



APPENDIX 9-A REVISED

OPRHP Correspondence



Parks, Recreation and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

SOLAR FACILITY ARCHAEOLOGY COMMENTS

Phase IA Archaeological Survey Recommendations/Sensitivity Model

Project: Somersset Solar Project (140-200 MW/? acres)

PR#: 21PR00981

Date: February 23, 2021

The State Historic Preservation Office/Office of Parks, Recreation and Historic Preservation (SHPO/OPRHP) recommends a Phase IA archaeological survey, including Phase IB testing recommendations. A Phase IA Literature Search and Sensitivity Study is the initial assessment of the overall sensitivity of a project area (*Area of Potential Effects or APE*) for the presence of archaeological sites and Native American sites of religious and cultural significance and functions to guide subsequent field investigations.

The State Historic Preservation Office/Office of Parks, Recreation and Historic Preservation (SHPO/OPRHP) recommends that Phase IB archaeological testing is warranted for areas of substantial proposed ground disturbance that fall within areas of high archaeological sensitivity. Substantial proposed ground disturbance includes: (1) grading and excavation more than six inches deep; (2) grubbing, tree, and stump removal; and (3) trenches more than three feet wide. Phase IB archaeological testing is not recommended for panel arrays; perimeter fencing and utility poles, if their associated posts are driven or drilled into the ground and no grubbing or grading is involved, and for excavations and grading less than six inches in depth.

The SHPO defines areas of high sensitivity, where archaeological sites are most likely to be identified, as those: (1) within 100-meters (328 feet) of permanent water (rivers, streams, wetlands, ponds and lakes and hydric soils) and on slopes equal to or less than 12%; (2) within or near to known archaeological sites; and (3) locations of standing or demolished historic structures. Hydric soils are included to account for areas that may not be currently near water but were in the past. The 100-meter cut off from water is based on data presented by Robert E. Funk in his 1993 *Archaeological Investigations in the Upper Susquehanna Valley, New York State*. Testing should conform to the 1994 New York Archaeological Council Standards. With the submission of the Phase I Report, please also provide a zipped polygon (not polyline) shapefile of the survey boundary.

All other portions of the project area are considered to have low sensitivity for the presence of archaeological sites, including areas of previous ground disturbance. The SHPO has no archaeological concerns with low sensitivity areas and does not recommend Phase IB testing in these locations.

If project design flexibility or shovel-ready status is desired, the SHPO recommends 100% sampling of all highly sensitive areas irrespective of the nature and type of construction impacts. With this approach, changes in project design will not require further archaeological consultation except for changes that may impact sites within the APE or that increase the size of the project area.

Our office does not conduct archaeological surveys. A 36 CFR 61 qualified archaeologist should be retained to conduct this work.

Please provide the interested Indian Nations with a copy of the Phase IA report, including the Phase IB archaeological testing scope-of-work and request that the Indian Nations provide cultural resource comments to the Secretary of the Public Service Commission (*address enclosed*) and copy the SHPO/OPRHP. Indian Nation contact information is enclosed

Division for Historic Preservation

P.O Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • <https://parks.ny.gov>

If you have any questions concerning archaeology, please contact Josalyn Ferguson at Josalyn.Ferguson@parks.ny.gov.

Indian Nation Contact Information

Tonawanda Seneca Nation (TSN)

Chief Hill and Christine Abrams

Tonawanda Seneca Nation
7027 Meadville Road
Basom, NY 14013
(716) 542-4244
tonseneca@aol.com

AND

Alexandra Page
Tonawanda Seneca Nation Attorney
Berkey Williams
616 Whittier St. NW
Washington, DC
20012
alex.c.page@gmail.com

Seneca Nation of Indians (SNI)

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
joe.stahlman@sni.org

Tuscarora Nation

Bryan Printup

Tuscarora Nation
5226 Walmore Road
Lewiston, NY 14092
(716) 264-6011 press 0
bprintup@hetf.org

and

Jenna Macaulay

Berkey Williams LLP
616 Whittier St. NW
Washington, DC
20012
Phone: (716) 628-2157
macaulay.jenna@gmail.com



Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

May 26, 2021

Mr. Houtan Moaveni
Executive Deputy Director
Office of Renewable Energy Siting
99 Washington Avenue
Albany, NY 12231

Re: ORES
Somerset Solar Project (140-200 MW/1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
21PR00981

Dear Mr. Moaveni:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). We have reviewed the initial Phase IA Archaeological Investigation report prepared by Tetra Tech (Robinson & Jacoby, April 2021; 21SR00255) in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

Before we can continue with our review, OPRHP is offering the following comments and recommended revisions to the Phase IA report:

1. Please provide a copy of the LaBella 2020 Environmental Site Assessment (ESA) that discusses the purported Native American burial site and any other documentation or supportive information that may be obtainable.
2. Discuss the West Somerset Cemetery and the type and location of project-related ground-disturbing impacts that might occur within or adjacent to the cemetery.
3. A discussion and history of the Somerset Coal-Fired Power Plant, including documentation/evidence of disturbance (i.e., photographs, grading plans, soil bore tests, etc.) is warranted. We do not recommend classifying all of the plant grounds as "assumed disturbed areas." Please sensitize this portion of the APE, reexamine the degree of disturbance across the power plant grounds, and the potential need for testing here. Shovel testing in areas not clearly disturbed should proceed. Shovel testing at 100-foot/30-meter intervals may be appropriate in some locations.
4. There are/were additional drainages within the project's Area of Potential Effects (APE) (including the Somerset Power Plant) that should be considered in the sensitivity assessment and Phase IB scope of work. Please rectify.

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Mr. Houtan Moaveni

May 27, 2021

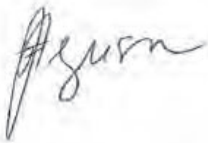
Page 2.

5. A discussion of the potential for deeply buried cultural deposits due to fill or alluvial deposition is warranted, and if applicable their locations and proposed testing strategy should be presented.
6. A table of Map Documented Structures (MDS) within the project's APE and corresponding presence/absence on maps and their dates would be helpful for our review. Reduced interval testing (25-feet/7.5-meters) around MDSs should be conducted.
7. Reduced interval testing around isolated positive shovel test pits (STPs) and isolated surface finds of Indigenous artifacts should be conducted.

Please submit copies of the revised Phase IA/Phase IB Scope of Work to the Tonawanda Seneca Nation, the Seneca Nation of Indians, and the Tuscarora Nation via the email addresses previously provided. Please submit the revised Phase IA report to our office using the Cultural Resource Information System (CRIS) survey token provided with this correspondence.

Please refer to the OPRHP Project Review (PR) number noted above if further correspondence is required regarding this project. If you have any questions, please contact me via email at Josalyn.Ferguson@parks.ny.gov.

Sincerely,



Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

c.c. Alexandra Page, Cole Reuben, Christine Abrams, and Chief Hill, TSN
c.c. Bryan Printup, Tuscarora Nation
c.c. Evan Robinson, Jodi Hunt, Robert Jacoby, and Sydne Marshall, Tetra Tech
c.c. Joe Stahlman, SNI

July 22, 2021

Josalyn Ferguson, Ph.D.
Scientist Archaeology
Division for Historic Preservation
P.O. Box 189
Waterford, NY 12188-0189

SUBJECT: ORES
Somerset Solar Project (140-200 MW/1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
21PR00981

Dear Dr. Ferguson

Thank you for your comments regarding the Phase IA Archaeological Investigation Report for the Somerset Solar Project provided in correspondence to New York State Office of Renewable Energy Siting (ORES) dated May 27, 2021. Tetra Tech, on behalf of AES Clean Energy Development, LLC, has addressed these comments in the attached revised Phase IA Archaeological Investigation Report (Phase IA Report). Tetra Tech's responses are provided in italics.

1. Please provide a copy of the LaBella 2020 Environmental Site Assessment (ESA) that discusses the purported Native American burial site and any other documentation or supportive information that may obtainable.

Response: The LaBella ESA is a 4,000+ page document that references the purported Native American burial site only once as a call-out in a single figure, which has been included in the revised Phase IA Report. The ESA does not provide attribution, discussion of, or recommendations for this unconfirmed site. In the interval between the original submission and this revision of our Phase IA Report, a variety of documents and reports were found at the Somerset Station documents room and among private holdings that relate to a series of surveys conducted between 1976 to 1982 during the permitting process for the Somerset Station. These reports and findings have not been digitized to CRIS. After review of these documents, we believe that LaBella's (2020) reference to the unconfirmed burial site may have come from a 1983 Construction Sheet for the proposed solid waste disposal areas (SWDAs) of the Somerset Station, on which are delineated four archaeological site polygons, one of which corresponds to the location of the unconfirmed burial site. This construction sheet has been included in the revised Phase IA Report as

Appendix C. The archaeological site polygon noted in the LaBella ESA is beyond the proposed Somerset Solar Project Boundary.

2. Discuss the West Somerset Cemetery and the type and location of project-related ground-disturbing impacts that might occur within or adjacent to the cemetery.

Response: A discussion of the West Somerset Cemetery has been added to the revised Phase IA Report. The cemetery will not be directly affected by Project activities.

3. A discussion and history of the Somerset Coal-Fired Power Plant, including documentation/evidence of disturbance (i.e., photographs, grading plans, soil bore tests, etc.) is warranted. We do not recommend classifying all of the plant grounds as “assumed disturbed areas.” Please sensitize this portion of the APE, reexamine the degree of disturbance across the power plant grounds, and the potential need for testing here. Shovel testing in areas not clearly disturbed should proceed. Shovel testing at 100-foot/30-meter intervals may be appropriate in some locations.

