

**Environmental Assessment**  
***Rayhill Memorial Trail***  
**Town of New Hartford, Oneida County, New York**

***July 2024***



**FEMA**

**U.S. Department of Homeland Security  
Federal Emergency Management Agency Region 2  
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**LIST OF ABBREVIATIONS**

APE	-	Area of Potential Effects
BMP	-	Best Management Practices
CFR	-	Code of Federal Regulations
CRIS	-	Cultural Resource Information System
CWA	-	Clean Water Act
EA	-	Environmental Assessment
EIS	-	Environmental Impact Statement
EO	-	Executive Order
EPA	-	Environmental Protection Agency
ESA	-	Endangered Species Act
FONSI	-	Finding of No Significant Impact
IPaC	-	Information for Planning and Consultation
IPCC	-	Intergovernmental Panel on Climate Change
NAAQS	-	National Ambient Air Quality Standards
NEPA	-	National Environmental Policy Act
NHPA	-	National Historic Preservation Act
NLEB	-	Northern long-eared bat
NRCS	-	Natural Resources Conservation Service
NRHP	-	National Register of Historic Places
NWI	-	National Wetlands Inventory
NYSDEC	-	New York State Department of Environmental Conservation
NYS DHSES	-	New York State Division of Homeland Security and Emergency Services
NYS DOT	-	New York State Department of Transportation
NYS HPO	-	New York State Historic Preservation Officer
OCHMP	-	Oneida County Hazard Mitigation Plan
RMP	-	Risk Management Program
SCBIC	-	Sauquoit Creek Basin Intermunicipal Commission
SPDES	-	State Pollution Discharge Elimination System
USACE	-	United States Army Corp of Engineers
USFWS	-	United State Fish and Wildlife Service

## **1.0 INTRODUCTION**

On November 1, 2019 severe storms, straight-line winds, and flooding primarily impacted 18 counties north and west of the Hudson Valley. President Donald Trump declared a major disaster on December 19, 2019. The declaration authorized FEMA to provide disaster assistance for affected communities and certain non-profits under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5172) as amended. The Town of New Hartford has requested financial assistance from FEMA and is the subrecipient; the New York State Division of Homeland Security and Emergency Services (NYSDHSES) is the recipient partner for the proposed action.

This Environmental Assessment (EA) is prepared in accordance with Section 102 of the National Environmental Policy Act (NEPA) of 1969, as amended; and the Regulations for Implementation of the National Environmental Policy Act (40 Code of Federal Regulations [CFR] Parts 1500 to 1508). This EA considers the potential impacts of the proposed project and alternatives, including a no action alternative, to determine whether to prepare a Finding of No Significant Impact (FONSI), or to initiate an Environmental Impact Statement (EIS). In accordance with above referenced regulations and FEMA Directive 108-1 and FEMA Instruction 108-1-1, FEMA is required, during decision making, to evaluate and consider the environmental consequences of major federal actions it funds or undertakes.

## **2.0 PURPOSE AND NEED**

The Town of New Hartford is requesting FEMA funding to restore the function of the damaged Rayhill Memorial Trail along Sauquoit Creek and to provide additional floodplain storage to reduce the future flooding risks to adjacent and downstream properties. FEMA's public assistance program provides funding to communities impacted by presidentially declared disasters to repair damaged facilities and restore public services. The purpose of the project is to restore the damaged trail and reduce flooding.

Oneida County identified 24 flooding and heavy rain events since December 2000 in the 2022 Oneida County Hazard Mitigation Plan (OCHMP). Since the flooding event in 2019, a 1,400-linear foot portion of the recreational trail has eroded and been closed to the public between Clinton Road and New Hartford Street. Pedestrians continue to illegally access the site and forge informal trails around damaged areas presenting a risk of personal injury to them and potentially contributing to continued damage to the site. The unstable stream banks present a risk of further erosion that threatens adjacent properties and additional sections of the trail. The closure of the damaged portion of the trail disrupts use of the larger trail system; the community reports economic losses and reduced quality of life for residents due to the closure within New Hartford. The project is needed to improve public safety and reduce losses from on-going flooding.

### **3.0 BACKGROUND**

The Oneida County Hazard Mitigation Planning Committee held a series of public workshops and issued digital surveys starting mid-2019 as part of routine updates to the OCHMP submitted to FEMA in 2022. The OCHMP also notes several studies and plans for the county including a Mohawk River Watershed Plan from 2015 and a Stream Sediment and Debris Management Plan from 2021. The plans recommend flood mitigation measures including nature-based design, removal of sediment and debris from choke points like stream crossings, and measures to restore natural stream functions. The OCHMP identifies flooding and severe storms as the top two hazards the local communities face along with potential project concepts to address them.

On October 6, 2022, representatives of the U.S. Army Corps of Engineers (USACE), New York State Department of Environmental Conservation (NYSDEC), FEMA, and the NYSDHSES met with the Town of New Hartford and visited the Rayhill Memorial Trail site (Appendix B Figure A). This meeting was to establish the scope of work that would meet the regulatory requirements for each of the agencies. The 15-acre project area along the east bank of Sauquoit Creek, between Clinton Road and the Rayhill Trail Bridge from New Hartford Road, consists mainly of undeveloped Sauquoit Creek floodplain upland area, and Town and State Highway Department storage areas, traversed by the paved recreation trail. Railroad tracks run parallel to the creek in the project area and the trail crosses them close to the downstream extent of the area. This portion of the Rayhill Trail, which is part of the 5-mile recreation trail system linking New Hartford and Whitestown, was originally constructed in 2010 by the New York State Department of Transportation (NYSDOT). The NYSDOT conducted an extensive environmental review under New York's SEQR Requirements for the initial construction of the trail. As of January 2024, the subrecipient has not undertaken or requested support through FEMA to implement stabilization measures to prevent on-going damage at the project area. Ongoing erosion has washed out a substantial amount of the paved trail, encroaching on the railroad where it passes behind the McCraith Beverages facility. The subrecipient met with the New York Delaware and Susquehanna Railroad, National Grid, McCraith Beverages, and NYSDEC at the end of January regarding the on-going erosion. National Grid and the railroad will likely take measures to protect their property and will work with the subrecipient and regulators to ensure that measures are compatible with the proposed Rayhill Memorial Trail project. FEMA paused distribution of this EA upon notice that NYSDEC required changes to the plans submitted to FEMA as part of the permitting process to allow the subrecipient to make such changes. To FEMA's knowledge, none of the neighboring property owners have undertaken stabilization measures between the EA in March and this version incorporating changes to meet permit requirements.

The Sauquoit Creek Basin Intermunicipal Commission (SCBIC), with local, state and federal partners, was formed to develop and support projects, such as this, to address flooding in the highly

visible commercial and transportation corridor of Sauquoit Creek. The Sauquoit Creek Commission supports several other projects to reduce Sauquoit Creek flooding conditions, including:

1. **Sauquoit Creek Floodplain Restoration Project 1, Dunham Manor Park, Whitestown:** In 2019, the first project of the Sauquoit Creek Floodplain Restoration program began with construction of two large floodplain benches, bank stabilization and in-stream structures on Town-owned land. The subrecipient reports that the Town of Whitestown completed this work in 2019.
2. **Sauquoit Creek Floodplain Restoration Project 2, CSX Bridge (Whitesboro/Whitestown):** In 2021, construction started on Project 2 near the CSX tracks in the Village of Whitesboro, including the creation of an 11-acre flood storage area, 5 additional culverts under the CSX rail embankment, and land acquisition of private property. The subrecipient reports that the Town of Whitestown completed this project in 2022.
3. **Whitesboro Residential Property Buyout:** The Town of Whitestown, working with the Village of Whitesboro and Oneida County, reached out to residential property owners in the Village of Whitesboro to secure interest in a potential “buyout” program. Over 190 applications were submitted to the United States Department of Agriculture’s Natural Resources Conservation Service (NRCS) Floodplain Easement Program. NRCS has reviewed each application for buyout and performed appraisals and environmental inspections on all properties. NRCS will be sending purchase offers to homeowners. This buyout program ties into Project 2 of the Floodplain Restoration Program with the creation of a floodplain in the buyout area.
4. **Clinton Street Bridge Replacement, Town of New Hartford:** The Clinton Street Bridge over the Sauquoit Creek is in need of replacement, and the many stakeholders are using it as an opportunity to create a more flood-resilient community. The project will involve increasing the bridge span and realignment in a densely developed area. The enhanced project will not replace the bridge with the same, continuing to construct the creek and causing flooding, but instead increase infrastructure safety and create a more resilient community. In addition to the bridge replacement, the time is being taken to incorporate trail connectivity into the Rayhill Trail system and remove repetitive flood properties from the floodplain. This bridge is adjacent to the Rayhill Memorial Trail project area, defining the downstream boundary. The subrecipient has preliminary design complete but does not currently have funding to begin yet; final design plans will incorporate the final design of the Rayhill Trail project.
5. **Rayhill Trail Bank Stabilization and Floodplain Restoration, New Hartford:** This is the subject of this EA.
6. **Sauquoit Creek Hydraulic Modeling and Conceptual Design in New Hartford and Utica:** The SCBIC was awarded a Non-Point Source Water Pollution Grant from the

NYSDEC for modeling and conceptual engineering design for locations on the Sauquoit Creek, including Pietryka Park (Village of New York Mills), Brookline Drive (City of Utica), Route 8/Victoria Drive (Town of New Hartford), and Hand Place (Town of New Hartford). These locations will be modeled and a conceptual design completed that continues the work underway downstream in Whitestown. The sites selected come from the Stream Sediment and Debris Management Plan for the Sauquoit Creek (2021). These locations will be modeled and a conceptual design completed for use in future construction grants.

7. **Washington Mills Athletic Park Floodplain Restoration and Bank Stabilization, Town of New Hartford:** The proposed 6-acre floodplain restoration and bank stabilization of the Sauquoit Creek includes repairs to the damaged Town Park and new recreational trail development. The Town plans to submit a grant application to New York State Environment Facilities Corporation-Green Infrastructure Grant Program in the 2024 Charted Financial Analysis. The Feasibility Study is complete.
8. **Bleachery Avenue Floodplain Restoration and Dam Removal, Chadwicks, Town of New Hartford:** The proposed project includes restoration of a 5-acre floodplain in a densely developed hamlet, home and bridge removal, and acquisition of 3 properties. The Town plans to submit a grant application of the New York State Environment Facilities Corporation-Green Infrastructure Grant Program and a Hazard Mitigation Grant Program Planning Grant. The Feasibility Study is complete.
9. **Sauquoit Creek Sewer Crossing:** This project's main objective was to repair the flood-damaged sewer main crossing of Sauquoit Creek, and to reduce the risk of future flood damage. The project also included in-stream grade control structures, stream bank armoring, and flood bench expansion in an effort to reduce future stream bank and stream bed erosion at the sewer line crossing. The project was completed in 2023.

See Appendix B Figure F for a map showing the relation of these projects. The subrecipient reports no data or descriptive results of the impacts from projects completed as of the writing of this EA.

#### **4.0 ALTERNATIVES**

FEMA and the subrecipient considered alternatives that fulfill the purpose and need for this project. This consideration is based upon engineering constraints, environmental impacts, and available property. Budgetary constraints are included but not the controlling factor.

##### **4.1 Alternative 1: No Action**

The current damaged condition of Rayhill Trail represents a hazard to the public, and therefore, has remained closed since the flood event. The absence of emergency stabilization or other mitigation since the disaster declaration continue to result in on-going erosion and debris with each storm. Adjacent property owners would have to take additional measures to protect their property and infrastructure under their responsibility. This option would make this condition permanent by



removing of the remaining trail sections, and permanently prohibiting access to the trail corridor from New Hartford Street to Clinton Street. The socio-economic loss of this recreation and transportation resource to be community would be permanent. Stream bank erosion would continue to impact adjacent properties, and downstream flooding would continue un-abated. This alternative conflicts with state and county goals set out in planning documents and prior studies.

#### **4.2 Alternative 2: Proposed Action**

The project will relocate the damaged Rayhill Memorial Trail away from the eroding banks of Sauquoit Creek within the existing corridor to create approximately 60,000 cubic yards of new floodplain storage. This will all be on land owned by the Town of New Hartford and the NYSDOT. Staging of equipment and materials as well as access to work areas will be contained within these properties. The subrecipient updated the following estimates of the proposed project elements at the beginning of February 2024:

- 12,000 square feet of sheet piling
- 3,500 square yards of limestone block with live stakes
- Estimated 75,000 cubic yards of excavation and stored nearby
- 3,500 linear feet of asphalt trail
- 2,200 linear feet of 4-inch vinyl-coated chain link fencing
- 12 acres of floodplain re-vegetation
- 10,000 cubic yards of select bank fill material
- 1,500 feet of relocated sanitary sewer line
- 1,100 cubic yards of in-stream rock cross veins

In areas where the stream cross section has been widened from the flood event, the banks will be stabilized at their current location, with stone blocking and live willow stakes. As part of relocating a portion of the trail away from the creek, a portion of an existing access road will also need to be realigned less than 100 feet from the current alignment. A new access road will be built at the existing transfer station. The NYSDOT is donating a portion of land to the Town of New Hartford from an adjacent maintenance garage parcel to provide space for the proposed project.

Immediately upstream from the New York Mills Clinton Street Bridge, where space is limited due to development and infrastructure, the bank restoration will be designed to match the geometry and hydraulics of the bridge opening. Here, and at another upstream location where the stream and trail are immediately adjacent to power lines and railroad tracks, measures will be taken to stabilize the banks with sheet piling to preserve the adjacent infrastructure.

The project also includes removal of gravel bars, accumulated debris, and flow restrictions within the flood damaged areas. There are approximately 11,000 cubic yards of accumulated sediment mostly consisting of high-quality washed gravel and river stones that will be excavated to re-create the pre-flood stream channel. This gravel, sediment, and rock is included in the estimated 75,000

cubic yards for disposal or storage on two sites; just north-west of the Transportation Department facility and to the New York Mills Union Free School District facility (Appendix B Figure C). Some of this material will be screened, and re-used for the bank stabilization, and trail reconstruction components of this project if it is adequate quality and composition to meet design requirements. The subrecipient initially planned to embed tree stumps into the outer banks to reduce velocity as a nature-based feature, however after feedback from NYSDEC, the subrecipient is omitting them. Two new areas of wetland will be created along the creek near the existing NYSDOT facility.

The subrecipient intends to install in-stream rock structures where severe bank erosion has destroyed sections of the Rayhill Trail. These structures are intended to reduce the eroding force of the stream flow and help to create habitat for fish and other aquatic species. The subrecipient will include the number of such structures needed in their final design and permit applications; FEMA is evaluating two in this EA. See Appendix B Figures B through E for proposed plans pending final design.

### **4.3 Alternatives Considered and Dismissed**

A project alternative that would restore the damaged sections of the trail at their pre-disturbance location, which would require extensive bank restoration, relocation of Sauquoit Creek back to its original alignment. However, both the NYSDEC and USACE determined that they would not be able to issue permits for this alternative due to the extent of sheet piling among other considerations.

## **5.0 AFFECTED ENVIRONMENT AND POTENTIAL IMPACTS**

This section discusses the potential impacts of the no action alternative and the proposed action on environmental resources. The potential cumulative environmental impacts are also discussed. When possible, FEMA considers quantitative information to establish potential impacts; the potential qualitative impacts are evaluated based on the criteria listed in in Table 5.0.1. Impacts throughout Section 5 are negative unless noted otherwise.

**Table 5.0.1: Impact Significance and Context Evaluation Criteria for Potential Impacts**

<b>Impact Scale</b>	<b>Criteria</b>
No Impact	The resource area would not be affected and there would be no impact.
Negligible	Changes would either be non-detectable or, if detected, would have impacts that would be slight and local. Adverse impacts would be well below regulatory standards, as applicable.
Minor	Changes to the resource would be measurable, but the changes would be small and localized. Adverse impacts would be within or below regulatory

Impact Scale	Criteria
	standards, as applicable. Mitigation measures would reduce any potential adverse impacts.
Moderate	Changes to the resource would be measurable and have either localized or regional scale impacts. Adverse impacts would be within or below regulatory standards, but historical conditions would be altered on a short-term basis. Mitigation measures would be necessary, and the measures would reduce any potential adverse impacts.
Major	Changes to the resource would be readily measurable and would have substantial consequences on regional levels. Adverse impacts would exceed regulatory standards. Mitigation measures to offset the adverse impacts would be required to reduce impacts, though long-term changes to the resource would be expected.

FEMA is omitting the following environmental resource topics because they do not apply to the project as covered by this EA. Short-term impacts are generally limited to construction activities within the grant period of performance, typically 18 months. Long-term impacts are beyond the period of construction into the foreseeable future.

**Table 5.0.2: Eliminated Resource Topics**

Topic	Reason
Noise	The temporary noise from the project’s construction equipment will not exceed the ambient noise levels from the two adjacent highway garages where heavy equipment is continually operated. Once completed, the project will not generate any additional noticeable noise compared to pre-disaster conditions.
Bald and Golden Eagles	While eagles are found in the general area, FEMA observed no nests or trees sufficient to serve for nesting within 660 feet of the project area. The area is largely developed; therefore FEMA anticipates no direct or indirect impacts to the species.
Transportation	The project restores the damaged trail corridor consistent with the original Herkimer-Oneida Counties Transportation Study Long-Range Transportation Plan.
Hazardous Materials	Previous studies for the original trail noted the absence of hazardous materials within the project area, and no hazardous materials were encountered in test borings conducted in 2021 for this project.

