



EXCELSIOR ENERGY CENTER

Case No. 19-F-0299

1001.20 Exhibit 20

Cultural Resources

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Exhibit 20: Cultural Resources

This Exhibit will track the requirements of Stipulation 20, dated July 6, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.20. This Exhibit addresses 16 NYCRR § 1001.20, which requires a study of the potential impacts of the construction and operation of the Excelsior Energy Center (the Project), its interconnection, and its related facilities on cultural resources (archaeological and historic architecture).

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.

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 National Historic Preservation Act (NHPA) and its implementing regulations at 36 Code of Federal Regulations (CFR) § 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.

Because the Project will likely require a Nationwide Permit from the United States Army Corps of Engineers (USACE), in addition to the Article 10 certificate, consultation for the Project is expected to also follow the Federal Section 106 review process.

OPRHP-SHPO Consultation

Consistent with 16 NYCRR § 1001.20 and 36 CFR § 800, the Excelsior Energy Center, LLC (the Applicant), through its consultant, TRC, initiated formal consultation with the OPRHP to develop the scope and methodology for cultural resources studies for the Project (see Appendix 20-3 for the Project 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 of June 3, 2019;*
- *Phase IA Archaeological Survey and Sensitivity Assessment (September 9, 2019; revised version January 3, 2020); and*
- *Request for Historic Architectural Resources Survey Methodology.*

On June 24, 2019, the OPRHP requested a Phase IA archaeological investigation to identify previously recorded archaeological sites and other cultural resources within or near the Project Area, and to assess the archaeological sensitivity of the Project Area. The Phase IA report was submitted to OPRHP on September 9, 2019 (Appendix 20-1). In a letter dated November 4, 2019, OPRHP concurred with the recommendations presented in the Phase IA report that Phase IB archaeological testing be conducted where significant proposed ground disturbances fall within areas characterized as having moderate or high archaeological sensitivity. Areas of significant ground disturbance include access roads, collection substations, Point-of-Interconnect (POI) switchyards, retention ponds/basins, drainage ditches/tiles over a foot wide, staging areas/temporary laydown yards, parking lots, structures, utility trenches/electrical collections systems over a foot wide, and areas of grubbing and grading. 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 1 foot wide or if grading or grubbing is necessary, archaeological fieldwork is recommended. Revisions to the Phase IA were requested; a revised version of the report was submitted January 3, 2020, and accepted by OPRHP on January 9, 2020.

Details of work completed to date are provided in this document. An 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 in this Exhibit.

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

(1) Town Consultation

Numerous previous cultural resource investigations have been conducted within the Study Area and are on file with OPRHP. This information includes documentation on the well-publicized Hiscock Dig Site, available through OPRHP. Information on the Hiscock Dig Site is also available on the Town of Byron's website. Consultation was conducted with the Town of Byron Supervisor, amongst others. Results from these consultations, if received, are included as historical background in the Phase IA Archaeological Study and Historic Architectural Reconnaissance Report, as applicable.

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

This section addresses Stipulation 20(a)(2), which requires 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, to the maximum extent practicable. The archaeological investigation is currently ongoing. The results will be filed with the Siting Board after the study has been completed. Measures to avoid impacts to any potentially significant archaeological resources will be taken throughout the Project design.

If resources are identified within 100 feet of proposed Facility-related impacts, and can be avoided, the Applicant will identify their locations as "Environmentally Sensitive Areas" on the final Facility construction drawings and will mark them in the field prior to construction by construction fencing with signs that restrict access. These measures are considered adequate to ensure that impacts to potentially significant archaeological resources are avoided.

(3) Phase IA Archaeological/Cultural Study

This section addresses Stipulation 20(a)(3), which requires an archaeological/cultural resource review for the Area of Potential Effect (APE) and any areas to be used for interconnections or related facilities, including a description of the methodology used for such study.

Phase 1A Study Methods and Results

Background research included examination of site files and archives at the OPRHP, 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 in the Project Area. The historical assessment of the Project Area included a review of historical maps, aerial photographs, a literature search, and a review of Genesee County historical documents located at the New York State (NYS) and Genesee County repositories. This work was conducted to develop historic and prehistoric contexts of the Project Area, which are presented in detail in the Phase IA study (see Appendix 20-1); a cultural synopsis is provided below.