Response: The documents and reports described in Item #1 above, include copies of a Phase IB survey of the Somerset Station (Pratt and Pratt 1977) and a subsequent data recovery of the Morgan Van Wagoner Farmstead (Pratt and Pratt 1981) that were conducted for the permitting process for the Somerset Station. The Phase IB report covered 290 acres of the facility via the excavation of 1,189 shovel tests and walkovers of 34 transects at 100-foot intervals. The survey identified no precontact archaeological artifacts or features. Historic period deposits were found at the then-extant Morgan Van Wagoner farmstead, and these finds were determined NRHP-eligible. The data recovery recovered in excess of 40,000 artifacts from side- and rear-yard areas of the house, barn, and outbuilding through the excavation of close-interval shovel tests and fifty-five 5x5-foot measured excavation units.

Partial documents indicate that the SWDAs were archaeologically surveyed, though results and recommendations from these surveys, conducted in 1980 and 1982, are not available. The unconfirmed Native American burial site and three other untyped archaeological sites were delineated on the 1983 construction sheet that was discovered at the Somerset Station documents room, and appear to display the results of the 1982 SWDAs survey. The unconfirmed burial site is not within the current Project’s area of potential effects (APE). The other three site areas will be fenced off from Project activities and Site Avoidance Plans developed prior to construction.

In summary, Tetra Tech concludes that substantial archaeological survey and testing has been conducted on the Somerset Station area and that further archaeological work there will not be necessary.

4. There are/were additional drainages within the project's Area of Potential Effects (APE) (including the Somerset Power Plant) that should be considered in the sensitivity assessment and Phase IB scope of work. Please rectify.

Response: Tetra Tech has considered the presence of the drainages within the Project Area and has incorporated these drainages into the archaeological sensitivity modeling.

5. A discussion of the potential for deeply buried cultural deposits due to fill or alluvial deposition is warranted, and if applicable their locations and proposed testing strategy should be presented.

Response: Tetra Tech has reviewed the mapped soil units and topography of the Project Area. From its headwaters south of Dublin Road in the Town of Newfane, Fish Creek flows approximately 8.5 miles (13.7 km) to Lake Ontario, dropping some 100 feet (30 meters) in elevation. The modest relief and short reach of the stream would be expected to produce limited overbank deposition within the Project Area. Approximately 75 percent of the soil units within the 350-acre Fish Creek drainage that crosses the Project Area are classified as silt loams exhibiting argillic (Bt) horizons. Argillic horizons are widespread across glaciated New York and are characteristic of stable landscapes, taking from 2,000 to several thousand years to develop (Cremeens 2003:55). Landscape stability suggests that deeply buried deposits containing potential archaeological resources will not be present, or will be rarely present, within the APE. If shovel test profiles indicate the presence of buried A horizons or if bucket auguring shows evidence of buried horizons, Tetra Tech will consult with SHPO to develop a program of limited deep testing where appropriate.

Tetra Tech has included a deep testing strategy in the revised Phase IA Report (Section 5.0), should it become appropriate to undertake this task.

6. A table of Map Documented Structures (MDS) within the project's APE and corresponding presence/absence on maps and their dates would be helpful for our review. Reduced interval testing (25-feet/7.5-meters) around MDSs should be conducted.

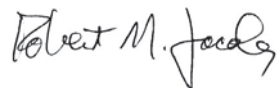
Response: Tetra Tech has included a table of MDSs in the revised Phase IA Report (Table 7). If Phase IB survey is requested by the Division of Historic Preservation, close-interval shovel testing will be conducted around identified MDSs within the APE.

7. Reduced interval testing around isolated positive shovel test pits (STPs) and isolated surface finds of Indigenous artifacts should be conducted.

Response: Tetra Tech will conduct reduced-interval testing around isolated positive shovel tests and isolated surface finds, should there be any.

We look forward to your comments on the accompanying revised Phase IA Archaeological Investigation Report for the Somerset Solar Project.

Sincerely,



Robert M. Jacoby, M.A., RPA
Tetra Tech, Cultural Resources Specialist

cc: H. Moaveni (ORES)
J. Baird (AES)
J. Donelan (AES)
M. Farrell (AES)
J. Hunt (Tetra Tech)
D. Lent (Tetra Tech)



**Parks, Recreation,
and Historic Preservation**

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

August 12, 2021

Mr. Houtan Moaveni
Executive Deputy Director
Office of Renewable Energy Siting
99 Washington Avenue
Albany, NY 12231

Re: ORES
Somerset Solar Project (140-200 MW/1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
21PR00981

Dear Mr. Moaveni:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). We have reviewed the revised Phase IA Archaeological Investigation report prepared by Tetra Tech (Robinson & Jacoby, revised July 2021) in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to archaeological Historic/Cultural resources.

Based upon our review of this report and the recommendations for a Phase IB Archaeological Survey, OPRHP offers the following comments:

1. OPRHP concurs with Tetra Tech's proposed testing strategy for all areas characterized as possessing high archaeological sensitivity in which significant ground-disturbing impacts are proposed.
2. Short-interval testing (25-feet/7.5-meters) around Map Documented Structures is warranted.
3. The 100-foot testing strategy implemented in the surveys conducted in the 1970s and 1980s within the now decommissioned Somerset generating station complex does not meet the current standards for archaeological surveys. Additionally, the lack of information about these earlier surveys, the subsequent identification of four (4) archaeological sites from the 1982/1983 survey is concerning. It is thus OPRHP's opinion that Phase IB testing is warranted for areas noted as possessing high archaeological sensitivity within the decommissioned Somerset complex in which significant prior ground disturbance is not evident and new significant impacts are proposed.

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4. Preservation and Avoidance Measures during construction for the four (4) areas delineated as “archaeological Sites” on the 1982 “Final Site Contours” construction sheet/map should be implemented and include the following:
 - a. Establishment of a fifty (50) foot buffer around each site and the erection of temporary fencing shall be installed around the boundaries of the avoidance area prior to any clearing or construction activities within the Area of Potential Effects (APE) and shall be maintained until all construction has ceased.
 - b. The site(s) boundary (including buffer) will be clearly delineated on the final construction plans and identified as “Environmentally Sensitive Area—No Access.”
 - c. A preconstruction meeting with the construction contractor(s) is to be required to notify those in charge of the requirements to protect and avoid the archaeological site(s).
 - d. Inadvertent construction impacts are to be reported to the SHPO immediately. Activity in the vicinity of the site shall cease, so the damage can be assessed, and a recommendation provided to remediate the situation.
 - e. If human remains are encountered during construction, all work must stop in the vicinity of the find and be reported to the SHPO, as stipulated in the attached SHPO/OPRHP Human Remains Discovery Protocol (January 2021) and Haudenosaunee Protocol for Handling Discovery of Human Remains.
 - f. After construction is fully completed, protective fences may be removed.
5. The location of the purported Native American Burial Site is not clear in the revised Phase IA. The location of Photo 5 (Figure 7A & B) picturing the location of the Burial Site does not correspond to the four site locations (Figure 8), one of which was suggested to be the burial site. Please include a map indicating the location of the purported burial site in the Phase IB report and mark all maps containing site locational information as “SENSITIVE INFORMATION – NOT FOR PUBLIC DISTRIBUTION” on them. OPRHP recommends that the purported burial site location continue to be protected.
6. Please provide OPRHP with the relevant sections of the Environmental Site Assessment report (LaBella 2020), including Figure 3 that references the “Indian burial ground” using the appropriate enclosed Cultural Resource Information System (CRIS) token.

Please submit the Phase IB report and a zipped polygon shapefile of the Phase IB Survey Area using the enclosed CRIS survey token. Please also submit the report directly to the Seneca Nation of Indians (SNI) and the Tonawanda Seneca Nation (TSN), and the Tuscarora Nation via email (contact information previously provided), and carbon copy me on the email to the Nations.

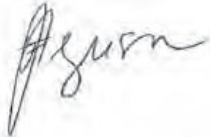
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Houtan Moaveni
August 12, 2021
Page 3.