## 5.1 Geology, Topography, and Soils

This section discusses the geologic, topographic, and soil conditions of the project area, and the potential project impacts to these resources.

### **5.1.1 Existing Conditions**

The surface geology of the project area consists of sands and gravels that were deposited by glaciers that are on top of gneiss, feldspar, and quartz bedrock. These sand and gravel soils are considered highly erodible due to their loose nature. Soils on portions of the project area on NYSDOT and Town of New Hartford property have been previously disturbed, but generally have the same characteristics as the native soils.

Soil borings conducted in 2020 within the project area confirm the sand and gravel composition of the upper layers of soil, and the limits of previous disturbances. The erodible soil conditions are the main reason that the streambank slopes failed during the flood event, and portions of the trail were washed away. Several sections of the stone block retaining walls adjacent to the trail along Sauquoit Creek, also failed during the flood, because the walls were not properly bedded and pinned together in the erodible sands and gravel.

### **5.1.2 Potential Impacts**

#### **Alternative 1: No Action**

The No Action Alternative would not alter naturally occurring geological processes in the vicinity of a project site. In the absence of a project, FEMA expects that embankment erosion would continue unabated, evidenced in storms since the disaster declaration (Appendix B Figures G - I). These processes may result in minor to moderate impacts from sediment deposition downstream of an eroding or failed embankment that may in time evolve into significant instability. Soil instability may present increasing risk to nearby infrastructure such as roads and utilities. FEMA anticipates no impacts to geology and minor impacts to moderate impacts to topography relative to site characteristics.

#### **Alternative 2: Proposed Action**

Approximately 60,000 cubic yards of soil over approximately five acres adjacent to Sauquoit Creek will be excavated to depths up to 11 feet. Small amounts of the excavated soil may be re-used onsite if they are suitable and needed for constructing the project. Most, if not all excavated soil, will be removed from the site and stored on town land close to the creek (Appendix B Figure C). The excavated material will increase the topography at those parcels of land, however the subrecipient did not provide an estimate of how much.

Once the project is complete, the subrecipient will stabilize soils and streambanks to minimize future streambank degradation and soil displacement. Excavated material disposed nearby will also need to be stabilized, covered, or incorporate means to prevent it from eroding back into

Sauquoit Creek. Disturbed soils will be replanted with vegetation native to the area or as required by state or local requirements. Based on the 2020 soil borings, FEMA anticipates no impact to geology which is deeper than the project limits. During construction, FEMA anticipates short-term negligible to minor impacts to soils and topography from excavation and grading. FEMA anticipates long-term minor beneficial impacts with greater stability of the slopes and slowing stream flow.

## **5.2 Air Quality**

The Clean Air Act of 1970 (42 USC 7401–7661 [2009]) is a comprehensive federal law that regulates air emissions from area, stationary, and mobile sources. The act authorized the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and the environment. The NAAQS include standards for six criteria air pollutants: lead, nitrogen dioxide, ozone, carbon monoxide, sulfur dioxide, and particulate matter (including both particulate matter less than 10 micrometers in diameter, and fine particulate matter less than 2.5 micrometers in diameter). Areas where the monitored concentration of a criteria pollutant exceeds the applicable NAAQS are designated as being in non-attainment of the standards; while areas where the monitored concentration of a criteria pollutant is below the standard are classified as in attainment.

Federally funded actions in nonattainment and maintenance areas are subject to EPA conformity regulations (40 CFR Parts 51 and 93), which ensure that emissions of air pollutants from planned federally funded activities would not affect the state's ability to meet the NAAQS. Section 176(c) of the Clean Air Act requires that federally funded projects conform to the purpose of the State Implementation Plan, meaning that federally funded activities would not cause any violations of the NAAQS, increase the frequency or severity of NAAQS violations, or delay timely attainment of the NAAQS or any interim milestone.

The conformity requirements of the Clean Air Act and its regulations limit the ability of federal agencies to assist, fund, permit, and approve projects that do not conform to the applicable State Implementation Plan. When subject to this regulation, the federal agency is responsible for demonstrating conformity for its proposed action. Conformity determinations for federal actions other than those related to transportation plans, programs, and projects that are developed, funded, or approved under title 23 USC or the Federal Transit Act (49 USC 1601 et seq.) must be made according to the federal general conformity regulations (40 CFR 93 Subpart B). Certain actions and activities are exempted from general conformity review, including the following:

- Stationary source emissions regulated under major or minor New Source Review (air permitting) programs
- Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation

- Actions where the emissions are not reasonably foreseeable
- Actions that have been defined by the federal agency or by the state as “presumed to conform”
- Activities with total direct or indirect emissions (not including stationary source emissions regulated under New Source Review programs) below *de minimis* levels. Emissions from construction activities are subject to air conformity review, unless they are shown to be below the applicable *de minimis* levels

The emissions from construction activities are subject to air conformity review, unless they are shown to be below the applicable *de minimis* levels.

### **5.2.1 Existing Conditions**

Air quality in the project area is influenced by the surrounding industrial, commercial, and municipal highway facilities, but the project is not located in a non-attainment area according to EPA's EJScreen mapper. However, the project area is within one mile of Census block groups containing Clean Air Act Risk Management Program (RMP) facilities. Outside of a one-mile buffer from the project area are Census block groups in Utica that have higher concentrations of air pollutants such as diesel particulate matter.

### **5.2.2 Potential Impacts**

#### **Alternative 1: No Action**

FEMA anticipates no direct impact from the No Action Alternative. However, taking no action to stabilize the site may require repeat interventions to clean debris from choke points such as the Clinton Street crossing or areas downstream. Removal of woody debris or nuisance sediment deposits may require construction equipment with temporary negligible to minor impacts. Further, not taking action to stabilize the project area would be inconsistent with county, village, and town flood reduction goals.

#### **Alternative 2: Proposed Action**

FEMA anticipates impacts to air quality during construction activities from fugitive dust, however construction best management practices such as covering soil piles, watering, or measures required by local law or permits will minimize impacts. The subrecipient's contractors will use ultra-low sulfur diesel fuel in all construction equipment requiring diesel and will use clean and well-maintained equipment. FEMA does not expect the project to directly affect RMP facilities or be affected by them. The subrecipient should limit heavy equipment trips through Utica to minimize indirect air quality impacts to potentially environmentally burdened areas in Utica. After construction is complete, there will be no direct or indirect impacts to air quality, because no additional vehicular traffic will be generated, and existing traffic patterns will not be altered. FEMA anticipates short-term, minor impacts to air quality during construction with use of these minimization measures.

### **5.3 Water Quality**

Congress enacted the Federal Water Pollution Control Act in 1948 which was later reorganized and expanded in 1972 and became known as the Clean Water Act (CWA) in 1977. The CWA regulates discharge of pollutants into water with sections falling under the jurisdiction of the U.S Army Corps of Engineers (USACE) and the EPA. Section 404 of the CWA establishes the USACE permit requirements for discharging dredged or fill materials into Waters of the United States and traditional navigable waterways. USACE regulation of activities within navigable waters is also authorized under the 1899 Rivers and Harbors Act. Under the National Pollution Discharge Elimination System, the EPA regulates both point and non-point pollutant sources, including stormwater and stormwater runoff. Activities that disturb one acre of ground or more are required to apply for a State Pollution Discharge Elimination System (SPDES) through the NYSDEC as authorized by the EPA.

Section 1424(e) of the Safe Drinking Water Act of 1974 [Public Law 93–523] authorizes EPA to designate an aquifer for special protection under the sole source aquifer program if the aquifer is the sole or principal drinking water resource for an area and if its contamination would create a significant hazard to public health. The sole or principal source is defined as supplying 50% or more of the drinking water for a particular area. No commitment for federal financial assistance may be provided for any project that EPA determines may contaminate a sole source aquifer such that a significant hazard to public health is created.

#### **5.3.1 Existing Conditions**

Sauquoit Creek, in the vicinity of the project area is classified by NYSDEC as “C” which represents the lowest level of a regulated waterbody’s quality that can support fish. The diminished water quality of the stream is primarily due to high turbidity from sediment caused by soil erosion in the 62.5 square miles watershed, and from contaminated stormwater runoff from intense watershed development. The SCBIC found that between 2002 and 2018, land development increased nearly 30% in the watershed; development, damming, bank armoring, loss of wetlands, and other human interventions are major contributors to sedimentation of the creek.<sup>1</sup> Smoothness of channels such as using sheet piles, armoring, and straightening increase the velocity of water that can increase erosive forces and sediment transfer.

As of this EA, Sauquoit Creek is not on the NYSDEC’s 303d list, for any major contaminate impairments. However, according to the EPA's EJScreen, the Sauquoit Creek is identified as an

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<sup>1</sup> Ramboll 2021

impaired waterway. The subrecipient was unable to provide estimates for distance of downstream sediment transfer so FEMA is considering such impacts to the Mohawk River. The proposed project area is approximately 8% of the Sauquoit Creek watershed draining into the river.

### **5.3.2 Potential Impacts**

#### **Alternative 1: No Action**

FEMA expects that the no-action alternative would result moderate impacts to surface water with increasing turbidity of the water in downstream areas. As the site was not stabilized since the disaster, it continues to face on-going erosion and bank failure, however the subrecipient has not evaluated the extent beyond comparative aerial images. This alternative conflicts with state and county goals to reduce flood risk, improve water quality, and related benefits.

#### **Alternative 2: Proposed Action**

The proposed action has the potential to affect water quality in the short-term during construction, site preparation, excavation, and work in the water. FEMA expects the proposed work will reduce erosion and sedimentation through stabilizing the embankments and lowering water velocities. The additional bio-retention areas should further reduce contaminants running off into the creek from adjacent properties.

The project will require coverage under the New York State SPDES Stormwater General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001), preparation and implementation of an Erosion and Sedimentation Control Plan, and the requirement for twice weekly construction inspections. The permit conditions also include a 7-day stabilization requirement for exposed soils. The project will require a Section 401 Water Quality Certification Permit from the NYSDEC, and a Section 404 Clean Water Act Permit from the USACE. Both permits will require measures to prevent water quality degradation from the project. The subrecipient will use best management practices (BMP) and incorporate conditions from applicable permits which will minimize impacts. Such measures may include turbidity curtains, temporary soil stabilization, sediment traps, and others as appropriate to the project site and as required by applicable permits. FEMA expects that NYSDEC permitting will require measures to prevent the excavated material to be stored on adjacent land from eroding back into Sauquoit Creek.

FEMA anticipates that the relative size of the project area compared to the rest of the watershed, permitting requirements, and the project design will contribute to improved water quality. FEMA anticipates that adherence to permit requirements and BMPs will limit short-term impacts to minor during construction and until exposed soils are stabilized. In the long-term, FEMA anticipates minor beneficial impacts to water quality, though more substantial improvements should compound with other planned and recent projects in the watershed.



## **5.4 Wetlands**

Executive Order (EO) 11990 Wetlands Management requires Federal agencies to avoid funding activities that directly or indirectly support occupancy, modification, or development of wetlands, whenever there are practicable alternatives, and requires that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. FEMA uses the 8-step decision-making process to evaluate potential impacts on, and mitigate impacts to, wetlands in compliance with EO 11990. This process, like NEPA, requires the evaluation of alternatives prior to funding the action. FEMA's regulations on conducting the 8-step decision-making process are contained in 44 CFR Part 9. The USACE regulates federal wetlands in New York State under the Clean Water Act; NYSDEC regulates state wetlands in New York State under the New York State Freshwater Wetlands Act.

### **5.4.1 Existing Conditions**

FEMA uses the US Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI), state-specific mapping tools and on-site surveys to identify wetlands. The NWI is the only national-level wetland inventory. USFWS and USACE use different criteria to identify wetlands, and there is no national inventory of wetland acreage based on the USACE definition (33 CFR 328.3(c)(4)). Wetlands possess characteristics that are both aquatic and terrestrial, stemming from hydrological connections between wetlands and surface water. They provide stormwater storage and conveyance, groundwater recharge, soil development and transport, water quality improvement, nutrient regulation, and habitat support for plants and animals.

According to the NWI, there are mapped federal wetlands along Sauquoit Creek in the project area. These riparian wetlands are hydrologically connected to the stream flow of Sauquoit Creek. There are no mapped, NYSDEC wetlands or regulated adjacent areas within the project area. The nearest state regulated wetland is located approximately 2,000 linear feet west northwest of the project site at its nearest point. A residential development, a four-lane thoroughfare, and a commercial shopping plaza are between the nearest state regulated wetland and the project site. The existing trail is located in upland areas higher in elevation than the stream wetlands.

### **5.4.2 Potential Impacts**

#### **Alternative 1: No Action**

The no-action alternative would have no direct impact to wetlands but would leave the trail system and adjacent facilities vulnerable to flood risk in the absence of repair or mitigation. Unstable embankments would be more vulnerable to further erosion or failure during subsequent storms. Sedimentation may impact downstream wetlands by depositing fill in them and potentially degrading their healthy functions. FEMA anticipates that this alternative would have minor to moderate long-term impact.

## **Alternative 2: Proposed Action**

This work will require authorization from USACE and will be subject to their permit conditions and mitigation requirements. FEMA, in coordination with USACE, anticipates the USACE will issue a Nationwide Permit; adherence to federal permit conditions will mitigate impacts to wetlands.

The project will include the creation of up to five acres of new floodplain wetlands, which will function as a natural stormwater retention area and will slow the velocity and flow of water in this stream reach, thus reducing the existing erosion and sloughing which can negatively affect downstream wetlands due to sediment transport and deposition. The disposal locations for material to be excavated are outside of mapped wetlands. FEMA anticipates that USACE and NYSDEC permitting will include measures to minimize potential for long- and short-term erosion from the disposed material back into Sauquoit Creek.

During construction, the project will have a short term, moderate direct impact to the riparian wetlands along the streambanks. Impacts will be reduced and mitigated via permit conditions and use of BMPs. Following project completion, FEMA anticipates a moderate long-term direct positive impact by the creation of new floodplain wetlands. There will be positive indirect impacts to offsite wetlands by reducing sediment load in the creek.

## **5.5 Floodplain**

Executive Order 11988, Floodplain Management, requires that a federal agency avoid direct or indirect support of development within the floodplain whenever there is a practicable alternative. FEMA uses Flood Insurance Rate Maps to identify the floodplains for the National Flood Insurance Program. Federal actions within the 100-year floodplain require the federal agency to conduct an 8-step process. This process, like NEPA, requires the evaluation of alternatives prior to finding the action. FEMA's regulations on conducting the 8-step process are contained in 44 CFR Part 9.

### **5.5.1 Existing Conditions**

The project is located completely within the mapped 100-year and 500-year floodplain of Sauquoit Creek. The 8-step process evaluation is in Appendix A.

### **5.5.2 Potential Impacts**

## **Alternative 1: No Action**

There would be no direct impacts to the existing Sauquoit Creek floodplain from the no action alternative. However, based on the site's history of flood events increasing in severity over time, FEMA anticipates additional flooding events will continue to occur and cause additional damage

to properties in the project area and downstream. The no action alternative would result in moderate to major negative indirect impacts to the immediate vicinity and downstream communities between this reach of the Sauquoit Creek and the Mohawk River due to continued repetitive flood losses sustained in this area, threatening life and property.

### **Alternative 2: Proposed Action**

FEMA anticipates short-term minor impacts to floodplains during construction as equipment and material occupy and conduct work within the floodplain. The disposal locations for excavated materials are adjacent to the Sauquoit Creek floodplain (Appendix B Figure C); the subrecipient must not dispose excavated material in the floodplain. FEMA anticipates that USACE and NYSDEC permitting will include requirements to minimize erosion of disposed material back into the creek or the floodplain.

The project will increase available floodplain storage by removing approximately 60,000 cubic yards of soil over approximately five acres. This excavated and reshaped area will be replanted with native or state-approved vegetation following construction. The SCBIC report concluded that excavation of the proposed series of five flood benches will reduce water surface elevation by up to 3 feet within the project area. This flood elevation reduction will result in reduced downstream flood flow, elevations, and velocities which is a minor to moderate beneficial impact to reduce flooding and associated flood risks to the Town of New Hartford and downstream communities.

## **5.6 Threatened and Endangered Species**

The Endangered Species Act (ESA) of 1973 provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. The lead Federal agencies for implementing ESA are the USFWS and the U.S. National Oceanic and Atmospheric Administration National Marine Fisheries Service. The law requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat of such species. The law also prohibits any action that “take” of any listed species of endangered fish or wildlife. A “take” under ESA are actions that harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempts to conduct such actions.

### **5.6.1 Existing Conditions**

FEMA staff conducted a database search on July 25, 2023, for all federally designated threatened or endangered species, candidate species, and otherwise protected species through the USFWS Information for Planning and Consultation (IPaC) online tool. In addition, FEMA consulted the NYSDEC Natural Heritage Program data to identify any state listed rare wildlife species or wildlife habitat in the project area. The IPaC system reported one federal threatened species, the northern long-eared bat (*Myotis septentrionalis*) (NLEB), as potentially present in the general area. Critical habitat has not been designated for any species in the project area. The NYSDEC data had

no records of state or federal endangered, threatened, or rare species or habitat in the project area. The range of the monarch butterfly includes New York state; while it is not a listed species, it is a candidate species for listing by USFWS.

