



Mill Point
SOLAR I PROJECT

ConnectGen Montgomery County LLC

Mill Point Solar I Project

Matter No. 23-00034

§ 900-2.10 Exhibit 9

Cultural Resources

REDACTED

Revised August 2024

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Glossary Terms

- Applicant:** ConnectGen Montgomery County LLC (ConnectGen), a direct subsidiary of ConnectGen LLC, is the entity seeking a siting permit for the Facility from the Office of Renewable Energy Siting (ORES) under Section 94-c of the New York State (NYS) Executive Law.
- Facility:** The proposed components to be constructed for the generation, collection and distribution of energy for the Project will include: photovoltaic (PV) solar modules and their rack/support systems; direct current (DC) and communications cables connecting the panels to inverters; the inverters, with their support platforms, control electronics, and step-up transformers; buried alternate current (AC) medium voltage collector circuits; fencing and gates around each array of modules; access roads; temporary laydown/construction support areas; a medium voltage-to-transmission voltage substation with associated equipment and fenced areas; a new 3-breaker ring bus point of interconnection switchyard (POI switchyard); two adjacent approximately 305 foot-long 345 kV transmission line segments to interconnect the new POI switchyard to the existing National Grid Marcy – New Scotland 345-kilovolt transmission line; and an operations and maintenance (O&M) building with parking/storage areas as well as any other improvements subject to ORES jurisdiction.
- Facility Site:** The tax parcels proposed to host the Facility, which collectively totals 2,665.59 acres.
- Point of Interconnection (POI) or POI Switchyard:** A new 3-breaker ring bus point of interconnection switchyard will be constructed adjacent to the existing National Grid Marcy – New Scotland 345-kilovolt transmission line; the substation will tie into the new POI switchyard via an overhead span and deliver power produced from the Facility onto the electric grid through two overhead spans tapping the National Grid-owned Marcy – New Scotland 345-kV transmission line. The POI switchyard is located off Ingersoll Road in the northeastern portion of the Facility Site.

Limits of Disturbance (LOD):	The proposed limits of clearing and disturbance for construction of all Facility components and ancillary features are mapped as the LOD. The LOD encompasses the outer bounds of where construction may occur for the Facility, including all areas of clearing, grading, and temporary or permanent ground disturbance. This boundary includes the footprint of all major Facility components, defined work corridors, security fencing, and proposed planting modules, and incorporates areas utilized by construction vehicles and/or personnel to construct the Facility.
Project or Mill Point Solar I	Collectively refers to permitting, construction, and operation of the Facility, as well as proposed environmental protection measures and other efforts proposed by the Applicant.
Study Area:	In accordance with the Section 94-c Regulations, the Study Area for the Facility includes a radius of five miles around the Facility Site boundary, unless otherwise noted for a specific resource study or Exhibit. The 5-mile Study Area encompasses 96,784.84 acres, inclusive of the 2,665.59-acre Facility Site.

Acronym List

AC	Alternating current
APE	Area of Potential Effects
CFR	Code of Federal Regulations
CRIS	Cultural Resources Information System
CWA	Clean Water Act
DC	Direct current
GIS	Geographic information system
GPS	Global positioning system
kV	Kilovolt
LOD	Limits of Disturbance
MW	Megawatt
NAGPRA	Native American Graves Protection and Repatriation Act
NHPA	National Historic Preservation Act
NRCS	Natural Resources and Conservation Service
NRHP	National Register of Historic Places
NYAC	New York Archaeological Council
NYAC Standards	New York Archaeological Council Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State
NYCRR	New York Codes, Rules and Regulations
NYHPA	New York Historic Preservation Act
NYS	New York State
NYSDPS	New York State Department of Public Service
NYSM	New York State Museum
O&M	Operations and Maintenance
OPRHP	Office of Parks, Recreation, and Historic Preservation
OPRHP Guidelines	New York State Historic Preservation Office Guidelines for Solar Facility Development Cultural Resources Survey Work
ORES	Office of Renewable Energy Siting
ORPTS	Office of Real Property Tax Office
PIA	Project Impact Area
POI	Point of Interconnection
PV	Photovoltaic
ROW	Right-of-way
SHPO	State Historical Preservation Office
SRHP	State Register of Historic Places
S/NRHP	New York State/National Registers of Historic Places
STP	Shovel test pit
THPO	Tribal Historic Preservation Office
USC	United States Code
USDA	United States Department of Agriculture
WQC	Water Quality Certification
ZVI	Zone of Visual Impact

EXHIBIT 9 CULTURAL RESOURCES

9(a) Study of the Impacts of Construction and Operation on Archaeological and Cultural Resources

