



**SOMERSET SOLAR, LLC**

**MATTER NO. 22-00026**

**§900-2.10 Exhibit 9**

**Cultural Resources**

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## ACRONYM LIST

§	Section
APE	Area of potential effect
CFR	Code of Federal Regulations
CRIS	Cultural Resources Information System
EM	Environmental Monitor
GIS	geographic information system
LOD	limit of disturbance
NRHP	National Register of Historic Places
NYCRR	New York Codes, Rules, and Regulations
NYHPA	New York Historic Preservation Act
NYS	New York State
OPRHP	New York State Office of Parks, Recreation, and Historic Preservation
ORES	Office of Renewable Energy Siting
SHPO	State Historic Preservation Office
SRHP	State Register of Historic Places
ST	shovel test
Tetra Tech	Tetra Tech, Inc.
ZVI	Zone of Visual Impact

## Glossary Terms

<b>Applicant</b>	Somerset Solar, LLC, a subsidiary of The AES Corporation, Inc. (AES), the entity seeking a siting permit for the Facility Site from the Office of Renewable Energy Siting (ORES) under Section (§) 94-c of the New York State Executive Law.
<b>Application</b>	Application under §94-c of the New York State Executive Law for review by the ORES for a Siting Permit.
<b>Facility</b>	The proposed components to be constructed for the collection and distribution of energy for the Somerset Solar Facility, which includes solar arrays, inverters, electric collection lines, and the collection substation.
<b>Facility Site</b>	The limit of disturbance (LOD) that will be utilized for construction and operation of the Facility, which totals about 696 acres on the Project Parcels in the Town of Somerset, Niagara County, New York (Figure 2-1).
<b>Project Parcels</b>	The parcels that are currently under agreement with the Applicant and Landowner, totaling about 1,784 acres in the Town of Somerset, Niagara County, New York, on which the Facility Site will be sited (Figure 3-1).
<b>Project Site</b>	The acreage of the Project Parcels under agreement between the Applicant and the Landowner, consisting of approximately 1,396 acres, in which the Applicant has performed diligence, surveys and assessments in support of Facility design and layout.

## EXHIBIT 9 CULTURAL RESOURCES

This exhibit addresses the requirements specified in 19 New York Codes, Rules and Regulations (NYCRR) Section (§) 900-2.10, which requires a study of the potential impacts of the construction and operation of the Facility, its interconnections, and its related facilities on cultural resources (archaeological and historic architecture).

The Office of Parks, Recreation, and Historic Preservation (OPRHP) issued a Determination of Effect Finding on November 9, 2022 for the 80 artifacts identified from one newly recorded archaeological site and two isolated historic-era artifacts, all of which have been determined not eligible for the National Register of Historic Places (NRHP). OPRHP agreed no further archaeological studies were required. Correspondence received from OPRHP on October 26, 2022 regarding potential visual impacts to the Babcock House have been addressed through identification of appropriate mitigation and preparation of an alternatives analysis. The Applicant's mitigation proposal for the Babcock House and the alternatives analysis for the Facility was submitted to OPRHP on January 26, 2023, and OPRHP provided their concurrence, with conditions, on the Historic Architecture report and proposed mitigation plan for the Babcock House on February 15, 2023. A landscape mitigation plan will be developed and approved by the Office of Renewable Energy Siting (ORES) prior to construction to ensure that landscaping is installed and maintained in a manner that screens the Facility from adjacent residences and travelers along local roadways that abut the Facility Site, to the greatest extent practicable. The Facility has been designed to comply with 19 NYCRR §900-2.10 and the Uniform, Standards and Conditions identified in §94-c regulations. Impacts related to cultural resources have been avoided and minimized to the maximum extent practicable. OPRHP correspondence is provided in Appendix 9-A.

### **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 New York State (NYS) agency activities affecting historic or cultural properties, requiring consultation with the Commissioner of the 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 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 NYS 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 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 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 Facility will require a Clean Water Act Section 401 Water Quality Certification and coverage under Section 404 of the Clean Water Act for minor wetland impacts (via the Nationwide Permit process), in addition to the §94-c Siting Permit, consultation for the Facility follows the Section 106 review process.

