



## UNANTICIPATED CULTURAL RESOURCES DISCOVERY PROTOCOL

### SOUTH RIPLEY SOLAR PROJECT, CHAUTAUQUA COUNTY, NY

July 2021

#### Introduction:

ConnectGen Chautauqua County, LLC (the Applicant) has proposed to construct the South Ripley Solar Project (the Facility) in the Town of Ripley in Chautauqua County, New York. The South Ripley Solar Project is a proposed 270 MW (megawatt) photovoltaic (PV) solar energy generating facility. The Facility will include PV modules, access roads/driveways, buried electrical collection lines, a collection substation, a Point of Interconnection (POI) switchyard, a battery energy storage system, and other infrastructure.

The Applicant retained EDR to complete a Phase IB archaeological survey of the area of potential effect (APE) of the proposed Facility. The purpose of the Phase IB survey was to determine whether archaeological sites were located in areas that may be affected by the proposed Facility. The Applicant has developed site design measures that would allow for construction of the Facility while minimizing soil disturbance (and the associated impacts to archaeological resources identified during the Phase IB survey) to the greatest extent practicable.

The Facility overlaps some areas of elevated sensitivity for historic-period and Native American archaeological sites. The Applicant recognizes that despite previous archaeological investigations, it is possible that unanticipated buried or aboveground archaeological features and/or artifacts may be encountered during project construction or operation. Therefore, in order to provide additional safeguards against the possibility that the proposed Facility might impact archaeological resources, EDR, on behalf of the Applicant, has prepared this Unanticipated Cultural Resources Discovery Protocol (the Protocol). The Protocol outlines the steps for dealing with unanticipated discoveries of cultural resources, including human remains, during the construction of the proposed Facility.

#### The Protocol:

1. Presents to regulatory and review agencies the protocol the Applicant and its contractors and consultants will follow to prepare for and deal with unanticipated cultural resource discoveries; and
2. Provides guidance and instruction to ConnectGen Chautauqua County, LLC personnel and its contractors and consultants as to the proper procedures to be followed in the event of an unanticipated cultural resource discovery.

The following terms are used throughout the Protocol:

- **The Facility:** As previously noted, the proposed South Ripley Solar Project is located in the Town of Ripley, Chautauqua County, New York. The Facility collectively refers to all components of the proposed project, including PV panels and support structures, inverters, fencing, access roads, collection lines, a collection substation, a POI switching station, a battery storage system, and staging areas.
- **Unanticipated Discovery/Unanticipated Cultural Resource Discovery:** Any indications of the presence of archaeological materials including historic-period or Native American artifacts, stone features, animal bone,

and/or human remains. Common historic-period artifacts encountered may include bottles/glass, pottery/ceramics, stone foundations, hand-dug wells, brick, nails, miscellaneous metal fragments, or charcoal or ash-stained soils. Common Native American artifacts encountered may include arrowheads/spearheads, stone (chert or “flint”) chips or flakes, charcoal or ash-stained soils, rough gray, black, or brown pottery, and other stone tools/artifacts of obvious human origin. Stacked or piled groupings of stone (referred to as “stone features”) located on the ground surface or on top of boulders may also be encountered, which may be of either Native American or historic-period origin.

- **Area of Potential Effect (APE) for Direct Effects:** All areas of potential soil/rock disturbance associated with the construction and operation of the proposed Facility.
- **Archaeologist:** The Applicant’s cultural resources consultant. Review of any potential unanticipated discoveries will be conducted under the supervision of a Registered Professional Archaeologist (RPA).