Introduction and Record of Consultation

The New York Historic Preservation Act (NYHPA) of 1980 (Chapter 354 of Parks, Recreation and Historic Preservation Law) established a review process for state agency activities affecting historic or cultural properties, requiring consultation with the Commissioner of the Office of Parks, Recreation, and Historic Preservation (OPRHP), which serves as the State Historic Preservation Office (SHPO). The NYHPA requires state agencies to consult with OPRHP if it appears that a proposed project may cause any change, beneficial or adverse, in the quality of any historic, architectural, archaeological, or cultural property that is listed in the National Register of Historic Places (NRHP) or in the State Register of Historic Places (SRHP), or that is determined by the Commissioner to be eligible for listing in the SRHP. It requires that state agencies, to the fullest extent practicable, be consistent with other provisions of the law and fully explore all feasible and prudent alternatives to avoid, minimize, or mitigate adverse impacts.

Because the Facility will require a Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) and coverage under Section 404 of the CWA for minor wetland impacts, in addition to the Section 94-c siting permit, consultation on cultural resources for the Facility will also follow review process of Section 106 of the National Historic Preservation Act (NHPA) of 1966.

Section 14.09 of the NYHPA indicates that if a project has a federal permitting nexus, the OPRHP review process follows Section 106 of the NHPA and its implementing regulations at 36 Code of Federal Regulations (CFR) Section 800 (Public Law 89-665, as amended by Public Law 96-515; 16 United States Code [USC] 470 et seq.). Section 106 requires that agencies with jurisdiction over a proposed project take into account the effect of the undertaking on cultural resources listed in or eligible for listing in the NRHP and afford the SHPO and the Advisory Council on Historic Preservation an opportunity to comment.

OPRHP-SHPO Consultation

Pursuant to 19 New York Codes, Rules and Regulations (NYCRR) Section 900-1.3(h), the Applicant, through its consultant, TRC, initiated formal consultation with OPRHP to develop the scope and methodology for cultural resources studies for the Facility (see Appendix 9-2 for the Facility correspondence with OPRHP). The consultants exceed the Secretary of the Interior's

professional qualification standards (36 CFR 61) for Archaeologists, Historians, and Architectural Historians in their respective disciplines. To date, formal consultation with the OPRHP has included submissions through OPRHP’s Cultural Resources Information System (CRIS) website consisting of the following technical documents for OPRHP review:

- Request for Consultation Letter (January 6, 2021)
- Phase IA Archaeological Survey and Sensitivity Assessment (March 24, 2021)
- Historic Architecture Survey Methodology (March 22, 2021)
- Phase IB Archaeological Survey Report (June 27, 2023)
- Historic Architecture Survey Report (October 24, 2022)
- Memorandum on the Glen Historic District (June 16, 2023)
- Addendum I Phase IB Archaeological Survey Report (September 25, 2023)
- Archaeological Site Avoidance Documentation (November 16, 2023)
- Archaeological Site Avoidance Plan (December 12, 2023)
- Addendum II Phase IB Archaeological Survey Report (April 18, 2024)

Research and field surveys were conducted prior to the boundary definition of the final Facility Site for Mill Point Solar I, therefore the Study Areas encompassed additional lands outside of the final Facility Site. On January 12, 2021, OPRHP requested a Phase IA archaeological investigation to identify previously recorded archaeological sites and other cultural resources within or near the Facility Site, and to assess the archaeological sensitivity of the Facility Site. A Phase IA report was submitted to OPRHP on March 24, 2021 (see Appendix 9-1). By letter dated April 5, 2021, OPRHP concurred with the recommendations presented in the Phase IA report including that a Phase IB Archaeological Survey was warranted.

In its January 31, 2021, letter requesting a Phase IA archaeological investigation, OPRHP provided the Phase IB methodology to be used for Solar Facilities with a generating capacity greater than 25 megawatts (MW) as defined in the *New York State Historic Preservation Office Guidelines for Solar Facility Development Cultural Resources Survey Work* (July 2021) (*OPRHP Guidelines*). The *OPRHP Guidelines* provide a universal definition of high and low archaeological sensitivity, a pre-design Phase IB survey option, and a definition of proposed ground disturbance.

In accordance with *OPRHP Guidelines* for large-scale solar projects, areas of significant ground disturbance include areas of grading and excavation more than six inches deep, grubbing, tree and stump removal, and trenches more than three feet wide. Archaeological fieldwork is not recommended for panel arrays, perimeter fencing, and utility poles as long as the associated

posts are driven or drilled, and grading or grubbing are not involved. However, if these tasks require excavation over six inches in depth, or if grading or grubbing is necessary, archaeological fieldwork is recommended.

A summary of cultural resources studies completed to date is provided herein. A summary of the Unanticipated Discovery Plan that identifies the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance are encountered during the excavation process is included below in Section 9(a)(5) and the full Unanticipated Discovery Plan is included in Appendix 9-6.