The OPRHP CRIS database indicates that portions of the Project Area are located within an archaeologically sensitive area. The OPRHP records confirm there is one NRHP-listed or eligible archaeological site within the 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 five archaeological investigations have been conducted and 42 archaeological sites have been identified within a 1-mile radius of the Project.

An archaeological sensitivity analysis of the Project Area determined that approximately 1,059 acres of the 3,443-acre Project Area (approximately 31 percent) are considered to have high sensitivity for archaeological resources. Areas of moderate archaeological sensitivity constitute approximately 2,051 acres (approximately 60 percent) and 308 acres (approximately 9 percent) are considered to have low archaeological sensitivity. Areas of high sensitivity for historic resources include locations near historic roads and areas where structures have appeared on historic mapping. Hilltops and ridgelines overlooking springheads that flow into large upland swamps are considered to have high sensitivity for prehistoric resources. Moderate sensitivity areas include minimal to moderately sloped areas displaced from water sources, and areas of low sensitivity are steeply sloped or poorly drained.

Cultural Synopsis

A synopsis of the prehistoric and historic periods is presented to provide a context for interpreting cultural resources of the Project Area. The central region of NYS has been occupied since about 12,500 years ago. The prehistory of this region is conventionally divided into the Paleoindian, Archaic, Woodland, and Contact cultural periods. The history of the Project region ranges from early exploration and contact with the Iroquois, particularly the Seneca, through modern-day development.

Prehistoric Overview

The Paleoindian Period represents the earliest human occupation in the northeastern United States. Paleoindian populations were highly mobile hunter-gatherers who specialized in hunting large game (Funk, 1976). Subsistence patterns included hunting of a variety of smaller game, as well as fishing and the exploitation of available plant foods (McNett, 1985; Nicholas, 1983 and 1987). Fluted projectile points are characteristic of Paleoindian peoples. Paleoindian sites in this region have been classified as either camps or quarry workshops, although many sites consist merely of isolated fluted point finds (Ritchie and Funk, 1973).

The Archaic Period denotes the early cultures in the New York region that had not yet developed ceramic technology and depended on hunting, gathering, and fishing for subsistence (Ritchie, 1980; Ritchie and Funk, 1973). The subsistence and technological changes associated with the end of the Pleistocene are reflected in new technologies and tool types that define the increasing resource utilization of the Archaic Period. The Terminal Archaic, which some researchers date from 1700 to 700 BC, was a transitional period in which subsistence and settlement systems changed and new artifact types were introduced.

The Woodland Period is denoted by the appearance of new cultural traits, such as the widespread use of ceramics, as well as the intensification of older traits that were carried over from the Late and Terminal Archaic subperiods (Ritchie, 1980; Ritchie and Funk, 1973). During the Woodland Period (1000 BC to AD 1600), the adoption of horticulture played an integral part in population growth, subsistence, and settlement systems as well as in the establishment of large villages in mostly riverine settings. The Iroquoian Seneca tribe inhabited the area that would become Genesee County at the time of European contact. Powerful both politically and economically, the Seneca hunted and traded throughout the mid-Atlantic and played a significant role in colonial affairs and commerce from Virginia to New York with the English, French, Dutch, and Swedish colonies. The replacement of tools and other materials manufactured by Native American

technologies by those manufactured by Europeans (brass kettles, iron knives, glass beads, etc.) defines the Contact Period (Wray, 1973).

Historic Overview

The Seneca retained control of their traditional lands until after the Revolutionary War. The first Europeans settled in the area after the Phelps and Gorham Purchase in 1788, during which the Seneca relinquished their rights to land between Seneca Lake and the Genesee River (Aldrich, 1893; Henry, 2000). Genesee County was formed in 1803 from a portion of Ontario County. Primarily rural and agricultural, industries within Genesee County were generally directly related to the manufacture of farm-related products, including canning factories for the area's prosperous orchards (Beers, 1890; Sullivan, 1927).