### **5.6.2 Potential Impacts**

#### **Alternative 1: No Action**

The no action alternative would not modify the project area in any way. Therefore, the no action alternative would have no direct or indirect impacts on any federally or state listed threatened or endangered species or critical habitat.

#### **Alternative 2: Proposed Action**

FEMA used the IPaC's NLEB Rangewide Determination Key to evaluate the project's potential to affect the NLEB. Based on this information FEMA has determined that the proposed action will have "no effect" on the endangered NLEB. As a result, no consultation with USFWS pursuant to Section 7(a)(2) of the ESA is required. FEMA encourages the subrecipient to plant milkweed and flowering plants that monarch butterflies rely on as part of revegetation along with any native plants recommended by state or local guidelines. Based on IPaC, FEMA did not identify listed aquatic protected species within the Sauquoit Creek channel downstream to the Mohawk River. FEMA anticipates no direct impact to listed threatened or endangered species and negligible to no indirect long-term beneficial impacts through improving the health of the floodplain and wetlands.

### **5.7 Cultural Resources**

As a federal agency, FEMA must consider the potential effects that actions it funds may have on cultural resources prior to engaging in any undertaking. This obligation is defined in Section 106 of the National Historic Preservation Act (NHPA), as amended, and implemented by 36 CFR Part 800. The NHPA of 1966 defines a historic property as "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register of Historic Places (NRHP)." Only those cultural resources determined to be potentially significant under NHPA are subject to protection from adverse impacts resulting from an undertaking. To be considered significant, a cultural resource must meet one or more of the criteria established by the National Park Service that would make that resource eligible for inclusion in the NRHP, as found at 36 CFR Part 60. The term "eligible for inclusion in the NRHP" includes all properties that meet the NRHP listing criteria. Sites not yet evaluated may be considered potentially eligible for inclusion in the NRHP and, as such, are afforded the same regulatory consideration as nominated properties. Pursuant to 36 CFR 800.4(a)(1), the Area of Potential Effects (APE) is defined as the geographic area(s) within which the undertaking may directly or indirectly affect cultural resources. Within the APE, FEMA evaluated impacts on cultural resources for both above ground standing structures and prehistoric or historic archaeological resources.

FEMA Policy #101-002-02, “FEMA Tribal Consultation Policy,” dated July 3, 2019, provides guidance concerning cooperation and consultations with Tribal Nations on issues relating to protection of environmental and cultural resources. This guidance was prepared to comply with consultation requirements issued in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.”

### **5.7.1 Existing Conditions**

The New York State Historic Preservation Officer (NYSHPO) maintains a regularly updated list of New York’s historic properties that are subject to NYSHPO and federal agency review. This list is accessible through the NYSHPO-maintained Cultural Resource Information System (CRIS). FEMA evaluated the proposed action’s potential effects on cultural resources in compliance with Section 106 of NHPA through a CRIS review, consultation with NYSHPO, Oneida Indian Nation, Saint Regis Mohawk Tribe, and completion of a geomorphological study.

FEMA sent information regarding the proposed action, copies of the geomorphological study, and FEMA’s determination of effect to the following Tribal Nations requesting their concurrence:

- Oneida Indian Nation on August 16, 2023;
- Saint Regis Mohawk Tribe on August 16, 2023.

### **Architectural Resources**

The APE for standing structures for the proposed action is confined to the easterly stream bank of Sauquoit Creek between New Hartford Street and Burrstone Road. FEMA reviewed CRIS data identifying no historic properties listed on the NRHP or previously determined NRHP eligible properties in the APE. FEMA evaluated the existing structures within the APE, a limestone retaining wall and the Rayhill Memorial Recreational Trail and determined that there are no structures 45 years of age or older in the APE. Furthermore, the existing structures are not a significant example of a type, style, or method of construction, nor do they have any association with important events or significant persons throughout history.

### **Archaeological Resources**

The APE for potential archaeological resources is limited to those areas where the project would directly impact or disturb the ground surface by excavation and other construction activities.

The subrecipient’s archaeological consultant prepared a geomorphological study to determine the potential for the presence of intact and in-place cultural material in the APE. That study consisted of background research, a pedestrian survey of the entire APE, excavation of five hand-dug, bucket-auger test pits and the scraping and analysis of two exposed bank cuts along the edge of Sauquoit Creek. The geomorphological study concluded that the APE has been subjected to extensive disturbance as a result of mill race construction and subsequent filling, railroad construction, creation of a flood control levee, use as a Department of Transportation facility, and

yard waste composting facility. Due to the degree of past disturbance and low potential for intact cultural sites no further archaeological testing is warranted.

## **Potential Impacts**

### **Alternative 1: No Action**

The No Action Alternative would result in no ground disturbance. NYSHPO concurred that there are no historic properties within the project area; therefore, under the No Action Alternative continued flooding and erosion in the APE would have no impact to historic standing structures or archaeological resources.

### **Alternative 2: Proposed Action**

FEMA determined the Proposed Action would result in “No Historic Properties Affected.” NYSHPO concurred in a letter dated August 22, 2023. Similarly, the Oneida Indian Nation concurred with FEMA’s finding on September 13, 2023; the St Regis Mohawk Nation has not replied to FEMA’s consultation as of the completion of this environmental assessment. Appendix A includes the correspondence with NYSHPO.

## **5.8 Environmental Justice**

Since 1994, FEMA incorporated environmental justice from Executive Order 12898 into agency policy and with guidance from EPA to address disproportionately high and adverse impacts. Since January 2021, there have been a series of executive orders and new language in legislation leading agencies, including FEMA, to assess programs and policies to integrate equity into agency operations. FEMA established a series of actions to reduce barriers to access grant programs in the February 2022 Equity Action Plan. The Hazard Mitigation Grant Program and Policy Guide was updated in March 2023 and an update to the Public Assistance Program and Policy Guide is pending release for public comment as of the writing of this EA. FEMA established the Building Resilient Infrastructure and Communities program with the intent that at least 40% of the overall benefits support disadvantaged communities; FEMA’s Flood Mitigation Assistance Program is also piloting the Justice40 initiative from EO 14008.

Executive Order 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government in January 2021 introduced definitions of “equity” and “underserved communities.” Executive Order 14082 Revitalizing our Nation’s Commitment to Environmental Justice for All signed April 2023 further refined the definition of “environmental justice” as;

“[T]he just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, Tribal affiliation, or disability, in agency decision-making and other Federal activities that affect human health and the environment so that people: (i) are fully

protected from disproportionate and adverse human health and environmental effects (including risks) and hazards, including those related to climate change, the cumulative impacts of environmental and other burdens, and the legacy of racism or other structural or systemic barriers; and (ii) have equitable access to a healthy, sustainable, and resilient environment in which to live, play, work, learn, grow, worship, and engage in cultural and subsistence practices."

FEMA follows EPA's guidance for EJScreen in identifying and evaluating potential impacts to disadvantaged communities, unless there is state data representing best available information. FEMA and EPA EJScreen guidance considers People of Color, low income, or both with populations at, or above the 50th percentile as the key socioeconomic indicators. If one of these populations exceeds this threshold, then the guidance considers environmental indicators at or exceeding the 80th percentile; these thresholds compare the project area to the rest of the state, commonwealth, or territory.

### **5.8.1 Existing Conditions**

According to the EPA's EJScreen Community Report, the project area is within a disadvantaged community defined by Justice40 and under the Inflation Reduction Act. Within the project area and one mile buffer are low-income and over age 64 populations and households with limited English-speaking members. The area also meets the 50th percentile for populations with low life expectancy. Proximity to RMP facilities is the only environmental index that exceeds the 80th percentile however the next highest is for toxic releases to the air. The project area with buffer also shows heart disease and cancer indices in the 80th or higher percentiles. Downstream from the project area near the outfall of Sauquoit Creek into the Mohawk River are Census Block Groups with unemployment rates and children under 5 years of age at or above the 80th percentile each. See Appendix B Figures K and L for select images of demographic indices near the project area taken from EJScreen.

### **5.8.2 Potential Impacts**

#### **Alternative 1: No Action**

Under the no action alternative, FEMA anticipates potentially minor indirect impact to disadvantaged or burdened communities continued closure of the damaged trail. However, evidenced by the 2022 site visit, people continued to use the corridor the damaged Rayhill Trail to pass through the area. Indirectly without the repairs, local users lack a safe recreation trail for exercise and access in an area with few non-highway routes. New Hartford Street is the closest local road access, but it does not have dedicated sidewalks. As a regional trail, FEMA anticipates moderate indirect impacts to potentially disadvantaged or burdened populations from on-going closure of the trail and for potential on-going flood risk to local communities.

## **Alternative 2: Proposed Action**

FEMA anticipates no direct impacts to disadvantaged or burdened communities from construction during construction. FEMA anticipates that indirect negligible to minor negative impacts are predominantly related to construction noise, equipment exhaust, and moving equipment to and from the site. To minimize indirect air quality and noise impacts in Utica, the subrecipient should avoid movement of heavy equipment along Genesee Street to the extent practicable. FEMA anticipates that storing excavated material on adjacent properties minimizes impacts of trucking material to farther disposal locations, reducing noise, heavy truck exhaust, and traffic impacts to the area. Following construction, FEMA anticipates long-term moderate beneficial impacts from restoring the trail as a community amenity for public health and safety, recreation, and safe local access. The indirect long-term benefits also include reduced nuisance flooding, trail closures in New Hartford, and reduced flood risk to populations along the project area and downstream. Restoring the site will also address repeat disruptions to local economy and the costs associated with flooding and erosion to private property.

### **5.9 Public Services and Infrastructure**

Public services and utilities include emergency fire, medical, and law enforcement services and utility infrastructure.

#### **5.9.1 Existing Conditions**

The subrecipient reports that several utilities pass through or are close to the project area including sanitary and storm sewer lines, a high-pressure natural gas pipeline, and a National Grid overhead transmission line. The natural gas pipeline runs along the creek on the west side of the site and the storm sewer lines run under the damaged trail to outfalls into the creek. The town operates an uncovered yard waste composting site adjacent to the project area. The subrecipient provided a picture from January 2024 showing additional erosion exposing a stormwater outfall and an unidentified polyvinyl chloride pipe from the embankment (Appendix B Figure M).

#### **5.9.2 Potential Impacts**

### **Alternative 1: No Action**

Under the no action alternative, FEMA would not provide funds to stabilize or repair the trail or embankment failures. FEMA anticipates that continued erosion will expose more underground utilities and potentially require National Grid to relocate overhead powerlines. Debris from the site would continue to impact infrastructure downstream and presenting risk to human health and safety and potentially increasing need for emergency responses. FEMA anticipates minor to moderate indirect impacts by taking no action to repair the site.



## **Alternative 2: Proposed Action**

The proposed project will require relocation of approximately 1,500 feet of sanitary sewer; existing pipe will be removed and disposed of according to local and state requirements. The subrecipient is responsible for coordinating construction with National Grid to minimize impacts to their infrastructure. The subrecipient is responsible for protecting infrastructure not included in the project scope to minimize impacts or disruptions to services and to protect workers and public safety. FEMA anticipates no more than adverse short-term minor direct impacts to services or utilities during construction and no indirect impacts once work is complete.

### **5.10 Climate Change**

The CEQ recommends federal agencies consider climate change in NEPA evaluations in guidance issued, revised, rescinded, and reissued since 2010. The public comment period for new rules for implementing measures to evaluate and address climate change closed March 10, 2023. FEMA anticipates that there will be agency-specific guidance for project evaluations once finalized and once DHS develops guidance for sub-components, like FEMA. In the absence of such, this PEA considers general trends and impacts as recommended by interim guidance.

#### **5.10.1 Existing Conditions**

The Intergovernmental Panel on Climate Change (IPCC), Sixth Assessment report expects that temperature change, in mean and extremes, will increase and relative sea level rise will continue with high confidence. The IPCC report anticipates increases in mean and extreme precipitation are very likely and that river flooding will increase. The SCBIC's Stream Sediment and Debris Management Plan projects that long-term peak water surface elevation increases related to climate change along Sauquoit Creek to reach up to 3.5 feet in New Hartford regardless of interventions. Though it also estimates that all parts of the Sauquoit Creek will increase under the future conditions model; the highest projections are over five feet downstream in Whitestown and Whitesboro. The OCHMP considers multiple strategies to reducing risk associated with climate change as well as more traditional hazards like heavy precipitation and riverine flooding.

#### **5.10.2 Potential Impacts**

### **Alternative 1: No Action**

Under the no action alternative, FEMA would not provide funding to repair damages to the trail and embankment. The on-going erosion would continue, and the site would be at increasing risk of further damage in future storms. This alternative would conflict with multiple local and area flood and other risk reduction goals. FEMA anticipates that no action would not directly contribute to climate change but would result in long-term moderate to major impacts indirectly as precipitation increases in New York.

## **Alternative 2: Proposed Action**

The proposed action would stabilize the damaged site and improve the resiliency to future storms. FEMA anticipates negligible impacts to climate change in the short-term during construction and beneficial long-term minor impacts to local climate resilience associated with this project. The project incorporates nature-based design including in-stream stone structures, flood benches, and native plantings work to slow the flow of the creek reducing erosion. Alternative 2 supports and appears consistent with climate change goals in the OCHMP, the SCBIC Stream Sedimentation and Debris Management Plan, and other risk reduction efforts.

### **5.11 Cumulative Impacts**

In accordance with NEPA, this PEA considers the overall cumulative impacts of known or reasonably foreseeable actions that are related in terms of time or proximity. Cumulative impacts are incremental and when combined with past, present, and reasonably foreseeable actions can have individually minor but collectively significant actions over time. In addition, the CWA, CAA, Section 106 of the NHPA, and Section 7 of the ESA require an evaluation of cumulative impacts as the alternatives apply to their respective resources. FEMA anticipates no cumulative impacts of this proposed project to air quality, historic, or archaeological resources with other known projects in the project area (Appendix B Figure D).

FEMA understands that the CSX Bridge and Whitestown Dunham Park floodplain projects downstream from the proposed project are complete; these are projects two and one noted in the Background section, respectively. This project should help alleviate sedimentation and flooding downstream, improving the performance of these two projects. The subrecipient will account for the Rayhill Memorial Trail project in the design of the Clinton Street bridge, project four noted in the Background; FEMA anticipates that when funding sources are identified, further environmental review and permitting will take place at that time. FEMA anticipates that NRCS will conduct NEPA review under their authorities for project three noted in the Background. FEMA understands that the projected climate related water surface elevation increases will exceed the water surface elevations reductions at different proposed project locations along the creek. Successful completion of the different proposed projects in conjunction with those completed should off-set the increases SCBIC modeled. For proposed projects upstream from the trail, FEMA anticipates that entities providing funding will conduct review and permitting consistent with state and local goals.

The proposed project supports the Mohawk River Basin Action Agenda with it's goals; to improve habitat throughout the watershed, water quality through reducing contributions to debris and sedimentation in the creek, and reducing flood risk by restoring natural floodplain functions. The project may support additional aspects of the Mohawk River Basin Action Agenda as well. The proposed project aligns with goals in the OCHMP, many addressing flooding impacts and storm debris affecting infrastructure inducing additional flooding.

While not listed yet, the USFWS proposed in July 2023 to list the Green floater freshwater mussel as a threatened species; the Sauquoit Creek is part of its current range. The Green floater prefers good water quality with low to moderate flow and is susceptible to high flows like during flooding events; surveys in New York found they prefer gravel creek beds. The proposed project and other planned projects along the creek noted in the Background should alleviate some stressors on local populations of the mussel.

## **6.0 PROJECT REQUIREMENTS**

The subrecipient is responsible for obtaining all applicable federal, state, and local permits and other authorizations for project implementation prior to construction and adherence to all permit conditions. Any substantive change to the approved scope of work will require re-evaluations by FEMA for compliance with NEPA and other laws and EOs. The subrecipient must also adhere to the following conditions during project implementations and consider the below conservation recommendations. Failure to comply with grant conditions may jeopardize Federal funds:

1. The subrecipient is responsible for completing state and local environmental and land-use reviews in accordance with state and local regulations.
2. Excavated soil and waste materials must be managed and disposed of in accordance with applicable federal, state, and local regulations. In the event of discovery of soil or water contaminants exceeding reportable levels, the subrecipient and its construction contractor(s) will follow applicable federal, state, and local protocol to report and respond to the contaminants.
3. The subrecipient is responsible for ensuring that excavated material to be disposed or stored adjacent to the project area is not placed in the floodplain and must be stabilized to limit eroding back into Sauquoit Creek.
4. The work may be authorized by USACE permits. The subrecipient is responsible for obtaining all necessary permits and complying with all conditions of the permit including but not limited to notification and signature requirements to insure validation of permits.
5. The subrecipient may be required to obtain a New York SPDES permit prior to construction. The subrecipient is responsible for contractor compliance with any soil stabilization, inspection, and other requirements of erosion and sedimentation plans.
6. If unexpected archaeological resources are encountered during construction, the subrecipient must stop work and notify the DHSES and FEMA. FEMA will determine what additional consultation with the SHPO and Tribal Nations are required, and what additional conditions or avoidance measures may apply.