Please note that should changes to the project's APE occur, including the addition of new areas of construction, OPRHP/SHPO requests that these changes be submitted to our office for review along with an assessment of the archaeological sensitivity of the added locations. Please note that if significant construction impacts are proposed within areas of high archaeological sensitivity, additional archaeological investigations will likely be warranted.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,



Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

Attch.

c.c. Chief Hill, Alexandra Page, Cole Reuben, Christine Abrams, TSN
c.c. Bryan Printup, Tuscarora Nation
c.c. Evan Robinson, Jodi Hunt, Robert Jacoby & Sydne Marshall, Tetra Tech
c.c. Joe Stahlman, SNI

**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.

4.7 Protocol for Handling Discovery of Human Remains

	<u>Known Burials</u>	<u>Unidentified Burials</u>
When to contact?	Intentional excavation At the earliest time in decision-making process.	Inadvertent Discovery Upon discovery.
Which Nation to contact?	If find is within existing Nation boundary, contact that Nation's Cultural Resource representatives. If the find is within the traditional land use area (fifty mile radius from the current nation territory, contact the closest Nation's Cultural Resource Representative. If the find is within the aboriginal territory of each nation, as shown on the attached map, contact the Nation within that territory. For finds located within fifty miles on either side of the boundary lines shown on the map, contact the Cultural Resource Representatives of both Nations.	
Who to contact?	Haudenosaunee Cultural Resource Representatives HSCBRR	Haudenosaunee Cultural Resource Representatives HSCBRR
How to contact?	Contact list is provided.	
Information Required	Brief description of the find or potential find; site map and any information on the known cultural history of the area and summary of nearby archaeological findings. Nation will send a representative to review the site.	
Next steps	<i>Non-disturbance of burials is preferred.</i> If after proper consultation, the remains must be removed, we prefer to have them reburied close to their original location as possible, provided the future sanctity of the grave can be assured. <i>No remains should be removed without proper cultural protocols.</i> If no safe local burial ground can be offered, the Haudenosaunee will reclaim the remains for reburial at an undisclosed location. The local government /state agency/developer must pay all of the costs for such reburial. All objects associated with the original burial must be reburied as well. All of the soil in the immediate area of the burial should also be placed in the new grave.	
Time Frame	30 to 45 days	As soon as possible



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

October 4, 2021

Robert Jacoby
Tetra Tech, Inc.
1000 The American Rd.
Morris Plains, NJ 7950

Re: ORES
Somerset Solar Project (140-200 MW/~540 of 1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
21PR00981

Dear Robert Jacoby:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). We have reviewed the provided information in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. Such impacts must be considered as part of the environmental review of the project pursuant to Executive Law Section 94-c and its implementing regulations (19 NYCRR Part 900).

As previously noted in our letter of August 12, 2021, the location of the purported Native American Burial Site is not clear in the revised Phase IA. The location of Photo 5 (Figure 7A & B) picturing the location of the Burial Site does not correspond to the four site locations (Figure 8), one of which was suggested to be the burial site. OPRHP continues to request that a map indicating the location of the purported burial site be provided in the Phase IB report and all maps containing site locational information be labeled as "SENSITIVE INFORMATION – NOT FOR PUBLIC DISTRIBUTION" on them. OPRHP recommends that the purported burial site location continue to be protected.

In the same letter, OPRHP requested a copy of the Environmental Site Assessment report (ESA) produced by LaBella in 2020 that reported on the existence and location of the "Indian Burial Ground." Please provide the background information that lead to the identification of the "Burial Ground" and a copy of the ESA for our review.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

c.c. Alexandra Page, Cole Reuben & Christine Abrams, TSN
c.c. Bryan Printup, Tuscarora Nation
c.c. Evan Robinson, Jodi Hunt & Sydne Marshall, Tetra Tech

c.c. Joe Stahlman, SNI
c.c. Houtan Moaveni, ORES



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

November 4, 2021

Robert Jacoby
Tetra Tech, Inc.
1000 The American Rd.
Morris Plains, NJ 7950

Re: ORES
Somerset Solar Project (140-200 MW/~540 of 1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
21PR00981

Dear Robert Jacoby:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). The above-noted project is being reviewed in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Archaeological Historic/Cultural resources.

OPRHP is in receipt of the submission of Figure 3 from Labella's 2020 ESA. We understand that there is reportedly no further information regarding the "Indian Burial Ground" noted on that document. OPRHP recommends that additional background research into the purported "Indian Burial Ground" be conducted and included in the Phase IB report. Moreover, we recommend that Tetra Tech contact the municipal and county historian/historic society, as well as historic annals to determine if there may be additional documentation or information concerning the burial site.

As per our letter of August 12, 2021 OPRHP concurs with Tetra Tech's proposed testing strategy and continues to recommend that the stipulations for the Phase IB survey noted in that letter be implemented. Additionally, we recommend the establishment of a fifty-foot (50-ft) avoidance and protection buffer zone around the reported Burial site location.

Please submit the Phase IB archaeological field report using the CRIS survey token previously provided or by clicking on the following link:

<https://cris.parks.ny.gov/?type=CR&id=WD2W78FBY98W>.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,

Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

c.c. CRIS contact list

My Projects (10) | My Submissions

My Projects (10)

View	Date Created
	02/16/2022
	01/21/2022
	07/21/2022
	07/21/2022
	01/21/2022
	01/21/2022
	02/16/2021
	04/24/2020
	11/01/2019
	11/05/2018

Submission Status Close

Review Responses

Reviewer	Review Type	Response
Jennifer Walkowski	Survey and Evaluation	In order for SHPO to complete our evaluation of the historic significance of all buildings/structures/districts within or adjacent to your project area, we need further information. Please review the specific information request(s) below and click the Process button to respond to each request.

Information Requests

Status	Reviewer	Review Type	Request Type	Request Entity	Request Item	Request Description
Processed	Jennifer Walkowski	Survey and Evaluation	Request a New Trekker Survey			<p>NYSHPO concurs with your survey methodology and ZVI analysis. Please provide a survey using Trekker survey of above-ground historic resources that fall within the ZVI. This survey request is for buildings and structures 50 years of age or older, as well as previously identified CRIS resources that are eligible or listed. To begin the survey, you will first be asked to resubmit the survey Methodology and proposed survey area by clicking the process button (green cog) which will open the Trekker Survey Submission in a separate browser window. You will be granted access to specific field inventory forms via the Survey123 app, as well as Trekker Manager. A separate CRIS request for the survey report will also be sent at this time to be fulfilled once field work has been completed. Please supply the standard survey report consisting of an overview, context and an assessment of any resources that may be eligible. Please contact Jennifer Walkowski at jennifer.walkowski@parks.ny.gov with questions.</p>

Attachments

Attachment	Reviewer	Review Type	Type	Name	Description
No Attachment Records					



KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

February 28, 2022

Robert Jacoby
Tetra Tech, Inc.
1000 The American Rd.
Morris Plains, NJ 7950

Re: ORES
Somerset Solar Project (140-200 MW/~540 of 1410 Acres)
7725 Lake Road, Somerset, Niagara County, NY
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Dear Robert Jacoby:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the Phase IB Archaeological Investigation report prepared by Tetra Tech (Smith & Jacoby, January 2022; 22SR00080) in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. Such impacts must be considered as part of the environmental review of the project pursuant to Executive Law Section 94-c and its implementing regulations (19 NYCRR Part 900).

Based upon our review of the above-noted report, and in consultation with the Indigenous Nations, OPRHP is requesting the following revisions to the Phase IB report:

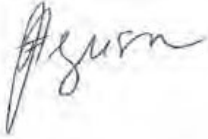
1. Please provide copies of the Pratt & Pratt 1977 and 1981 survey reports, and the 1980-1982 VFL survey referenced in the Phase IB report to aid in our review of this project and for OPRHP's records.
2. Inclusion of the site plan maps illustrating all components of the proposed project, including areas of tree removal, solar panels, access roads, areas of grubbing and grading, utility line installation, substations, pads, etc.
3. Inclusions of maps/modified aerial photos illustrating the locations of all areas that were subject to pedestrian/walkover survey and shovel test locations overlaying the archaeological site sensitivity map (i.e., Figure 5)
4. In response to the Phase IA revised report, OPRHP's letter of November 4, 2021, recommended that Tetra Tech contact the municipal and county historian/historic society and consult the historic annals to determine if there may be additional documentation or information concerning the burial site. The Phase IB does not indicate that this was undertaken. Please rectify.

...2

Robert Jacoby
February 28, 2022
Page 2.

Please refer to the OPRHP Project Review (PR) number noted above in future correspondence regarding this project. If you have any questions, please contact me at 518.817.2816 or Josalyn.Ferguson@parks.ny.gov.

Sincerely,



Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

c.c. CRIS contact List



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

August 23, 2022

Robert Jacoby
Tetra Tech, Inc.
1000 The American Rd.
Morris Plains, NJ 7950

Re: ORES
Somerset Solar Project (140-200 MW/~540 of 1410 Acres)
7725 Lake Road, Town of Somerset, Niagara County, NY
21PR00981

Dear Robert Jacoby:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted materials in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to Executive Law Section 94-c and its implementing regulations (19 NYCRR Part 900).

We note that there are 8 National Register eligible properties within the potential zone of visual impact of the proposed solar facility. We understand that the proposed project will include installation of a 140-200MW solar energy facility over approximately 540 of 1410 acres of agricultural fields and the site of a decommissioned coal power plant

Based on our review of the July 2022 Historic Architecture Investigation, our office notes that 7397 Lake Road (Smith Residence) and 7449 Lake Road (Babcock House) are resources upon which the installation may have the greatest degree of visual impact. We note that the historic rural and agricultural setting of the two historic properties remains largely intact.

In order for our office to continue this review and fully evaluate potential visual impacts to these two National Register eligible properties, please provide the following additional documentation:

1. Detailed site plans showing solar panels, access roads, and other features, as well as any existing or proposed vegetative or topographic buffers, in the immediate vicinity of the Smith Residence and Babcock House. (It is useful for these plans to be superimposed with satellite or orthographic images.) Please also include, elevation drawings of the solar panels indicating maximum panel height and direction of rotation.
2. Photographs of the proposed solar site as seen from the resources; as well as from the proposed site, toward the resources. Please be sure that the photographs are labeled and keyed to a site plan.

3. Visual simulations / renderings of proposed solar arrays from the resources.

Please continue to work with our Archaeology Unit regarding their information requests and any ongoing archaeological concerns with this project.

We request the additional information be provided via our Cultural Resource Information System (CRIS) at <https://parks.ny.gov/shpo/online-tools/> . Once on the CRIS site, you can log in as a guest and choose "submit" at the very top menu. Next choose "submit new information for an existing project." You will need the project number and your e-mail address. If you have any questions, I am best reached by email.

