLE BRIDGE PROJECT DEIS

PUBLIC HEARING

August 26, 2014

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4 IN THE MATTER OF
5 PORTAGEVILLE BRIDGE PROJECT DEIS
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8 Public Hearing in the Above-titled Matter:
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Location: Genesee River Restaurant
11 134 North Main Street
Mt. Morris, New York 14510
12
13
Date: August 26, 2014
14
15
Time: 5:30 p.m.
16
17
18
19 Reported By: TAMMY B. FIGLER
20 Alliance Court Reporting, Inc.
21 183 Main Street East, Suite 1500
22 Rochester, New York 14604
23
24
25

A P P E A R A N C E S

Appearing on Behalf of Freight & Passenger Rail Bureau and Norfold Southern Corporation:

Joseph D. Picciotti, Esq.
Harris Beach, PLLC
99 Garnsey Road
Rochester, New York 14534
jpicciotti@harrisbeach.com

Also Present:

Christopher M. Clavert, AKRF

Ray Hessinger, P.E., Director, NYSDOT Freight & Passenger Rail Bureau

Mike Kowalczyk, U.S. Department of Transportation Federal Highway Administration

Julie Cowing, AKRF Environmental Consultant Group

Dave Pidgeon, Norfolk Southern Corporation

Howard Swanson, Norfolk Southern Corporation

Catherine Leslie, New York State Department of Transportation

Nancy Welsh, New York State Department of Transportation

Kaylie Kramer, U.S. Department of Transportation Federal Highway Administration

Joni Steingold, CNS

* * *

IN RE: PORTAGEVILLE BRIDGE PROJECT
TUESDAY, AUGUST 26, 2014;
(Proceedings in the above-titled matter commencing at 5:30 p.m.)

* * *

MR. HESSINGER: Welcome. My name is Ray Hessinger. I'm the director of the Freight and Passenger Rail Bureau for the New York State Department of Transportation. I want to welcome you to our public hearing this afternoon for the Portageville Bridge Project.

I want to introduce those people who are going to speak.

We have Howard Swanson from Norfolk Southern, and Chris Calvert from AKRF, environmental consultants to Norfolk, and myself.

A quick safety briefing. Fire exits here (indicating) out the door to my left and to my right. Restrooms through the main doors and on either side of the glass doors. If there's an emergency, I'll call 911. And if you are coming up to speak, and for other speakers, just be aware of the wires on the floor for any tripping hazards.

The purpose of today's meeting is under the National Environmental Policy Act to go over the

IN RE: PORTAGEVILLE BRIDGE PROJECT

environmental impacts associated with the proposed project. We're also going to discuss the transfer of property between the railroad and Office of Parks and Recreation under Section 6(f).

There will be a presentation from the various members of the project team on the alternatives we've looked at and on the impacts, and for the opportunity for you, the public, to present comments to the record on the project itself.

So as I said, the meeting will start with project alternatives. We'll then discuss environmental impact and mitigations, talk about the right-of-way acquisition, and then there will be an opportunity for you to comment.

So we'll start with where we've been. This project actually started back in 2008 with a declaration by the Department of Transportation that the project may have an adverse impact on the environment. We held some scoping hearings under the State Environmental Quality Review Act. In the middle of that we held a number of Community Advisory Committee Hearings where we talked about the alternatives for consideration. We got feedback on various design alternatives for the bridge, and

ultimately we published a DEIS under the State Environmental Quality Review Act in November of 2006. And we were here in January of last year holding a meeting very similar to this one under the State Environmental Quality Review Act.

After the public comment period on that Environmental Impact Statement, the Department of Transportation identified some federal funds that could be made available to the project. And when we did that, we now had to comply with the federal environmental regulations, and so in many respects we had to do over some of the things that we had done before to comply with the different federal regulations.

So in October of last year we published a new Federal Notice of Intent to prepare a DEIS and held a scoping meeting in November of last year in this very room, and then on the first of this month we published the DEIS under the National Environmental Policy Act.

With that background, I'll now turn it over to Howard Swanson from Norfolk to discuss the alternatives we looked at and are still under consideration.

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MR. SWANSON: Thank you. As Ray was saying, the NEPA, the National Environmental Policy Act, requires an analysis of the reasonable alternatives for the project and SEQRA, the State Environmental Quality Review Act, requires -- or during the scoping process for that, we went and came up with a number of alternatives. One of the alternatives was no action; retrofit or repair of the existing bridge; a new bridge on the same alignment; a new bridge on a parallel alignment south of the existing bridge; a new southern alignment. That southern alignment would relocate the railroad south of Portageville; or rerouting the rail traffic.

And for the different options where we ended up vacating the existing bridge, we looked at removing the existing bridge or conveying the existing bridge. Now, in the NEPA process, it allows you to go through and look at the various options and dismiss them based on if they would meet project need or not, or then go forth and study them in a greater amount in the Draft Environmental Impact Statement shown there as DEIS. So as you can see on the screen here, two items were studied in the Draft Environmental Impact Statement.

IN RE: PORTAGEVILLE BRIDGE PROJECT

The first action -- first item that was studied was a no action alternative. Now, this is required by both NEPA and SEQRA. It serves as a baseline against the other alternatives which can be compared. It retains the existing rail bridge for operation but with routine maintenance, but the speed and weight restrictions and need for extensive maintenance remains.

Our preferred alternative is to build a new steel arch bridge which will be 75 feet south of the existing bridge. This will allow for 35 miles per hour train operation, and that 35 miles per hour train operation is more restrictive by the curves approaching the bridge than the actual bridge itself. After we are completed with the bridge, building the new bridge, we plan to remove the existing bridge and piers.

How this will change the existing Park Road is that the new bridge anchorage for the arches will require relocation of the Park Road. Also as part of this project, we will relocate the parking lot, the Upper Falls parking lot, that is currently in this area (indicating), and the good part about this is that we will double the size of the parking lot

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from 17 to 34 spaces.

I'll turn my microphone over to Chris now.

MR. CALVERT: Thank you. I'm Chris Calvert from AKRF. We are the environmental consultant to Norfolk, and we prepared what's called the Environmental Impact Statement.

Joni, if you want to model the book there. It's a large book highlighting the potential environmental impacts to the project. It was published August 1st with the Notice of Availability. It's the reason we're here today. I'm hoping you've had an opportunity to take a look at it and provide us with any comments you might have.

So the Environmental Impact Statement looked at 24 categories of potential environmental impacts. These are categories that are typical of many of these documents done in New York State, and they cover both what we call the build environment, that's sort of where people live and work, and the natural environment, which are the trees and birds.

In the case of this project, a lot of focus of the environmental analysis is on the natural environment. That's because of where the project is located. We're within Letchworth State Park. We span

IN RE: PORTAGEVILLE BRIDGE PROJECT

the Genesee River. There's a number of natural habitats nearby. So you'll see the bulk of the book is on those types of issues.

There's also extensive analysis of historic resources because the park is a listed historic resource, as well as park land impacts because of it being a park.

And then, finally, the visual impacts given the breathtaking views within the park of the Genesee River.

And, finally, construction effects. That's pretty typical of a project of this size. There's a lot of different issues involved there.

So what we're going to do now is walk you through the various potential issues related to the construction of the project. First is wetlands. We have a very, very small wetland near the embankment that we would have to fill. It's at .03 of an acre, and the way we would look at mitigating that impact is we would -- we basically have to apply for a permit with Army Corp and basically have to follow the permit conditions that they set forth. That's a pretty typical practice in a case like this.

So the next issue we have is related to

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the fact that the bridge spans a river. And when you do construction, there is potential for rocks to fall into the river. There's also potential to disturb the bottom surface of the river when we remove the piers that are there. So what we'll do in this case is implement what's called a stormwater prevention plan so that when there's a rain event, we look at ways to not overload sediment from that storm. Also we'll look at ways to make sure that when we remove those piers, and in the long term, that it doesn't disturb the bottom soils of the river. That will be done through a permit, again, with the US Army Corp of Engineers.

The next issue we identified in the environmental study was related to the natural habitat of the area. As Howard mentioned, the new bridge will be 75 feet south of the existing bridge, and in order -- but what we'll do is we'll be realigning the tracks as you come along. So as we change the curve, we'll be taking down some trees, and that's represented by these red lines -- which are probably impossible for you to see -- but they're on the board back there. What we ended up doing is removing three acres of forest. At the same time, when we cut into

IN RE: PORTAGEVILLE BRIDGE PROJECT

the rock gorge, we remove about an acre worth of rock face. So what we'll do to mitigate that, first of all, we'll work with Parks to do a tree replanting and vegetation program. And we'll also work with Parks to develop a program that ensures that the trees we plant, which should be good species of trees, aren't invaded by, basically, weeds. We want the good stuff.

Historic and Cultural Resources: As I mentioned, Letchworth State Park is listed on the National Register Of Historic Places. The entire park is. And various features within the park are considered contributing elements, including the existing bridge. With the Federal NEPA process you do a lot of other things at the same time. One of those is called Section 106 consultation, and that's under the National Historic Preservation Act. We actually have had a few meetings with what we call consulting parties. We've also been working with Native American tribes with an interest in the area, as well as the State Historic Preservation Office. So we've been doing all this in coordination with these folks and working to both identify what issues the project has and how we can mitigate those issues.