#### **OPRHP-SHPO Consultation**

Consistent with 16 NYCRR §1001.20 and 36 CFR §800, the Applicant, through its consultant Tetra Tech, Inc. (Tetra Tech), initiated formal consultation with the OPRHP to develop the scope and methodology for cultural resources studies for the Facility (Appendix 9-A). 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 to correspond with completion of milestones and technical documents for OPRHP review, including a Phase IA archaeological survey and report (Appendix 9-C); historical architecture work plan, survey and report (Appendix 9-D); Phase IB work plan, surveys, and report (Appendix 9-E); and information requests associated with these surveys and documents (Appendix 9-A).

Tetra Tech submitted a request to OPRHP for Initial Consultation on February 18, 2021. On February 23, 2021, the 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. The Phase IA report was submitted to OPRHP on April 20, 2021 and included recommendations for a Phase IB archaeological survey. The recommendations included a map of archaeologically sensitive areas that would be subject to Phase IB survey, should these areas be subject to significant ground disturbing activities (Appendix 9-E). Communication was received from OPRHP between May 26, 2021 and October 4, 2021 that included comments on the Phase IA report and additional information requests, which Tetra Tech provided responses to. A revised work plan describing proposed Phase IB testing within anticipated areas of significant ground disturbing activities that overlapped the modeled zone of high archaeological sensitivity was provided to OPRHP on October 25, 2021 and on November 4, 2021 OPRHP provided their concurrence with the Phase IB work plan and revised the Phase IA Investigation report. Areas of significant ground disturbance include areas of grading/fill and excavation more than 6 inches deep; tree/shrub grubbing, including stump removal; and trenches more than 3 feet wide. Archaeological fieldwork was 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 6 inches in depth or if grading/fill or grubbing is necessary, archaeological fieldwork is recommended.

Phase IB surveys were completed in November/December 2021, July 2022, and September 2022. An interim Phase IB survey report was submitted to OPRHP on January 14, 2022 that summarized the November/December Phase IB survey results. OPRHP provide comments on the interim Phase IB survey report on February 28, 2022; further work on areas of tree/shrub clearing and grubbing was requested. The complete Phase IB survey report was submitted to OPRHP on November 7, 2022, along with a request for concurrence of the findings. The Applicant received OPRHP concurrence on the Phase IB report and that no further archaeological investigations were required for the Facility on November 9, 2022 (Appendix 9-A).

A Historic Architecture work plan for the Project Site and 1-mile study area was submitted to OPRHP on January 14, 2022 and OPRHP provided their concurrence on this work plan and access to the Trekker mobile application for field documentation on January 14, 2022. Tetra Tech completed the Historic Architecture survey between February 28, 2022 and March 3, 2022. The Historic Architecture survey report was submitted to OPRHP on July

14, 2022, which identified eight properties identified within the 1-mile Zone of Visual Impact (ZVI) as potentially eligible for the National Historic Register of Historic Places (Appendix 9-D). Comments were received from OPRHP on July 20, 2022 for which Tetra Tech provided a response on July 27, 2022. A request for additional visual mitigation proposed, in relation to list or eligible historic properties in close proximity to the Facility was received from OPRHP on August 23, 2022, for which a response package was submitted to OPRHP on October 4, 2022. On October 26, 2022 OPRHP provided their response that identified the potential for significant visual impacts to the Babcock House and a request for additional alternative analysis information for the Facility (Appendix 9-A). The Applicant consulted with Babcock House representatives to identify appropriate mitigation that could serve to reduce the potential visual impacts to the Babcock House and presented this information along with the requested alternative analysis information to OPRHP on January 26, 2023. OPRHP concurrence, with conditions, on the results of the Historic Architecture report and proposed mitigation for the Babcock House was received on February 15, 2023 (Appendix 9-A).

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 in accordance with section 9(a)(5) and a contact list for the Unanticipated Discovery Plan is provided in Appendix 9-E.