7. The subrecipient is responsible for following local and state requirements for locating underground utilities and coordinating planned construction with National Grid to protect or relocate overhead lines.

## **6.1 Recommendations**

FEMA recommends the following measures to limit potential impacts that do not otherwise have a regulatory requirement or that are dependent on site conditions and construction methodology;

1. FEMA recommends that the subrecipient restore disturbed construction areas of the site with native seed and/or plant species to minimize soil erosion and sedimentation, as well as enhance environmental habitat quality of project area. FEMA also recommends that disturbed soil areas be planted as soon as practicable after exposure to avoid or minimize growth of undesired and potentially invasive plant species. Local landscape plant nurseries and soil conservation offices can assist with identification of suitable native plants for site location and type.
2. FEMA recommends that the subrecipient and contractors use construction best management practices appropriate to the site conditions to limit adverse impacts.

## **7.0 AGENCY COORDINATION AND PUBLIC INVOLVEMENT**

This EA is available for agency and public review and comment for a period of 30 days. The public information process will include a public notice with information about the proposed action in the Rome Sentinel. The EA is available for download at <https://www.fema.gov/emergency-managers/practitioners/environmental-historic/nepa-repository> and at <https://www.townofnewhartfordny.gov/>; FEMA shared this EA with the Sauquoit Creek Basin Intermunicipal Commission through the Oneida County Planning Department.

A hard copy of the EA will be available for review at the following locations:

Town of New Hartford – Town Clerk’s Office  
Town of New Hartford at “The Orchards”  
8635 Clinton Street, New York 13413

Interested parties may request an electronic copy of the EA by emailing FEMA at [FEMAR2COMMENT@fema.dhs.gov](mailto:FEMAR2COMMENT@fema.dhs.gov). This EA reflects the evaluation and assessment of the federal government, the decision maker for the federal action; however, FEMA will take into consideration comments submitted during the public review period. The public is invited to submit written comments by emailing [FEMAR2COMMENT@fema.dhs.gov](mailto:FEMAR2COMMENT@fema.dhs.gov) or via mail to:

Federal Emergency Management Agency  
Attn: EHP  
Region 2, Leo O'Brien Building  
11A Clinton Avenue, Suite 600  
Albany, New York 12207-2335.

If FEMA receives no substantive comments from the public and/or agency reviewers, FEMA will adopt the EA as final, and will issue a Finding of No Significant Effect (FONSI). If FEMA receives substantive comments, it will determine whether to revise and issue a Final EA, address comments in a FONSI, or select the no action alternative.

## 8.0 LIST OF PREPARERS

FEMA Region 2, New York City and Albany, NY offices

New York State Department of Homeland Security and Emergency Services, Albany, NY

Dunn & Sgromo Engineers, East Syracuse, NY

## 9.0 SUMMARY OF IMPACTS

Section	Area of Evaluation	No Action	Proposed Action
5.1	Geology	<i>No impact</i>	<i>No impact</i>
5.1	Topography and Soils	<i>Minor to moderate</i>	<i>Minor short-term, long-term minor beneficial</i>
5.2	Air Quality	<i>No direct impact, negligible to minor indirect</i>	<i>Minor short-term, no long-term impact</i>
5.3	Water Quality	<i>Moderate impact</i>	<i>Short-term minor, long-term minor beneficial</i>
5.4	Wetlands	<i>No direct impact, long-term minor to moderate</i>	<i>Short-term moderate, long-term moderate beneficial</i>
5.5	Floodplain	<i>No direct, moderate to major indirect</i>	<i>Short-term minor, Long-term minor to moderate beneficial</i>
5.6	Threatened and Endangered Species	<i>No impact</i>	<i>No direct impact, negligible to no long-term impact</i>
5.7	Cultural Resources	<i>No impact</i>	<i>No impact</i>
5.8	Environmental Justice	<i>Minor indirect, long-term moderate</i>	<i>Minor indirect impact, negligible to minor impact, long-term moderate beneficial</i>
5.9	Public Services and Infrastructure	<i>Minor to moderate</i>	<i>Minor direct and no long-term direct impacts</i>
5.10	Climate Change	<i>No direct, long-term moderate to major</i>	<i>Negligible short-term, long-term minor beneficial</i>

## **10.0 REFERENCES**

Dunn & Sgromo Engineers, PLLC, FEMA Flood Damage Assessment and Repair Report for Rayhill Memorial Trail, December 2021.

Dunn & Sgromo Engineers, PLLC, Revised FEMA Flood Damage Assessment and Repair Report for Rayhill Memorial Trail, December 28, 2022.

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## **11.0 APPENDICES**

### **FEMA 8-step Process**

#### **Town of New Hartford, Oneida County**

#### **Rayhill Trailway Project**

#### **FEMA Grants Manager Project No. 132710, PA-02-NY-4472-PW-00801**

#### **Executive Order 11988 – FLOODPLAIN MANAGEMENT**

#### **Executive Order 11990 – WETLAND PROTECTION**

**Project:** The Town of New Hartford (the Subrecipient) proposes to restore the function of the damaged Rayhill Memorial Trail along Sauquoit Creek and to provide additional floodplain storage to reduce the future flooding risks to adjacent and downstream properties (43.08470, -75.29290 to 43.09600, -75.29760). The 15-acre project area along the east bank of Sauquoit Creek, between Clinton Road and the Rayhill Trail Bridge from New Hartford Road, consists mainly of undeveloped Sauquoit Creek floodplain upland area, and Town and State Highway Department storage areas, traversed by the paved recreation trail. Part of the restoration includes, where possible, the relocation of the trail away from the stream channel (3,500 linear feet of asphalt trail), the excavation of existing embankment material (75,000 cubic yards) to create additional floodplain resilience and storage (12 acres of floodplain re-vegetation), bank stabilization using a combination of sheet piles (12,000 square feet will be used to maintain bank stability when space constraints do not allow use of bio-stabilization methods), 1,100 cubic yards of in-stream rock structures, and 3,500 square yards of limestone block with live stakes. Additionally, 1,500 feet of sanitary sewer line will be relocated.

**STEP 1 - Determine whether the proposed actions are located in a wetland and or the 100-year floodplain (500-year floodplain for critical action [44 CFR 9.4]) or whether they have the potential to affect or be affected by a floodplain or a wetland (44 CFR 9.7).**

The project area is located entirely within Flood Insurance Rate Map panels 36065C0731F and 36065C0733F, effective on 09/27/2013 in flood Zone AE (el. 469 feet to 487 feet). Sauquoit Creek is mapped as a wetland classified as R3UBH and R5UBH according to the National Wetlands Inventory Mapper.

#### **Wetland Classification code: R3UBH**

- **Riverine (R):** The Riverine System includes all wetlands and deepwater habitats contained within a channel, with two exceptions: (1) wetlands dominated by trees, shrubs, persistent emergents, emergent mosses, or lichens, and (2) habitats with water containing ocean-derived salts of 0.5 ppt or greater. A channel is an open conduit either naturally or

artificially created which periodically or continuously contains moving water, or which forms a connecting link between two bodies of standing water.

- Upper Perennial (3): This Subsystem is characterized by a high gradient. There is no tidal influence, and some water flows all year, except during years of extreme drought. The substrate consists of rock, cobbles, or gravel with occasional patches of sand. The natural dissolved oxygen concentration is normally near saturation. The fauna is characteristic of running water, and there are few or no planktonic forms. The gradient is high compared with that of the Lower Perennial Subsystem, and there is very little floodplain development.
- Unknown Perennial (5): This Subsystem designation was created specifically for use when the distinction between lower perennial, upper perennial, and tidal cannot be made from aerial photography and no data is available.
- Unconsolidated Bottom (UB): Includes all wetlands and deepwater habitats with at least 25% cover of particles smaller than stones (less than 6-7 cm), and a vegetative cover less than 30%.
- Permanently Flooded (H): Water covers the substrate throughout the year in all years.

**STEP 2 - Notify the public at the earliest possible time of the intent to carry out an action in a floodplain or wetland and involve the affected and interested public in the decision-making process (see 44 CFR 9.8).**

FEMA published a Cumulative Initial Public Notice in the Oneida Daily Dispatch on 03/05/2020. FEMA will publish an additional public notice incorporating this 8-step evaluation for the Environmental Assessment public comment period evaluating this project.

**STEP 3 - Identify and evaluate practicable alternatives to locating the proposed action in a floodplain or wetland (including alternative sites, actions, and the “No Action” option) [see 44 CFR 9.9].** If a practicable alternative exists outside of the floodplain or wetland, FEMA must locate the action at the alternative site.

A group of agencies, organizations, and municipalities, including the Town of New Hartford, formed the Sauquoit Creek Basin Intermunicipal Commission (SCBIC) in 2004 to look for ways to reduce flooding and its associated damages along the 26-mile Sauquoit Creek and the surrounding basin. The primary purpose of the SCBIC is to provide a structure to address issues related to watershed management, flooding, and stormwater on a regional basis. The SCBIC, with local, state and federal partners, was formed to develop and support projects, such as this, to address flooding in the highly visible commercial and transportation corridor of Sauquoit Creek.

The SBIC published a Stream Sediment and Debris Management Plan for Sauquoit Creek in August of 2021. In this report, the SBIC states, “The objective of this document is to provide an effective method to identify areas within the Sauquoit Creek basin where sediment and debris build-up contribute to flooding risk, and to collect the information necessary to develop a management plan to reduce those risks. A primary goal will be to reduce flooding by lowering surface water elevations caused by undersized infrastructure, excessive deposition and debris,



uncontrolled sediment sources, head cutting or downcutting of the channel, and loss of natural floodplains. Many of these situations are a result of basin-wide conditions related to changes in land use, landcover and runoff, stormwater management, upstream sediment sources, upstream woody debris, and stream bed and bank erosion.”<sup>2</sup> The most severe flood-related damages on Sauquoit Creek have occurred within the area of dense commercial land uses, primarily in the Villages of Whitesboro and New York Mills. According to the FEMA FIS, significant floods occurred on Sauquoit Creek at least eighteen times between 1910 and 2019. The October 31, 2019, flood event, DR 4472-NY, caused substantial erosion along the bank of the Sauquoit Creek, encroaching on Rayhill Memorial Trail and damaging existing trail infrastructure due to the trail’s proximity to the top of streambank. Rayhill Memorial Trail partially collapsed and has been impassible since this flooding event.

In their August 2021 report, the SCBIC reviewed hydrologic and hydraulic modeling, sediment transport model simulations, stakeholder input, previous studies and reports, and historical accounts to evaluate various non-structural and soft-structural flood damage reduction measures for this reach of Sauquoit Creek, identified as “Zone G: New York Mills/New Hartford” in the report.

After comparing various streambank stabilization measures and structural engineering strategies, the SCBIC concluded that based on the sediment transport analysis, riprap and live stakes, and brush mattresses, live fascines, and root wad and boulders would be the most appropriate non-structural streambank stabilization strategies for this reach. Based on feedback from NYSDEC during permitting, the subrecipient is removing root wads from the project design. The report also proposed soft structural engineering strategies for this zone, including construction of five flood benches.

**Alternative 1: No Action** – The current damaged condition of Rayhill Memorial Trail represents a hazard to the public, and therefore, has remained closed since the flood event. Implementation of the no action alternative would permanently prohibit access to the trail corridor from New Hartford Street to Clinton Street. The probability of additional flooding events in this area would remain static, as no flood benches would be created in the No Action alternative. As of January 2024, the subrecipient confirmed to FEMA that no emergency stabilization measures have been taken at the project site beyond limiting access. No action on this project would result in continued and further bank failure and uncontrolled sediment and debris release into the channel and downstream.

**Alternative 2: Proposed Action** -The Project will relocate the damaged Rayhill Memorial Trail away from the eroding banks of Sauquoit Creek within the existing corridor. The project will

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<sup>2</sup> Ramboll 2021

construct five flood benches to create approximately 60,000 cubic yards of new floodplain storage on land owned by the Town of New Hartford and the NYSDOT. In areas where the stream cross section has been widened from the flood event, the project will utilize measures such as stone blocking, live willow stakes, and sheet pile to stabilize the streambank. The project also includes removal of gravel bars, accumulated debris, and flow restrictions within the flood damaged areas. Approximately 11,000 cubic yards of accumulated sediment, mostly consisting of high-quality washed gravel and river stones, will be excavated to re-create the pre-flood stream channel morphology.

### **Alternatives Considered and Dismissed**

The Town of New Hartford first considered a project alternative that would restore the damaged sections of the trail at their pre-disturbance location, which would require extensive bank restoration, relocation of Sauquoit Creek back to its original alignment, and substantial use of sheet piling at locations where the trail is close to the stream bank. However, both the NYSDEC and USACE determined they would not be able to issue permits for this alternative. Both regulatory agencies recommended the Town reduce the linear footage of sheet pile proposed for bank stabilization and consider incorporating a less ecologically impactful alternative to sheet pile, such as bioengineering measures, where practicable.

### **STEP 4 - Identify the full range of potential direct or indirect impacts occupancy or modification of floodplains and wetlands and the potential direct and indirect support of floodplain and wetland development that could result from the proposed action (see 44 CFR 9.10).**

**Alternative 1: No Action** – The no action alternative will result in the permanent closure of the Rayhill Memorial Trail in this reach of the creek and would result in discontinuous pedestrian access to the community, resulting in socioeconomic loss of this recreation and transportation resource. During a site visit in October of 2022, FEMA observed evidence of a footpath created near the very edge of the streambank, where the trail had eroded. The community is still using this route despite the obvious safety risks associated with walking so close to the bank edge. These safety risks will likely continue and worsen if the no action alternative is implemented; regardless of previous closure of the trail due to damage, the community appears driven to circumvent barriers and proceed along this route.

Since the storm event in October of 2019, the unstable streambank has continued to erode, discharging sediment and increasing turbidity of the creek. Portions of the streambank have eroded an additional 10-15 feet between 2019 and 2024, in the direction of the adjacent CSX railroad tracks. The top of bank presently measures only approximately 15 feet from the tracks at its nearest point. Further, continued erosion of the streambank will cause additional sedimentation in this stream reach, which may negatively impact aquatic life and adjacent wetlands.

## **Alternative 2: Proposed Action –**

During construction, FEMA anticipates turbidity from excavation and grading impacts to wetlands and the stream. USACE and NYSDEC permit conditions and BMPs, including erosion and sediment control measures, will minimize, to the extent practicable unavoidable wetland impacts. The proposed project includes establishing new wetland areas in the project area.

Once construction of proposed flood benches and bank stabilization measures are complete, soils and streambanks will be stabilized and armored to minimize future streambank degradation and soil displacement. Disturbed soils will be replanted with vegetation native to the area or as required by state or local requirements.

The SCBIC Stream Sediment and Debris Management Plan notes historic impacts including land development, bank armoring, loss of wetlands, damming, and other human interventions that have affected the health of the watershed. Such activities have changed the channel of Sauquoit Creek since 1950. From 2002 to 2018 the amount of developed land in the Sauquoit Creek watershed has increased nearly 30% (28.8%). This SCBIC plan indicated that naturally sustainable restoration of the historically degraded and disturbed riparian ecosystem in this reach of the creek is critical to reducing flood impacts to the Town of New Hartford and downstream communities. The plan also concluded, based on model simulation results for this reach of the creek, that the proposed series of five flood benches will reduce water surface elevation by up to 3 feet within the project area.<sup>3</sup>

The Oneida Hazard Mitigation Plan and Mohawk River Basin Action Plan identify strategies and goals for other projects to improve the health of the watershed. This proposed project aligns closely with recent projects and planned ones in furtherance of these plans.

**STEP 5 - Minimize the potential adverse impacts and support to or within floodplains and wetlands to be identified under Step # 4, restore and preserve the natural and beneficial values served by floodplains, and preserve and enhance the natural and beneficial values served by wetlands (see 44 CFR 9.11).**

The proposed alternative will stabilize the streambank of the creek to reduce erosion and associated sedimentation and turbidity in the creek and adjacent wetlands, which will restore and preserve beneficial wetland values. Further, the proposed alternative will create approximately 60,000 cubic yards of new floodplain storage, restoring, improving, and preserving the natural and beneficial values served by floodplains. FEMA understands this project to contribute to the goals the county,

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<sup>3</sup> Ramboll 2021

the Sauquoit Creek Commission, and the Mohawk River Basin Program have to reduce flood risk, improve the health of the watershed, and provide quality of life improvements.

**STEP 6 - Re-evaluate the proposed action to determine first, if it is still practicable in light of its exposure to flood hazards, the extent to which it will aggravate the hazards to others and its potential to disrupt floodplain and wetland values, and second, if alternatives preliminarily rejected at Step #3 are practicable in light of the information gained in Steps #4 and #5. FEMA shall not act in a floodplain or wetland unless it is the only practicable location.**

The Proposed Action to address bank failure, sedimentation, and related damages cannot function outside of the immediate floodplain. In light of other projects and planned efforts across the Sauquoit Creek and Mohawk River Basin, the project remains practicable. Further, it supports those efforts to improve the existing conditions of the watershed by reducing flood risk and restoring some wetland and floodplain values.