So we have what's called an adverse

effect, which is the same as impact, but very specific legal language in this case.

It takes several forms, but first of all, we're removing the existing bridge which is a contributing element to the historic park. We also remove or alter other park features near the bridge. That includes relocating Park Road. We would be relocating the parking lot, which Howard showed you, as well as a kiosk within the parking lot. We would be removing some fieldstone walls along trails, and then we'd need to relocate the trail heads for the Gorge and Mary Jemison trails. So these are all listed because they are contributing historic elements of the park.

This is a very dense slide telling you how you mitigate under the Section 106 process. It basically involves a lot of coordination with people with expertise, and we undertook that with taking all their advice.

This is what we came up with in terms of ways to mitigate our impacts. First of all, we're going to limit construction staging areas. There are some areas identified for potential archeological sensitivity, so we'll make sure to limit our

IN RE: PORTAGEVILLE BRIDGE PROJECT

construction staging to avoid those areas.

Next, we'll do what is called a construction protection plan. That is to protect other historic resources in the park. So, other things that may be near the bridge that we're not touching but we want to make sure we don't inadvertently damage them when we are building the new bridge.

We'll do educational materials including kiosks. We'll salvage materials from the existing bridge for potential use elsewhere within the park, and we will also assist in a museum exhibit. We will do what's called Historic American Engineering Record, HAER, documentation. This is documentation of the existing bridge. It includes architectural drawings, engineering plans, photos of various different high-quality types. And then finally, we'll restore portions of the Gorge Trail that need to be relocated.

So the next set of issues we have relate to being within the park itself. We need to acquire 1.95 acres of the park land, and that's -- as we mentioned, the new bridge will be 75 feet south of the existing bridge. We need to acquire some land to relocate the bridge. We also will be relocating some

park features which we mentioned to you. That's the Park Road and parking lot and portions of two of the trails, which is a small portion of the Gorge Trail and Mary Jemison Trail.

First thing we'll do is realign the road, which Howard showed you. We have to take a piece of it away but we'll put it back. There will be a road in the future.

We will construct a new parking lot, actually larger. We will replace the portions of the Mary Jemison Trail and the Gorge Trail that we need to move and reincorporate some of the stone that's there now.

And, finally, we will be expanding -- building a new suspended Castile entrance. I'll get to a little more about that in a minute.

This is another really dense slide. At some point in the past Letchworth State Park received special federal funds on the Land and Water Conservation Fund Act, and those are protected by federal law. So if you need to do an alteration within a park that has this kind of funding, you have to do so in a Section 6(f) process. This involves working with the National Park Service, State Parks,

and Norfolk Southern together to make sure that the land that we are taking from the park is replaced with land of equal or better quality. So what we're showing you here is we are taking 2.33 acres of land for the project, and we're going to give back 2.33 acres of land. So it will be a one-to-one swap.

Another very dense slide. This is another federal process called Section 6(f) [sic]. It is to protect park lands, historic resources and special wildlife water foul refuges. For this project, Letchworth is both a park and historic resource so it invokes a Section 4(f) evaluation. Basically, what this law says is that Federal Highway Administration and other agents of the US Department of Transportation cannot approve a project that would take these resources, would use park lands, historic resources or special wildlife water foul refuges unless there are no prudent and feasible alternatives to the taking of this land. And even so, you must incorporate all measures to minimize harm. A lot of words there. Essentially, what it is saying is that you should have gone and done your due diligence to make sure your project you're doing is not taking park land and historic resources unnecessarily. And we've

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done quite a bit of work in this area. It concluded that this alternative is the -- this is the alternative we need to carry forward, and in doing so, we've incorporated a lot of measures to minimize harm, which is a lot of the things I've just shown you.

Finally, visual resources here. So the bridge, you know, many of you know it's pretty prominent in the park. A lot of people recognize it as part of the park. What we're saying is that the loss of the bridge itself is, you know -- it will be noticeable, but it's not necessarily adverse because the new bridge, in itself, could become a visual landmark. People will recognize the new bridge in time. So what we are saying is there are some things we could do to make sure that it's not such a striking difference. One is that we're basically putting the bridge back where it was. I mean, it's going to be 75 feet away, but it's not somewhere completely different in the park. We will use -- the arch structure itself opens up the gorge, which you can see here it opens up the use of the falls. And then finally, vegetation, color, things like that that can make it sort of blend with this landscape.

This is basically all those words there

condensed. It's what I just said.

Another dense slide about another federal law. The Genesee River has special protection for its scenic value. We are doing lots of things to ensure that the new project, the new bridge, fits into an appropriate scenic value. So this is another process that involves, actually, the National Park Service again, and we're coordinating with them in that respect.

Construction. So typical for a large engineering project like this that's going to involve -- there's a period of construction. We estimate about 27 months, you know, keeping in mind it's a difficult area to get to. Construction seasons aren't a full year here, and it's a difficult environment to work in. So there are potential issues during construction. The first is we have to close Park Road from basically the Middle Falls south to the Portageville entrance. The reason for that is we can't have traffic going under the existing bridge. Second reason is, as we mentioned, we need to relocate the road anyway because we're taking away part of the gorge wall. And finally, access for the construction vehicles. So what will happen is in closing the

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Portageville Road to Middle Falls will detour vehicles to the Castile entrance. We need to close the parking lot that's near the bridge during construction and close Mary Jemison and Gorge trails. We're going to be doing work in the area in and over the river. You'll be able to see the construction equipment within portions of the park. That may not, you know, become an attraction itself, but it will be visible. You will at certain times hear noise related to construction activities at distances of up to a mile. We will be removing cliff side, we will be removing trees, and there are a number of sensitive plant and animal species that could be impacted by construction. There is an identified Bald Eagle nest. There are two sensitive bat species that have been known to exist in the area. There is a sensitive snake, rattlesnakes, and Coast Creeping Moss which is known to grow near waterfalls.

So these are the measures we're proposing to mitigate our construction effects. We're going to build a new booth at the Castile entrance, as I mentioned. We'll be providing funding to Parks to build the new booth.

We will use measures -- okay -- so when we

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take away the gorge walls, we'll be using controlled blasting for that so we'll have measures to minimize rock fall into the river.

We will use drill piles rather than driven piles. Basically, these are more -- they generate less noise when you drill versus drive piles. That's twisting them in versus pounding them in.

We will use erosion sediment control measures. These are basically measures to ensure we don't disturb too much of the bottom soils of the river.

We will do the tree clearing. This is one of the new things we probably have not talked to you about, for those of you who have come to the meetings before.

In order to protect the bat species, they hibernate in the winter and they mate in the spring and then they also live in, you know, outside in the trees in the summer and fall. So what we'll do is conduct our tree clearing from October 31st to March 31st to avoid times when the bats might be in the trees.

We will comply with permit measures that will be developed to protect the Bald Eagles that nest

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nearby. This might be monitoring construction activities during particularly sensitive times for the eagles. This also relates to their mating and, basically, we want to protect their nesting area.

We will develop measures to avoid impacts to the snakes. This is mostly related to the moving of the equipment.

We will establish a tree-planting program and use measures to avoid encroachment on other wetlands nearby. There's a lot of stuff here.

We will implement measures to protect, as I mentioned before, potential archeological sensitive areas nearby.

Also, this is one that was actually raised during our SEQR Hearing is that the Genesee Valley Green Way Trail System is so large. So if you are closing a piece of the trail within Letchworth, you know, people might enter the trail 20 miles away and not know that. So we'll work with Parks so that there can be notification to people when there are trail closures.

We will implement a plan to protect workers from -- this is pretty standard practice -- it's called a Health and Safety Plan.

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And, finally, when construction is complete, we'll repair the access roads.

So with that I'll bring Ray up to conduct the Public Hearing.

MR. HESSINGER: Thanks, Chris.

To briefly go over the schedule of where we are now and what we have left. The public notice of the DEIS was made on August 1st, the hearing today on the 26th. The comment period is open through September 15th. Once the comment period closes, the project team will assemble all the comments. We'll look at what we received, we'll develop responses to those comments, and in the fall those comments and any changes to the project that come out of this review process will be documented in the Final Environmental Impact Statement and Record of Decision, which will come out in the fall.

With that in hand, the railroad would like to start construction this winter, such that the trees can be cut within the window that was identified on one of the previous slides.

The DEIS. There are a number of copies of it available in the room, a couple on the table. I think one over at the front desk. We also have a copy

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of all the technical appendixes here for anyone who has insomnia or is otherwise interested. It's also available on the DOT website. It's available in our office in Rochester, at the visitors center in Letchworth State Park and also at a number of local libraries.

If you want to submit comments regarding the project, you can submit them by email to Portagevillebridge@DOT.NY.GOV or by conventional US Mail to me at DOT, my address being there, or to Jonathan McDade, Division Administrator of FHWA.

We also have public comment forms here tonight. You can fill them out, drop them in the box or, finally, you can step up to the microphone this evening and make comments directly to the record.