Sincerely,

A handwritten signature in black ink, appearing to read 'DR', is positioned above the typed name.

Derek Rohde
Historic Site Restoration Coordinator
e-mail: derek.rohde@parks.ny.gov

via e-mail only

October 4, 2022

Derek Rohde
Historic Site Restoration Coordinator
Division for Historic Preservation
P.O. Box 189
Waterford, NY 12188-0189
Submitted via email to: derek.rohde@parks.ny.gov

SUBJECT: ORES
Somerset Solar Project (140-200 MW/~540 of 1410 Acres)
7725 Lake Road, Town of Somerset, Niagara County, NY
21PR00981

Dear Derek

Thank you for your comments regarding your review of the July 2022 Historic Architecture Investigation prepared for the Somerset Solar Facility provided in correspondence received from the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP) dated August 23, 2022. Tetra Tech, Inc., on behalf of AES Clean Energy Development, LLC, has addressed these comments in the attached materials. Tetra Tech's responses and references to the additional documentation requested are provided in italics for OPRHP to continue their review and fully evaluate potential visual impacts to the two National Register eligible properties, Babcock House (7449 Lake Road) and Smith House (Smith Residence, 7397 Lake Road), identified in your correspondence:

1. Detailed site plans showing solar panels, access roads, and other features, as well as any existing or proposed vegetative or topographic buffers, in the immediate vicinity of the Smith Residence and Babcock House. (It is useful for these plans to be superimposed with satellite or orthographic images.) Please also include, elevation drawings of the solar panels indicating maximum panel height and direction of rotation.

Response: The requested site plans (superimposed over aerial imagery) and elevation drawings are included in Attachment A, and include a site plan overview (PV-C.02.00), site plans for the Facility areas in the vicinity of Smith Residence (PV-C.02.01) and Babcock House (PV-C.02.02), and Conduit Management Standards (1 of 3 and 2 of 3) (PV-E.05.11 and PV-E.05.12). Both fixed tilt and single-axis panels are proposed, with fixed tilt panels having a maximum height of 7.14 feet from grade, and single-axis panels having a maximum height of 10.24 feet (maximum) from grade. The single-axis panels will be

oriented north-south and rotate along this north-south axis to track the sun's direction from east to west throughout the day. Attachment A also includes a landscape plan that depicts the proposed vegetation screening that will reduce anticipated visual impacts to the Babcock House, which is located on a participating property of the Facility. As noted below in response to Item #3 and documented in Attachments B and C, visual screening for the Smith Residence is not proposed, as this location is not anticipated to have views of the Facility. However, screening along the southern end of the photovoltaic array located on Lake Road, is included in the visual screening plan for the Facility.

2. Photographs of the proposed solar site as seen from the resources; as well as from the proposed site, toward the resources. Please be sure that the photographs are labeled and keyed to a site plan.

Response: A photographic log containing representative photographs of the proposed Facility Site from several viewpoints at the Smith Residence and the Babcock House, as well as reverse views from the Facility Site are included in Attachment B. A Key Map that cross references the photograph locations to the photographic log. A .kmz file is available for the photographic locations and can be provided via email if requested (.kmz files are not an acceptable file format for uploading via CRIS).

3. Visual simulations / renderings of proposed solar arrays from the resources.

Response: Visual simulations including existing views, simulated views, and proposed screening for the Babcock House are included in Attachment C. A line of sight profile for the Smith Residence also is included in Attachment C. A visual simulation for the Smith Residence was not created, as it was determined from field photography and development of a line of sight profile, that the Smith Residence would not have views of the Facility Site. Due to pre-existing dense mature woods and topography, as documented in the photographic log provided in Attachment B and the line of sight profile in Attachment C, the Smith Residence is not anticipated to have visual impacts from the Facility.

In summary, the Facility has been designed to minimize visual impacts to the Babcock House, and visual impacts to the Smith Residence are not anticipated from development of the Facility.



We look forward to receipt of your comments on the accompanying materials provided as requested, to complete OPRHP's review of the Somerset Historic Architecture Investigation report.

Sincerely,

A handwritten signature in black ink that reads 'Robert M. Jacoby'.

Robert M. Jacoby, M.A., RPA
Tetra Tech, Cultural Resources Specialist

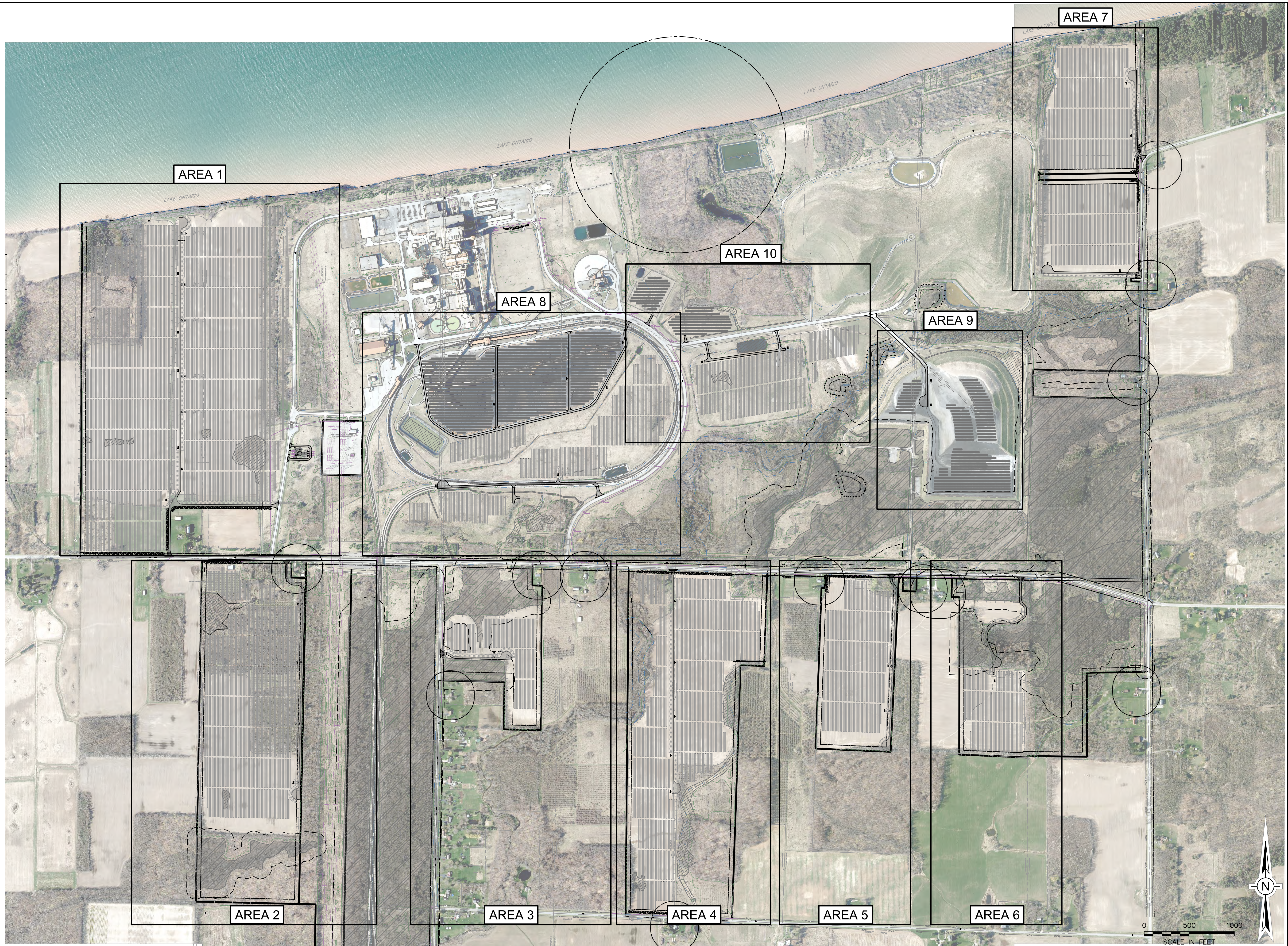
cc: H. Moaveni (ORES)
J. Donelan (AES)
M. Farrell (AES)
L. Rivard (Tetra Tech)
D. Morris (Tetra Tech)



TETRA TECH

Attachment A

Somerset Solar Facility Site Plans and Elevation Drawings



2180 South 1300 East, Suite 600
Salt Lake City, UT 84106-2749
(801) 679-3500



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PE STAMP:

KEY PLAN:

REVISIONS:

NO.	DATE	DESCRIPTION
A	08/05/2022	FOR REVIEW

PROJECT TITLE:
SOMERSET SOLAR PROJECT

PROJECT LOCATION:
LAKE ROAD
SOMERSET, NY

SHEET TITLE & DESCRIPTION:
SITE OVERVIEW

PRELIMINARY
NOT FOR CONSTRUCTION

PROJ NUM:	SU20.0012
DES:	94-C SUBMITTAL
DWN:	RCD
CHK:	
APV:	BMS
DATE:	08/05/2022
SCALE AT 22" x 34"	

AS SHOWN

SHEET NO: PV-C.02.00	REV: A
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LEGEND