## 1.0 Training and Orientation

- 1.1 The Applicant will provide a summary presentation to the General Construction Manager and construction contractor personnel (hereafter, Construction Personnel) of the relevant results/findings of the Phase IB archaeological survey. Instruction will also be provided as to the general cultural history of the Facility area so that personnel have a greater understanding of what cultural resources may be encountered and so that they can be more readily identified in the field.
- 1.2 The Applicant will assure that Construction Personnel are made aware of the procedures they must follow in the event of an unanticipated discovery. All construction personnel, including operators of equipment involved in grading, stripping, or trenching activities, will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery as defined above. Construction personnel will be instructed to immediately contact the General Construction Manager (see Attachment A) upon the observation of a potential unanticipated discovery as defined in the introduction.
- 1.3 The Applicant will stress the necessity of compliance with this Protocol and special emphasis and attention will be given to potential circumstances involving human remains. The Applicant will stress the importance of treating any human remains, or potential human remains, encountered during construction of the Facility with the utmost dignity and respect (see Section 3.0 below concerning human remains and Attachment B).

## 2.0 Observed Resources

- 2.1 If any member of the construction workforce believes that potential archaeological materials/artifacts or stone features have been encountered, the individual will be required to stop work in the immediate vicinity of the find and notify the South Ripley Solar Project Manager (see Attachment A). Photographs of representative Native American and historic-period archaeological artifacts are included in

Attachment C. If human remains are involved, the procedure described in Section 3.0 concerning human remains will be followed.

- 2.2 The potential archaeological features and/or artifacts will be left in place and not disturbed. No materials will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- 2.3 If the Applicant (or its contractors/consultants) believe that an unanticipated discovery has been made, all ground-disturbing activities within the vicinity of the discovery will be stopped until such time as it is determined that construction in this area may continue. The Applicant will be responsible for taking appropriate steps to protect and secure the evidence of the discovery. Construction personnel will delineate the immediate area of the discovery with flagging tape and/or construction fencing. The area will be regarded as off-limits but will not be identified as an archaeological site or stone feature in order to protect the resource via discretion and confidentiality. Vehicles and equipment may be permitted to traverse the area surrounding the delineated area if necessary; however, such movement will be minimized to the extent practical, and no vehicles or equipment will be permitted within the delineated area.
- 2.4 Upon the identification of a potential discovery, the Applicant will immediately notify the designated Archaeologist/cultural resources consultant (identified in Attachment A) by telephone and additionally via email if necessary. In many cases, it may be possible for the Archaeologist to confirm an unanticipated discovery remotely (i.e., through a review of photographs taken by on-site personnel and phone conversations with these personnel). As an initial step, the Applicant will provide photographs and location information for the potential cultural resource to the Archaeologist, who will determine whether photographs provide a sufficient basis for evaluating the significance of the cultural resource. If it can be determined that the resource is not significant, then construction would proceed. Examples of potential cultural resources that could be encountered during construction and could be determined to be not significant based on review of photographs could include finds such as clearly modern (i.e., twentieth century) artifacts or refuse or readily identifiable animal bones.
- 2.5 If photographic review is insufficient for evaluating the significance of potential finds, then the Applicant's Archaeologist will conduct a site visit as soon as possible following the unanticipated discovery. The Archaeologist will examine the discovery and determine if it is, in fact, an archaeological resource. If the Archaeologist determines no archaeological resource is present, the Archaeologist will immediately advise the South Ripley Solar Facility Project Manager that the Stop Work Order can be removed. The Archaeologist will prepare and submit a letter including photographs of the (non-) discovery site to the Applicant within a reasonable timeframe.
- 2.6 If the Archaeologist determines the discovery to be an archaeological resource, they will immediately notify the South Ripley Solar Facility Project Manager. The New York State Office of Parks, Recreation

and Historic Preservation/State Historic Preservation Office (NYSOPRHP/SHPO) will be notified as soon as possible by the Applicant via email with follow-up via telephone if receipt of the initial notification cannot be confirmed via email. Notifications will be made within 48 hours of the determination that an archaeological resource has been discovered. SHPO contacts are in Attachment A. All ground-disturbing activities within the vicinity of the discovery will remain suspended, until such time as it is determined that construction in this area may continue.