**STEP 7 - Prepare and provide the public with a finding and public explanation of any final decision that the floodplain or wetland is the only practicable alternative (see 44 CFR 9.12).**

In accordance with 44 CFR 9.12, FEMA will provide additional notice with the notice of availability of the environmental assessment for public review and comment.

**STEP 8 - Review the implementation and post-implementation phases of the proposed action to ensure the requirements of the Order are fully implemented. Oversight responsibility shall be integrated into the existing process.**

Implementation of the project will include applicable permits and any related conditions, requirements from consultations, and those discussed in the environmental assessment as a condition of the grant.

## U.S. Fish and Wildlife IPaC Determination Key



### United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New York Ecological Services Field Office  
3817 Luker Road  
Cortland, NY 13045-9385  
Phone: (607) 753-9334 Fax: (607) 753-9699  
Email Address: [fw5es\\_nyfo@fws.gov](mailto:fw5es_nyfo@fws.gov)



In Reply Refer To:  
Project code: 2023-0108889  
Project Name: [132710] Rayhill Trailway

July 25, 2023

Federal Action Agency (if applicable): Federal Emergency Management Agency

**Subject:** Record of project representative's no effect determination for '[132710] Rayhill Trailway'

Dear Rosa Ramos Alicea:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on July 25, 2023, for '[132710] Rayhill Trailway' (here forward, Project). This project has been assigned Project Code 2023-0108889 and all future correspondence should clearly reference this number. **Please carefully review this letter.**

#### **Ensuring Accurate Determinations When Using IPaC**

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat Rangewide Determination Key (Dkey), invalidates this letter. **Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.**

#### **Determination for the Northern Long-Eared Bat**

Based upon your IPaC submission and a standing analysis, your project has reached the determination of "No Effect" on the northern long-eared bat. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed

action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17).

Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no consultation with the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR §402.13].

#### **Other Species and Critical Habitat that May be Present in the Action Area**

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Monarch Butterfly *Danaus plexippus* Candidate

You may coordinate with our Office to determine whether the Action may affect the animal species listed above and, if so, how they may be affected.

#### **Next Steps**

Based upon your IPaC submission, your project has reached the determination of "No Effect" on the northern long-eared bat. If there are no updates on listed species, no further consultation/coordination for this project is required with respect to the northern long-eared bat. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place to ensure compliance with the Act.

If you have any questions regarding this letter or need further assistance, please contact the New York Ecological Services Field Office and reference Project Code 2023-0108889 associated with this Project.

**Action Description**

You provided to IPaC the following name and description for the subject Action.

**1. Name**

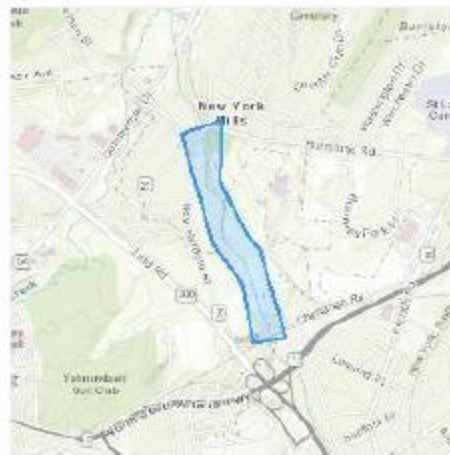
[132710] Rayhill Trailway

**2. Description**

The following description was provided for the project '[132710] Rayhill Trailway':

(43.08470, -75.29290 to 43.09600, -75.29760) The Project will relocate approximately 2,500 linear feet of the damaged Rayhill Memorial Trail away from the eroding banks of Sauquoit Creek and create approximately 60,000 cubic yards of new floodplain storage on 5.5 acres of vacant land owned by the Town of New Hartford, and the NYSDOT. In areas where the stream cross section has been widened from the flood event, the banks will be stabilized at their current location, with stone blocking and live willow stakes. No timing for this project has been determined.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.0911999,-75.29657305684279,14z>



## DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the Endangered northern long-eared bat (*Myotis septentrionalis*). Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

## QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

**Note:** Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

2. The proposed action does not intersect an area where the northern long-eared bat is likely to occur, based on the information available to U.S. Fish and Wildlife Service as of the most recent update of this key. If you have data that indicates that northern long-eared bats are likely to be present in the action area, answer "NO" and continue through the key.

Do you want to make a no effect determination?

Yes



## Consultation between FEMA and SHPO



U.S. Department of Homeland Security  
Federal Emergency Management Agency  
FEMA Region II  
Leo O'Brien Federal Building  
11A Clinton Avenue, Suite 600  
Albany, NY 12207

February 21, 2023

Mr. R. Daniel Mackay  
Deputy Commissioner  
Division of Historic Preservation  
Peebles Island Resource Center  
P.O. Box 189  
Waterford, NY 12188

**FEMA: Section 106 Consultation, FEMA-4472-PW 00801(0)**  
**Recipient/Subrecipient:** NYS Department of Homeland Security and Emergency Services (DHSES)  
Town of New Hartford  
**Undertaking:** Rayhill Trailway  
**Location:** New Hartford St, New York Mills, NY  
(between 43.08470, -75.29290 and 43.09600, -75.29760)

Dear Mr. Mackay,

The Federal Emergency Management Agency (FEMA) will be providing Public Assistance funding authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended, in response to major Disaster Declaration FEMA-DR-4472-NY, dated October 31, 2019. FEMA is initiating Section 106 consultation with the New York State Office of Parks, Recreation and Historic Preservation (SHPO), the Oneida Indian Nation and St. Regis Mohawk Tribe, for the undertaking in accordance with Stipulation I.L.D of FEMA's New York Statewide Programmatic Agreement, executed on November 26, 2019.

### Description of Undertaking

During the incident period, October 31 through November 1, 2019, a storm event produced between 3.2 and 4.2 inches of rain in the Sauquoit Creek watershed in less than 24 hours. This created a 10-year flood event for Sauquoit Creek, which is adjacent to a section of Rayhill Memorial Recreational Trail, a 5-mile long, paved trail that was constructed in this area in 2016. Damages resulted along an approximately 1-mile (5,367 feet) long segment, running from New Hartford Street to Burrstone Road (see *Map Index Figures 1-2*). The flood event severely eroded the sand and gravel stream bank supporting the trail, causing the path and bank reinforcement to be undermined in several locations, and 1,000 feet of trail with 100 feet of chain link fencing to be demolished in three areas. Additionally, 400 feet of limestone block retaining wall was damaged and an estimated 11,000 cubic yards of sediment and rock was deposited within the stream channel reducing the capacity.

The Subrecipient has stated returning the site to pre-disaster condition is not a desired solution since it will not provide for floodplain resilience and the reconstruction would involve filling in sections of the eroded streambank which regulatory agencies generally do not support due to the nature of continued scouring and re-

channelizing of this dynamic stream channel. The Subrecipient and their engineering consultant have come up with a solution to address these issues. They propose to relocate the trail away from the stream channel and excavate the existing embankment material to create additional floodplain resilience and storage. The modifications will also include removal of gravel bars, accumulated debris, and natural flow restrictions within the project areas and installation of two in-stream rock veins to direct stream flow away from eroding banks.

In total the proposed project consists of an estimated:

- 11,250 square feet of sheet piling
- 2,000 square yards of limestone block with live stakes
- 75,000 cubic yards of excavation and disposal offsite
- 2,500 linear feet of asphalt trail
- 1,400 linear feet of 4-inch vinyl-coated chain link fencing
- 12 acres of floodplain re-vegetation
- 1,500 feet of relocated sanitary sewer line
- 800 cubic yards of rock cross veins

#### **Area of Potential Effects**

Pursuant to 36 CFR 800.4(a)(1), the Area of Potential Effects (APE) is defined as the geographic area(s) within which the undertaking may directly or indirectly affect historic resources. For this Undertaking, the APE is limited to the areas within which all construction and ground disturbing activity would be confined and consists of the easterly stream bank of Sauquoit Creek between New Hartford Street to Burrstone Road (see project plans).

#### **Identification and Evaluation**

##### *Architecture*

A review of New York State Office of Parks, Recreation and Historic Preservation (SHPO) Cultural Resources Information System (CRIS) revealed that there are no historic properties listed on the National Register of Historic Places (NRHP) or previously determined NRHP eligible properties in the APE.

One historic property eligible for the NRHP, Upper Mill (Mill No. ¾) at 561 Main Street (USN 06543.000003) is approximately 300' northeast of the APE at its northern terminus. No sight line to the proposed Undertaking is expected for that property. A beam/girder bridge (BIN 2206280) is near the northern terminus of the APE (at Burrstone Road), but it is beyond the project area, and no work is proposed to be completed on it. The bridge was constructed in 1956 and has been determined "Not Eligible" for the NRHP (USN 06543.000108). Near the southern terminus of the APE, another bridge is present, conveying the trail over the creek. The superstructure of the bridge was constructed between 2015 and 2016 partially on the footing of a historic railroad bridge (the middle pier of the current bridge). This railroad bridge was constructed prior to 1907 with the superstructure demolished between 1974 and 2003. Google Earth aerial images show the current bridge's superstructure under construction in 2015-2016. No proposed work will occur to the bridge or the historic pier. Please refer to *Photo Index\_Figures 14-17 & Map Index\_Figures 11-14*.

Structures within the APE consists of a limestone retaining wall and the Rayhill Memorial Recreational Trail. Due to the meandering of the creek, the limestone retaining wall was constructed to stabilize the streambank sometime between 2003 and 2015/2016 (see *Photo Index\_Figures 10-11 & Map Index\_Figures 9-10*). The trail within the APE was completed in 2016 and consists of an asphalt-paved trail. There are no structures 45 years of age or older in the APE and no indication that Criteria Consideration (Exception) G applies.

##### *Archaeology*

A review of SHPO's CRIS website reveals the APE is located within an archaeologically sensitive mapped area. Additionally, there are eleven (11) previously recorded archaeological sites within a one (1) mile radius to the APE. See table 1 below:

Table 1:

Site Name/Site #	Cultural Affiliation	Site Description
Historic Farmstead A9 06515.000033	Historic	1874 Industrial Site
NYSM Site #10174 06515.000126	Unknown prehistoric	Stray find
NYSM Site # 10177 06515.000127	Unknown prehistoric 1907-1950s	Lithic scatter Domestic
Chenango Canal Site (MDS) 06515.000128	Historic	Built 1830s opened 1833
Lock Tenders House Site At Lock 13 (NYSM 10137A) 06515.000130	Historic	Domestic
Chanango Canal Lock 11 Historic Site (NYSM 10377) 06515.000227	1830s	Transportation
Bylsma Site (NYSM # 10172) 06543.000067	1890s	Domestic
Turner Site (NYSM # 10175) 06543.000068	1840s	Domestic
Wilcox Site (NYSM # 10176) 06543.000069	Unknown prehistoric 1830s	Stray find Domestic
H. Smith I Historic Site (SUBi-2734/NYSM 11763) 06543.000095	Structure constructed prior to 1852 and may have been replaced in mid to late 19 <sup>th</sup> century	Domestic
H. Smith II Site (SUBi- 2735/NYSM 11764) 06543.000096	Structure constructed prior to 1852	Domestic

The APE is within the Town of New Hartford in a mixed residential/industrial and recreational area. The topography of the area is fairly level with the APE sitting along the primary and secondary terraces of the Sauquoit Creek, a tributary of the Mohawk. Surrounding the APE to the southwest is the City of Utica and to the north the Town of Whitestown and Village of Whitesboro. A previous cultural resources investigation<sup>1</sup> conducted just south of the APE for the reconstruction of the existing Chenango Road highway identified traces of the former canal's aqueduct abutment still extant under the Chenango Road bridge spanning Sauquoit Creek. Archaeological monitoring conducted for the project posited the Chenango Road likely lies partially on the towpath of the mid-19<sup>th</sup> Century Chenango canal. Historic and topographic maps of the area show no map documented structures within but several adjacent structures along New Hartford Street (see *Map Index Figures 3-7*). The topographic maps from 1895 and 1955 show what previous survey work has interpreted as most likely a mill race, that was diverted from the Sauquoit Creek to the mills north of the APE<sup>2</sup>. Current maps show this area has since been filled in (see *Map Index Figure 8*).

<sup>1</sup> 2001. *Phase IA Literature Review and Archaeological Sensitivity Assessment Chenango Road: French Road to New Hartford Town Line Project City of Utica Oneida County, New York*. Hartgen Archeological Associates, Inc.

<sup>2</sup> Rudler, Michael & Carter, Cynthia Carrington (2009) *Cultural Resource Management Report Rayhill Trail Town of New Hartford and Village of New York Mills Oneida County New York*. New York State Museum State Education Department.

USDA soils are depicted as a combination of Wakeville silt loam, occasionally flooded, Hamlin silt loam and Udorthents, smoothed. Wakeville silt loam and Hamlin silt loam are very deep, nearly level, somewhat poorly drained soils on flood plains adjacent to small streams and rivers that may contain deeply buried cultural deposits. Udorthents are very deep, nearly level to strongly sloping, moderately well drained areas that are the result of cutting and filling during canal construction, gravel mining, or other construction activities. Most areas have been smoothed or leveled to restore a more natural appearance.

The project will entail removing fill to create new floodplain benches. Although the majority of bench construction will be located within the existing trail corridor, the excavation will exceed the limits of previous disturbance (2 feet) and will likely reach native soils (11 feet deep for floodplain bench creation). See Page 7 of preliminary plans.

The APE along the flood plain is considered an area of high archaeological sensitivity. Due to the majority of the APE lying in undisturbed soils adjacent to freshwater and previously recorded archaeological sites, FEMA considers the APE favorable for the presence of archaeological resources.

#### **Determination of Effects**

Based on the aforementioned identification and evaluation, it is FEMA's determination that further identification and evaluation efforts are necessary in order to assess the project effects on historic properties. FEMA requests a Phase IA and IB archaeological assessment (IA background study/IB archaeological testing) be conducted, and a combined Phase IA/B report be submitted to FEMA, NYS Historic Preservation Office (SHPO) and the Tribal Nations for review and approval prior to construction beginning.

#### **Phase I Archaeological Survey in accordance with NHPA:**

- The Subrecipient shall hire consultants who meet the Secretary of Interior (SOI) qualifications for archaeology to develop an archaeological work plan in consultation with FEMA, SHPO, Tribal Nations and any consulting parties for submission to FEMA, through New York State Division of Homeland Security and Emergency Services (NYS DHSES), for review and approval prior to implementation. No archaeological work shall commence until the work plan has been executed.
- Once the Phase IA/B archaeological assessment has been completed a draft report shall be sent to FEMA for initial review (via PDF). FEMA will review the draft report and provide comments, if necessary.
- Upon FEMA approval, a final report should be prepared and submitted. FEMA will transmit the final report to the State Historic Preservation Office (SHPO) and consulting Tribal Nations for review and comment. FEMA will then submit the determination of the finding's consultation to SHPO and the Tribal Nations for concurrence including the recommendations for future studies (if applicable). The report shall meet the New York State Historic Preservation Office (SHPO) *Phase I Archaeological Report Format Requirements* (2005) as well as the *Standards for Cultural Resource Investigations, and the Curation of Archaeological Collections, in New York State by The New York Archaeological Council* (Adopted by the New York SHPO, 1994 The New York Archaeological Council).
- No construction activities will occur prior to FEMA, SHPO and participating Tribal Nation concurrence on all phases of archaeological work and potential avoidance plans, archaeological monitoring and/or mitigation measures, as applicable.
- Should the Subrecipient or their contractor discover human remains, or what is suspected to be human remains, during the course of the Phase I Archaeological Survey, excavation activities in the vicinity of the discovery shall immediately stop, the discovery location shall be secured and protected from damage and disturbance. The person or persons encountering such properties or effects shall immediately contact local law enforcement and the county coroner/medical examiner in addition to FEMA, NYSHPO, the Recipient, and Subrecipient. FEMA will immediately notify consulting Tribal Nations of the discovery. FEMA will consult with the necessary parties to determine the appropriate course of action from that point forward in accordance with the requirements of 36 CFR §800.13(b)(3); federal, tribal, state and local laws.

*Environmental Assessment  
Rayhill Memorial Trail*

FEMA is submitting this Undertaking to you for review and comment and request your comments and/or concurrence with FEMA's findings within fifteen (15) calendar days. If you have any questions or require any additional information, please do not hesitate to contact Mary Jones, at (202) 705-9697.

Sincerely,

Amelia Leonard  
EHP Supervisor (Albany)

Cc: Oneida Indian Nation  
Saint Regis Mohawk Tribe  
New York State Division of Homeland Security and Emergency Services

Enclosures: *Map Index*  
*Photo Index*  
*Project Plans*



**New York State  
Parks, Recreation and  
Historic Preservation**

**KATHY HOCHUL**  
Governor

**ERIK KULLESEID**  
Commissioner

February 24, 2023

Mary Jones  
Historic Preservation Specialist  
FEMA  
11A Clinton Avenue  
Albany, NY 12207

Re: FEMA/PA  
FEMA-DR-4472-PW-801 Rayhill Trailway  
23PR01454

Dear Mary Jones:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

We have received and reviewed your recently submitted documentation for the FEMA-DR-4472-PW-801 Rayhill Trailway project (23PR01454). Based on this review, the SHPO concurs with your agency's determination that a Phase IA/IB archaeological survey is warranted for the proposed undertaking. We look forward to continued consultation on the project.