### **Tribal Historic Preservation Office Consultation**

Based on the Facility's geographical location and guidance from the OPRHP and the Indian Nations of NYS, the Applicant has initiated consultation with the following federally recognized Tribes: Tuscarora Nation, Tonawanda Seneca Nation, and Seneca Nation of Indians tribes. The Tribal consultation procedures included preparing initial outreach correspondence and submittal of the Phase IA archaeological survey results via email to each Tribal Historic Preservation Office and their legal counsel representative in July 2021. A copy of the completed Phase IB report was provided to these tribes and their legal counsel representatives on November 15, 2022. The Applicant has requested comments from each Tribal Historic Preservation Office on any potential effects from the Facility on Tribal resources or lands. To date, only the Seneca Nation of Indians has responded, noting they were following SHPO recommendations (email dated August 16, 2021) and

that they did not have comments on the Phase IB report (email dated January 23, 2023). Documentation of tribal correspondence is included in the Appendix 9-B.

### ***(1) Summary of the Nature of Probable Impacts on Archaeological/Cultural Resources and Avoidance 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. An initial Phase IB archaeological survey was conducted in November and December 2021, and a copy of this report was provided to OPRHP on January 14, 2022. OPRHP provided comments on this document on February 28, 2022. Additional Phase IB survey work was performed in July 2022 and September 2022 and the updated Phase IB archaeological survey report was submitted to OPRHP on November 7, 2022. OPRHP provided a response and concurrence on the final Phase IB archaeological survey report on November 9, 2022. Measures to avoid impacts to any potentially significant archaeological resources have been taken throughout Facility design.

The July 2022 Phase IB archaeological survey identified one historic period archaeological site, located within an area of proposed tree/shrub clearing and grubbing south of NYS Route 18/Lake Road and east of Fish Creek. Based on the absence of stratigraphic separation within the culture-bearing soil layer, Tetra Tech recommended the site did not possess potential research value and therefore was not eligible for listing in the NRHP or SRHP. Tetra Tech further recommended that no additional archaeological investigations of the site were warranted.

### ***(2) Phase IA Archaeological/Cultural Study***

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

#### *Phase IA Study Methods and Results*

Background research included examination of site files and archives maintained on OPRHP's 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 also were reviewed. The United States

Department of Agriculture Natural Resources Conservation Service Soil Survey Geographic Database also was reviewed to obtain information on soil types in 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 historic agricultural and population census enumerations. This work was conducted to develop historic and prehistoric contexts of the Facility Site which are presented in detail in the Phase IA study (Appendix 9-C).

The OPRHP CRIS database indicates that portions of the Facility Site 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 Effect (APE) for archaeological resources, which is defined as all potential ground-disturbance areas of the Facility. As part of the Phase IA study, a search of OPRHP records indicated that one archaeological investigation has been conducted within a 1-mile radius of the Facility Site. A search of archives maintained at the former Somerset Power Station revealed documents describing all or parts of four previous archaeological surveys undertaken within the Facility Site between 1977 and circa 1983. Based on their age and the partial nature of their findings, OPRHP determined that these four surveys do not meet the current standards for archaeological survey and therefore the areas covered by them cannot be considered as having been surveyed. An unconfirmed Indian burial ground is reported in the 2020 Phase I Environmental Site Assessment (LaBella Associates 2020) to be within the Project Site but outside the Facility Site and has been avoided. A 50-foot buffer has been installed around the unconfirmed burial ground to ensure potential construction-related impacts are avoided.

An analysis of environmental parameters identified areas of high archaeological sensitivity for the presence of undocumented precontact archaeological resources. Various factors influenced the decision-making of precontact hunter-gatherers on selecting activity and habitation locations. Funk (1993) listed 14 factors that were determinants of site selection, mostly dealing with proximity and access to resources, and minimally acceptable characteristics of terrain. Of these 14 factors, he defined five as critical to settlement decisions: distance to water, slope, drainage, proximity to food resources, and soils conducive to farming (for Woodland period cultigens). Access to

water and food are essential human needs, and human activities are most efficiently and comfortably undertaken on level terrain (slope) and dry ground (drainage).