- 2.7 If the archaeological resource is Native American in nature, the Applicant will request that the SHPO notify representatives of the appropriate Native American Nation(s) (see Attachment A).
- 2.8 If the archaeologist determines that an archaeological resource has been discovered, additional information will be provided to SHPO following the Archaeologist's site visit. The additional information will either:
  - 2.8.1 Explain why the Archaeologist believes the resource is not significant with respect to the State/National Register of Historic Places (S/NRHP); or
  - 2.8.2 Explain why the Archaeologist believes the resource to be significant with respect to the S/NRHP and propose a scope-of-work for evaluating the significance of the resource and evaluating Facility-related impacts to it. In this case, SHPO will be advised that unless an objection is received within five business days, the Archaeologist will consider the proposed scope-of-work acceptable to SHPO and proceed with its implementation. Unless otherwise directed by SHPO, all work to evaluate the discovered archaeological resources will be restricted to the proposed Facility's APE.
- 2.9 The SHPO may invite interested Native American Nation representatives to observe any proposed work.
- 2.10 Once the evaluation of the archaeological resource is complete, per Section 2.8.2, above, the Applicant will be responsible for notifying the SHPO by telephone or email, with regard to whether the resource is significant with respect to the S/NRHP in the opinion of the Archaeologist. The Archaeologist will provide the Applicant with a brief written memorandum assessing the significance of the resource with respect to the S/NRHP and make a recommendation for or against additional data recovery, and an analysis of alternative mitigation strategies in place of data recovery, if warranted. The Archaeologist will provide this report to the Applicant no later than five business days after the conclusion of the evaluation. If the Archaeologist recommends additional data recovery in the memorandum, they will also prepare a proposed scope of work for the additional data recovery work for review by SHPO.
- 2.11 At this time, the Applicant may choose to prepare an analysis of alternative mitigation strategies in place of data recovery, if warranted.

- 2.12 The Applicant will submit the Archaeologist's memorandum, data recovery proposal and/or mitigation alternatives analysis (if appropriate) to SHPO via email and the online Cultural Resources Information System (CRIS) and to representatives of designated Native American Nations. If the proposed mitigation measures can reasonably be conducted concurrently with ongoing Facility construction, the submission to SHPO will be accompanied by a request to resume construction in the area of the discovery. If the Applicant does not receive a response to the request to resume construction from SHPO within five business days, the Applicant will assume the agencies concur with the request and resume construction.
- 2.13 Proposed mitigation measures will not proceed until the Applicant receives written authorization, following consultation with SHPO. The Applicant will notify the SHPO at the completion of all mitigation measures. If construction has been halted during mitigation, the Applicant will also request authorization from SHPO to resume construction at the conclusion of mitigation.
- 2.14 The Applicant will make a reasonable and good-faith effort to accommodate any requests from Native American Nation representatives to be present while implementing mitigation measures pertaining to Native American cultural resources.
- 2.15 The Applicant will submit a summary report describing the results of mitigation to the SHPO (and the designated Native American Nations if Native American cultural resources are involved) within a reasonable timeframe from the completion of mitigation fieldwork.
- 2.16 If archaeological data recovery is conducted, a full Phase III report will be submitted to SHPO (and to designated Native American Nations, if appropriate) based on a schedule to be established through consultation with SHPO.

### **3.0 Observed Skeletal Remains**

In the event of an unanticipated discovery of potential human remains and/or funerary objects, all work in the immediate vicinity will stop until further notice and the NYSOPRHP, the county coroner/medical examiner, local law enforcement, and all consulting parties identified herein will be contacted. The potential remains/funerary objects will be treated with respect, left *in situ* by all on site personnel, and protected from further disturbance. If human remains or funerary objects are determined to be Native American, a treatment plan will be developed in consultation with the NYSOPRHP and the appropriate Native American Nations, consistent with established protocols and guidance. These will include NYSOPRHP's *Human Remains Discovery Protocol* (NYSOPRHP 2021; see Attachment B) and the Advisory Council on Historic Preservation's (ACHP) "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (ACHP 2007), and the *Haudenosaunee Policy on Human Remains* (Grand Council of the Haudenosaunee, 2002).