Tribal Historic Preservation Office Consultation

Based on the Facility's geographical location and guidance from the OPRHP and the Indian Nations of New York State, the Applicant is consulting with the federally recognized St. Regis Mohawk Tribe. The Tribal outreach procedures included preparing initial correspondence submitted via emails to the Tribal Historic Preservation Office (THPO) on August 5, 2021; the correspondence included submittal of the Phase IA archaeological survey report to the St. Regis Mohawk Tribe. The Applicant has requested comments from the THPO on any potential effects from the Facility on Tribal resources or lands. Consultation by OPRHP to the St. Regis Mohawk THPO was conducted on 7/12/23, including the submittal of the Phase IB archaeological survey report. TRC submitted the Addendum I Phase IB Archaeological Survey Report (Addendum I) and Archaeological Site Avoidance Plan to the St. Regis Mohawk on December 19, 2023. TRC submitted Addendum II Phase IB Archaeological Survey Report (Addendum II) to the St. Regis Mohawk on April 22, 2024. Documentation of these consultations and outreach are included in Appendix 9-2 of the Application. No responses from the St. Regis Mohawk have been received to date.

(1) Summary of the Nature of Probable Impacts on Archaeological/Cultural Resources and Avoidance and Minimization Measures

This section includes a summary of the nature of the probable impact to any archaeological/cultural resources identified and addresses how those impacts will be avoided or minimized. A Phase IB archaeological survey was conducted in September – December 2021, April 2022, and October – December 2022; the Phase IB archaeological survey report was submitted to OPRHP on June 27, 2023. Within the Facility, a total of **BEGIN**

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Phase IB archaeological survey; no additional resources were recorded during the Phase IB Addendum I archaeological survey. **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]

[REDACTED] **> END CONFIDENTIAL INFORMATION** are considered potentially eligible for inclusion in the NHRP. As such, avoidance of these **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] **> END CONFIDENTIAL INFORMATION** has been recommended. OPRHP issued report comments on July 24, 2023, concurring with the report findings, including recommendations for avoiding archaeological resources. Based on updated design plans, additional Phase IB survey was conducted in July 2023 and the Addendum I report was submitted to OPRHP on November 21, 2023. No archaeological resources were recorded as part of the Addendum I Phase IB survey. OPRHP issued comments on the Addendum I on December 4, 2023, recommending that no additional archaeological work is necessary in the areas investigated for this report. Based on updated design plans, additional Phase IB survey was conducted in December 2023 and the Addendum II report was submitted to OPRHP on April 18, 2024. One isolated find was recorded during the Phase IB Addendum II archaeological survey. OPRHP issued comments on the Addendum II on April 22, 2024, recommending that no additional archaeological work is necessary in the areas investigated for this report. **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED]

[REDACTED] **> END CONFIDENTIAL INFORMATION** Of these sites, the following are within the Mill Point Solar I Facility Site: **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] **> END CONFIDENTIAL INFORMATION** The Applicant designed the Facility with avoidance of the **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] **> END CONFIDENTIAL INFORMATION** recommended sites and a 50-foot buffer. Engineering plans illustrating the avoidance of the recommended sites and the 50-foot buffer were submitted to OPRHP on November 16, 2023. In response to the avoidance documentation, OPRHP requested an Archaeological Avoidance Plan in their December 4, 2023 letter. The Avoidance Plan was submitted to OPRHP on December 12, 2023. OPRHP responded to the Avoidance Plan submission on December 21, 2023, that no further archaeological work is necessary for these **BEGIN CONFIDENTIAL INFORMATION** < [REDACTED] **> END CONFIDENTIAL INFORMATION** sites. OPRHP issued a letter on December 22, 2023, stating that no properties, including archaeological and/or historic resources will be adversely impacted by this project with the condition that the Archaeological Site Avoidance Plan is adhered to.

(2) Phase IA Archaeological/Cultural Study

Pursuant to Section 900-1.3(h) of the Section 94-c Regulations, this section addresses the Phase IA archeological/cultural resources study for the proposed Facility.

Phase IA Study Methods and Results

Research was conducted prior to the boundary definition of the final Facility Site for Mill Point Solar I, therefore the Study Areas encompassed additional lands outside of the final Facility Site. Background research included examination of site files and archives at OPRHP, the online CRIS database, and the NRHP database. This research yielded information on recorded sites and previous cultural surveys in the surrounding area. Local histories, cartographic data, and other relevant information on the prehistoric and historic archaeological sites in the area were also reviewed. The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey Geographic Database was also examined to obtain information on soil types mapped within the Facility Site. The historical assessment of the Facility Site included a review of historical maps, aerial photographs, a literature search, and a review of County historical documents located at the New York State and County repositories. This work was conducted to develop historic and prehistoric contexts of the Facility Site which are presented in detail in the Phase IA study (see Appendix 9-1).