The commercialization of the farms and orchards of the region can be tied to the arrival of canals and railroads, which increased economic opportunities by expanding the market for agricultural products and bringing in cheaper and more varied goods (Beers, 1890). Railroads that traversed Genesee County include the New York Central and Hudson River Railroad (NYC&H RR), the Tonawanda, Canandaigua, and Batavia and Attica branches of the NYC&H RR, and the Erie Railroad (North, 1899).

An agricultural boom directly related to the Civil War led the County to prosperity during and after the War. Genesee County remains rural, with agriculture and animal husbandry as key parts of the local economy. Tourism likewise plays a role in the area economy, with state and local parks drawing tourists.

In the northeastern part of Genesee County, the Town of Byron was first settled in 1807 by Benham Preston. A school and a church were opened in 1810, a store in 1813, and an inn in 1815. The early Town also contained a sawmill and a grist mill, erected in 1813 and 1814, respectively. The Town was divided from the Town of Bergen and incorporated in 1820. The Town was named in honor of Lord Byron, the contemporary British poet. A rural town, Byron is known for its dairy and vegetable farms, though small industries have prospered including flour mills, an iron foundry, a cheese factory, and a manufactory of agricultural tools (North, 1899). The 2010 census noted a population of 2,369 residents (U.S. Census Bureau, 2010).

(4) Phase 1B Archaeological Survey

A Phase IB archaeological survey is currently being conducted to determine whether archaeological sites are located in the areas of proposed ground disturbance for the Project. The results of this survey will be filed with OPRHP and the Siting Board shortly thereafter.

Field Methods

Phase IB field methods consists of both a pedestrian and a shovel test pit (STP) survey to locate all archaeological resources within the Project APE. In areas of high or moderate archaeological sensitivity, TRC will excavate STPs at 15-meter intervals along survey transects in all proposed construction impact areas. During the Phase IA research, TRC identified areas of high archaeological sensitivity as areas in close proximity to historic resources, including locations near historic roads and areas where structures have appeared on historic mapping, and hilltops and ridgelines overlooking springheads that flow into large upland swamps. Moderate sensitivity areas include minimal to moderately sloped areas displaced from water sources, and areas of low sensitivity are steeply sloped or poorly drained. Low archaeological sensitivity areas included moderate to steeply sloping surfaces and areas of existing ground disturbance.

To help ascertain the viability of the archaeological sensitivity defined field methods, as per the OPRHP *Guidelines*, TRC will examine up to five percent of all areas identified as high and moderate archaeological sensitivity with a 5-meter STP interval. The locations of the smaller subset of close interval testing in high and moderate archaeological sensitivity areas are based on suitable areas as determined in the field.

In areas of low archaeological sensitivity, which consist predominantly of areas of steep slope, a combination of pedestrian survey and judgmental STP excavation will be conducted. The pedestrian survey is conducted in lieu of shovel testing where steep slope, exposed bedrock, wetlands, and/or ground disturbance precludes the utility of shovel testing. Judgmental STPs will be excavated in areas of micro-topography, such as small level benches on steep slope, possible rock shelter locations, and narrow, ephemeral stream crossings.

To avoid impacts to or within previously reported archaeological sites, OPRHP recommends a 50-foot buffer zone be established around each known archaeological site once the location is reestablished. If avoidance is not feasible, an assessment of whether Phase II site examinations are warranted will occur.

Per the OPRHP *Guidelines*, all STPs will measure 30 to 50 centimeters in diameter and will be excavated to sterile subsoil. All excavated soil will be screened through ¼-inch hardware cloth over tarps or plastic sheeting. Soil strata within each shovel test will be recorded on standardized forms describing Munsell color and USDA soil types. All shovel tests will be backfilled after completion. All shovel tests will be recorded using a *Trimble* sub-meter accurate Global-Positioning System (GPS) unit and plotted on aerial photographs and Project maps. Per the OPRHP *Guidelines*, if artifacts are 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 will be excavated. All work will be conducted inside the Project APE.

Laboratory Methods and Curation

Photographs, field form records, field notes, and maps will be returned to TRC's Lanham, Maryland office for processing. Should artifacts be recovered during the survey, they will be cleaned, catalogued, and analyzed according to the *New York Archaeological Council Standards*, and selected items illustrated. All analysis will be conducted according to the OPRHP *Guidelines*, and the Secretary of the Interior's *Standards and Guidelines for Curation* (36 CFR 79). Lab work will be 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 Project'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 New York Archaeological Council's (NYAC) Standards for Cultural Resource Investigations and Curation of Archaeological Collections in New York State (NYAC 1994; the NYAC Standards).