If you have any questions, I can be reached at [Bradley.Russell@parks.ny.gov](mailto:Bradley.Russell@parks.ny.gov).

Sincerely,

*Brad Russell*

Bradley Russell, Ph.D.  
Historic Preservation Specialist - Archaeology



U.S. Department of Homeland Security  
Federal Emergency Management Agency  
FEMA Region II  
Leo O'Brien Federal Building  
11A Clinton Avenue, Suite 600  
Albany, NY 12207

August 16, 2023

Mr. R. Daniel Mackay  
Deputy Commissioner  
Division of Historic Preservation  
Peebles Island Resource Center  
P.O. Box 189  
Waterford, NY 12188

**FEMA: Section 106 Consultation, FEMA-4472-PW 00801(0)**  
**Recipient/Subrecipient:** NYS Division of Homeland Security and Emergency Services (DHSES)/  
Town of New Hartford  
**Undertaking:** Rayhill Trailway  
**Location:** New Hartford St, New York Mills, NY  
(between 43.08470, -75.29290 and 43.09600, -75.29760)

Dear Mr. Mackay,

Attached please find the completed Geomorphological Study for the Proposed Rayhill Memorial Trail Remediation Project completed by Archaeological Consulting Experts, LLC (ACE). The assessment was requested by FEMA for compliance with Section 106 of the National Historic Preservation Act.

On June 19 and 20, 2023, John Stiteler on the behest of ACE conducted a study of the soils and geomorphology at the site of the proposed Rayhill Memorial Trail Remediation project within the Town of New Hartford, Oneida County, New York to determine the potential for the presence of intact, in-situ cultural material in the area of potential effect (APE).

The study consisted of background research, a pedestrian survey of the entire APE, coupled with the excavation of 5 hand-dug, bucket-auger test pits and the scraping and analysis of two (2) exposed bank cuts along the edge of Sauquoit Creek. The results of the study confirm the APE has been subjected to extensive disturbance as a result of mill race construction and subsequent filling, railroad construction, creation of a flood control levee, use as a Department of Transportation facility and yard waste composting facility. The southern two thirds of the APE, the study concludes is located on a high glacial outwash terrace that has not been subject to alluvial deposition since the early post-glacial period and all cultural material would therefore, be confined to the upper 10-12 inches of the soil profile where previous disturbance is evident. The formerly lower-lying northern third of the APE has also been subject to much disturbance and, at some point within the Historic period, appears to have been an active Sauquoit Creek channel.

Based on the aforementioned study, Mr. Stiteler and ACE recommend no further archaeological testing within the current APE. FEMA concurs that a Phase IA/IB archaeological survey is no longer warranted based off the degree of past disturbance and low potential for intact cultural sites.

*Environmental Assessment*  
*Rayhill Memorial Trail*

FEMA is submitting this study to you for your review/comment and requests your comments and/or concurrence with FEMA's finding within 15 days. Should you have any questions or need additional information regarding this study and its findings, please contact Mary Jones, Historic Preservation Specialist at 202-705-9697 or [mary.jones@fema.dhs.gov](mailto:mary.jones@fema.dhs.gov). Please note, in addition to SHPO, this correspondence is also being sent to the Oneida Indian Nation and Saint Regis Mohawk Tribe.

Sincerely,

**AMELIA R  
LEONARD** Digitally signed by  
AMELIA R LEONARD  
Date: 2023.08.16  
11:35:53 -04'00'

Amelia Leonard  
EHP Supervisor (Albany)

Enc: Geomorphological Study for the Proposed Rayhill Memorial Trail Remediation Project





**New York State  
Parks, Recreation and  
Historic Preservation**

**KATHY HOCHUL**  
Governor

**ERIK KULLESEID**  
Commissioner

August 22, 2023

Mary Jones  
Historic Preservation Specialist  
FEMA  
11A Clinton Avenue  
Albany, NY 12207

Re: FEMA/PA  
FEMA-DR-4472-PW-801 Rayhill Trailway  
23PR01454

Dear Mary Jones:

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

Based on this review, the NYSHPO concurs with the recommendation of the submitted geomorphological survey report that due to the documented disturbance, the previously requested Phase IA/IB archaeological study is no longer warranted. We will rescind the request for a Phase IA/IB archaeological survey in our Cultural Resource Information System (CRIS).

If you have any questions, I can be reached at [Bradley.Russell@parks.ny.gov](mailto:Bradley.Russell@parks.ny.gov).

Sincerely,

A handwritten signature in black ink that reads "Brad Russell".