The OPRHP CRIS database indicates that **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION** of the Facility Site area are located within an archaeologically sensitive area. The OPRHP records confirm there are no NRHP-listed or eligible archaeological sites within the Area of Potential Effects (APE) for archaeological resources, which is defined as all potential ground-disturbance areas of the Project. As part of the Phase I study, a search of OPRHP records indicated that 14 archaeological investigations have been conducted within a one-mile radius of the Facility Site, one of which included portions of the current Facility Site. **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION** previously recorded archaeological sites are located **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION** of the Facility Site, **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION**. **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION** is located **BEGIN CONFIDENTIAL INFORMATION < [REDACTED] > END CONFIDENTIAL INFORMATION**

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An archaeological sensitivity analysis of the Phase IA Study Area at the time of the study determined that approximately BEGIN CONFIDENTIAL INFORMATION < [REDACTED]

[REDACTED]

[REDACTED]

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INFORMATION Areas of high sensitivity as defined by OPRHP, are those areas: BEGIN CONFIDENTIAL INFORMATION < [REDACTED]

[REDACTED]

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[REDACTED]

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(3) Phase 1B Archaeological Survey

Pursuant to Section 900-1.3(h), a Phase IB archaeological survey was conducted from September through December 2021, in April 2022, and from October through December 2022, to determine the presence or absence of archaeological sites within all areas of high sensitivity as described above (Appendix 9-1). Additional Phase IB archaeological survey was conducted in July 2023 and in December 2023. Given that OPRHP has no concern for areas of low sensitivity per the *OPRHP Guidelines*, no survey was conducted in these areas. The Phase IB survey conformed to procedures contained in the 1994 New York Archaeological Council (NYAC) Standards. Field surveys were conducted prior to the boundary definition of the final Facility Site for Mill Point Solar I, therefore the Study Areas encompassed additional lands outside of the final Facility Site.

Under its New Guidelines (2021), OPRHP recommends that Phase IB survey is warranted for areas of substantial proposed ground disturbance including:

- (1) *grading and excavation more than six inches deep;*
- (2) *grubbing, tree and stump removal; and*
- (3) *trenches more than three feet wide.*

OPRHP does not recommended Phase IB testing for panel arrays, perimeter fencing and utility poles if the posts are driven or drilled into the ground and no grubbing or grading is involved, and for excavation and grading less than six inches in depth.

The New Guidelines (2021) also include a provision for Phase IB survey ahead of design if project design flexibility or “shovel ready” status is desired. Under this provision, the OPRHP recommends 100 percent sampling of all highly sensitive areas irrespective of the nature and type of construction impacts. With this approach, changes in project design would not require further archaeological consultation except for changes that may impact archaeological sites or that increase the size of the project area. Given that project design had not yet been completed at the beginning of Phase IB survey, and was provided at a later date, the Phase IB survey followed a mixed approach of “shovel ready” survey and survey of proposed ground disturbance in areas of high archaeological sensitivity.

Field Methods and Results

The Phase IB field survey methods consisted of both pedestrian and shovel test pit (STP) excavation to locate archaeological resources within the Facility APE. STPs were excavated at 15-meter intervals along survey transects. Per *OPRHP Guidelines*, all STPs measured 30 to 50 centimeters in diameter and were excavated to sterile subsoil. All excavated soil was screened through ¼-inch hardware cloth over tarps or plastic sheeting. Soil strata within each shovel test was recorded on standardized forms describing Munsell color and USDA soil types. All shovel tests were backfilled after completion and were recorded using a Trimble sub-meter accurate Global Positioning System (GPS) unit and plotted on aerial photographs and Facility maps. Per *OPRHP Guidelines*, if artifacts were discovered in an isolated shovel test context, a minimum of eight additional shovel tests at 1-meter (3.3 feet) and 3-meter (10 feet) intervals were excavated. All work was conducted inside the Facility APE.

In total, 11,840 STPs were excavated and 211.84 acres of pedestrian survey was conducted within the Phase IB Study Area, resulting in the recovery of 1,009 artifacts from eight historic sites: TRC-MP-3, TRC-MP-4, TRC-MP-5, TRC-MP-6, TRC-MP-7, TRC-MP-8, TRC-MP-11, and TRC-MP-14; and six precontact sites: TRC-MP-1, TRC-MP-2, TRC-MP-9, TRC-MP-10, TRC-MP-12, TRC-MP-13. Of these sites, the following are within the Mill Point Solar I Facility Site: TRC-MP-1, TRC-MP-9, TRC-MP-10, TRC-MP-11, TRC-MP-12, and TRC-MP-14. Five sites (TRC-MP-3, TRC-MP-4, TRC-MP-7, TRC-MP-10, and TRC-MP-11) are considered potentially eligible for inclusion in the NHRP, and avoidance of these sites was recommended

(Appendix 9-1). Of these sites, the following are within the Mill Point Solar I Facility Site: TRC-MP-10, and TRC-MP-11. In the Phase IB Addendum I Study Area, 173 STPs were excavated, no archaeological resources were identified. In the Phase IB Addendum II Study Area, 209 STPs were excavated, resulting in the recovery of two artifacts from one precontact isolated find.