That brings us to the public comment period of the meeting. We have registration cards for individuals who are interested in speaking. So far we have one, so if anyone wants to speak and has not already done so, you can step over to the desk and fill out a card. Once we've gone through all the registered speaker, we can open the floor to anyone else who hasn't filled out a card and you can fill out a card afterwards. When we have a lot of people, we

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usually limit people's time to speak to three minutes. I don't know that time will necessarily be an issue -- hopefully. The stenographer here will be recording all your comments for the record. Please begin by stating your name and organization. Just to clarify the process, we're going to be receiving your comments, but we're not going to be responding to any questions that you ask. That goes formally in the Final Environmental Impact Statement.

The Department of Federal Highway representatives were available earlier before the formal portion of the meeting started. They will also be available after the formal portion of the hearing closes. And I also want to emphasize that comments received tonight verbally carry the same weight as any written statements that we may receive. So with that, I'll take our one card.

Steve Howe.

STEVE HOWE: Steve Howe, highway superintendent town of Portage.

I guess my concern -- I know there's a thing in the end for the reconstruction of the Portageville Road. I guess my concern is what are they going to do for the full-time residents? There

IN RE: PORTAGEVILLE BRIDGE PROJECT

are several on the road for -- during construction keeping the road maintained. Obviously, we have to maintain it.

And the other concern of that would be dust control, especially in the summer months, and how are we going to work with you guys in doing our routine maintenance plus, obviously, you're going to try to work some there in the winter, so we're going to be conflicted with the snow removal. I guess my concern is the residents that live on that road full time throughout the construction project, because that's the only way in and out for them people and emergency traffic.

MR. HESSINGER: Okay. Thank you very much. We'll take the comments and we'll respond to them formally in the FEIS.

We have no other registered speakers at this time. So I open up to the floor. Anyone who wants to go on the record and make a comment about the project.

IVAN DAVIS: Supervisor of the town of Portage. I work closely with Steve. One thing I did want to note, it is Portage Road instead of Portageville Road, so that somebody doesn't get it

IN RE: PORTAGEVILLE BRIDGE PROJECT

missed and we don't get nothing done.

Another thing is, as Steve mentioned, about our constituents that live up and down the road. We try to do the best we can to help them for as long as this project takes.

The other thing that was thought, while you guys were working on it, you're gonna straighten the rail out somewhat. Is that my recollection that you are going to straighten it or not?

MR. HESSINGER: The curves change a little bit but not significantly. The new bridge is parallel to the existing bridge.

IVAN DAVIS: Something that you might want to look at if you did do any reconstruction is the underpass that you have on 436. It's killed five or six people because it's pretty tight in there. And there's a nice curve on there. So that's all I got to say.

JOHN CUCINOTTA: My name is John Cucinotta. I don't represent anybody -- any organization. I'm just interested in the project, and I'm a great fan of the railroads and a real honest advocate of the railroads. And I think as an individual, some of the things I've seen in the past

IN RE: PORTAGEVILLE BRIDGE PROJECT

with regard to transportation, anything that we can do to improve the railroads I think would be a great advantage to our society. I think it was a sad day when we started to tear up a lot of the railroads. So building the bridge, go 35, go 45 miles per hour across the bridge. Do it. It's a great project. I advocate to building it.

MR. HESSINGER: Thank you.

Anyone else?

That closes the public comment period of the hearing.

Just as a reminder, submit your written comments by the 15th, either to the email address, to portagevillebridge@DOT.NY.GOV, or to the two addresses listed here. For any additional information, contact me. My phone number is on there. My email address is there, and I look at that email address all the time.

With that, I thank you for coming out. Again, the DOT and Norfolk and Federal Highway representatives will be available for a time at the boards for any questions you may have of a less formal nature. Thank you again.

(TIME: 6:06 p.m.)

* * *

C E R T I F I C A T I O N

STATE OF NEW YORK:
COUNTY OF ONTARIO:

I, TAMMY B. FIGLER, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were produced by computer-aided transcription (CAT) under my personal supervision and constitute a true and accurate record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the City of Farmington, County of Ontario, State of New York.

Tammy B. Figler

TAMMY B. FIGLER
Freelance Court Reporter and
Notary Public No. 01FI4573724
in and for Ontario County, New York

2-B Comments of Elected Officials, Agencies, and Municipalities

From: Erin Schnettler - NOAA Affiliate <erin.schnettler@noaa.gov>
Sent: Thursday, July 31, 2014 11:33 AM
To: dot.sm.mo.Portageville.Bridge
Subject: NMFS Technical Assistance Letter for Portageville Bridge Project
Attachments: Portageville Bridge incoming1.pdf; Portageville Bridge incoming2.pdf; Portageville Tech Assist Letter.pdf

Hello,

This is in regards to your letter received by our department on July 30th, 2014 requesting comments on the Portageville Bridge Project (see attached). Our group within the Protected Resources Division of the Greater Atlantic Regional Fisheries Office of the National Marine Fisheries Service issued comments regarding this project on November 26th, 2013 (attached). Please let us know if you would like additional information at this time or have any questions regarding the information we have provided.

Thank you,
Erin Schnettler

--
Erin M. Schnettler
Protected Resources Division
Greater Atlantic Regional Fisheries Office
NOAA Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
978-281-9378

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Fisheries Science Center
James J. Howard Marine Sciences Laboratory
74 Magruder Road
Highlands, New Jersey 07732

November 26, 2013

TO: Raymond F. Hessinger, PE
Director, Freight & Passenger Rail Bureau
State of New York
Department of Transportation
Albany, NY 12232

SUBJECT: Initiation of NEPA review for Portageville Bridge Project
Genesee River, Wyoming, Co. and Livingston, Co., NY

Karen Greene
(Reviewing Biologist)

We have reviewed the information provided to us regarding the above subject project. We offer the following preliminary comments pursuant to the Endangered Species Act, the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act:

Endangered Species Act

No threatened or endangered species under the jurisdiction of the NMFS are known to occur in within the project area. As a result, further coordination by the federal action agency is not required. However should project plans change that would alter the basis for determination, or if new species or critical habitat is designated, coordination should be reinitiated.

Fish and Wildlife Coordination Act

Aquatic resources under the jurisdiction of the NMFS are not expected to occur in within the project area. Further coordination with NMFS is not necessary. However, should project plans change that would alter the basis for determination, coordination should be reinitiated.

Magnuson-Stevens Fishery Conservation and Management Act
Essential Fish Habitat

No essential fish habitat (EFH) has been designated within the project area. Further EFH consultation by the federal action agency will not be required as part of the federal permit process. Should project plans change that would alter the basis for determination, or if new species or EFH is designated, consultation *should be reinitiated. For a listing* of EFH and further information, please go to our website at: http://www.nero.noaa.gov/habitat . If you wish to discuss this further, please call 732-872-3023 or e-mail me at karen.greene@noaa.gov .

From: Lazinsky, Diane <diane_lazinsky@ios.doi.gov>
Sent: Friday, September 12, 2014 11:21 AM
To: jonathan.mcdade@dot.gov; Bonafide, John (PARKS); Hessinger, Raymond (DOT)
Subject: DOI comments- DEIS, 4(f) Portageville Bridge Project, NY
Attachments: DOI-4(f)-PortagevilleBridge-NY.pdf

Dear Mr. McDade:

Please see the attached file for comments from the U.S. Department of the Interior for the Draft Environmental Impact Statement and Section 4(f) Evaluation for the Portageville Bridge Project, NY. Thank you and please feel free to contact me with questions.

Best Regards,
Diane Lazinsky
--

Diane Lazinsky
U.S. Department of the Interior
Office of the Secretary
Office of Environmental Policy and Compliance
15 State Street, Suite 400
Boston, MA 02109
Phone: 617 223-8565
Fax: 617 223-8569
diane_lazinsky@ios.doi.gov
http://www.doi.gov/pmb/oepc/boston.cfm

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572

September 12, 2014

9043.1
ER 14/0468

Jonathan McDade
Federal Highway Administration
Leo W. O'Brien Federal Building
11 A Clinton Avenue, Suite 719
Albany, NY 12207

RE: Draft Environmental Impact Statement (DEIS) and Section 4(f) Evaluation for the Portageville Bridge Project, NY.

Dear Mr. McDade:

The U.S. Department of the Interior (Department) has reviewed the Section 4(f) Evaluation for the proposed Portageville Bridge Project (the Project). The Portageville Bridge (also known as the Portage High Bridge) spans the Genesee River between Wyoming and Livingston Counties within Letchworth State Park, and serves rail freight operated by Norfolk Southern Railway Company (Norfolk Southern) along its Southern Tier route. The Federal Highway Administration (FHWA), in cooperation with the New York State Department of Transportation (NYSDOT) is proposing to improve the rail crossing of the Genesee River on the Southern Tier route, so that the crossing meets modern freight rail standards necessary to maintain safe and efficient goods movement. The following comments on this project are offered for your consideration.

Section 4(f) Evaluation Comments

The Department concurs that there is no prudent and feasible alternative to the proposed use of 4(f) lands, which consists of Letchworth State Park, and would be permanently used for the Project. The Project would require the use of 1.95 acres of land that is currently mapped as parkland as part of Letchworth State Park, a New York State park. This land would be acquired by Norfolk Southern, the Project sponsor, and would be permanently incorporated into the new railroad right-of-way. In addition, as part of the Project, Norfolk Southern would acquire a permanent easement from the New York State Office of Parks, Recreation and Historic Properties (OPRHP) in a 0.21-acre area adjacent to the existing railroad embankment on the west

side of the river where access for ongoing slope stabilization is required. Letchworth State Park qualifies for protection under Section 4(f) as a public park and historic property that is listed on the National Register of Historic Places (NRHP).