Bradley W. Russell  
Historic Preservation Specialist - Archaeology

Figure A - General Project Location

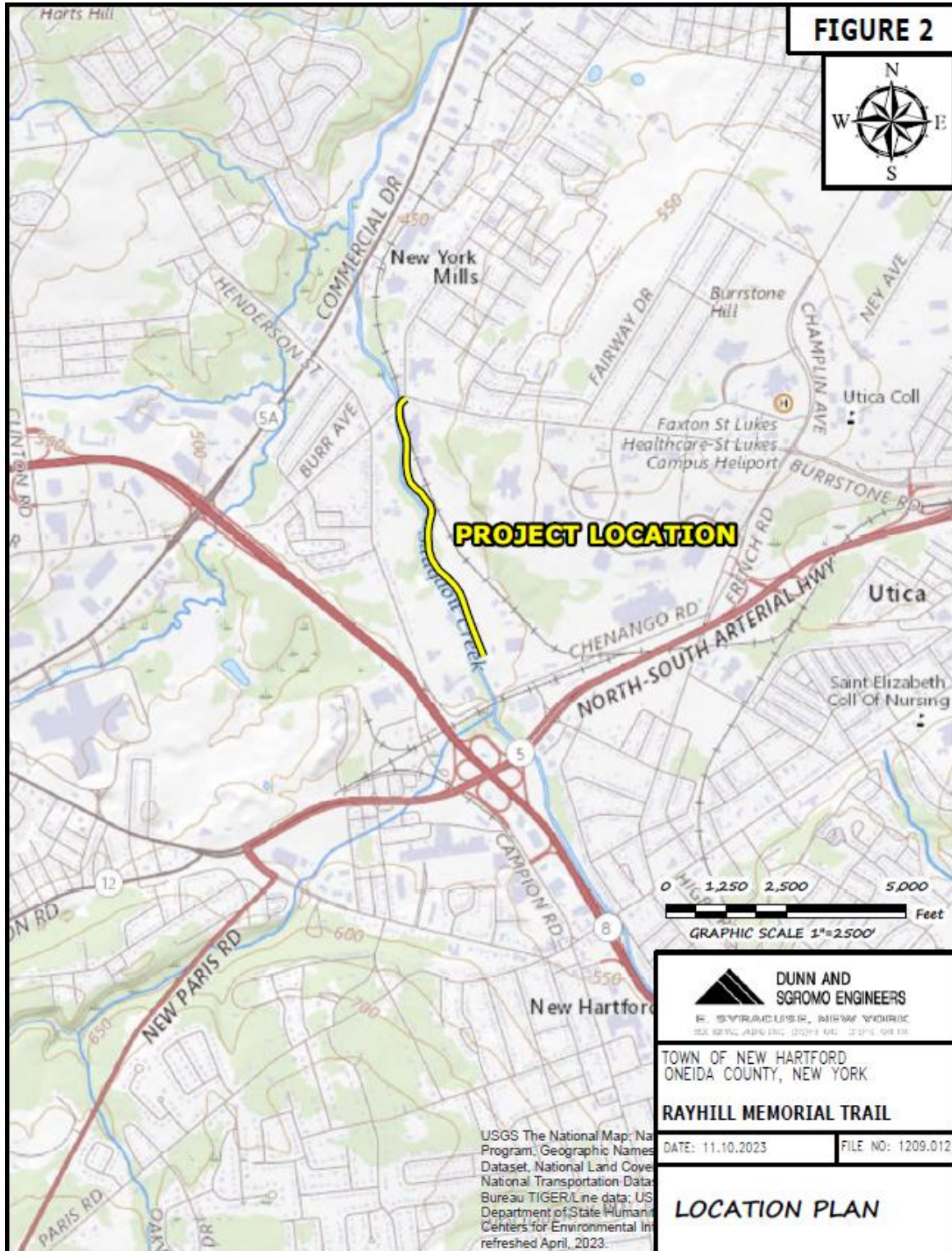


Figure B - June 2024 Proposed Project Site Plan

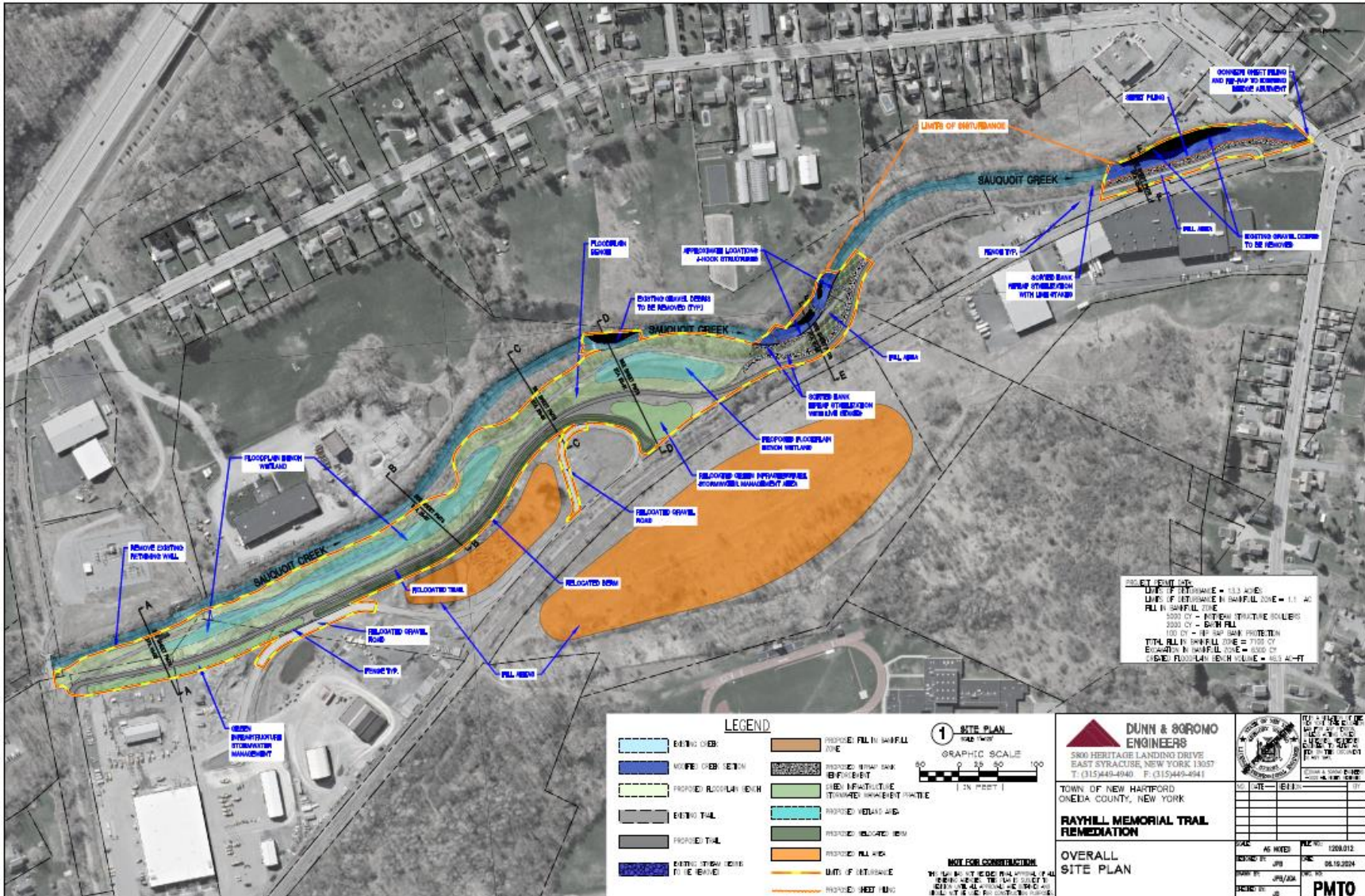


Figure C - March 2024 Proposed Disposal Location of Excavated Materials

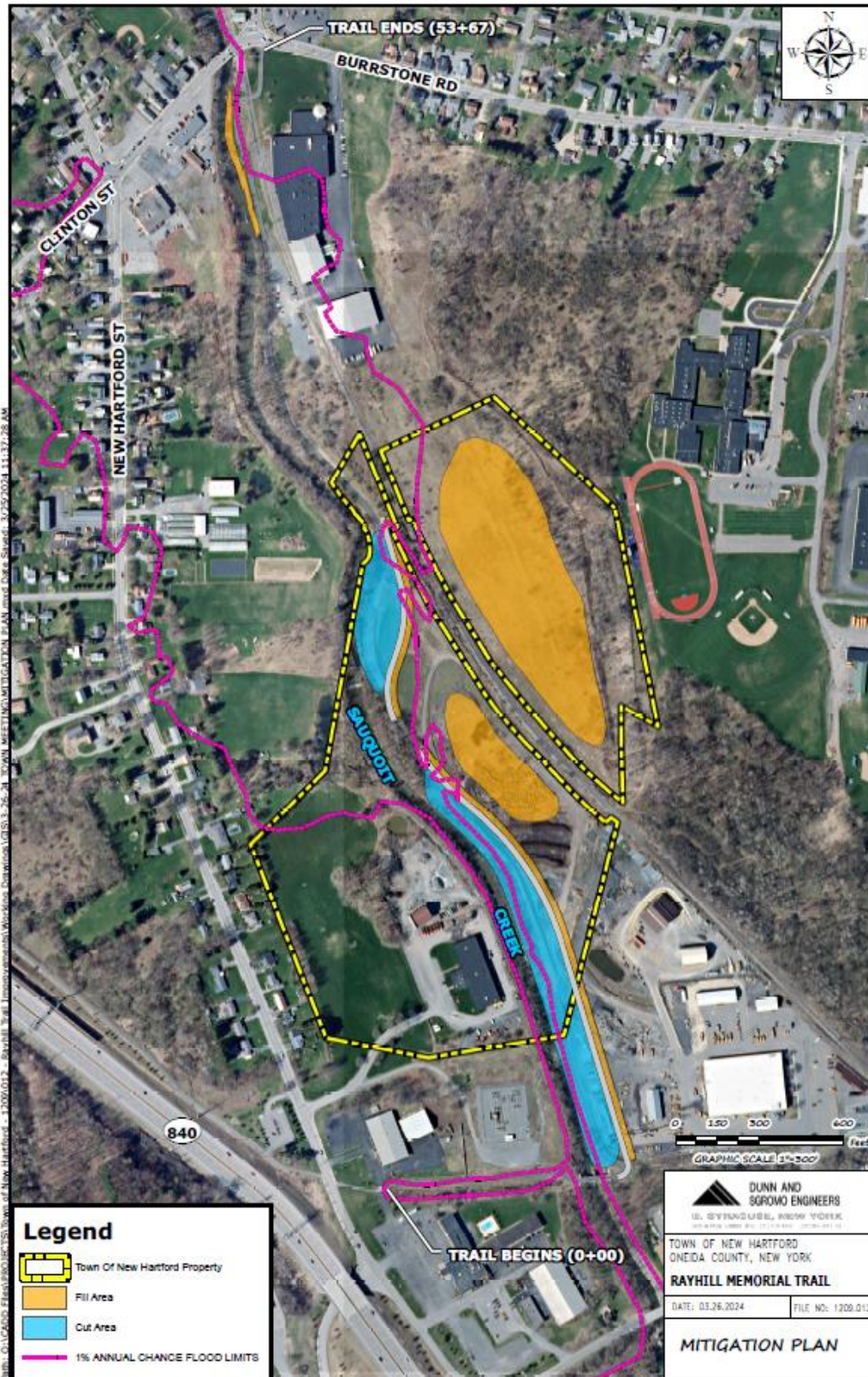


Figure D - December 2022 Proposed Project Typical Cross-section Details

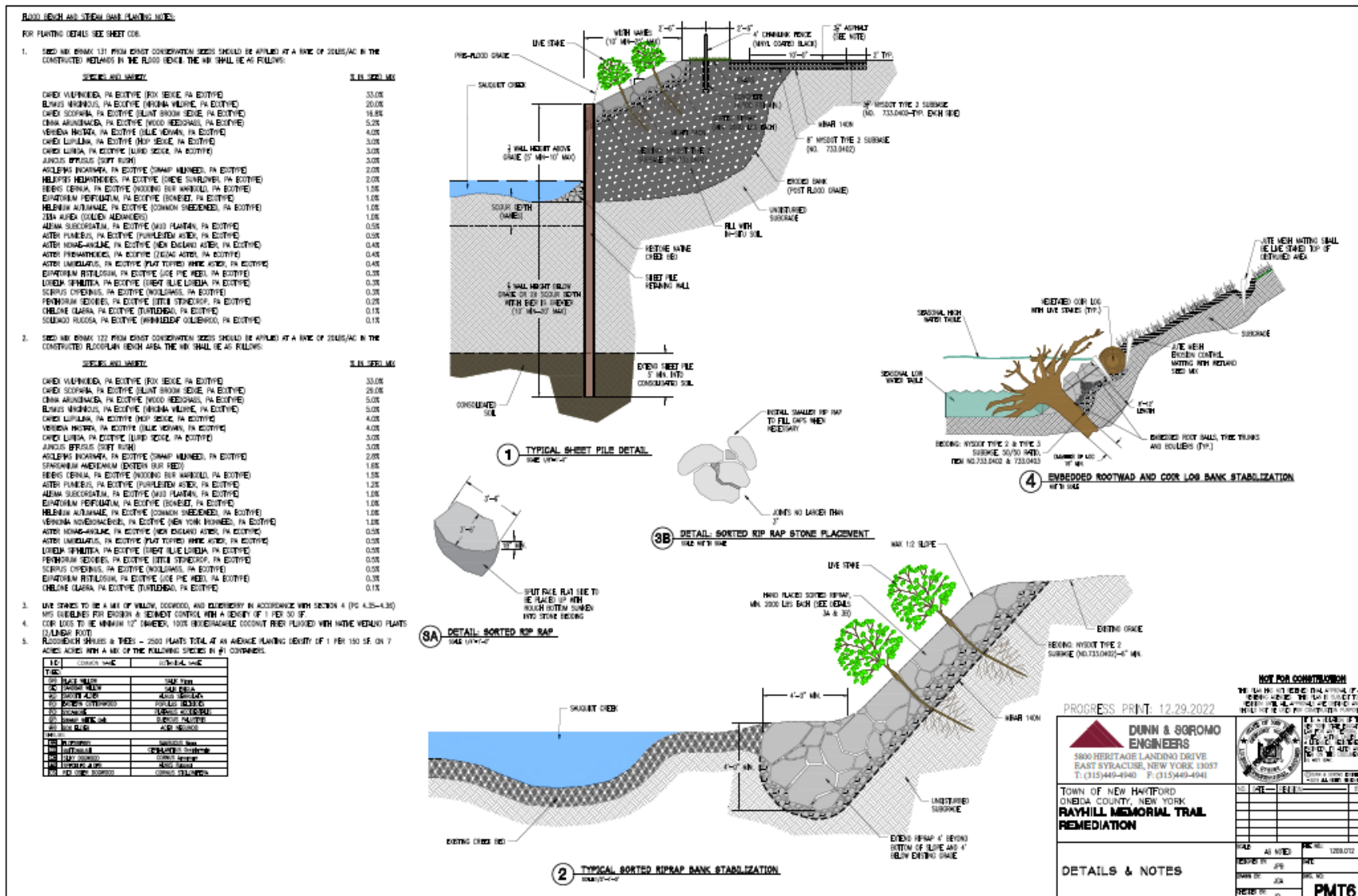


Figure E – June 2024 J-Hook Details

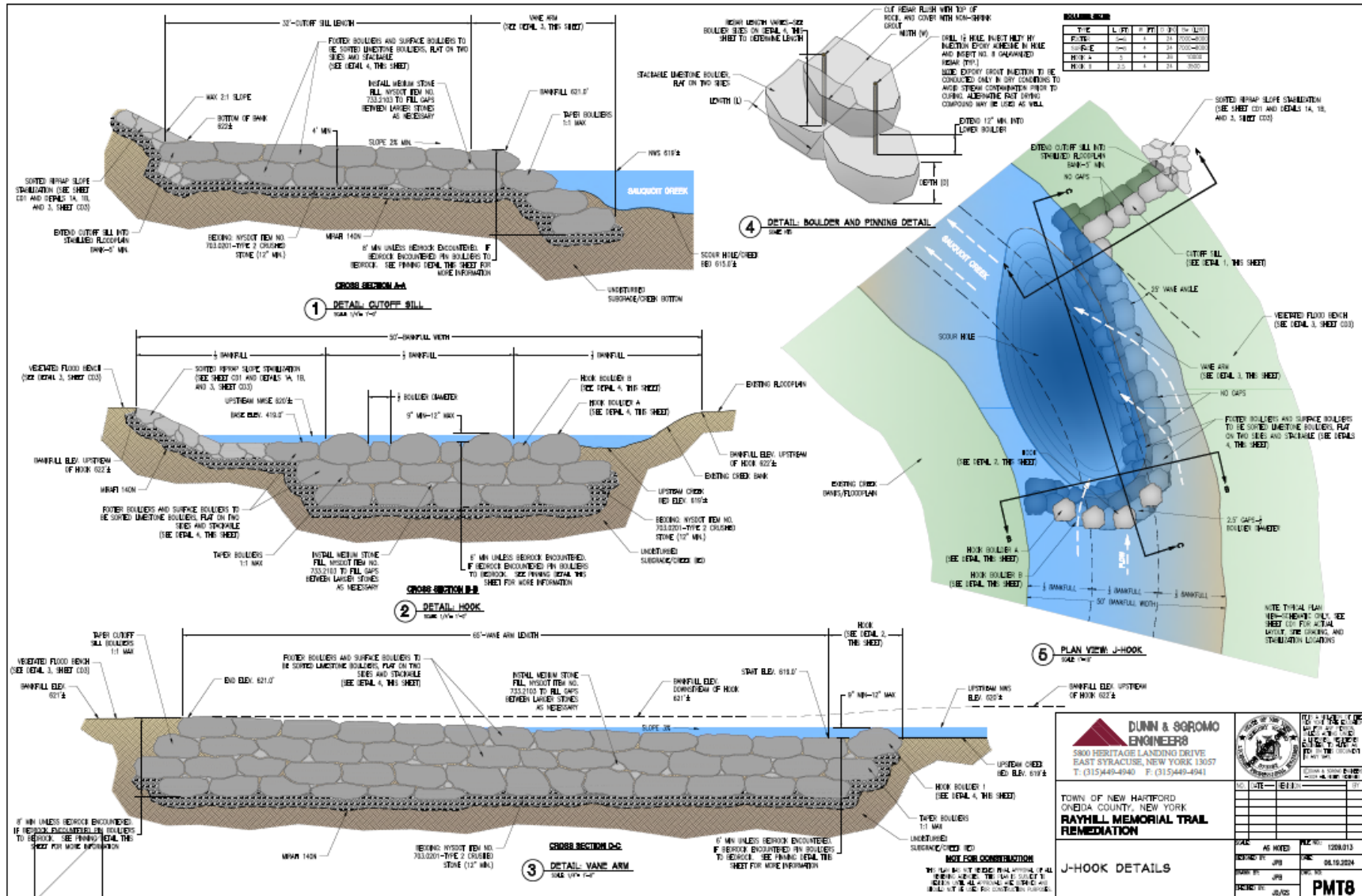


Figure F - Sauquoit Creek Projects

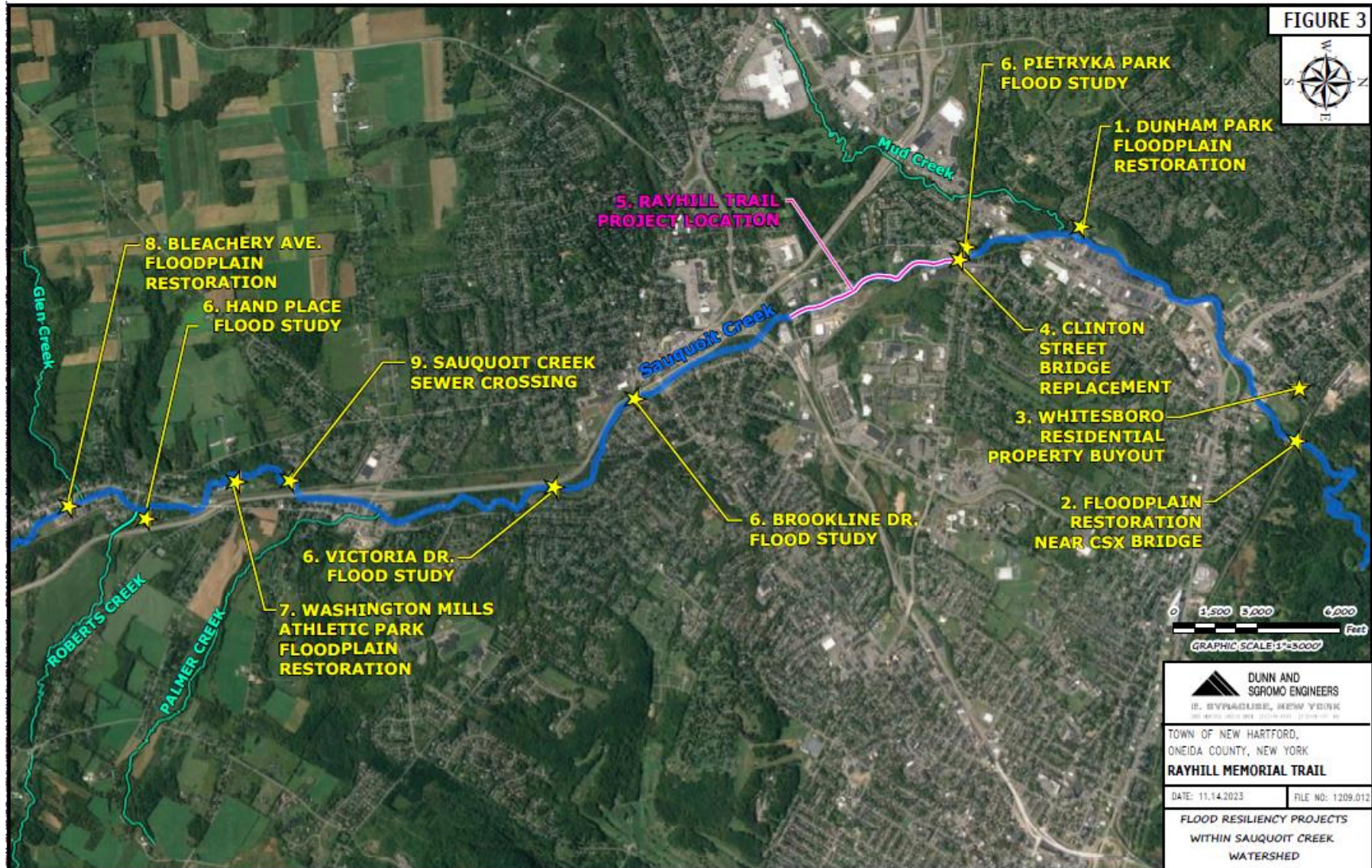
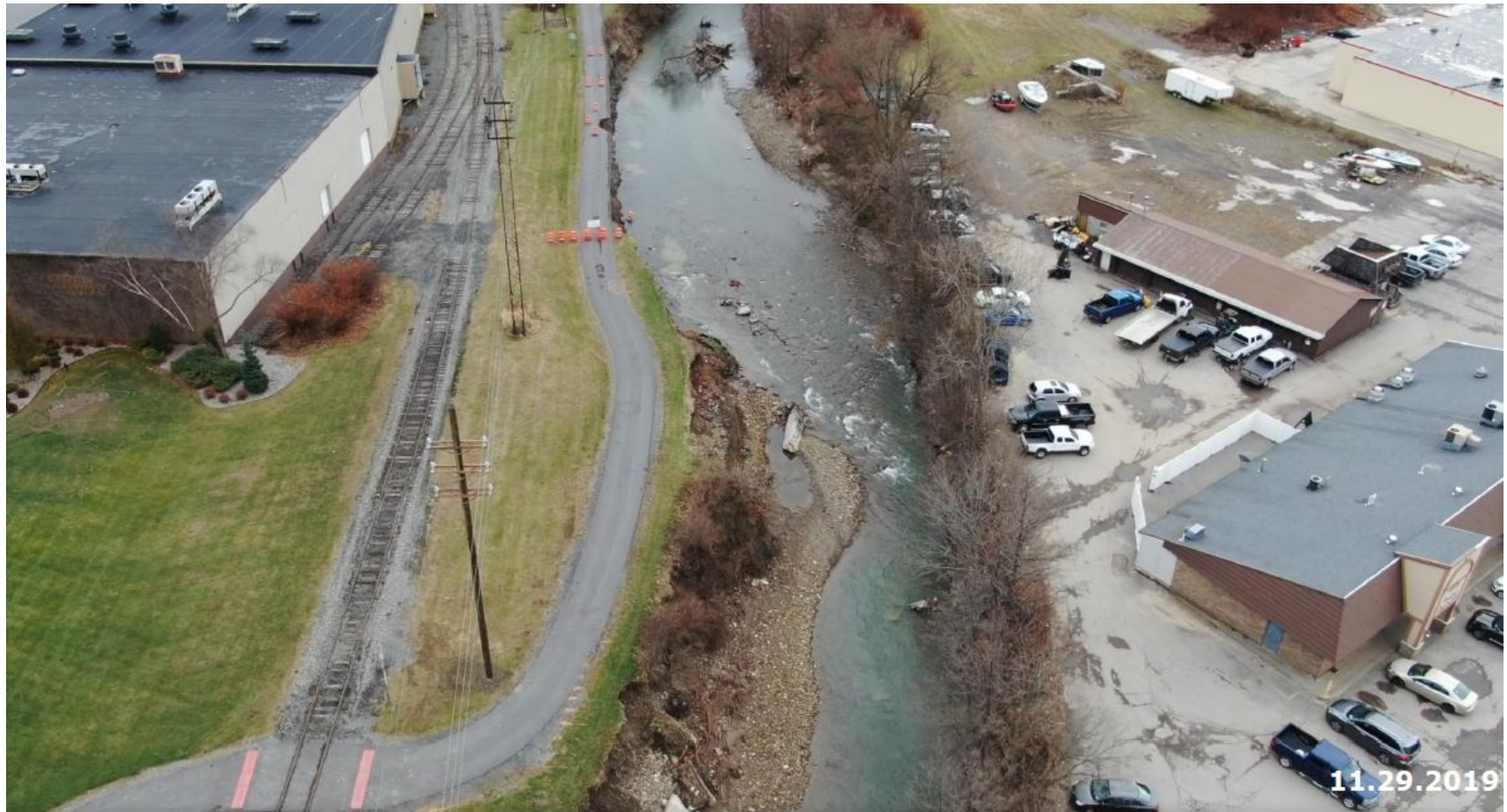