Laboratory Methods and Curation

Photographs, field form records, field notes, and maps were returned to TRC's Lanham, Maryland office for processing. Artifacts were transported to TRC's laboratory facility in Lanham, Maryland. Some artifact classes were washed in tap water using a soft toothbrush and allowed to air-dry before being submitted for analysis. Within each provenience, artifacts were sorted by general categories (historic, prehistoric, faunal) and then by material type within each category (i.e., prehistoric lithics or ceramics, historic glass, ceramics, architectural material, etc.). After analysis, each provenience received a catalog number. All diagnostic artifacts were labeled with the official site number and catalog number. Labeling was done with ink on a coat of Acryloid B-72 and sealed over with another coat of Acryloid B-72. Artifacts are temporarily curated at the TRC archaeological laboratory until a permanent curation facility is designated.

All analysis was conducted according to the *OPRHP Guidelines*, and the *Secretary of the Interior's Standards and Guidelines for Curation* (36 CFR 79). Lab work was undertaken to determine the age, function, cultural affiliation, and significance of the identified sites. Deeds of gift will be obtained for any collections derived from this investigation prior to submittal to the New York State Museum (NYSM) or other identified repository for permanent curation at a state-approved facility (to be identified via consultation with the OPRHP).

The Applicant understands that all artifacts recovered during this contract are the property of the landowner from which the artifacts were recovered. The Applicant also anticipates that the Facility's cultural resources consultant will curate any recovered artifacts in a manner consistent with professional standards. If appropriate, the consultant may identify local repositories (such as local historical societies or archaeological museums) for disposition of recovered artifacts. Collected artifacts will be processed in a manner consistent with professional standards, such as the *NYAC Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State* (NYAC 1994; the NYAC Standards).

Survey Report

TRC prepared a Phase IB archaeological survey report following the *OPRHP Guidelines*. The report summarized the Phase IA research, described the fieldwork methods and results of the Phase IB survey, and provided recommendations. In support of the text, historical maps and photographs were prepared to illustrate findings. Tables including the artifact inventory were appended. The report also provided recommendations on whether newly identified archaeological sites are eligible or ineligible for inclusion on the NRHP, or if additional Phase II evaluation studies would be required to determine site eligibility. The Phase IB Report was produced and submitted to OPRHP for review on June 27, 2023; OPRHP issued its Phase IB report comments on July 24, 2023, concurring with the report findings and requesting avoidance documentation or Phase II evaluation studies for five newly recorded archaeological resources including: TRC-MP-3, TRC-MP-4, TRC-MP-7, TRC-MP-10, and TRC-MP-11. Of these sites, the following are within the Mill Point Solar I Facility Site: TRC-MP-10, and TRC-MP-11. Avoidance documentation for these five archaeological resources was submitted to OPRHP on November 16, 2023. In response to the avoidance documentation, OPRHP requested an Archaeological Avoidance Plan in their December 4, 2023, letter. The plan was submitted to OPRHP on December 12, 2023. OPRHP responded to the plan submission on December 21, 2023, that no further archaeological work is necessary for these (TRC-MP-10; TRC-MP-11) sites.

An Addendum I Phase IB Archaeological Survey Report prepared for additional surveys was submitted to OPRHP for review on November 21, 2023. No archaeological resources were recorded as part of the Addendum I Phase IB surveys. OPRHP issued its Addendum I comments on December 4, 2023, recommending that no additional archaeological work is necessary in the areas investigated for this report. OPRHP issued a letter on December 22, 2023, stating that no properties, including archaeological and/or historic resources will be adversely impacted by this Project with the condition that the Archaeological Site Avoidance Plan is adhered to.

An Addendum II Phase IB Archaeological Survey Report prepared for additional surveys was submitted to OPRHP for review on April 18, 2024. One isolated find was recorded as part of the Addendum II Phase IB surveys. OPRHP issued its Addendum II comments on April 22, 2024, recommending that no additional archaeological work is necessary in the areas investigated for this report.

(4) Phase II Archaeological Evaluation Studies

If archaeological sites cannot be avoided, then a Phase II archaeological evaluation study will be conducted in consultation with the OPRHP to assess the boundaries, integrity, and significance of cultural resources identified in proposed construction impact areas. Any Phase II evaluation studies will be designed to obtain detailed information on the integrity, limits, structure, function, and cultural/historic context of an archaeological site, as feasible, sufficient to evaluate its potential eligibility for listing in the SRHP or NRHP.