Of the various factors judged to be critical determinants of site selection, distance to water and slope are the easiest to quantify and are measurable from any point on a map. Terrain exceeding 12 to 15 percent slope is generally judged as possessing low archaeological sensitivity for the presence of task and habitation sites (Funk 1993, OPRHP 2005). A review of the topographic maps indicates that the Project Area is relatively level, rendering slope characteristics somewhat inconsequential for assessing archaeological sensitivity. For purposes of this reconnaissance, high archaeological sensitivity was thus defined as areas exhibiting less than 12 percent slope, within 328 feet (100 meters) of water, containing well drained soils or moderately well drained soils, and in proximity to recorded archaeological sites. Sensitivity for the presence of historic period archaeological resources is based on proximity (within 30 meters, 100 feet) of map-documented structures. All other portions of a given project area were considered to have low sensitivity for the presence of archaeological sites, including areas of previous ground disturbance. The OPRHP has no archaeological concerns with low sensitivity areas and does not recommend Phase IB testing in these locations. Approximately 122 acres (18 percent) of the Facility Site is mapped as having high archaeological sensitivity.

### ***(3) Phase IB Archeological Survey***

#### *Survey Report Chronology*

Tetra Tech 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 surveys, 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 studies would be required to determine site eligibility. An interim Draft Report of the initial Phase IB survey was produced and submitted to OPRHP for review on January 14, 2022. Report comments were received from OPRHP on February 28, 2022. Additional Phase IB work was completed in July 2022 and September 2022, and the results from these

surveys were incorporated into an updated Phase IB report which was submitted to OPRHP on November 7, 2022. OPRHP provided comments/response on the updated Phase IB on November 9, 2022, which included their concurrence that no additional archaeological surveys are required for the Facility Site (Appendix 9-A).

#### *Survey Results*

Phase IB archaeological surveys were conducted in November to December 2021, July 2022, and September 2022 within areas of modelled high sensitivity that overlapped with proposed Facility-related significant ground disturbances. The survey comprised 543 excavated shovel tests (STs) and 0.1 acres of pedestrian reconnaissance and documented one newly identified archaeological site (Site 1). Site 1 is an historic period domestic site associated with a non-extant dwelling that appeared on historic maps and aerial imagery between the years 1875 and 1980. The site assemblage blends nineteenth century and twentieth century artifacts within a single depositional soil layer, limiting research in temporal patterns of consumer behavior and other topics distinguished by diachronic change. Tetra Tech recommended Site 1 as not possessing qualities of historical significance and therefore not eligible for listing in the SRHP and NRHP.

#### ***(4) Phase II Archeological Studies***

Based on the survey results of the Phase IB surveys, Tetra Tech did not recommend any identified archaeological resources as significant, eligible for listing on the NRHP, or warranting further Phase II study. OPRHP provided their concurrence of the finding and recommendations included in the Phase IB report on November 9, 2022 (Appendix 9-A), thus no Phase II studies would be necessary.

#### ***(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 (provided as this section of the exhibit) 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 NYS, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and New

York Archaeological Council Standards. 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 Facility Site is not considered to be archaeologically sensitive, a potential exists for identifying archaeological resources in the Facility Site. Therefore, the involved personnel will follow standardized procedures in accordance with NYS and federal regulations detailed below.

Both the designated Environmental Monitor (EM) and construction personnel would be provided with a pre-construction 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 EM 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 EM, 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 (and/or possible archaeological resources), procedures for such discoveries, including evaluation of such discoveries, would be followed in accordance with NYS regulations and the OPRHP's Human Remains Discovery Protocol (January 2021). 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 professional archaeologist<sup>1</sup> 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, bio-archaeologist, 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.

If the remains are determined to be human, law enforcement, the SHPO, the appropriate Indian Nations, the involved NYS and federal agencies, the coroner, and the involved state and federal agencies shall be notified immediately. Permittee also will promptly notify ORES and NYS Department of Public Service staff indicating details of any such discovery of possible archaeological or human remains. Requirements of the coroner and local law enforcement will be adhered to. If law enforcement determines that the burial site is not a criminal matter, no skeletal remains or associated materials shall be removed until appropriate consultation takes place. A qualified forensic anthropologist, bio-archaeologist 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 is developed. It should be noted 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

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<sup>1</sup> The professional archaeologist will be 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 New York Archaeological Council Standards.

Protection and Repatriation Act 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 is developed. It should be noted that avoidance is the preferred option of the SHPO. The involved agency shall consult SHPO and other appropriate parties to develop a plan of action. To protect human remains from possible damage or looting, the SHPO recommends that burial information not be released to the public.