Survey Report

Following completion of the research and fieldwork, TRC will prepare a Phase I archaeological survey report following the OPRHP *Guidelines*. The report will summarize the Phase IA research, focus on the fieldwork methods and results of the Phase IB survey, and provide

recommendations. In support of the text, historical maps and photographs will be prepared to illustrate findings. Tables including the artifact inventory will be appended as needed. If archaeological sites are identified, the report will provide recommendations on whether the sites are eligible or ineligible for inclusion on the NRHP, or if additional Phase II studies would be required to determine site eligibility. A Draft Report will be produced and submitted to the OPRHP for preliminary review. Following review, the Project will make any necessary changes and a Final Report will be produced.

(5) Phase II Archaeological Studies

If necessary, based on the Phase IB study results and as determined in consultation with the OPRHP, a Phase II archaeological study will be conducted to assess the boundaries, integrity, and significance of cultural resources identified in proposed construction impact areas. Any Phase II investigations 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 the New York State Department of Public Service (NYS DPS). Should the outcome of a Phase II investigation 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. Any Phase II studies, if required, will be conducted following any required Compliance Filing.

(6) Phase III Archaeological Studies

If necessary, a Phase III Data Recovery Plan will be proposed, following completion of a Phase II archaeological study, if any identified archaeological site cannot be avoided through modification of Project design. The Phase III Data Recovery Plan will be prepared by the Applicant in consultation with the NYS OPRHP and submitted as part of the Compliance Filing. The Phase III Data Recovery would be conducted in advance of any ground-disturbing activities and would serve to mitigate impacts caused by Project development to any NRHP-eligible archaeological site(s).

(7) List of Recovered Artifacts

A detailed list of artifacts recovered during excavations will be provided following completion of the excavation and subsequent laboratory processing and analysis.

(8) Unanticipated Discovery Plan

It is possible that archaeological resources could be discovered during construction at the Project Area. As such, this Unanticipated Discovery Plan 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. 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, minimizing the impacts to the construction schedule if possible.

Although the majority of the Project Area is not considered to be archaeologically sensitive, according to OPRHP CRIS, a potential exists for identifying archaeological resources in the Project Area. Therefore, the involved personnel will follow standardized procedures in accordance with the 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 supervisor would be notified immediately. The supervisor, in turn, would notify the environmental monitor, who would notify a designated archaeologist, who 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. 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 2018). 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, the appropriate Indian Nations, the involved state and federal agencies, the coroner, 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 find 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 2018), 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*.

20(b) Study of the Impacts on Historic Architectural Resources

This section addresses proposed Stipulation 20(b), which requires a study of the impacts of the construction and operation of the Project and the interconnections and related facilities on historic resources, including the results of field inspections and consultation with local historic preservation groups to identify sites or structures listed or eligible for listing in the State or NRHP within the APE of the Project, including an analysis of potential effects to architectural resources eligible or recommended eligible for listing in the State or NRHP, based on an assessment by a person qualified pursuant to 36 CFR 61.

TRC completed a Historic Architectural Resources Survey for the Project. The purpose of the architectural survey is to identify the presence of architectural resources aged 50 years or older within the APE for the architectural survey, evaluate these architectural resources for their eligibility for listing in the NRHP, and to provide an assessment of the potential adverse effects of the Project on those historic architectural resources 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. The initial review of previously identified resources located within the 2-mile-radius Study Area includes six

resources previously determined NRHP-eligible, two resources with an undetermined eligibility status, and nine resources previously determined not eligible for NRHP listing.

Architectural Field Survey

TRC conducted the Historic Architectural Resources Survey of the APE between June 8 and 12, 2020. The field survey consisted of revisiting all previously recorded resources and documenting newly identified architectural resources 50 years old or older that appeared to meet NRHP eligibility criteria within the Project APE. The field survey included systematically driving or walking all public roads within the APE to identify resources present. TRC assessed all resources from public rights-of-way. Per the guidance from OPRHP (February 4, 2020), TRC architectural historians surveyed buildings within the Project APE and inventoried these buildings into the CRIS Trekker.