The need for and scope of work for such investigations will be determined in consultation with the OPRHP and New York State Department of Public Service (NYSDPS). Should the outcome of a Phase II evaluation study result in the determination that an impacted site is not eligible for inclusion in the NRHP, then the proposed impact would not result in an adverse effect to cultural resources. Based on the results of studies and consultation with OPRHP, and the Applicant's commitments on avoidance, the Project has not triggered the need for a Phase II evaluation study at this time.

(5) Unanticipated Discovery Plan

It is possible that archaeological resources could be discovered during construction at the Facility Site. As such, the Unanticipated Discovery Plan (Appendix 9-6) presents the approach to address such emergency discoveries to ensure that potentially significant archaeological resources are dealt with in full accordance with state and federal requirements, including the most recent Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State and NYAC Standards (NYAC 1994). This approach would also ensure that procedures and lines of communication with the appropriate government authorities are clearly established prior to the start of construction so that discoveries can be addressed quickly and efficiently, minimizing the impacts to the construction schedule if possible.

Portions of the Facility Site are considered to be archaeologically sensitive, and a potential exists for identifying archaeological resources at the Facility Site. Therefore, the involved personnel will follow standardized procedures in accordance with state and federal regulations detailed below.

Both the environmental monitor and the construction personnel would be provided with a preconstruction briefing regarding potential cultural resources indicators. These indicators would include items such as recognizable quantities of bone, unusual stone or ash deposits,

or black-stained earth that could be evident in spoil piles or trench walls during construction. In the event that potentially significant cultural resources or human remains are discovered during construction, the environmental monitor and construction personnel would be instructed to follow the specific requirements and notification procedures outlined below. Cultural resource discoveries that require reporting and notification include human remains and recognizable, potentially significant concentrations of artifacts or evidence of human occupation.

If cultural resources indicators are found by construction personnel, the construction superintendent would be notified immediately. The supervisor, in turn, would notify the environmental monitor, who would notify a designated archaeologist that would be available to respond to this type of find. Based on the information provided, the archaeologist would determine if a visit to the area is required and, if so, would inform the construction crews of the visit. The Office of Renewable Energy Siting (ORES) Staff will be promptly notified by the Applicant indicating details of any such discovery of possible archaeological or human remains. No construction work at the potential archaeological site that could affect the artifacts or site would be performed until the archaeologist reviews the site. The potential archaeological site would be flagged as being off-limits for work but would not be identified as an archaeological site per se to protect the resources. The archaeologist would conduct a review of the site and would test the site as necessary. The archaeologist would determine, based on the artifacts found and on the cultural sensitivity of the area in general, whether the site is potentially significant and would consult with the OPRHP regarding site clearance.

Discovery of Human Remains

If human remains are encountered, procedures for such discoveries would be followed in accordance with State regulations and the OPRHP's Human Remains Discovery Protocol (August 2021) (see Appendix 9-4). ORES Staff will be promptly notified by the Applicant indicating the details of any such discovery of possible archaeological or human remains. Human remains must be treated with dignity and respect at all times. Should human remains or suspected human remains be encountered, work in the general area of the discovery will stop immediately and the location will be secured and protected from damage and disturbance. If skeletal remains are identified and the archaeologist is not able to conclusively determine whether they are human, the remains and any associated materials must be left in place. A qualified forensic anthropologist, bioarchaeologist, or physical anthropologist will assess the remains in situ to help determine if they are human. No skeletal remains or

associated materials will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.

The SHPO (nancy.herter@parks.ny.gov), the appropriate Indian Nations (darren.bonaparte@srmt-nsn.gov), the involved state and federal agencies (kristy.primeau@ores.ny.gov; houtan.moaveni@ores.ny.gov), the coroner (chrisoffp@gmail.com; triley24van@gmail.com), and local law enforcement will be notified immediately. Requirements of the coroner and local law enforcement will be adhered to. A qualified forensic anthropologist, bioarchaeologist, or physical anthropologist will assess the remains in situ to help determine if the remains are Native American or non-Native American.

If human remains are determined to be Native American, they will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred option of the SHPO and the Indian Nations. The involved agency will consult SHPO and the appropriate Indian Nations to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance. Photographs of Native American human remains and associated funerary objects should not be taken without consulting with the involved Indian Nations.

If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred option of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action. To protect human remains from possible damage, the SHPO recommends that burial information not be released to the public.

The plan will also include a provision for work stoppage in the immediate site of the finding upon the discovery of possible archaeological or human remains. Evaluation of such discoveries, if warranted, and as consistent with State regulations and the OPRHP's Human Remains Discovery Protocol (August 2021), will be conducted by a professional archaeologist, qualified according to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, including Professional Qualifications Standards found in 26 CFR Part 61, and the NYAC Standards. The Unanticipated Discovery Plan will also specify the degree to which the methodology used to assess any discoveries follows the

Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation and the NYAC Standards.