	PROPERTY LINE
	BUILDING SETBACK (94-C)
	EXISTING EASEMENTS
	50' SENSITIVE AREA BUFFER
	EXISTING LOTLINES
	EXISTING GRAVEL DRIVE
	EXISTING RIGHT OF WAY
	EXISTING DRAINAGE DITCH
	EXISTING WATER EDGE
	EXISTING FENCE
	EXISTING GUIDERAIL
	EXISTING AGRICULTURE FIELD
	EXISTING TREE LINE
	EXISTING BRUSH LINE
	EXISTING RAILROAD
	EXISTING PIPELINE
	EXISTING ELECTRIC TRANSMISSION LINE
	EXISTING OVERHEAD ELECTRIC
	EXISTING UNDERGROUND ELECTRIC
	EXISTING UTILITY POLE
	EXISTING GUY WIRE
	EXISTING HYDRANT
	SURVEY CONTROL POINT
	FENCE POINT
	DELINEATED WETLAND (TBD)
	DELINEATED WETLAND (STATE)
	DELINEATED DRAINAGE FEATURE
	100 FT DELINEATED WETLAND BUFFER
	50 FT STREAM BUFFER FROM TOP OF BANK
	PROPOSED CHAIN LINK FENCE
	PROPOSED AGRICULTURAL FENCE
	PROPOSED ACCESS ROAD
	PROPOSED GRASSED FILTER STRIP
	PROPOSED SOLAR ARRAY (TRACKER)
	PROPOSED SOLAR ARRAY (FIXED TILT)
	PROPOSED VEGETATIVE SCREENING
	PROPOSED UNDERGROUND ELECTRIC TRENCH PATH
	PROPOSED AC TRENCH PATH

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PE STAMP:

KEY PLAN:

REVISIONS:

NO.	DATE	DESCRIPTION
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SOMERSET SOLAR PROJECT

PROJECT LOCATION:

LAKE ROAD
SOMERSET, NY

SHEET TITLE & DESCRIPTION:

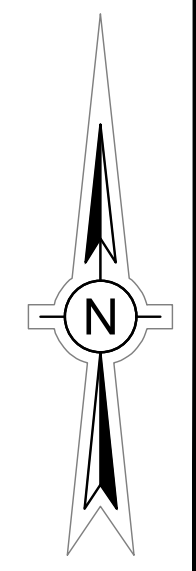
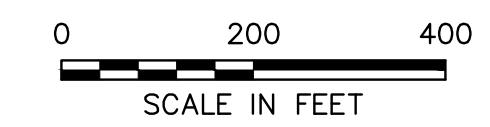
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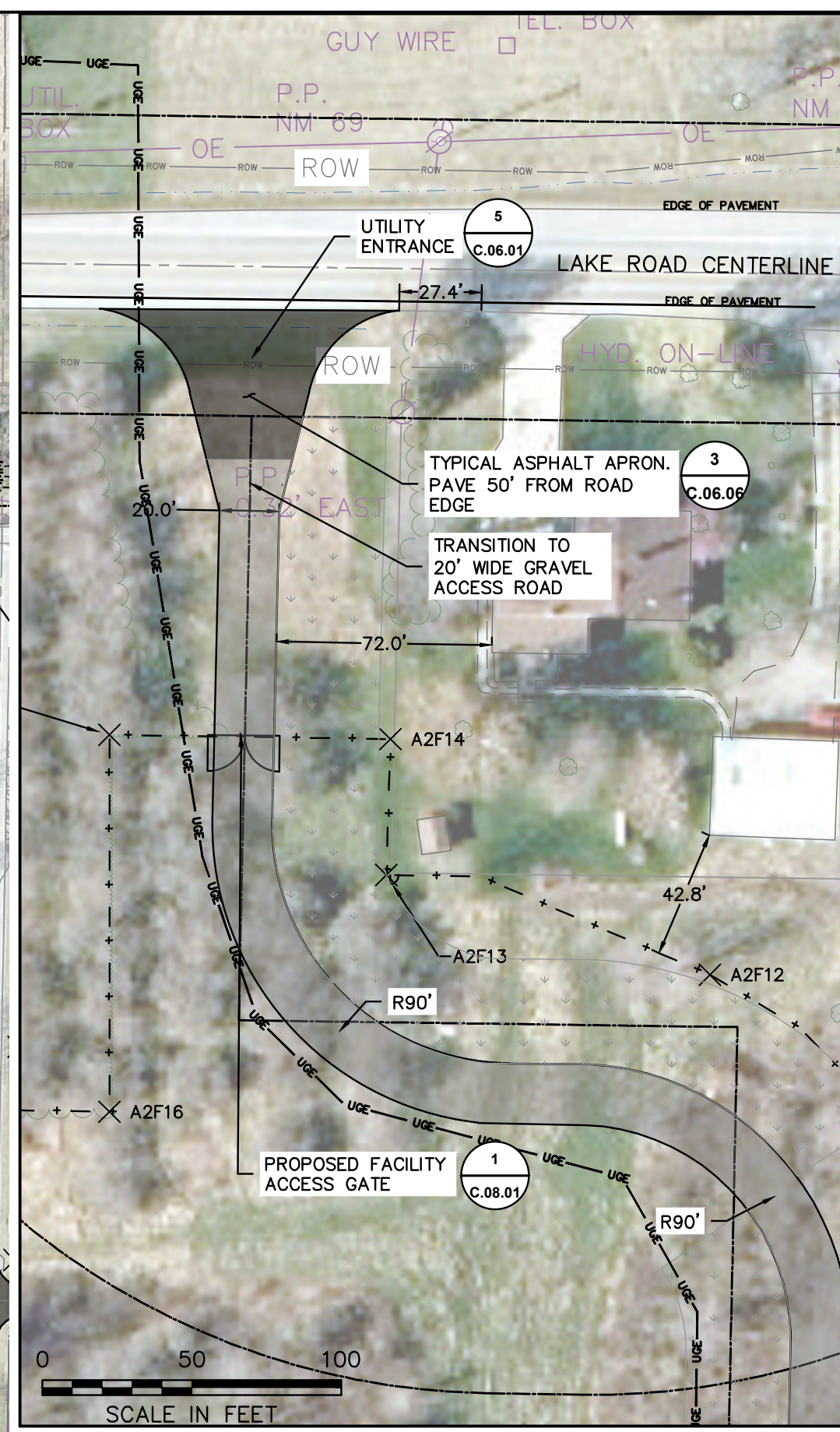
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APV:	BMS
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SCALE AT 22" x 34":	

AS SHOWN

SHEET NO: PV-C.02.01	REV: A
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SITE ENTRANCE
SCALE: 1" = 50"

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A2F5	1217223.5907	1139969.2383
A2F6	1217211.2501	1140515.6229
A2F7	1217198.4964	1141080.3002
A2F8	1217930.5854	1141095.6672
A2F10	1219344.6961	1141125.3503
A2F11	1219985.1638	1141141.6999
A2F12	1220030.4638	1141085.1561
A2F13	1220063.8095	1140977.0122
A2F14	1220109.2254	1140978.3367
A2F15	1220110.6121	1140884.4384
A2F16	1219984.6199	1140884.4384
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A2F19	1220058.2209	1140461.2663
A2F20	1220157.0944	1140424.0807
A2F21	1220220.5440	1140432.9567

- LEGEND**
- PROPERTY LINE
 - BUILDING SETBACK (94-C)
 - EXISTING EASEMENTS
 - 50' SENSITIVE AREA BUFFER
 - EXISTING LOTLINES
 - EXISTING GRAVEL DRIVE
 - EXISTING RIGHT OF WAY
 - EXISTING DRAINAGE DITCH
 - EXISTING WATER EDGE
 - EXISTING FENCE
 - EXISTING GUIDERAIL
 - EXISTING AGRICULTURE FIELD
 - EXISTING TREE LINE
 - EXISTING BRUSH LINE
 - EXISTING RAILROAD
 - EXISTING PIPELINE
 - EXISTING ELECTRIC TRANSMISSION LINE
 - OE — EXISTING OVERHEAD ELECTRIC
 - UE — EXISTING UNDERGROUND ELECTRIC
 - ⊕ ⊙ ⊗ EXISTING UTILITY POLE
 - ⊕ EXISTING GUY WIRE
 - ⊕ EXISTING HYDRANT
 - ⊕ SURVEY CONTROL POINT
 - ⊕ FENCE POINT
 - ▨ DELINEATED WETLAND (TBD)
 - ▨ DELINEATED WETLAND (STATE)
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 - 100 FT DELINEATED WETLAND BUFFER
 - 50 FT STREAM BUFFER FROM TOP OF BANK
 - PROPOSED CHAIN LINK FENCE
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 - ▨ PROPOSED GRASSED FILTER STRIP
 - ▨ PROPOSED SOLAR ARRAY (TRACKER)
 - ▨ PROPOSED SOLAR ARRAY (FIXED TILT)
 - ⊕ PROPOSED VEGETATIVE SCREENING
 - PROPOSED UNDERGROUND ELECTRIC TRENCH PATH
 - PROPOSED AC TRENCH PATH

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PE STAMP:

KEY PLAN:

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REVISIONS:

NO.	DATE	DESCRIPTION
A	08/05/2022	FOR REVIEW

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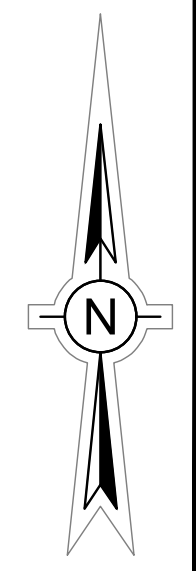
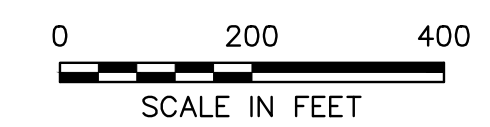
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SOMERSET, NY**