The Preferred Alternative would result in the removal, relocation, and alteration of certain contributing resources to Letchworth State Park's NRHP listing, changes that would result in an Adverse Effect on the park in accordance with Section 106 of the NRHP. Based on review of documentation prepared by NYSDOT in accordance with 36 CFR 800.11(e), the State Historic Preservation Officer (SHPO) concurred with an Adverse Effect finding on February 20, 2014, and FHWA formally issued an Adverse Effect determination for the Project on May 30, 2014. These changes would constitute use of the Section 4(f) property, due to a permanent incorporation of land from the historic site into the transportation facility. These include:

- the demolition of Norfolk Southern's existing Portageville Bridge (Portage High Bridge), located within Norfolk Southern's right-of-way;
- the removal and relocation of the southern trailheads of the Gorge Trail and Mary Jemison Trail, each located partially within Norfolk Southern's right-of-way;
- the removal and relocation of the Highbridge Parking Area west of Park Road and just south of the Portageville Bridge, located partially within Norfolk Southern's right-of-way;
- the reorientation of a portion of Park Road at the new bridge; the Preferred Alternative would result in a westward shift of approximately 700 linear feet of Park Road;
- the removal and relocation of the historic marker at the Highbridge Parking Area; and,
- the removal of historic fieldstone walls along the portion of the Park Road that would be shifted and at the trailhead of the Gorge Trail, where the trail would be removed and relocated.

The Project's construction would involve temporary construction-related activities affecting 1.55 acres of parkland that is part of Letchworth State Park. This land would be used for construction easements and staging on the west side of the river, immediately adjacent to the existing and new railroad right-of-way. Of the 1.55 acres, 0.38 acres would be used for the full construction period (estimated at approximately 27 months) and the remaining 1.17 acres would be used for less than six months in order to effect modifications to a trail, Park Road, a parking area, and the existing bridge.

The Project's construction activities in 1.55 acres of construction easement/staging areas will result in a Section 4(f) use. The Project's construction easements/staging areas are considered a Section 4(f) use rather than a temporary occupancy.

We note that measures to minimize harm to these historic resources have been developed in consultation with the SHPO and participating Consulting Parties in accordance with Section 106 of the National Historic Preservation Act (NHPA), and are set forth in a Draft Memorandum of Agreement for the Project that will be executed prior to Project construction. We recommend that a signed copy of the agreement document be included in the final documentation for this project to reflect the procedures for protecting cultural resources determined in consultation with the SHPO.

Formal requests for permission to convert a Land and Water Conservation Fund (LWCF) assisted property in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer (SLO) or the Alternate SLO to the National Park Service (NPS) in writing and conform to the prerequisites set forth in 36 CFR 59. The NPS LWCF Program requests that the Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT) continue to coordinate with the New York State Office of Parks, Recreation and Historic Preservation in order to complete the conversion request.

Thank you for the opportunity to review and comment on this project. Should you have questions about these comments, please contact Liam Strain, National Park Service, at (215) 597-1953. Please contact me at (617) 223-8565 if I can be of further assistance.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer

CC: SHPO-NY (John.Bonafide@parks.ny.gov)
NYDOT (Raymond.Hessinger@dot.ny.gov)

United States Department of the Interior

NATIONAL PARK SERVICE
Northeast Region Office
15 State Street
Boston, Massachusetts 02109-3572

IN REPLY REFER TO:

September 18, 2014

Re: Portageville Bridge PIN 4935.79 DEIS, Treatment of Federal Wild and Scenic Rivers Protections

Jonathan McDade
Federal Highway Administration
Leo W. O'Brien Federal Building
11 A Clinton Ave, Suite 719
Albany, NY 12207

Dear Mr. McDade:

The National Park Service has reviewed the presentation and analysis of federal Wild and Scenic River considerations in relation to the Genesee River and the proposed Portageville Bridge bridge replacement project.

The DEIS correctly identifies that the Genesee River through Letchworth Gorge is protected under the provisions of Section 7 of the Wild and Scenic Rivers Act, and further concludes that review under Section 7 by the National Park Service is triggered because the proposed action involves federal permitting and assistance directly related to the free-flowing condition of the Genesee River.

The analysis contained in the DEIS concludes that there will be two main areas of impact/potential impact to federal Wild and Scenic River values: Free-Flowing condition; and Scenic values.

Free-Flow. The National Park Service agrees with the analysis and conclusions of the DEIS, that Free-Flowing conditions through the project area will be enhanced by the proposed action through the removal of in-water piers associated with the existing bridge. Short-term impacts associated with construction activities (removal of existing piers) will be treated in detail through the Army Corps permitting process, which will be subject to appropriate BMPs and reviewed by NPS to ensure minimization and avoidance of sedimentation or other potential short-term impacts.

Scenic Values. The scenic values of the river in the project area will be altered and impacted by the proposed removal of the existing bridge and construction of the new bridge. Improvements in scenic value can be expected through the opening up of the gorge by removal of the existing in-water piers. And, while the existing bridge has certain scenic value in itself, the replacement structure will also be of a pleasing aesthetic design.

Other aspects of potential impact to values cited in the Genesee's federal legislation (historic, cultural, natural) have been addressed in other portions of the DEIS and no significant impacts to river-related features have been documented or described.

In conclusion, the NPS concurs with the DEIS' treatment of the federal Wild and Scenic River protections, and is supportive of the identified preferred alternative.

Sincerely,

Jamie Fosburgh
New England Team Leader
NER Rivers Program
Jamie_fosburgh@nps.gov
617 223-5191

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

SEP 1 5 2014

RECEIVED
SEP 1 9 2014
Freight & Passenger Rail Bureau

Raymond F. Hessinger, P.E.
Director, Freight & Passenger Rail Bureau
NYS Department of Transportation
50 Wolf Road POD 5-4
Albany, NY 12232

Jonathan McDade
New York Division Administrator
Federal Highway Administration
Leo W. O'Brien Federal Building
11A Clinton Ave., Room 719
Albany, NY 12207

Dear Messrs. Hessinger and McDade:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Portageville Bridge Project (CEQ # 20140206) in Wyoming and Livingston Counties, New York, in accordance with Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA).

The Portageville Bridge (also known as the Portage High Bridge) is a single-track, truss structure that spans approximately 819 feet across the Genesee River between Wyoming and Livingston Counties within Letchworth State Park, and serves rail freight operated by Norfolk Southern Railway Company along its Southern Tier route. The proposed Project would replace the old structure with a new 963 feet long, single track rail freight bridge that meets industry weight and safety standards. The centerline of the new bridge would be approximately 75 feet south of the centerline of the existing bridge, which requires a realignment of the railroad approaches from the east and from the west. Norfolk Southern would acquire approximately 2.71 acres of new right-of-way to realign the tracks. A portion of existing Park Road would be relocated to make space for the new bridge structure's foundations, and a small parking area (Highbridge Parking Area) would be relocated from an area south of the existing bridge to parkland north of the right-of-way and enlarged to accommodate 34 spaces. In addition, the trailheads for the Gorge Trail and the Mary Jemison Trail would be relocated from Norfolk Southern property to park property.

Construction activities would require the clearing of approximately 3.0 acres, mostly consisting of forested habitat with pockets of maintained/mowed railroad right-of-way along the existing right-of-way; the placement of fill in a 0.03-acre portion of a 0.09-acre wetland; and the removal of approximately 1.1 acres of shale cliff and talus slope.

Exclusion fencing, erosion and sediment control measures will be used to protect the remaining 0.06-acre portion of the wetland, and disturbed areas surrounding the wetland would be restored with native vegetation. Following construction, the shale cliff and talus community near the new bridge would be allowed to return to its natural state. Excavated areas will be stabilized with metal drape netting to allow establishment of vascular and nonvascular plants on the rock face, or use of the rock face by wildlife.

Post-construction, the portions of the Project area that were disturbed and that do not contain railroad infrastructure, park roadway, or parking area would be revegetated according to a habitat restoration plan to be developed with New York State Office of Parks, Recreation and Historic Preservation (OPRHP) in coordination with New York State Department of Environmental Conservation. Approximately 2.33 acres of the existing right-of-way encompassing the old railroad right-of-way location would be conveyed to OPRHP for inclusion in the park.

The DEIS adequately responds to issues EPA raised previously regarding mitigation resulting from the loss of the 0.03 acre of wetland and 1.1 acres of shale cliff and talus slope community and response to contaminated and hazardous materials that might be released during the construction.

Thank you for the opportunity to comment on the DEIS. If you have any questions, please contact Shane Nelson of my staff at (212) 637-3130.

Sincerely,

Judy-Ann Mitchell, Chief
Sustainability and Multimedia Programs Branch

From: Parker, Richard (PARKS) <Richard.Parker@parks.ny.gov>
Sent: Wednesday, September 24, 2014 11:38 AM
To: Hessinger, Raymond (DOT)
Subject: FW: Norfolk Southern Bridge Project - Draft DEIS

Ray, I know the public comment period ended 9/15 but please see the e-mail below from one of our Engineering staff re: a correction to a stream name in the DEIS.....thanks for your consideration.