9(b) Study of the Impacts on Historic Resources and Consultation

TRC completed a Historic Architectural Resources Survey for the Project Impact Area (PIA) prior to the definition of the final Facility Site for Mill Point Solar I. The PIA encompassed additional lands outside of the final Facility and was conducted October 19-21, 2021. PIA is defined by ORES as the geographic area or areas within which the proposed undertaking may cause any change, beneficial or adverse, in the character or use of an identified archaeological site, historic resource, or cultural property (Section 900-1.2(bk)). TRC surveyed and identified the presence of architectural resources aged fifty years or older within the Zone of Visual Impact (ZVI) which according to the *New York State Historic Preservation Office Guidelines for Solar Facility Development Cultural Resources Survey Work* (July 2020) for projects covering 100 acres or more is the area within 2-miles of the Facility Site that will have positive visibility of the solar field based on topography only. TRC evaluated the architectural resources within the ZVI for their eligibility for listing in the NRHP and provided in a technical report an assessment of the potential adverse impacts of the Project on those historic architectural properties that are listed in, previously determined eligible for listing in, or recommended eligible for listing in the NRHP.

Background Research

In order to locate previously identified historic resources, TRC conducted an initial desktop analysis utilizing the OPRHP’s CRIS and NRHP online databases, historical maps, aerial imagery, secondary historical sources, online county tax parcel data, and county histories. An initial review of previously identified resources located within a two-mile radius of the Facility Site recorded New York State/National Registers of Historic Places (S/NRHP)-listed historic properties, previously determined S/NRHP-eligible historic properties, National Historic Landmarks, resources with an undetermined eligibility status, and resources previously determined not eligible for NRHP listing.

Architectural Field Survey

TRC conducted a Historic Architectural Resources Survey of the ZVI as determined by geographic information system (GIS) modeling, based on bare-earth topography, and in consultation with OPRHP using the Trekker mobile survey application. The field survey consisted of revisiting all previously recorded resources and documenting newly identified architectural

resources fifty years old or older within the ZVI. Field survey included systematically driving or walking all public roads within the ZVI to identify historic properties and resources present. TRC assessed all resources from public right-of-ways (ROWs). Per guidance from OPRHP (July 30, 2020), buildings within the Project ZVI were surveyed and inventoried into CRIS Trekker by TRC architectural historians.

TRC field-checked and photographed all previously identified S/NRHP-eligible properties to record existing conditions and reassess their current S/NRHP status. Each previously identified but unevaluated resource and each newly identified resource was documented via photography, and resource inventory forms were completed using CRIS Mobile Pro Trekker and Survey123 in the field. TRC used CRIS Trekker to complete resource inventory forms, which included georeferenced locations, physical descriptions, materials, condition, integrity, and other noteworthy characteristics of each resource, as well as proposed eligibility for NRHP listing.

Identification of Historic Properties

TRC conducted the survey between October 19 and 21, 2021, identifying 130 architectural resources in the combined ZVI of the Mill Point Solar I Project and the proposed Mill Point Solar II Project aged fifty years or older in the ZVI. Of the surveyed historic architectural properties and resources, 43 are recommended eligible for NRHP listing, previously determined NRHP-eligible, or NRHP-listed, and the remaining 87 architectural resources are recommended not eligible for NRHP listing due to lack of architectural merit, insufficient integrity, or no historical significance. TRC concludes that the Facility has the potential to visually impact historic architectural properties within the ZVI. However, the impacts will not be adverse because the undertaking will not significantly compromise, diminish, or alter the NRHP qualifying characteristics of any NRHP-recommended eligible architectural resources in the ZVI.

Reporting

TRC's Historic Architectural Resources Survey and Effects Report is included as Appendix 9-3. The report includes a description of the Project, statement of methodology, historic context, summary of surveyed resources, and field results. Survey results include recommendations of S/NRHP eligibility, and a preliminary assessment of Facility impacts. Surveyed resources were submitted to OPRHP using CRIS Trekker on October 26, 2022.

Preliminary Assessment of Impacts

In order to identify and summarize the nature of probable impacts to historic architectural resources pursuant to Section 106 and Section 94-c, TRC’s Historic Architectural Resources Survey and Effects Report includes a preliminary assessment of potential impacts and effects to historic architectural properties. To assess potential impacts and effects of the undertaking, TRC applied the Secretary of the Interior’s Standards for the Treatment of Historic Properties in combination with the Advisory Council on Historic Preservation’s Criteria of Adverse Effect (36 CFR Section 800.5 (a)). Additional guidance derives from the Council of Environmental Quality’s Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Section 1500 – 1508).