SHEET TITLE & DESCRIPTION:
SITE PLAN

**PRELIMINARY
NOT FOR CONSTRUCTION**

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DWN:	RCD
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DATE:	08/05/2022
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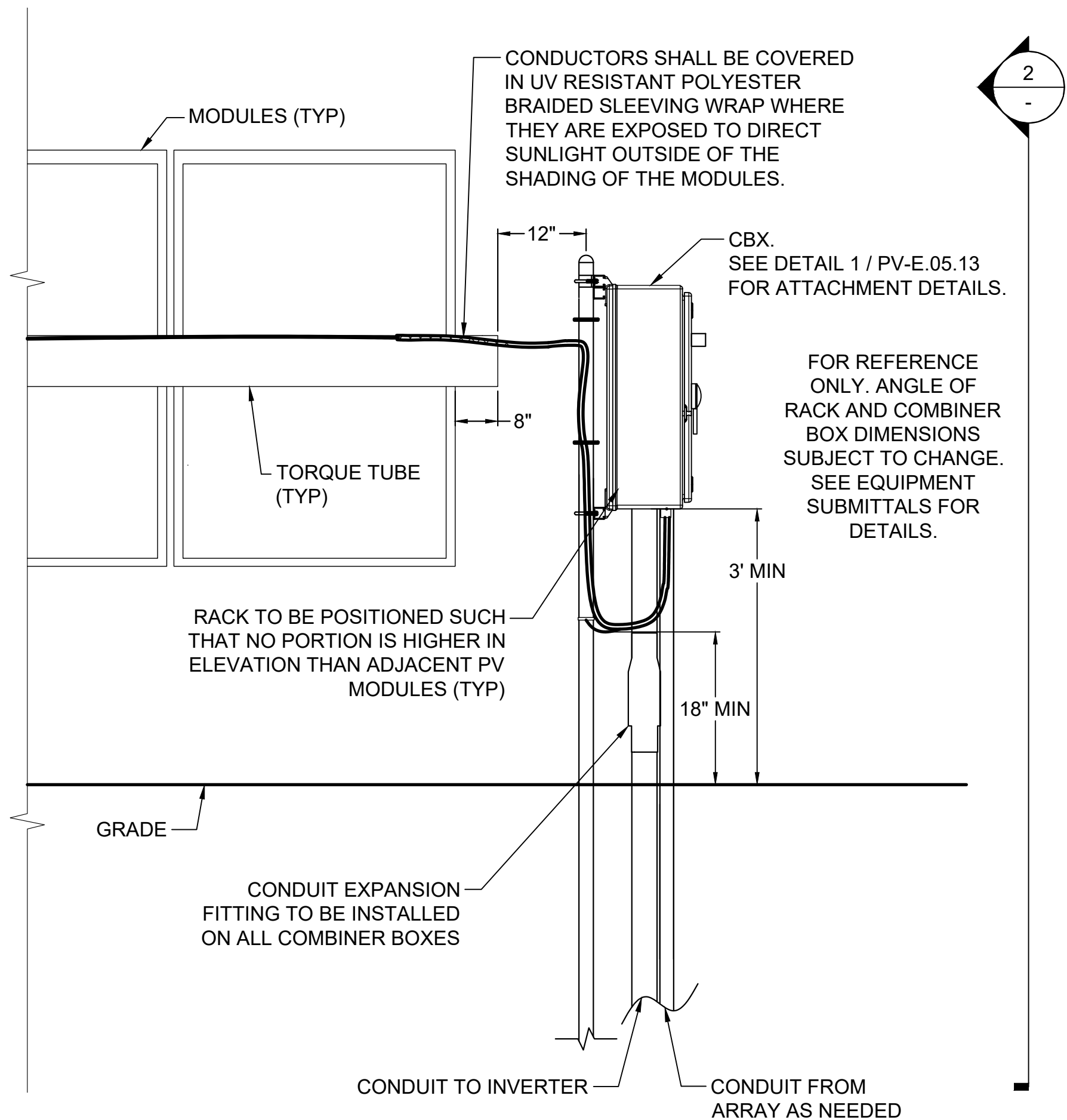
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FOR
REVIEW
08/05/2022

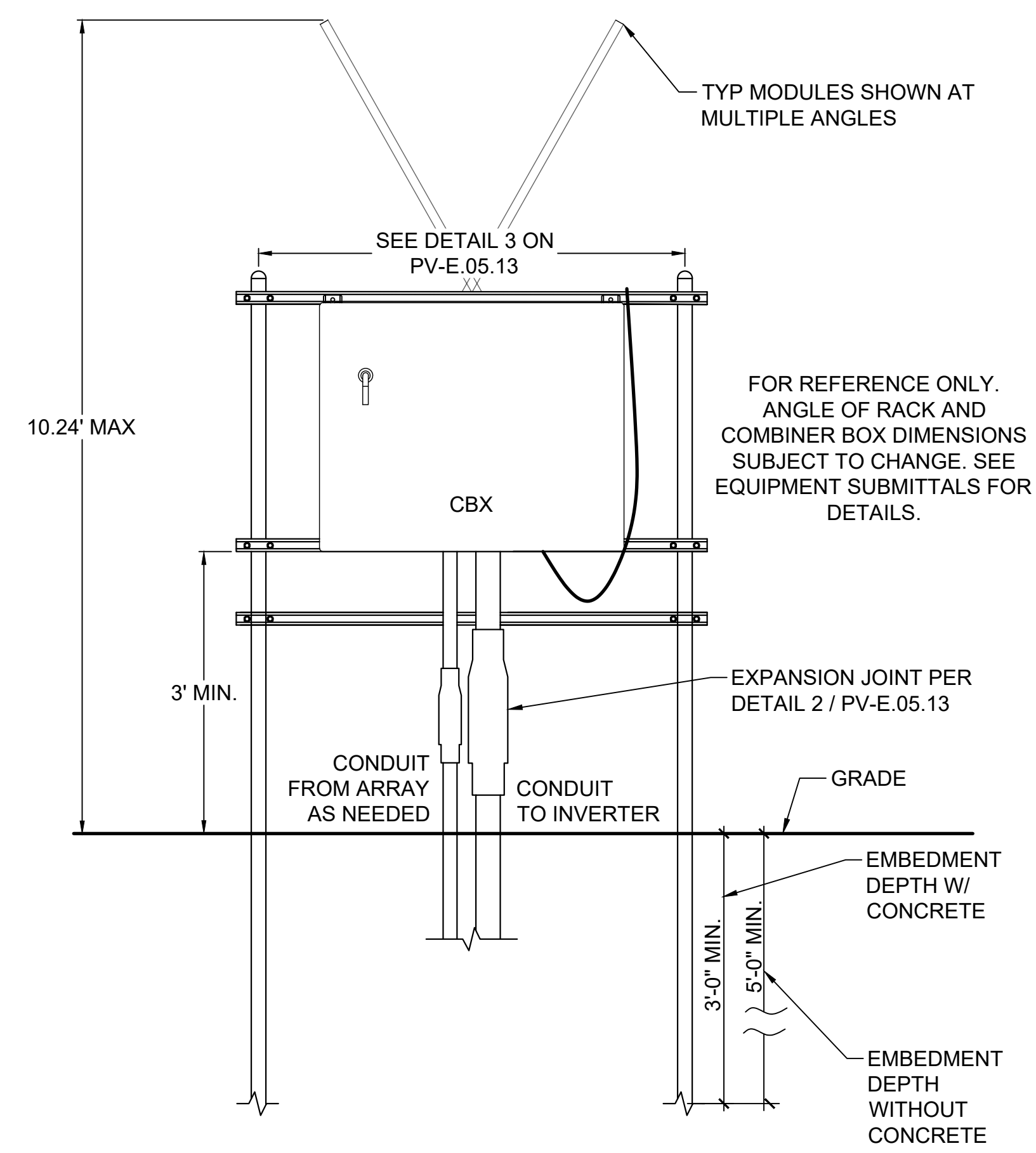
KEVIN LEARY, PE
NY PE LIC. NO. 091857
PRELIMINARY - NOT RELEASED
FOR CONSTRUCTION

AVOCA
ENGINEERING
&
ARCHITECTURE, PLLC
242 OLD NEW BRUNSWICK ROAD, PISCATAWAY, NJ 08854
PHONE (732) 465-1002 FAX (732) 465-1005