Rich

Rich Parker
Regional Director
Genesee State Park Region
1 Letchworth State Park
Castile, NY 14427
585-493-3601 (office)
585-233-7272 (cell)
Richard.Parker@parks.ny.gov

From: King, Charles (PARKS)
Sent: Wednesday, September 24, 2014 11:01 AM
To: Parker, Richard (PARKS); Herring, David L (PARKS)
Cc: Smith, Paula (PARKS)
Subject: Norfolk Southern Bridge Project - Draft DEIS

Last week I glanced through the draft DEIS for the replacement bridge and noted one minor item concerning the name of the stream located just outside the proposed work area of the bridge project that perhaps could be corrected. I realize that the official comment period for the draft DEIS ended on September 15, 2014 but perhaps an email could be sent to the contact listed in the Draft DEIS.

Comment is nothing critical and is simply a name clarification of a Letchworth State Park feature.

The stream that is of concern is located just north of the RR project limits and referred to the Draft DEIS in Sections 4.4.1-3-3; 4.4.2-3 and 4.4.8-3 as being "Stream B". This stream was named "Deh-Ge-Wa-Nus by William Pryor Letchworth and the Nameless Club sometime in the 1860's. This group provided Indian names and as well as other names to various features around the Glen Iris Estate.

Deh-Ge-Wa-Nus has special connotation as being the name given Mary Jemison by the Seneca's. Deh-Ge-Wa-Nus has been known to be interpreted as meaning "Two Falling Voices".

Charles King
Code Enforcement
1 Letchworth State Park
Castile NY 14427
Telephone – 585-493-3609

Portageville Bridge Project

www.dot.ny.gov/portagevillebridge

RECEIVED
SEP 04 2014
Freight & Passenger Rail Bureau

DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

You are invited to comment on the Draft Environmental Impact Statement (DEIS) for the Portageville Bridge Project in the space below. If you require additional space, please feel free to use the back of the form or additional sheets of paper.

Comments:

WHAT TYPE OF AN EMERGENCY PLAN IS CONSIDERED IN CASE OF AN DE-RAILMENT AT THE BRIDGE SITE ABOVE THE RIVER, BELOW + DOWN STREAM? CHEMICAL CONTAIN-MENT, DAMAGE TO ECO-SYSTEM?

Name: BARRY A. GANZHORN SR.

Affiliation: LIVINGSTON CTY EMC BOARD

Address: 2910 W. MAIN

CALEDONIA, N.Y. 14423

☑ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD 54
  Albany, NY 12232

C.C. — M. UNDERHILL ~~[illegible]~~ LIV. CTY
✓ RAYMOND HESSINGER - NYSDOT

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AUG 29 2014
Freight & Passenger Rail Bureau

Portageville Bridge Project
www.dot.ny.gov/portagevillebridge

DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

You are invited to comment on the Draft Environmental Impact Statement (DEIS) for the Portageville Bridge Project in the space below. If you require additional space, please feel free to use the back of the form or additional sheets of paper.

Comments:

A fine presentation at Mt. Morris. (Aug. 26)

1. Two minor comments: no mention of any mitigation needed for the large deer population in the entire Park.?

2. Several presenters mentioned nearby sensitive archeological areas. I did not have time to read the entire report but wondered what these locations (significance) were?

David W. Parish, Livingston County EMC, 5 Crossett Road, Geneseo, N.Y. 14454 <geneseohistorydude@hotmail.com>

Name: David W. Parish
Affiliation: Liv. County EMC
Address: 5 Crossett, Geneseo, NY 14454

☐ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD 54
  Albany, NY 12232

From: Todd Gadd <tgadd@wyomingco.net>
Sent: Friday, September 12, 2014 2:16 PM
To: dot.sm.mo.Portageville.Bridge
Cc: Todd Gadd; jrsmith@municipalsolution.com; cketchum@wyomingco.net
Subject: DEIS Comments
Attachments: DOC091214-002.pdf; 20140912131231343.pdf

To whom it may concern,
Attached are our written comments and supporting documentation on the DEIS for the proposed Portageville Bridge Replacement. A hard copy will also be mailed. We look forward to your response.
Thank you.
Please Note my new email address is tgadd@wyomingco.net
Todd Gadd
Wyoming County Highway Superintendent

OFFICE OF THE BOARD OF SUPERVISORS

Government Center
143 N. Main Street
Warsaw, NY 14569

A. Douglas Berwanger
Chairman of the Board

Phone 585-786-8800
Fax 585-786-8802

September 11, 2014

Raymond F. Hessinger, P.E.
Director, Freight & Passenger Rail Bureau
New York State Department of Transportation
50 Wolf Road, POD 5-4
Albany, New York 12232

Jonathan McDade
Federal Highway Administration
Leo W. Obrien Federal Building
11 A Clinton Avenue, Suite 719
Albany, New York 12207

Re: PIN 4935.79 PORTAGEVILLE BRIDGE
PORTAGEVILLE BRIDGE PROJECT, WYOMING AND LIVINGSON COUNTIES, NY

Messrs Hessinger and McDade:

This letter is submitted to discuss the impacts and need for improvements to Denton Corners Road (Rt. 436) from Rt. 39 to Letchworth State Park Entrance (LSPE) and Schenk Road at Middle Reservation Road to LSPE, to meet safety and traffic concerns created by the Portageville Rail Road Bridge Project. The County of Wyoming strongly feels that improvements to these sections of roads are necessary at the beginning of the Portageville Bridge construction project to alleviate traffic congestion and safety issues that will be created by the project as a result of the Portageville exit at Letchworth State Park being closed during the bridge replacement project.

The largest impacts to our local road system will be primarily to Denton Corners Road (Rt 19A to the Castile Park Entrance), Denton Corners Rd/Rt 436 (Rt 19A to Rt 39) and Schenck Rd. As per Chapter 4.5-3-1 of the latest NEPA Draft Environmental Impact Statement (DEIS) for the bridge project, "According to OPRHP, 25 percent of the visitors to Letchworth State Park enter at the Portageville Entrance (with an annual average of 650,000 visitors to the park, that is equivalent to 162,500 visitors entering at the Portageville Entrance). During construction, alternative access to Letchworth State Park for park visitors will be available via the other three park entrances, with the closest access to the southern end of the park being the Castile Entrance." (second closest is from Schenck Rd) Therefore the 162,500 visitors will be accessing the park from Denton Corners and Schenck Roads.

Letchworth State Park officials are in the process of bidding a second entrance gate for the Castile park entrance to accommodate the increased traffic demands the Park will be experiencing and these roads must be improved to meet these increased traffic demands that will be placed on these undersized roads as a result of the bridge rehabilitation project.

The County's latest pavement evaluation of our road system (see attached summary with these reads highlighted in bold), these roads ranked 8th, 15th and 20th respectively out of 69 roads that most need preventative maintenance work. The roads are too narrow, they are approximately 20' wide with gravel

shoulders, and are not adequate to meet the increased traffic congestion and increased road wear and tear that will be created by the bridge replacement project.

To meet the increased three year traffic demands that will be placed upon these roads Wyoming County hereby requests that the above listed sections of Denton Corners and Schenk Roads be widened to at least 10' lanes and 3' shoulders and overlaid to improve the rideability and safety characteristics of these sections of roadway to accommodate the number and type of larger vehicles associated with park visitors at the beginning of the bridge replacement project.

Over the last five years Wyoming County has undertaken approximately $5,000,000. worth of infrastructure improvements leading from the closest State Roads to the Perry Entrance (Schenck Rd) and the Castile Entrance (Castile). Specifically, Borden Ave from Rt 39 (Main St in Perry) to Middle Reservation Rd and Middle Reservation Rd from Rt 39 (Castile) to Perry Village Line.

The County feels it has done its part in supporting the traffic needs for the State Park's over 750,000 annual visitors and the need for improvements necessary to accommodate the substantially increased traffic flows that will be experienced at the two remaining southern most entrances to the park should be incorporated into the Portageville bridge replacement project.