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

Tetra Tech has completed a Historic Architecture Investigation for the Facility (Appendix 9-D). The survey identified the presence of architectural resources aged 50 years or older within the ZVI based on topography only, evaluated these architectural resources for their eligibility for listing in the NRHP, and provided in a technical report an assessment of the potential adverse effects of the Facility 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**

To locate previously identified historic resources, Tetra Tech conducted an initial desktop analysis utilizing the OPRHP's CRIS and NRHP on-line databases, historical maps, aerial imagery, secondary historical sources, on-line county tax parcel data, and county histories. An initial review of previously identified resources located within a 1-mile radius of the Facility recorded NRHP-listed historic properties, previously determined 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**

Tetra Tech conducted a Historic Architectural Resources Survey of the ZVI as determined by bare-earth topography geographic information system (GIS) modeling 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 50 years old or older within the ZVI to a distance of 1 mile from Project arrays. Field survey included systematically driving or walking all public roads within the ZVI to identify resources present. Tetra Tech assessed all resources from public

rights-of-way. Per guidance from OPRHP (May 2021), buildings within the ZVI were surveyed and inventoried into CRIS Trekker by Tetra Tech architectural historians.

Tetra Tech 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 were documented via photography, and resource inventory forms were completed using CRIS Mobile Pro Trekker and Survey123 in the field. Tetra Tech 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.

During the course of the fieldwork, Tetra Tech identified two (2) cemeteries. Cemeteries were photographed from the public roadway.

### **Identification of Historic Properties**

Tetra Tech conducted the Historic Architectural Resources Survey between February 28, 2022 and March 3, 2022, identifying a total of 82 architectural resources in the APE. Tetra Tech Architectural Historians surveyed 10 previously identified resources and 72 newly identified resources. Of the previously documented properties, none were NRHP-listed, four were NRHP-eligible, and six were unevaluated. Of the 82 identified architectural resources aged 50 years old or older in the ZVI, Tetra Tech recommends 8 are NRHP-eligible or maintain their previously determined NRHP eligible/listed status. No National Historic Landmark historic properties are present in the ZVI.

Tetra Tech concludes that while the Facility has no potential to physically affect any historic architectural properties, there may be some positive visibility of the Facility from historic architectural properties within the APE. However, the potential effects of visible infrastructure from the solar development will not be adverse because the Facility will not significantly affect the NRHP qualifying characteristics of any NRHP-recommended eligible architectural resources in the APE.

### **Reporting**

Tetra Tech's Historic Architecture Investigation Report is included as Appendix 9-D. The report includes a description of the Facility, statement of methodology, historic context, summary of surveyed resources, and field results. Survey results include

recommendations of NRHP eligibility and a preliminary assessment of Facility effects. Surveyed resources have been submitted to OPRHP using CRIS Trekker.

### **Preliminary Assessment of Effects**

To identify and summarize the nature of probable effects to eight historic architectural properties pursuant to Section 106 and §94-c, Tetra Tech's Historic Architecture Investigation Report includes a preliminary assessment of potential effects. To assess potential Facility effects, Tetra Tech 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).

### **Consultation and Definition of the Area of Potential Effects (APE)**

Tetra Tech initiated consultation with OPRHP regarding historic architecture survey on January 14, 2022. OPRHP responded on January 14, 2022 with recommendations for a Historic Architecture Survey and access to the Trekker mobile recordation app. The response indicated that only properties with positive visibility within the 1-mile radius of the solar array should be surveyed.

#### *SHPO Consultation*

The historic architecture methodology provided by Tetra Tech to OPRHP on January 14, 2022 stated that the ZVI is defined, as per OPRHP Guidelines, as areas within the 1-mile radius of the solar field that the bare earth topography visibility modelling shows will have positive visibility of the Facility. On January 14, 2022, OPRHP approved Tetra Tech's methodology and granted access to the Trekker mobile survey app for the Facility.

#### *Definition of APE and ZVI*

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 Facility. The APE also includes areas that may have visual and indirect impacts. In keeping with OPRHP Guidelines (May 2021), the term APE is

synonymous with ZVI and is used interchangeably to denote areas within 1 mile of the Facility that have positive visibility of the Facility based on bare-earth topography GIS modelling.