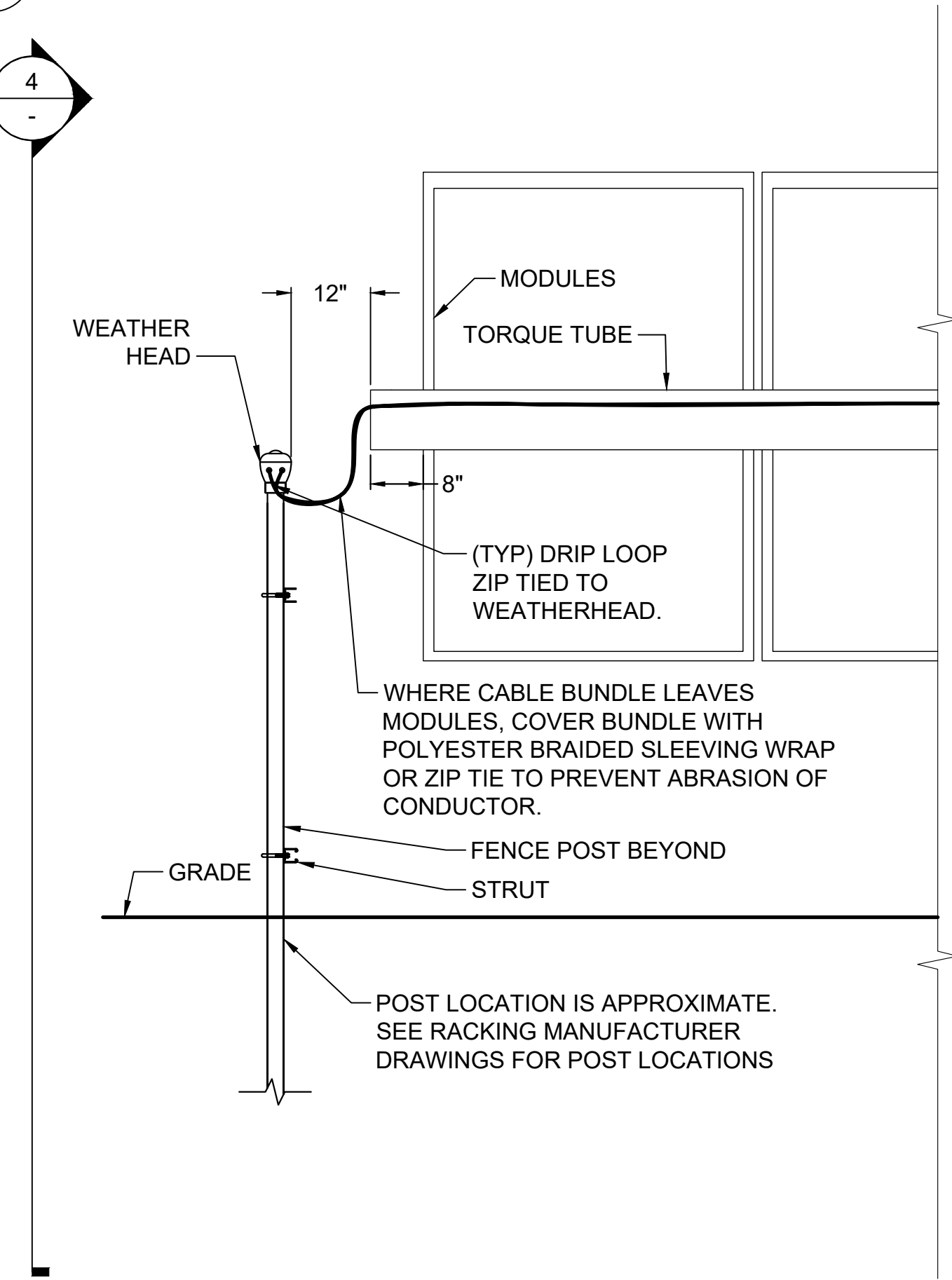


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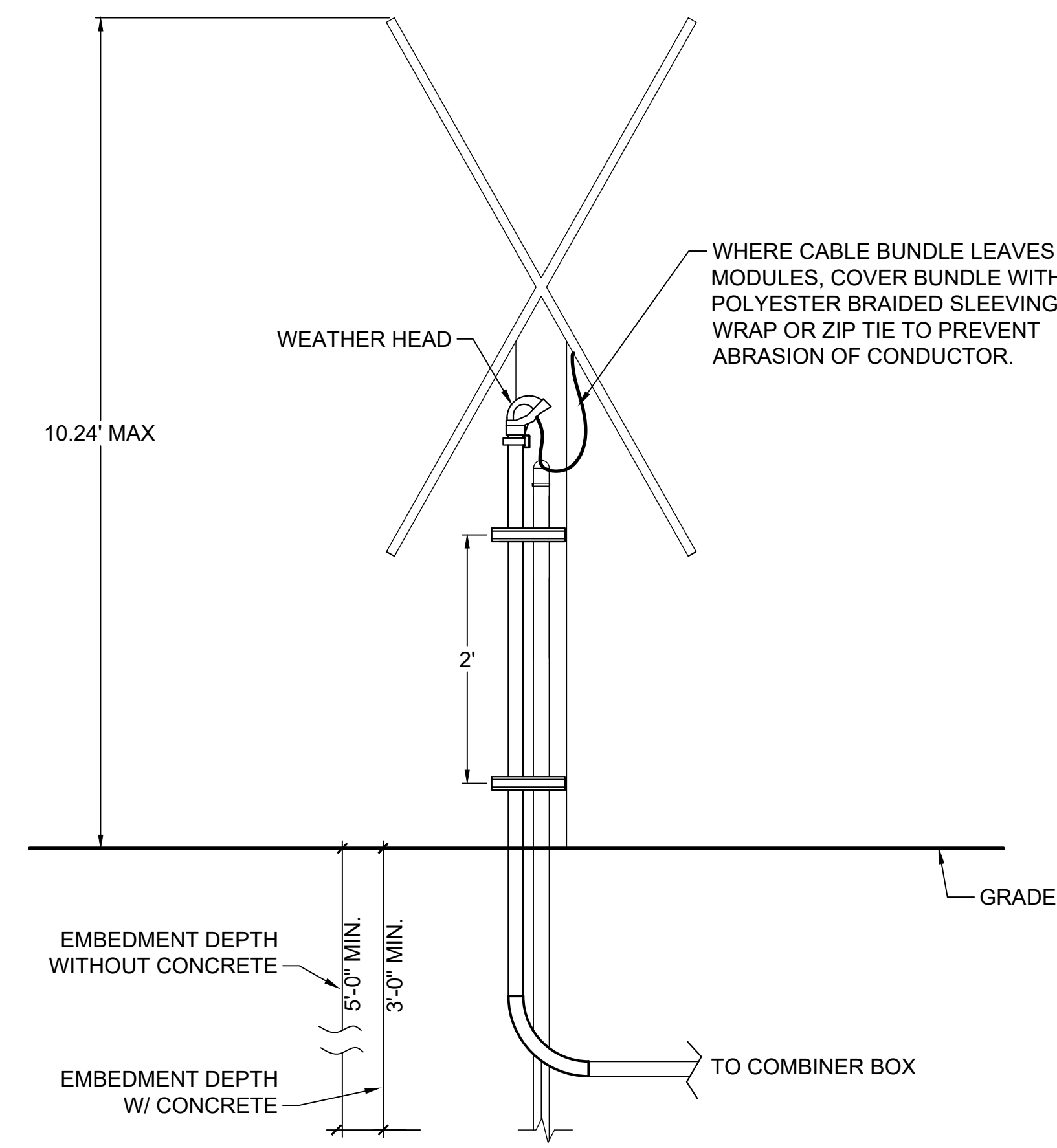
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CONFIGURATION. SEE RACKING STRUCTURAL DRAWINGS FOR
FINAL DISTANCES.



2 COMBINER BOX FRONT ELEVATION - TRACKERS
SCALE: NTS



3 WEATHER HEAD SIDE ELEVATION - TRACKERS
SCALE: NTS



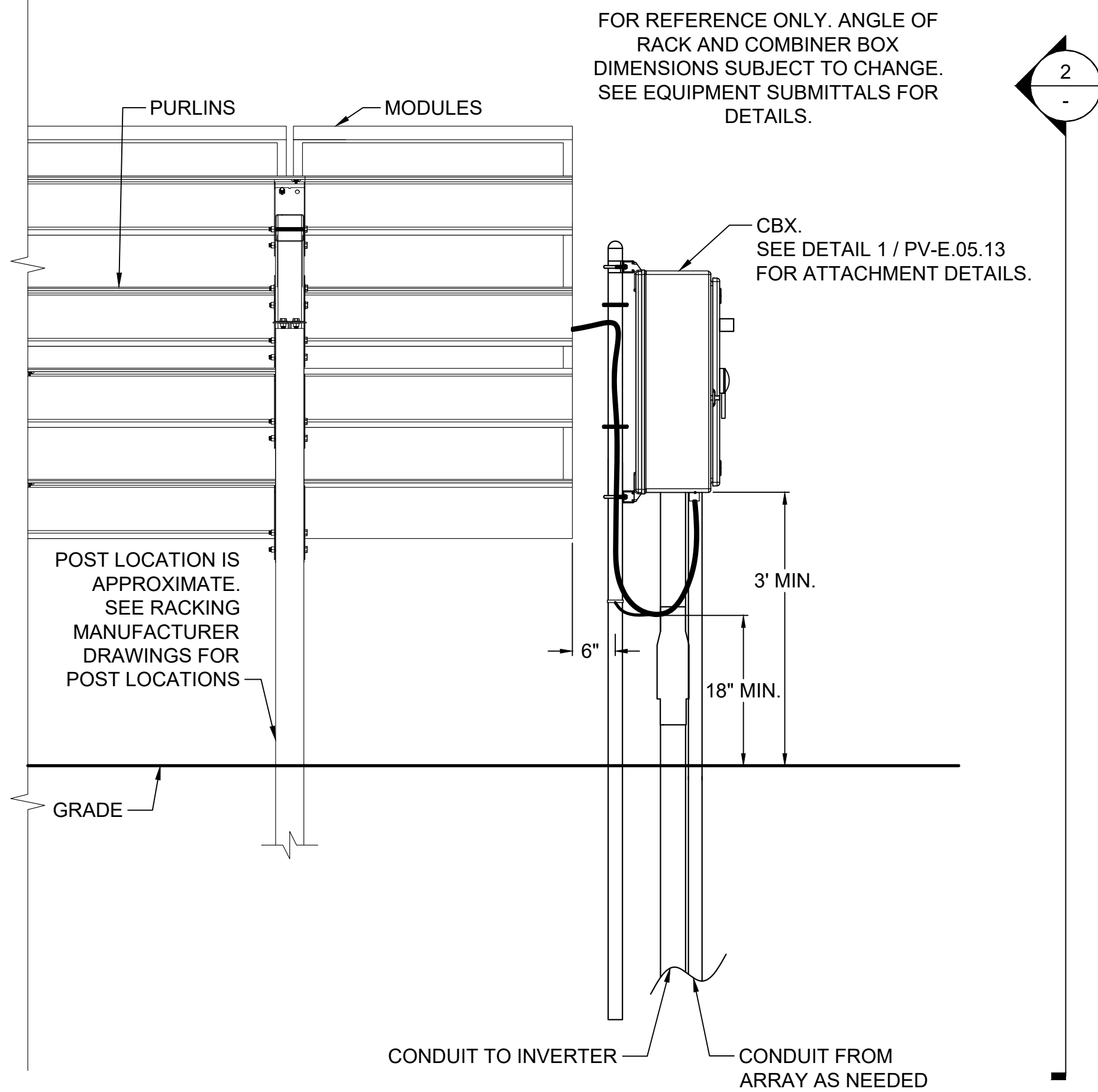
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SCALE: NTS