It is worth noting that the NYSOPRHP, ACHP, and Haudenosaunee human remains protocols all require temporary suspension of activity in the vicinity of the discovery, protection of discovered remains, notification of NYSOPRHP and

Native American representatives, and consultation regarding treatment of remains. The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological. A decision concerning avoidance or hand excavation of the burial and final disposition of the remains shall be made by consulting parties.

The following protocol for dealing with skeletal remains will be followed during any circumstances in which any possible human skeletal remains are identified during construction activities (“skeletal remains” is defined as any articulated or disarticulated bones or teeth). If obviously non-human (i.e., animal) skeletal remains are discovered, the procedures outlined in Section 2.0 of this Protocol will be followed.

- 3.1 It is crucial that all human remains (or possible human remains) be treated with the utmost respect and dignity.
- 3.2 Any member of the construction team who believes an unanticipated discovery involving possible human skeletal remains has occurred is required to stop work in the immediate vicinity of the discovery and notify the South Ripley Solar Facility Construction Project Manager.
- 3.3 Human remains and associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- 3.4 If the Applicant believes that possible human skeletal remains have been discovered, they will immediately stop all work within 100 feet (31 meters) of the discovery location until it is confirmed that construction may resume. The area of the discovery will immediately be protected and secured by (at a minimum) the installation of flagging tape and/or construction fencing delineating the discovery location. The area will be regarded as off-limits but will not be identified publicly as an archaeological site or the location of skeletal remains in order to protect the resource via discretion and confidentiality. Vehicles and equipment may be allowed to pass through the area surrounding the discovery, if necessary; however, such movement will be minimized, and no vehicles or equipment will be permitted within the delineated area around the discovery.
- 3.5 Upon the discovery of potential human remains, the Applicant will immediately notify the designated cultural resources consultants as well as the SHPO, the appropriate Native American Nations, the involved State and federal agencies, the coroner, and local law enforcement listed in Attachment A via telephone and email. The Archaeologist will examine the remains as soon as possible, make a preliminary assessment of their nature (i.e., if they are human or non-human), and immediately notify the parties listed above of the results of the preliminary assessment.
- 3.6 As soon as possible following the discovery, law enforcement personnel (and the Archaeologist) will examine the skeletal remains at the site and determine if they are human. If the Archaeologist is unable

to determine if the skeletal remains are human, the Applicant will retain the services of a forensic anthropologist.

- 3.7 If the remains are determined to be animal (i.e., non-human), the Archaeologist will assess whether they occur in an archaeological context. Additionally, if the remains are determined to be animal, the Applicant will immediately notify the parties listed in Attachment A that no human remains were identified.
- 3.8 If the remains are non-human and are determined to occur in an archaeological context, the procedures outlined in Section 2.0 of this Protocol will be followed.
- 3.9 If the remains are non-human and the Archaeologist determines no archaeological resource is present, they will immediately advise the South Ripley Solar Facility Project Manager that construction may resume at the discovery site. The Archaeologist will prepare and submit a letter including photographs of the (non-) discovery site to the Applicant within a reasonable timeframe.
- 3.10 If the Archaeologist (or forensic anthropologist) determines the remains are human, the county coroner, local law enforcement, SHPO, and appropriate Native American Nations will be notified immediately (see Attachment A). No additional work or examination will occur until the county coroner and local law enforcement have arrived on the scene and made an official ruling on the nature of the remains (i.e., if they are forensic or archaeological in nature).
- 3.11 If the human remains are determined to be archaeological and if the archaeologist/forensic anthropologist identifies them as Native American in origin, the remains will be left in place and protected from further removal or disturbance until the feasibility of their avoidance by further disturbance can be assessed in consultation with appropriate Native American Nations and SHPO. Note that avoidance is the preferred choice of the SHPO and the Native American Nations (see Attachment B).
- 3.12 If human remains are determined to be archaeological but non-Native American, they will be left in place and protected until a plan for avoidance or removal is developed through consultation with the SHPO. Note that avoidance is the preferred choice of the SHPO.
- 3.13 Proposals for site evaluation and/or mitigation will give special consideration to the presence of human remains. Proposals will also include provisions for evaluating the area for the presence of additional graves.
- 3.14 In cases involving Native American human skeletal remains, proposals will incorporate any desires made known to the Applicant by Native American Nations regarding the treatment of human remains, to the extent feasible.