(1) Consultation and Definition of Area of Potential Effects (APE)

SHPO Consultation

TRC initiated consultation with OPRHP on January 6, 2021. OPRHP responded with recommendations for a Historic Architecture Survey on January 13, 2021. The response indicated that only properties with positive visibility within a two-mile radius of the solar array should be surveyed. On March 22, 2021, TRC provided OPRHP with methodology for the survey following a two-mile radius survey boundary. The methodology stated that the ZVI is defined as areas within the two-mile radius of the solar field that GIS visibility modelling shows will have positive visibility of the Facility. On March 22, 2021, OPRHP approved TRC’s methodology and initiated a Trekker survey for the Project.

Definition of APE and ZVI

The APE is defined in 36 CFR 800.16(d) as the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties. The APE is determined in relation to the scale of the undertaking, including new construction, improvements, or demolitions to be made during operation and maintenance of the Facility. The APE also includes areas that may have visual and indirect impacts. In keeping with *OPRHP Guidelines* (July 30, 2020), the term APE is synonymous with PIA and ZVI and is used interchangeably to denote areas within two miles of the Facility that have positive visibility of the Facility based on bare-earth topography.

Identification of impacts and effects (visual, atmospheric, or audible) includes investigations of those areas removed in distance, where Facility components will be visible and where there is a potential for a significant visual effect. The survey buffer used for the requested

architectural resources survey is a two-mile radius of the Facility. The ZVI for the survey encompasses all areas within the two-mile buffer area of the Facility that have visibility of the Facility, based on bare-earth topography modelling, GIS-based analysis that does not include visual impediments such as trees and buildings.

(2) Analysis of any Adverse Effects of Historic Properties

Construction of the Facility will not require demolition or physical alteration of any NRHP eligible or recommended eligible historic properties within the APE. Therefore, no physical impacts on potential historic properties are anticipated as a result of the Facility. However, construction of the Facility has the potential to result in visual impacts on recommended eligible historic properties in the APE. The potential to impact any historic property depends upon that historic property's NRHP qualifying characteristics. If a historic property's setting is less important to its significance than its architectural merit or historic qualities, then changes to setting may not adversely diminish the qualities or character-defining features that support a historic property's NRHP eligibility. Therefore, the Project would have no adverse effect on a historic property. Additionally, the Facility was designed to minimize any impact on the Glen Historic District (USN 05705.000154) and the Glen Village Cemetery (USN 05705.000154).

All 43 potential historic properties that bare-earth viewshed modeling suggests may have some level of visibility of Facility components are located outside of the Facility Site—and therefore beyond the limits of disturbance (LOD). The 43 potential historic properties evaluated as part of the Historic Architectural Resources Survey have significantly reduced potential for views of the Facility's visible infrastructure due to distance or intervening visual screening such as vegetation, other developed structures, or roadways. Thus, TRC recommended to OPRHP that the Facility will not introduce new visual elements into views from these properties that would damage character-defining features that contribute to their historic significance and NRHP eligibility and will have no adverse impact on these historic properties. In a letter dated November 23, 2022 (Appendix 9-2), OPRHP identified potential impacts to the Glen Historic District. In order to complete their review, OPRHP requested landscaping information in project plans in the vicinity of the Glen Historic District. TRC provided OPRHP with the additional information requested on June 16, 2023 (Appendix 9-5). OPRHP responded to the information request on July 14, 2023 (Appendix 9-2) indicating that "OPRHP has no above ground concerns, as the solar array visibility from the Glen Historic District will be limited."

(3) *Mitigation Measures*

OPRHP issued a letter stating that no properties, including archaeological and/or historic resources will be adversely impacted by this Project with the condition that the Archaeological Site Avoidance Plan is adhered to, on December 22, 2023. Should there be unavoidable adverse impacts of the Facility to State or NRHP-eligible historic architectural resources, TRC will coordinate consultation between ConnectGen Montgomery County LLC and OPRHP to resolve potential adverse impacts and effects by proposing mitigation treatments.

References

New York Archaeological Council (NYAC). 1994. Standard for Cultural Resource Investigations and the Curation of Archeological Collections in New York State. Adopted by the New York State Office of Parks, Recreation, and Historic Preservation.

New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). 2018 *Solar Facility, Phase IA/IB Archaeological Survey Recommendations/Sensitivity Model*. Adopted by the New York State Office of Parks, Recreation, and Historic Preservation.

OPRHP. 2021. Guidelines for Solar Facility Development Cultural Resources Survey Work. Adopted by the New York State Office of Parks, Recreation, and Historic Preservation.

OPRHP. 2021. Human Remains Discovery Protocol. Adopted by the New York State Office of Parks, Recreation, and Historic Preservation.