Respectfully,

A. Douglas Berwanger, Chairman
Wyoming County Board of Supervisors

Todd Gadd
Wyoming County Highway Superintendent

CR Flexible Pavement Spring 2014

Date	CR#	Name	Long/transverse cracks 1-9 L/TC	Alligator cracks 1-9 AC	Edge Cracks 1-9 EC	Patching/Potholes 1-3 P/P	Rutting 1-9 RU	Bleeding 1-7 B	Drainage 1-7 D/D	Roughness 1-7 RO	Condition	Notes
May-14	20/31	Orngvl Ctr	7	8	7	3	7	4	1	7	44	
May-14	31	Exchange	8	7	7	3	5	4	3	5	42	
May-14	13	Simmons	7	5	7	3	5	4	2	7	40	
May-14	6	View/Buffalo/Mid Res	5	6	7	3	5	3	5	5	39	
May-14	14	Liberty	7	6	7	3	5	2	1	7	38	
May-14	3	W.Park (County)	6	3	8	3	4	2	7	7	38	
May-14	36	Castile Center east	4	3	5	3	6	5	1	7	34	
May-14	53	Starr	8	5	7	3	2	1	0	7	33	
May-14	9	Perry	6	2	7	3	3	3	2	7	33	
May-14	46	Telegraph	6	5	4	3	4	1	2	6	31	Rehabilitation
May-14	5	Church	1	2	6	1	3	1	1	3	18	Preventative Maintenance
May-14	1	Dale	1	1	1	2	3	3	1	4	16	
May-14	29	Lamont	2	0	5	1	1	2	1	3	15	
May-14	36	Castile Center west	2	1	1	1	3	2	2	2	14	
May-14	35	Folsomdale	1	1	2	1	3	2	1	3	14	
May-14	45	Blackhouse	4	0	2	2	2	0	1	3	14	
May-14	59	Bixby Hill	4	1	1	2	2	0	1	3	14	
May-14	43	Silver Springs	2	0	2	1	3	3	0	2	13	
May-14	3	Suckerbrook	1	1	2	1	3	1	1	3	13	
May-14	**38**	**Denton Corners**	**1**	**1**	**2**	**1**	**2**	**1**	**1**	**4**	**13**	**(Rt 19A to Castile Park Entrance)**
May-14	44	Curriers	1	1	1	3	3	2	0	2	13	
May-14	37	Hillside	1	0	2	1	2	2	1	4	13	
May-14	28	BurkeHill	1	1	2	1	2	3	1	2	13	
May-14	10	Hardys	4	0	1	1	2	1	1	3	13	
May-14	39	Cascade	3	0	2	1	1	2	1	2	12	
May-14	**38**	**Denton Corners (Rt. 436)**	**0**	**1**	**4**	**1**	**1**	**1**	**1**	**3**	**12**	**(Rt 19A to Rt 39)**
May-14	57	Mote	1	0	3	1	2	2	1	2	12	
May-14	2	Broughton	4	1	0	1	1	1	0	3	11	
May-14	4	Hermitage	4	1	2	0	2	0	1	1	11	
May-14	62	French	0	0	2	1	2	2	1	2	10	
May-14	13	Old State	0	0	3	1	1	1	2	2	10	
May-14	**18**	**Schenck**	**2**	**0**	**2**	**1**	**3**	**1**	**0**	**3**	**10**	
May-14	24	East Koy	2	1	2	1	1	1	1	2	10	
May-14	29	Fisher	0	0	0	3	1	1	1	3	9	
May-14	32	Wethersfield	3	0	1	2	2	1	0	3	9	
May-14	7	E. Bethany	1	0	2	1	1	1	1	2	9	
May-14	19	Vernal	4	1	2	1	3	1	1	3	9	
May-14	20	Quakertown	1	0	2	1	2	0	1	2	9	
May-14	26	Bullis	4	0	2	0	0	0	1	2	9	
May-14	16	Peoria	0	0	2	1	0	2	1	2	8	
May-14	3	W. Lake	2	0	1	1	0	1	1	3	8	
May-14	55	Glen Iris	1	0	2	1	1	1	1	2	8	
May-14	50	N. Water	2	0	1	1	1	1	1	3	8	
May-14	1	Old Buffalo	1	0	2	1	1	0	1	2	8	
May-14	19	E. Main	4	2	2	1	2	0	1	3	8	
May-14	48	Almater	1	0	2	1	2	0	0	2	8	
May-14	29	Wiscoy	2	1	0	1	1	1	0	2	8	
May-14	34	Centerline	3	0	0	1	0	0	1	3	8	
May-14	30	Merchant	3	0	2	0	0	0	2	1	8	
May-14	1	Skates Hill	0	0	1	1	2	1	0	2	7	
May-14	9	Perry	2	0	1	0	1	1	1	1	7	
May-14	30	Oatka	3	0	2	0	0	0	1	1	7	
May-14	17	Centerville	3	0	0	1	0	0	1	2	7	
May-14	25	Simmons	0	0	2	1	1	0	1	1	6	
May-14	32	Wethersfield	1	0	1	1	1	1	0	1	6	
May-14	58	Main	0	0	0	1	0	1	1	2	5	
May-14	12	LaGrange	2	0	0	1	0	0	1	1	5	
May-14	47	W. Mdlbury	2	0	0	0	0	0	1	1	4	
May-14	33	Overholt	0	0	0	0	2	0	0	2	4	
May-14	23	Barber	2	0	0	0	0	0	1	0	3	
May-14	6	Mid Res	2	0	0	0	0	0	1	0	3	
May-14	57	Poplar Tree	1	0	0	0	1	1	0	0	3	
May-14	7	E. Bethany	3	0	0	0	0	0	0	0	3	
May-14	31	Buffalo	1	0	1	0	0	0	1	0	3	
May-14	30	Oatka	2	0	0	0	0	0	1	0	3	
May-14	27	Chaffee	1	0	0	0	0	0	2	0	3	
May-14	31	Exchange	2	0	0	0	0	0	0	1	3	
May-14	22	Silver Lake	1	0	0	1	0	0	0	0	2	
May-14	60	Wyoming	1	0	0	1	0	0	0	0	2	
May-14	15	Holland	1	1	0	0	0	0	0	0	2	
May-14	35	Dutch Hollow	1	0	0	0	0	0	0	1	2	
May-14	40	School	1	0	0	0	0	0	1	0	2	
May-14	11	E. Arcade	1	0	0	0	0	0	1	0	2	
May-14	2	E. Lake	1	0	0	1	0	0	0	0	2	
May-14	42	Attica Gulf	2	0	0	0	0	0	0	0	2	
May-14	21	Dewitt	0	0	0	0	0	0	1	0	1	
May-14	3	Weaver	1	0	0	0	0	0	0	0	1	
May-14	7	Saltvale	1	0	0	0	0	0	0	0	1	
May-14	6	Borden Ave.	0	0	0	0	0	0	0	0	0	

From: howesweets@yahoo.com
Sent: Monday, September 01, 2014 11:37 AM
To: dot.sm.mo.Portageville.Bridge
Subject: have concerns and need a copy

The Town of Portage is asking for a copy of the road assessment for Portageville Road. The Road that you will be traveling over while you are building the new bridge. Don't get the Town wrong we don't mind you building a new bridge we just want our residents on Portageville Road to be okay during and after the project.

Also we have concerns about what you are going to do during the construction of the Bridge for Portageville Road and the residents that live on this road. There are a let of maintenance and up keep for the 27 months that you said that will take to build the bridge. To name a few of them would be dust control, pot holes and of course during the winter plowing of the road.

Please send us a copy of the Road Assessment for Portageville Road to our Highway Superintendent - Stephen Howe - 2 North Church Street - Hunt, NY 14846 or the Town Clerk - Esther L. Howe - 806 Main Street - Hunt, NY 14846. Phone is 585-476-2773.

Thank you for your time!

From: howesweets@yahoo.com
Sent: Saturday, September 13, 2014 9:57 AM
To: dot.sm.mo.Portageville.Bridge
Subject: Road Assessment

I sent an email about 2 weeks ago and haven't heard back from you. The town of Portage is asking for the Road Assessment for the Portageville Bridge.

Thank you

2-C Comments of Interest Groups

From: pmonahan@stny.rr.com
Sent: Friday, September 12, 2014 9:08 AM
To: dot.sm.mo.Portageville.Bridge; Treeweenie@aol.com
Cc: scottbrooks18@msn.com; hubbard.rdh@gmail.com; schumaker@frontiernet.net
Subject: Re: NEPA DEIS comments from Finger Lakes Trail

well done Irene. thank you for writing this on our behalf.
pm

---- Treeweenie@aol.com wrote:
> Letter attached. Attn: new trail sponsor of this section of the
> Letchworth Trail --- This has been cooking for quite a few years now
> but according to the introductory material with this round for public
> commentary on the DEIS, construction could actually begin within
> months. Our problem is that "intermittent closures" of our trail
> beneath the bridge could catch users unawares if there is not
> constantly monitored signage at appropriate locations fore and aft of the closure.

From:	Treeweenie@aol.com
Sent:	Thursday, September 11, 2014 3:07 PM
To:	dot.sm.mo.Portageville.Bridge
Cc:	pmonahan@stny.rr.com; hubbard.rdh@gmail.com; scottbrooks18 @msn.com; schumaker@frontiernet.net
Subject:	NEPA DEIS comments from Finger Lakes Trail
Attachments:	Portageville Bridge federal DEIS response.doc

Letter attached. Attn: new trail sponsor of this section of the Letchworth Trail --- This has been cooking for quite a few years now but according to the introductory material with this round for public commentary on the DEIS, construction could actually begin within months. Our problem is that "intermittent closures" of our trail beneath the bridge could catch users unawares if there is not constantly monitored signage at appropriate locations fore and aft of the closure.

11 September 2014

Raymond Hessinger
Director, Freight & Passenger Rail Bureau
NYSDOT
50 Wolf Road, POD 5-4
Albany NY 12232

Re: Portageville Bridge Project

On behalf of those who maintain and enjoy the Finger Lakes Trail and Genesee Valley Greenway beneath the Norfolk Southern bridge at Letchworth State Park, the DEIS assurance that neither the canal prism nor the Pennsylvania Railroad bed will be altered by the upcoming construction is welcome. However, we do have an ardent request anent the intermittent trail closures described therein.