Identification of 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 1-mile radius from the Facility arrays. The ZVI for the survey encompasses all areas within the 1-mile buffer area of the Facility that have visibility of the Facility arrays, based on bare-earth topography modelling, GIS-based analysis that does not include visual impediments such as trees and buildings.

### **Analysis of any Adverse Effects to Historic Properties**

Construction of the Facility will not require demolition or physical alteration of any NRHP eligible, listed, or recommended eligible historic properties within the APE. Therefore, no physical effects on historic properties are anticipated as a result of the Facility. However, construction of the Facility has the potential to result in visual effects on recommended eligible historic properties in the APE. The undertaking's potential to affect 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 undertaking would have no adverse effect on a historic property.

All surveyed and inventoried 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 limit of disturbance. The surveyed and inventoried historic properties evaluated as part of the Historic Architecture Investigation have significantly reduced potential for views of Facility visible infrastructure due to distance or intervening visual screening such as vegetation, development, or roadways. OPRHP, in a letter from October 26, 2022, concluded that, based on photo simulations, site plans, and elevation drawings provided on October 4, 2022, the Facility would have significant visual impacts on the NRHP-eligible Babcock House (7449 Lake Road). The OPRHP requested documentation of alternative siting or other changes that would minimize the potential visual impact on the Babcock House property.

## Mitigation Measures

To address OPRHP's identification of potential visual impacts to the Babcock House, a participating property, the Applicant has incorporated additional landscaping around the portions of the museum site that would have views of the Facility, including increasing the density of the landscape plantings proposed for visual screening in Year 0, as shown in the Facility landscaping plan provided in Appendix 5-A, Sheet PV-C.05.01. This drawing also shows a gap in landscaping vegetation along the east side of the access road to the west, which has been included to allow road access to the barn located on the Babcock House property. Additional offset rows of vegetation along both sides of the access road to the west and north of the museum site will expedite the screening effect of plantings over the long-term. Simulations that show existing conditions, and implementation of the proposed landscaping plans for Year 0 and Year 5 post-construction are provided in Appendix 8-A, Attachment 7. Additionally, the Applicant has coordinated with Babcock House representatives regarding a suitable mitigation plan, which includes setting aside lands for use during annual community events sponsored by the Babcock House. This includes 10 acres of open land located adjacent to the east side of the Babcock House that will continue to be available for their use, and a 2-acre, unpaved parking area to support community events that will be incorporated into a future iteration of the Facility layout in the area located west of the Babcock House and access road. Somerset Solar, LLC also has pledged to fund three community events that are hosted by the Babcock House. A letter of support for the Facility is anticipated to be received from the Somerset Historical Society and a copy will be provided to OPRHP and ORES upon receipt. The mitigation proposal and the requested alternatives analysis information was provided to OPRHP on January 26, 2023, and OPRHP provided their concurrence on the proposed mitigation for the Babcock House, with conditions, on February 15, 2023. Conditions noted in the OPRHP concurrence letter and expectation for meeting compliance with these conditions include:

- A landscaping plan, which will ensure the long-term success of plantings through monitoring and restoration if needed, will be approved by ORES.
  - This is anticipated to be a requirement of the Siting Permit. A landscaping plan that is designed to ensure the long-term success of plantings that identifies monitoring requirements and restoration actions, if needed, will be provided and approved by ORES prior to initiating construction of the Facility.

- The Applicant will fund three Somerset Historical Society/Babcock House community events.
  - Somerset Solar, LLC has pledged to fund three Babcock House community events and will memorialize this commitment in a Memorandum of Understanding prior to initiating construction of the Facility.
- An approximately 2-acre area to the west of the Babcock house will be retained for parking. It will not be paved.
  - A future iteration of the Facility layout will identify the location of an unpaved, 2-acre parking area west of the Babcock House to support future community events.
- A copy of a letter of support for the Facility from the Somerset Historical Society, and a copy will be provided prior to initiating construction.
  - A letter of support for the Facility is anticipated to be received from the Somerset Historical Society, and a copy will be provided to both OPRHP and ORES upon receipt. This letter is anticipated to be received prior to initiating construction activities for the Facility.

## REFERENCES

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