Figure G - November 2023 aerial image of site with select photos of damages





**Figure H - November 2019 aerial photo of eroded bank at McCraith Beverages site**



**Figure I - January 2024 aerial photo of eroded bank at McCraith Beverages site**



Figure J - Floodplain Map with Project Location

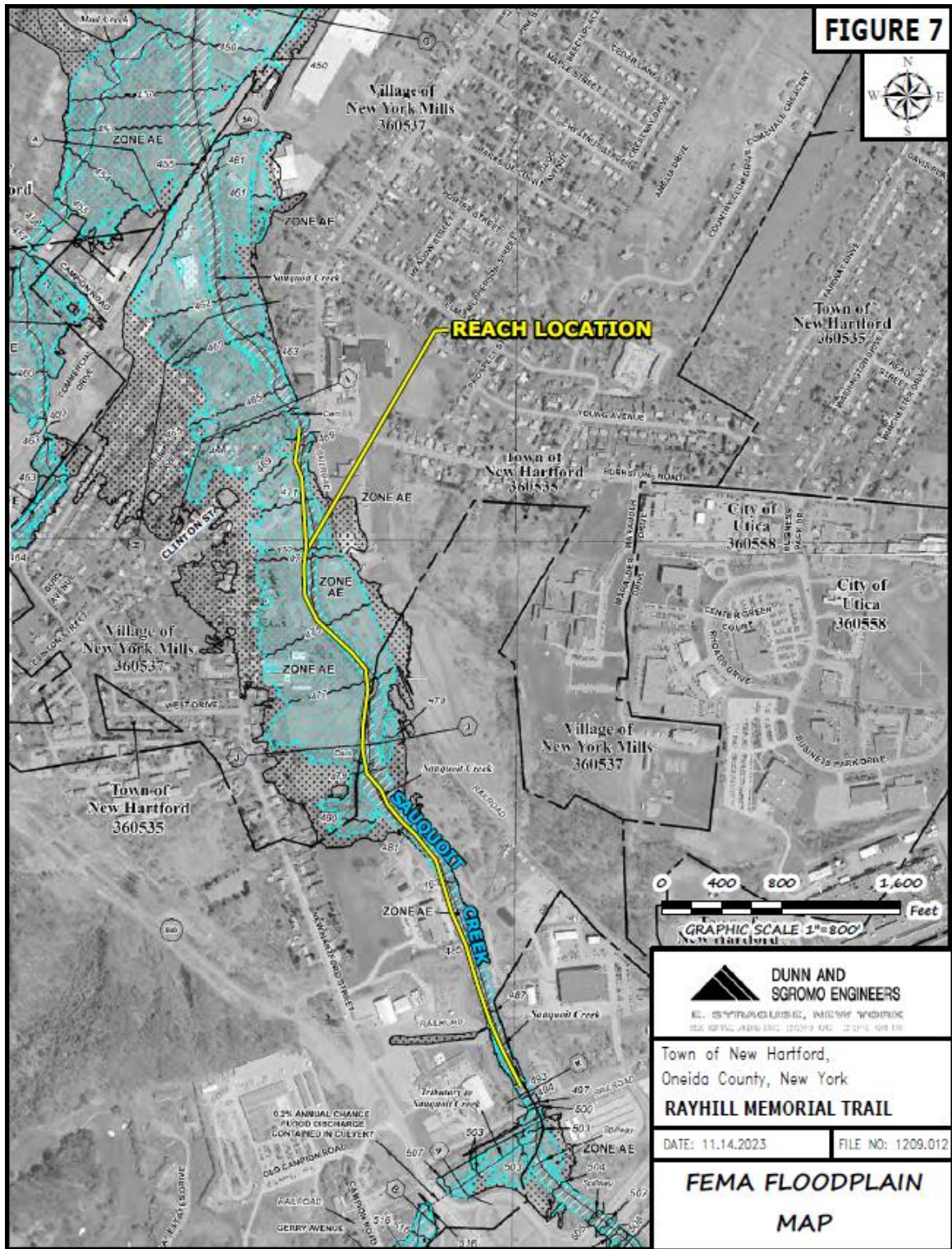
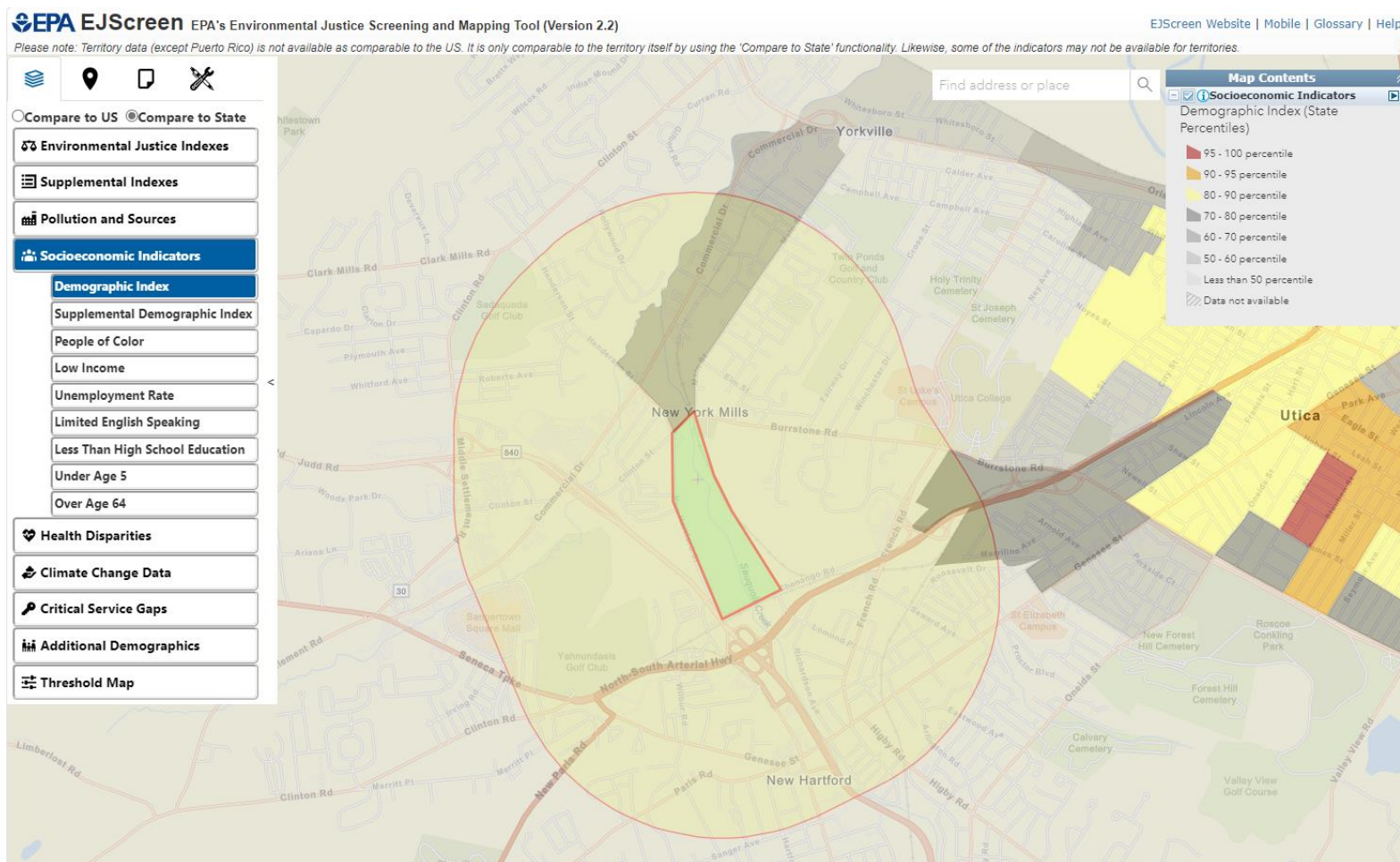
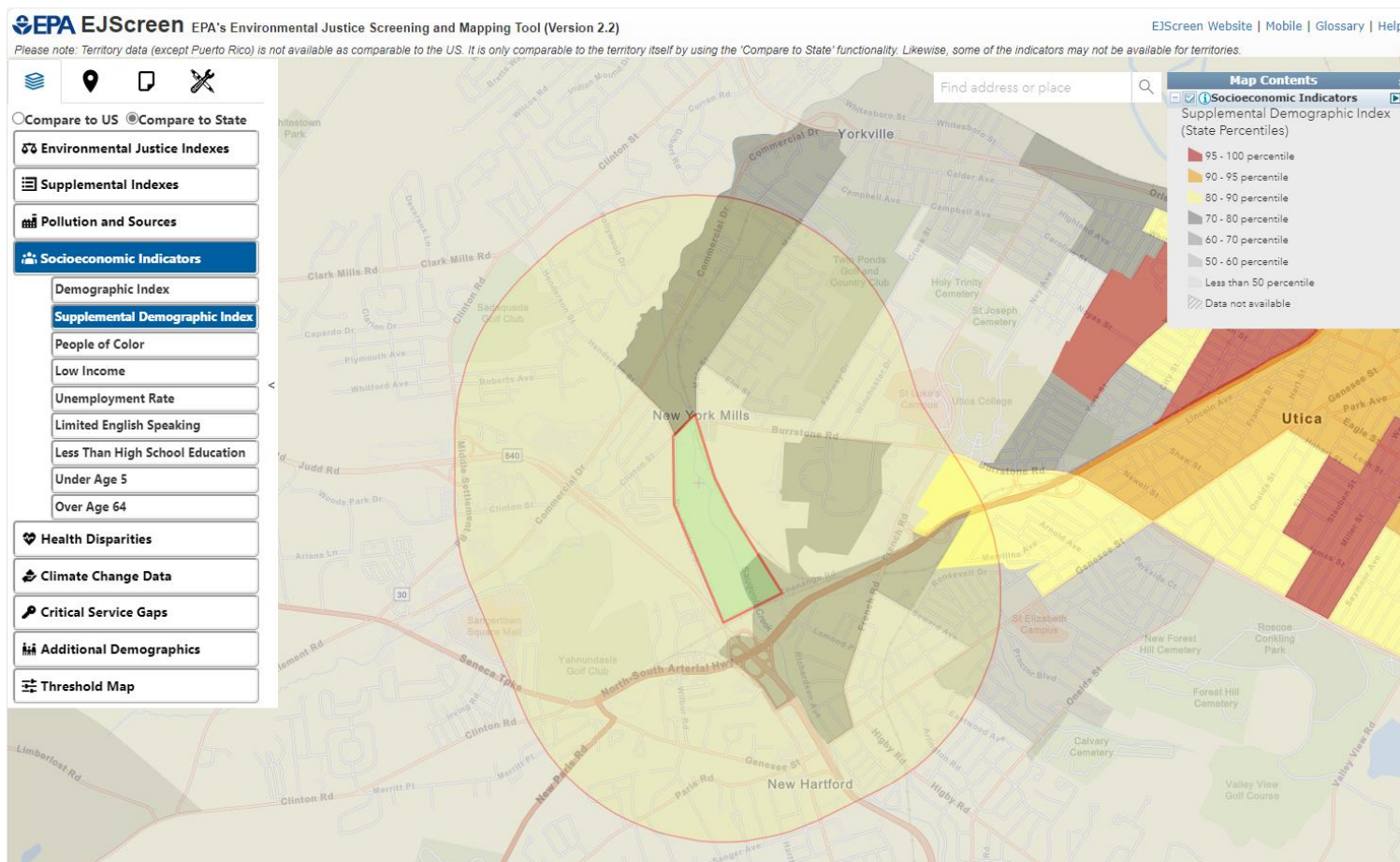


Figure K - EJScreen Image with Demographic Index



Screen capture from EPA's EJScreen Mapper tool showing the Rayhill Trail project area with one mile buffer overlaid with the Demographic Index data. Within the buffer are areas that exceed the 50th percentile for proximity to Clean Air Act Risk Management Program facilities. Outside of the buffer in Utica are areas in or exceeding the 80th percentile for demographic indices.

Figure L - EJScreen Image with Supplemental Demographic Index



Screen capture from EPA's EJScreen Mapper tool showing the Rayhill Trail project area with one mile buffer overlaid with the Supplemental Demographic Index data. Within the buffer are areas that exceed the 50th percentile for proximity to hazardous wastes, toxic releases to air, Risk Management Program facilities, and lead paint in structures. Similar to Figure K, there are multiple areas outside of the project buffer in Utica that exceed the 80th percentile for supplemental indices.

Figure M - November 2023 aerial photo with utilities

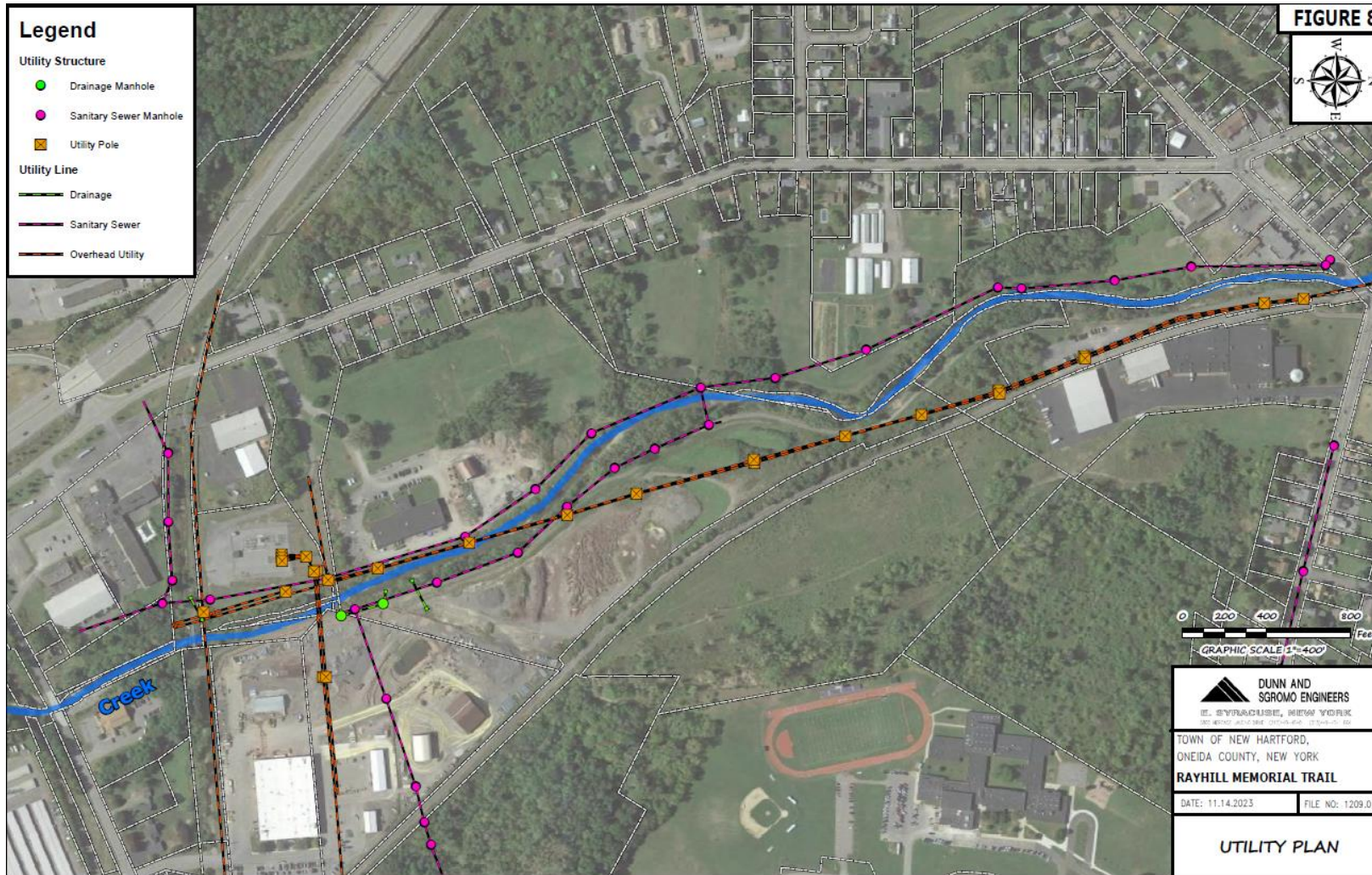
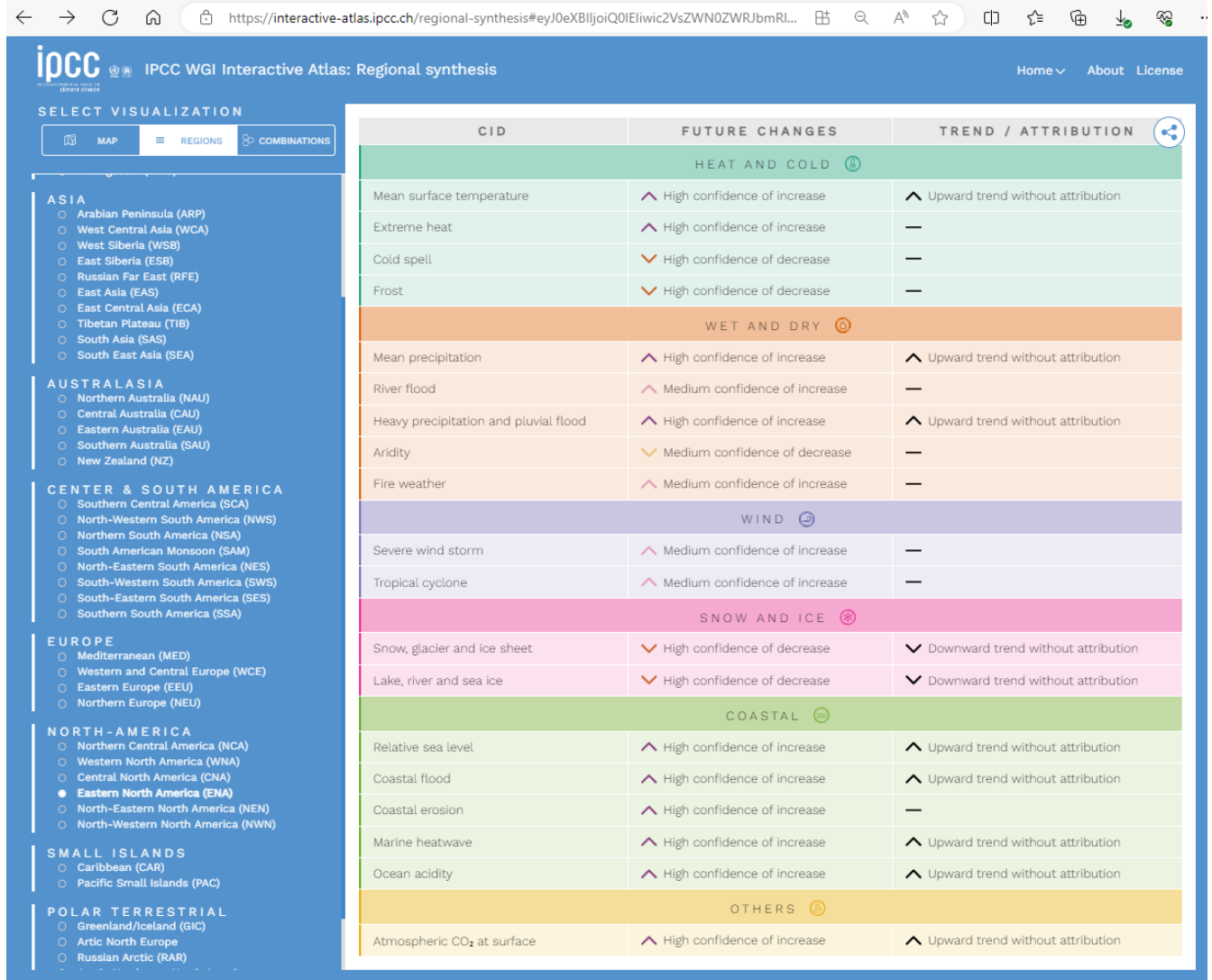


Figure N - IPCC Eastern North America summary



Source: Interactive Atlas through <https://www.ipcc.ch/report/ar6/wg1/>