Typical users of that section of trail enter from either the Park's Parade Grounds entrance road where the old Pennsylvania RR railbed crosses just below the picnic area or the tiny parking area immediately to the northwest of the NY 436 bridge over the Genesee River at Portageville. If we don't create a way to inform people that the trail is closed ahead, many of them could spot a car at their intended ending spot, perhaps miles away, and then perhaps get a ride to their intended beginning point. So these innocents would walk in to the bridge construction project, only to find it closed, leaving them in a predicament. At the very least they would have to walk back to their beginning, then walk around the closure on NY 436 and the Parade Grounds Rd., before they could return to their intended route.

The hundreds of casual users of this segment, perhaps those who parked at the Parade Grounds, will merely turn around. However, there are a large number of hikers, including groups, who plan ahead to cover a significant portion of the Finger Lakes Trail's Letchworth Branch, so either park cars at either end of a much longer segment than this one, or get a ride from one of our volunteer Car Spotters.

Those are the users we worry about. At the very least, if the Finger Lakes Trail Conference had notice from the construction company at least 24 hours before closure, we could add it to our Trail Conditions section of the website, and our magazine for members WILL remind readers to check there before hiking that section for the next few years. However, thousands of people use the FLT who are not members or who don't check the Trail Conditions site before hiking so could be forced to hike around the closure after costing themselves an out-and-back walk to the closure….IF THERE IS NO NOTICE AT THE JUNCTION POINTS FOR THE DETOUR.

The NEPA DEIS, in the chapter on Recreational Uses, declares that the Greenway has a gap in the slide area. While the nice towpath is gone for a short distance there, that does not mean there is no continuous trail there! It’s not level and features seeps through the clay, but there IS AN OPEN AND HEAVILY USED TRAIL ACROSS THE SLIDE, used by both hikers and intrepid bicyclists. So that part of the DEIS is inaccurate; the trail is continuous, even if different in nature for a short distance; hence our concern with notifying potential users if the trail is closed ahead!

So we also ask that the construction company be required to put up useful signage at those two points, the Parade Grounds Rd. crossing and the parking area on 436, indicating absolute closure ahead AND showing a small map of the route around the closure. Perhaps the easiest kind of sign would be one with a hinged flap so that it could be closed when the trail is open,

then just opened to the vital information when there is a closure. Also, we request that the contractor be responsible for opening and closing the two signs, since they are right in the neighborhood, while our nearest volunteer lives a dozen miles away.

In high hopes that the intermittent closures do not amount to any more than the indicated total of six months, we ask, in summary, the following courtesies of the contractor: 24 hours notice of both closures and reopenings, and maintenance of signs explaining closures at the above points. If these features can be negotiated, we'll discuss a point of contact for notification.

Irene Szabo
FLT volunteer and Letchworth Branch Trail Coordinator
treeweenie@aol.com

Cc: FLTC Board of Managers
Executive Director
Trail Sponsor of the affected trail segment
Friends of the Genesee Valley Greenway

2-D Comments of Individuals

From: Tom Breslin <tomb71@verizon.net>
Sent: Monday, August 18, 2014 9:20 PM
To: dot.sm.mo.Portageville.Bridge
Subject: Project No. 4935.79 Portageville bridge Project

I noticed the Legal Notice in the Warsaw Country Courier of August 14th and wish to comment via email since I will not be able to attend the meeting in Mount Morris. I had not heard anything official about the project in some time. My comment would be as follows:
I served on the staff of Letchworth State Park beginning in February of 1968 and eventually as Park Manager from April of 1978 until retirement in October of 1992. During my tenure at the park there were many incidents that related to the existing bridge that were an administrative headache. An earlier comment that I made suggested that the bridge be taken over by the Parks department and utilized for access to the park land on the east side of the river and as an "overlook" to avail park visitors the opportunity to view the river gorge. One of the headaches I refer to above was the fact that the park visitors often trespassed on the bridge and on those occasions when told it was not legal our Park Police were often told that the person thought the bridge was part of the Park. Efforts to thwart that attitude by signs and notes on park maps and literature were to no avail. Therefore I wish to put forth my feeling that the new bridge (I have seen the artist renderings) will be just as strong a draw to adventuresome park visitors as the old one. The danger of such a draw will be compounded by the possibility of faster and more frequent trains. I would therefore suggest that the deck of the new bridge be constructed in such a manner that possible trespassers will not have their lives endangered. Thank you for the opportunity to express my feelings as part of the hearing process. Tom Breslin, 300 N Eaton St, Berwick, Pa

From: Le Davis <ld7813@yahoo.com>
Sent: Sunday, September 14, 2014 10:59 PM
To: dot.sm.mo.Portageville.Bridge
Subject: Comments and Questions

First, I greatly appreciated the helpfulness of the Rochester DOT office, specifically Chris Caraccilo,in making documents available to view.
As a native of Wyoming County and avid hiker of the Gorge and Mary Jemison trails, I appreciate the beauty of this area and the possibility of continuing memories of specific places across generations of family. It is with this background that it was important to read, for example, that "Norfolk Southern will salvage stone from existing walls to rebuild stone walls along the relocated trail, using a design similar to the existing historic stone walls." (6-16,6-17) It is surely hoped by many of us that those who oversee the construction will be sensitive to leaving as small a permanent footprint of the Preferred Alternative as possible on the surrounding landscape.
For those of us who wish to hike/view the areas that will become inaccessible and or be changed after October 31, 2014, would it be possible to have a map available soon at the Letchworth State Park Office or markings on the two trails and in the wooded areas of just where those boundaries will be? Can we know what construction areas will be logged? What parts of the Gorge Trail will be either changed or closed for some time? If the change above Upper Falls involves any of the viewing "benches", can they be reset on the new trail section even though the view will not be the same? Basically, is it possible to know the boundaries of the actual area(s) that will be A) permanently changed B) closed for the duration of construction? None of the maps seem to be that specific.
Also, the draft states that the areas cleared will be reforested with native plants. What will be the size and diversity of trees replanted? Will you be working with botanists/foresters local enough to gauge viability over several years?
Thank you.
Leigh Davis

From: Le Davis <ld7813@yahoo.com>
Sent: Monday, September 15, 2014 3:33 PM
To: dot.sm.mo.Portageville.Bridge
Subject: Comments

The project report discusses the visual effects of the old bridge being dismantled and therefore not being part of the visual landscape. Could you please tell me what views of Upper Falls in seasons when deciduous trees are leafless will no longer be visible from the Gorge Trail? Which vantage points during the time of necessary construction and which permanently due to trail placement change?
Thank you.
Leigh Davis

Sent from my iPhone

From: karl krause <rose99@echoes.net>
Sent: Friday, August 29, 2014 10:49 AM
To: dot.sm.mo.Portageville.Bridge
Subject: RR bridge at letchworth

Do they need to tear down the old bridge? Why not keep it up as a historic treasure.
Karl Krause
Windsor NY

Portageville Bridge Project

www.dot.ny.gov/portagevillebridge

DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

You are invited to comment on the Draft Environmental Impact Statement (DEIS) for the Portageville Bridge Project in the space below. If you require additional space, please feel free to use the back of the form or additional sheets of paper.

Comments:

I'M IN FAVOR OF RAILROADS,
A NEW BRIDGE (LETCHWORTH OVER
GENESEE RIVER
BRING BACK PASSENGER
SERVICE!

Name: ED LAW
Affiliation: RETIRED
Address: 249 S. MAIN ST
PERRY NY 14530

☐ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD 54
  Albany, NY 12232

Portageville Bridge Project

www.dot.ny.gov/portagevillebridge

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DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

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Comments:

PLEASE SEE SEPARATE SHEET.

Name: Martin V. Oulton

Affiliation: Power of attorney for Kevin Oulton and Melissa Stermole

Address: 307 Portageville Road, Hunt, N.Y. 14846-9755

☐ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD 54
  Albany, NY 12232

September 8, 2014

Dear Ray,

Thank you for meeting with me before and after the August 26 hearing.

I respectively submit the following requests and/or suggestions for your consideration.

Electric service is requested for the property just south of the new railroad right of way. An underground installation at the time of construction is desired. The property has had electric power service in the years passed. Several houses and a new farmstead to be established are planned. Liability and insurance costs are used as excuses for not proceeding forward

Please do what you can to make this request happen.

Concerning the grade crossing to be installed, the new crossing should be connected directly to the existing Portageville road to the south. I suggest omitting entirely the proposed outlet to the east on the south of the crossing. A right angle approach to the railway would then be possible. We can access the property further south on Portageville road.

Please do what you can to make this happen.

As a follow-up to the comments made by Supervisor Ivan Davis at the August 26 meeting I would add:

During construction of the bridge there will be heavy truck traffic at the intersection of 436 and Portageville road. A hazardous situation could develop. Blind curves, limited sight distances, high trafficspeeds, Vehicles turning left, being passed on the left by traffic from behind, plus a nearby railroad underpass, all will add to the problem. Two roads intersect 436at this point also. The 35 mph recommended area speed signs are rarely adhered to.Rt 436 is a major tractor-trailer route from the west to I-390 to the east. Five deaths and several other accidents have occured at this spot in the past years. I would suggest a traffic safety plan be developed and implemented for the area.

Please do what you can to make this happen.