- 3.15 If the SHPO determine that the archaeological site associated with the human skeletal remains is not significant with respect to the NRHP, the Applicant will resume construction once human remains have been avoided or removed to the satisfaction of the SHPO and interested Native American Nations.
- 3.16 Any proposals for mitigation or removal of human skeletal remains will include steps attempting to identify lineal descendants of the deceased, to the extent feasible.
- 3.17 If the unanticipated discovery of human skeletal remains is made after trenching (or other excavation) in the vicinity has already taken place, construction may proceed except within 100 feet (31 meters) of the identified human skeletal remains.

**List of Attachments:**

- Attachment A: Anticipated Notification List
- Attachment B: New York State Historic Preservation Office Human Remains Discovery Protocol
- Attachment C: Representative Archaeological Artifacts and Features



<p><b>General Construction Manager (on-site)</b></p> <p>TO BE DETERMINED</p>	<p><b>Alternate</b></p> <p>TO BE DETERMINED</p>
<p><b>Cultural Resources Consultant/Archaeologist</b> Patrick Heaton, RPA Environmental Design and Research 217 Montgomery Street, Suite 1000 Syracuse, NY 13202 Phone: 315-471-0688 Email: <a href="mailto:pheaton@edrdpc.com">pheaton@edrdpc.com</a></p>	<p><b>Alternate</b> Justin Sabino Environmental Design and Research 217 Montgomery Street, Suite 1000 Syracuse, NY 13202 Phone: 315-471-0688 Email: <a href="mailto:jsabino@edrdpc.com">jsabino@edrdpc.com</a></p>
<p><b>New York State Office of Parks, Recreation and Historic Preservation</b> Joselyn Ferguson, Ph.D. Scientist Archaeology Division for Historic Preservation Peebles Island State Park P.O. Box 189, Waterford, NY 12188 (518) 268-2218 <a href="mailto:Joselyn.Ferguson@parks.ny.gov">Joselyn.Ferguson@parks.ny.gov</a></p>	<p><b>Alternate</b> Nancy Herter Coordinator and Native American Liaison PO Box 189 Waterford, NY 12188-0189 Phone: 518-268-2179 Email: <a href="mailto:nancy.herter@parks.ny.gov">nancy.herter@parks.ny.gov</a></p>
<p><b>Native American Nation Representatives</b></p> <ul style="list-style-type: none"> <li>• <b>Tonawanda Seneca Nation (TSN)</b> Chief Hill and Christine Abrams Tonawanda Seneca Nation 7027 Meadville Road Basom, NY 14013 (716) 542-4244 <a href="mailto:tonseneca@aol.com">tonseneca@aol.com</a></li> <li>• <b>Seneca Nation of Indians (SNI)</b> Dr. Joe Stahlman Seneca Nation of Indians Seneca-Iroquois National Museum Onöhsagwë: De' Cultural Center 82 W. Hetzel St. Salamanca, NY 14779 (716) 945-1760 <a href="mailto:joe.stahlman@sni.org">joe.stahlman@sni.org</a></li> </ul>	<p><b>Alternate</b></p> <ul style="list-style-type: none"> <li>• <b>Tonawanda Seneca Nation (TSN)</b> Alexandra Page Tonawanda Seneca Nation Attorney Berkey Williams 616 Whittier St. NW Washington, DC 20012 <a href="mailto:alex.c.page@gmail.com">alex.c.page@gmail.com</a></li> </ul>