TRC field-checked and photographed all previously identified NRHP-eligible properties to record existing conditions and reassess their current NRHP status. Each previously identified but unevaluated resource and each newly identified resource were documented via photography, and resource inventory forms were initiated using CRIS Mobile Pro 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 identified 382 architectural resources in the APE, including the 8 previously identified, eligible and undetermined resources mentioned above, and an additional 374 newly identified architectural resources aged 50 years old or older. TRC recommends the six previously determined NRHP-eligible resources remain NRHP-eligible, and TRC recommends the two previously undetermined resources are NRHP-eligible.

Of the 374 newly identified architectural resources aged 50 years old or older, TRC recommends 25 NRHP-eligible. TRC recommends the remaining 349 newly identified architectural resources not eligible for NRHP listing due to the lack of architectural or historic significance. TRC did not identify any potential historic districts during the survey.

Reporting

TRC's Historic Architectural Resources Survey and Effects Report is included as Appendix 20-2. The report includes a description of the Project, statement of methodology, historic context, summary of surveyed resources, and survey results. Survey results include recommendations of NRHP eligibility and a preliminary assessment of Project effects. Surveyed resources will be submitted to OPRHP using the CRIS Trekker.

Preliminary Assessment of Effects

In order to identify and summarize the nature of probable effects to historic architectural resources pursuant to Section 106 and Article 10, TRC's Historic Architectural Resources Survey and Effects Report includes a preliminary assessment of effects to historic architectural resources. To assess Project effects, 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 § 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 § 1500 – 1508).

TRC's analysis of the potential effects of the Project on historic properties concludes that construction activities and operation of the Project will not adversely affect the NRHP qualifying characteristics of any of the 33 NRHP-eligible or recommended eligible historic properties in the APE. TRC recommends that the likelihood of incremental effects caused by the Project to historic properties in the APE from past, present, or reasonably foreseeable future actions is low. Thus, the project will have no reasonably foreseeable cumulative effect to historic properties. Accordingly, TRC offers preliminary recommendations of no adverse effect to historic properties in the APE.

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

SHPO Consultation

The OPRHP replied to the initial Request for Consultation Letter (May 22, 2019) with a request for a detailed work plan for an architectural resource survey (June 24, 2019). TRC submitted a work plan and trekker survey proposal to OPRHP (February 3, 2020).

Definition of APE

The APE is defined 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 Project. The APE also includes areas that may have visual or indirect impacts.

Identification of effects (visual, atmospheric, or audible) includes investigations of those areas removed in distance, where Project Components will be visible and where there is a potential for a significant visual effect. The Study Area used for the architectural resources survey is a 2-mile radius of the Project. The APE for the survey encompasses all areas within the 2-mile Study Area of the Project that have visibility of the Project, based on bare-earth topography modelling, Geographic Information System (GIS)-based analysis that does not include visual impediments such as trees and buildings.

(2) Cemeteries within the Project Area and APE

TRC did not identify any cemeteries within the Project Area boundaries. TRC identified three cemeteries in the APE.

(3) Mitigation Measures

Mitigation measures are not expected due to TRC's no adverse effect recommendations. This recommendation will be reviewed by the OPRHP to determine if they concur.

20(c) Consultation with Federally Recognized Tribes

Based on the Project's geographical location and guidance from the NYS OPRHP and the Indian Nations of NYS, OPRHP initiated consultation with the following Federally Recognized Tribes: Seneca Nation of Indians and the Tonawanda Band of Seneca on behalf of DPS upon completion of the Phase IA report review (November 4, 2019). OPRHP requested comments from each Tribal Historic Preservation Office (THPO) on potential effects from the Project on Tribal resources or Tribal lands by December 4, 2019. No comments have been received as of **August 5, 2020**.

20(d) Collection Line Installation

Typical installation methods for collection lines include cable plow, open trench, and horizontal directional drilling (HDD). Impacts on any archaeological resources that are identified during the

Phase IB survey at the original line location and that are determined NRHP eligible will be avoided by re-designing the collection line to avoid the resource.

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