Sincerely,

Martin V. Oulton

Martin V. Oulton

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Portageville Bridge Project
www.dot.ny.gov/portagevillebridge

DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

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Comments:

PLEASE SEE SEPARATE SHEET

A FOLLOW UP TO COMMENTS PREVIOUSLY SUBMITTED.

Name: Martin V. Oulton- Power of attorney for
Affiliation: Kevin Oulton & Melissa Stermole
Address: 307 Portageville Rd
Hunt, NY 14846-9755
Phone - 585-322-2857

☐ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD 54
  Albany, NY 12232

September 9, 2014

Dear Ray,

In order for you and your associates to better understand our position and where we are coming from concerning the bridge project and the property just south of the new RR-ROW, I am obliged to give you more information for your consideration and helpfulness.

Of the following items, some are more pertinent than others and are not necessarily listed in order of importance.

The property consists of approximately 65 acres and is bounded by Letchworth Park (Portageville Rd), Rt. 436 and the RR ROW.

A 20 acre nearly level field of gravel loam soil is being prepared for crop land suitable for potato production and other high value crops.

The property has no mortgage and is not encumbered and is lien free.

A farmstead along with storage for crops are planned. $25,000 has already been spent to establish a house, landscaping, foundation, water and piping have been completed. Additional houses are planned for the area. Construction is continuing.

We are waiting on electric power service. Our request for electricity have largely been ignored. RG&E and the RR are slow to respond. It is of critical importance for the property that electric service be obtained.

At present electric service is provided on the north side of the RR ROW adjacent to existing crossing making the distance to the property close by.

The new grade crossing should be connected to the existing Portageville road and at a right angle enabling safe crossing of vehicles and farm equipment including large farm trucks.

Concerning the hazardous situation at the intersection of Rt. 436 and Portageville road, I neglected the following in the September 8 letter to you.

Excessive roadside vegetation growth occurs at the blind curve on the south side of Rt 436 at the intersection. I have requested the DOT in past years to trim back the growth and this was done, however it keeps growing back. Unless one travels this road frequently, which I do, the growth obstruction may not be realized.

As you can detect from this letter the two most important issues for the property and which mean the most are that electric service and a straight approach be made at the crossing.

Your help and understanding is important for us to meet these goals. Please use all your powers to make this happen.

These statements and requests are made in good faith and I hope are not too burdensome.

If you wish, I would be glad to discuss in more detail and can be reached at 585-322 2857.

Sincerely,

Martin V. Oulton

Martin V. Oulton

From: PJLCLASSIC@aol.com
Sent: Thursday, August 21, 2014 11:41 AM
To: dot.sm.mo.Portageville.Bridge
Subject: Portageville Bridge

The Bridge is of Historical Significance, Leave It!!! The Money to tear it down and dispose of it . Could be used to Spend on a holistically Landmark and close off to People. Thousands of Tourists take pictures of the Land Mark. Let us keep the History of the park. Please do not tear it down to many of Rochester's Land Marks have been Destroyed. SAVE THE BRIDGE!!!!! PJL.

Portageville Bridge Project

www.dot.ny.gov/portagevillebridge

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Freight & Passenger Rail Bureau

DEIS Public Hearing
Tuesday, August 26, 2014
Genesee River Restaurant
Mount Morris, NY

Public Hearing Comment Form

You are invited to comment on the Draft Environmental Impact Statement (DEIS) for the Portageville Bridge Project in the space below. If you require additional space, please feel free to use the back of the form or additional sheets of paper.

Comments:

1. Are you hiring any local contractors?
2. Do you have housing for workers?
3. are you re-planting "750" trees and what kind would they be?
4. What are you going to do with all the trees you cut down????
5. Where are you putting all the rocks you take out of the cliffs?
6. Where are you leaving all your heavy equipment?
7. I hope you don't ~~start~~ taking trees down until the fall color is gone

Name: Gail Rogers

Affiliation:

Address: 6612 St Rt 19A
Portageville NY 14536

☑ Please add my name to the Portageville Bridge Project mailing list.

Comments may be submitted through September 15, 2014. Submit your comments:

- Verbally or in writing at today's public hearing
- By e-mail: PortagevilleBridge@dot.ny.gov
- By mail: Raymond Hessinger
  Director, Freight & Passenger Rail Bureau
  NYSDOT
  50 Wolf Road, POD S4
  Albany, NY 12232

you can e mail me at ~~www.bluefrog~~.
Bottletreebb@bluefrog.com

From: Jan Vrooman <jvrooman@rochester.rr.com>
Sent: Tuesday, August 19, 2014 8:30 PM
To: dot.sm.mo.Portageville.Bridge
Subject: Portageville Bridge Project ID No. 493579

Dear Mr. Hessinger, I am a retired NYS Parks employee and worked for many years at Letchworth State Park, retiring as the Assistant Regional Director for the Genesee State Park Region. I am very familiar with the existing railroad bridge and the southern end of Letchworth State Park. I believe the appearance of the proposed new bridge will be an improvement from the existing bridge and it makes sense to remove the old bridge as part of this project. I agree that several pieces of the old bridge should be displayed in the park to commemorate it's history and service. The following are my concerns:
1. I am concerned about the safety of people who are drawn to this structure because it will offer great views of the river from bridge deck. It will be very difficult to keep trespassers off the bridge. Keeping people off the bridge will be the responsibility of the railroad and not the park. I suggest that the bridge deck be wide enough to allow trains to safely pass persons on the bridge. I understand that the bridge is designed for class 4 speeds up to 60 MPH.
2. There must be fair compensation to the park for the closing of a large section of the park road during a period of construction of at least two years. Mitigation should include:
A. Reconstruct the park road from NYS Route 19A to and including the construction site. The existing road is not designed for heavy construction vehicles.
B. Construct a new stone faced entrance building at the Castile Entrance to the park. Most of the park visitors who would have entered from the Portageville entrance will now enter at the Castile entrance.
C. Mow the lawns and care for the trees and shrubs along the closed portion of the park road during the period of construction. If this is not done, it will cost the Park a lot of money to return the lawns to original condition.
D. Compensate the Park and Park Concessionaires for loss of revenue caused by the disruption.
E. Include signs and displays at the proposed overlook describing the history of the wooden and steel bridges.
Thank you, Jan Vrooman

From: kwallace4@rochester.rr.com
Sent: Wednesday, August 27, 2014 9:38 AM
To: dot.sm.mo.Portageville.Bridge
Subject: Comment on safety concerns

Hi Raymond and Jonathon,
I attended the public hearing on the Portageville Bridge project in Mt. Morris on 8/26/2014. I enjoyed the presentation very much and found it to be very informative. The one thing I didn't hear discussed though was what measures would be taken for safety of the tourists that seem to insist on climbing up on the current and probably the future bridges. I spend a great deal of my time hiking in the area of the current bridge in Letchworth Park and I constantly observe people trespassing on the bridge. At this time due to the slower train speed crossing the bridge people usually have time to exit the bridge before the train crosses. On the new bridge it appears there are no safety railings and the speeds are predicted to be 35 MPH across it. This would not be a good situation for anyone trespassing on the new bridge. I was hoping to hear how this situation would be addressed. Thank you,

-Ken Wallace

From: Charlie Wilson <cwilso7@rochester.rr.com>
Sent: Sunday, August 24, 2014 1:49 PM
To: dot.sm.mo.Portageville.Bridge
Subject: replace

Bridge definitely needs replacing. we did some work about 10 years ago for drainage before bridge and the bridge should have been replaced than. The old present bridge could be used as an observation area. perfect for that. people use it now. which is very dangerous but with revamping could be used for that. 65 million dollars today isn't that much money when it comes to safety, economical value , and safety. Letch worth Park is a very beautiful place. many people visit this great park every
year. Need to make it safe.
Only one persons opinion who loves Letch worth Park
Charlie Wilson
6690 Big Tree Rd
Livonia,, N.Y. 14487

Action Kowalczyk
Category 1 9/12/14

Dear Mr. McDade

We were unable to attend the informational meeting on August 26 at the Genesee River Restaurant in Mount Morris New York . So we'd like ask couple of questions at this time . Actually they are more on the order of concerns I guess.

We are the closest property to the old bridge and obviously the soon to be new bridge so therefore we are concerned about things like blasting and constant construction in our back yard . Our property backs directly to the lot/trails to the Train Trestle and even now we are aware of the rattling of our window grids due to the noise from passing trains . So we are wondering how much noise we are in for when construction starts ? Also how about the wild life in the area , we are environmentalists and are registered as a National Wildlife Habitat and fear that all the noise will drive many of our animals from the area . And ... How about security . In this day and age we are concerned about the possibility of someone causing harm to the bridge which would have devastating consequences for everyone along the Genesee River all the way to Rochester . As it is right now it's almost impossible to keep folks off the bridge but imagine a terrorist on the bridge ... there is no security or cameras that are monitored . A lot of people would say , Oh why would any one tamper with that bridge .... well , we live in a very different world now .

We thank you for your time and hope you can enlighten us as to what we are in for with the building of this new bridge . As I mentioned earlier in this note , we are the closest year round residents so we are the ones to be the most impacted by any and or all of what ever transpires in the construction of this bridge .

Sincerely ,

Karla Wolcott
Linda Ries
6695 rt. 19 A
Genesee Falls ,
New York 14536
P.O. Box 256
Portageville , New York