<ul style="list-style-type: none"><li>• <b>Tuscarora Nation</b> Bryan Printup Tuscarora Nation 5226 Walmore Road Lewiston, NY 14092 (716) 264-6011 press 0 <a href="mailto:bprintup@hef.org">bprintup@hef.org</a></li></ul>	
<p><b>Law Enforcement Agency</b> Chautauqua County Sherriff James B. Quattrone 15 E. Chautauqua Street Mayville NY 14757 716.753.4900 (Administration) 716.753.4231 (Non-Emergency) <a href="https://www.sheriff.us/contact-us">https://www.sheriff.us/contact-us</a></p>	<p><b>Alternate</b> Chautauqua County Undersherriff Darryl W. Brayley</p>
<p><b>County Coroner</b> Chautauqua County Coroner Richard Mackowiak Hall R. Clothier Building 7 N. Erie St. Mayville, NY 14757 716-753-4590 (Phone) 716-753-4640 (Fax) <a href="mailto:raters@co.chautauqua.ny.us">raters@co.chautauqua.ny.us</a></p>	

**State Historic Preservation Office/  
New York State Office of Parks, Recreation and Historic Preservation  
Human Remains Discovery Protocol  
(January 2021)**

If human remains are encountered during construction or archaeological investigations, the New York State Historic Preservation Office (SHPO) recommends that the following protocol is implemented.

- Human remains shall be treated with dignity and respect. Should human remains or suspected human remains be encountered, work in the general area of the discovery shall stop immediately and the location shall be secured and protected from damage and disturbance.
- If skeletal remains are identified and the archaeologist is not able to conclusively determine if they are human, the remains and any associated materials shall be left in place. A qualified forensic anthropologist, bioarchaeologist or physical anthropologist shall assess the remains in situ to help determine if they are human.
- If the remains are determined to be human, law enforcement, the SHPO, the appropriate Indian Nations, and the involved state and federal agencies shall be notified immediately. 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.
- If human remains are determined to be Native American, they shall be left in place and protected from further disturbance until a plan for their avoidance or removal is developed. Please note that avoidance is the preferred option of the SHPO and the Indian Nations. The involved agency shall consult SHPO and the appropriate Indian Nations to develop a plan of action. Photographs of Native American human remains and associated materials should not be taken without consulting with the involved Indian Nations.
- If human remains are determined to be non-Native American, the remains shall be left in place and protected from further disturbance until a plan for their avoidance or removal is developed. Please note 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.
- The SHPO recommends that burial information is not released to the public to protect burial sites from possible looting.

Photo 1

Pre-contact Native American  
projectile point example



Photo 2

Pre-contact Native American  
projectile point example





Photo 3

Pre-contact Native American worked stone tool example



Photo 4

Pre-contact Native American worked stone tool example

Photo 5

Pre-contact Native American worked stone tool example



Photo 6

Pre-contact Native American worked stone tool example





Photo 7

Pre-contact Native American pottery fragments



Photo 8

Pre-contact Native American pottery fragments



Photo 9

A midden is a widespread layer of archaeological material. This is a pre-contact Native American shell midden



Photo 10

An historic-period midden of mostly bottle glass



Photo 11

An historic-period cellar feature, defined by the distinct soil color change



Photo 12

Remains of a historic-period house foundation



Photo 13  
Historic-period ceramics



Photo 14  
Historic-period ceramics,  
in context

Photo 15

Historic-period nails and metal



Photo 16

Historic-period glass bottles



Photo 17

Large mammal bone, in context



Photo 18

Bone and shell artifacts