NO.	DATE	DESCRIPTION
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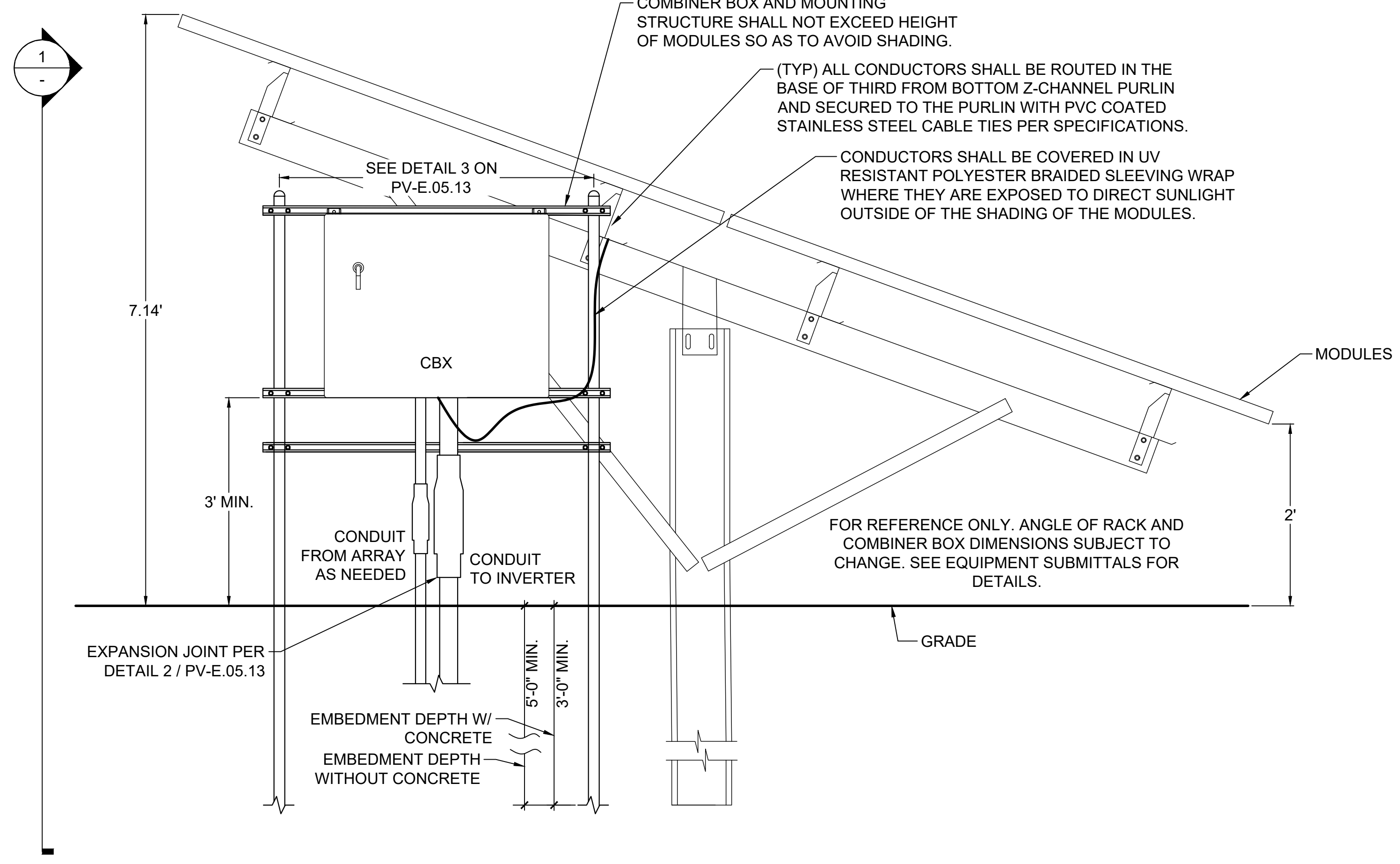
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PROJECT LOCATION: LAKE ROAD, SOMERSET, NY

DATE: 08/05/2022
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CHECKED BY: KL

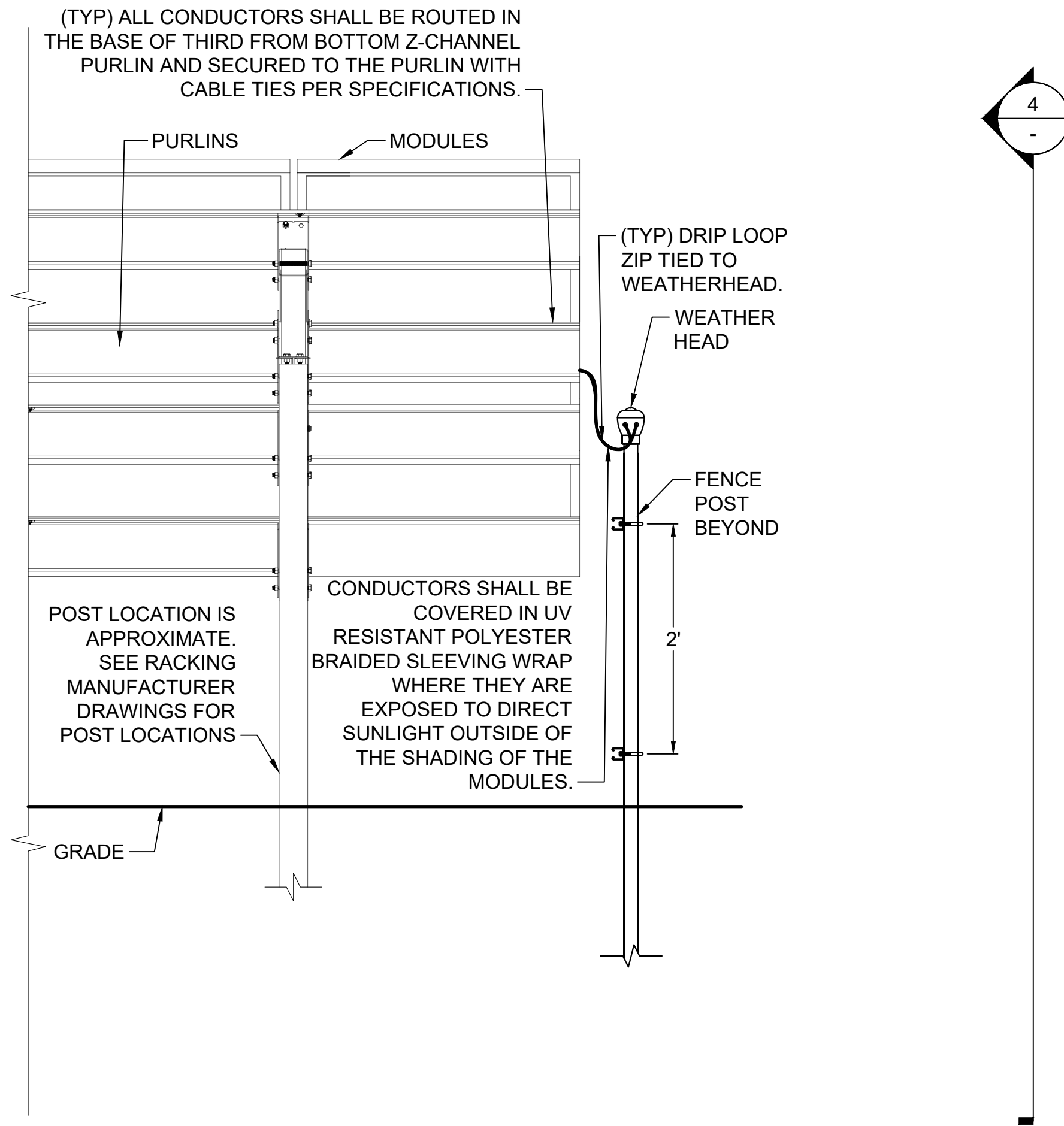
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PV-E.05.11



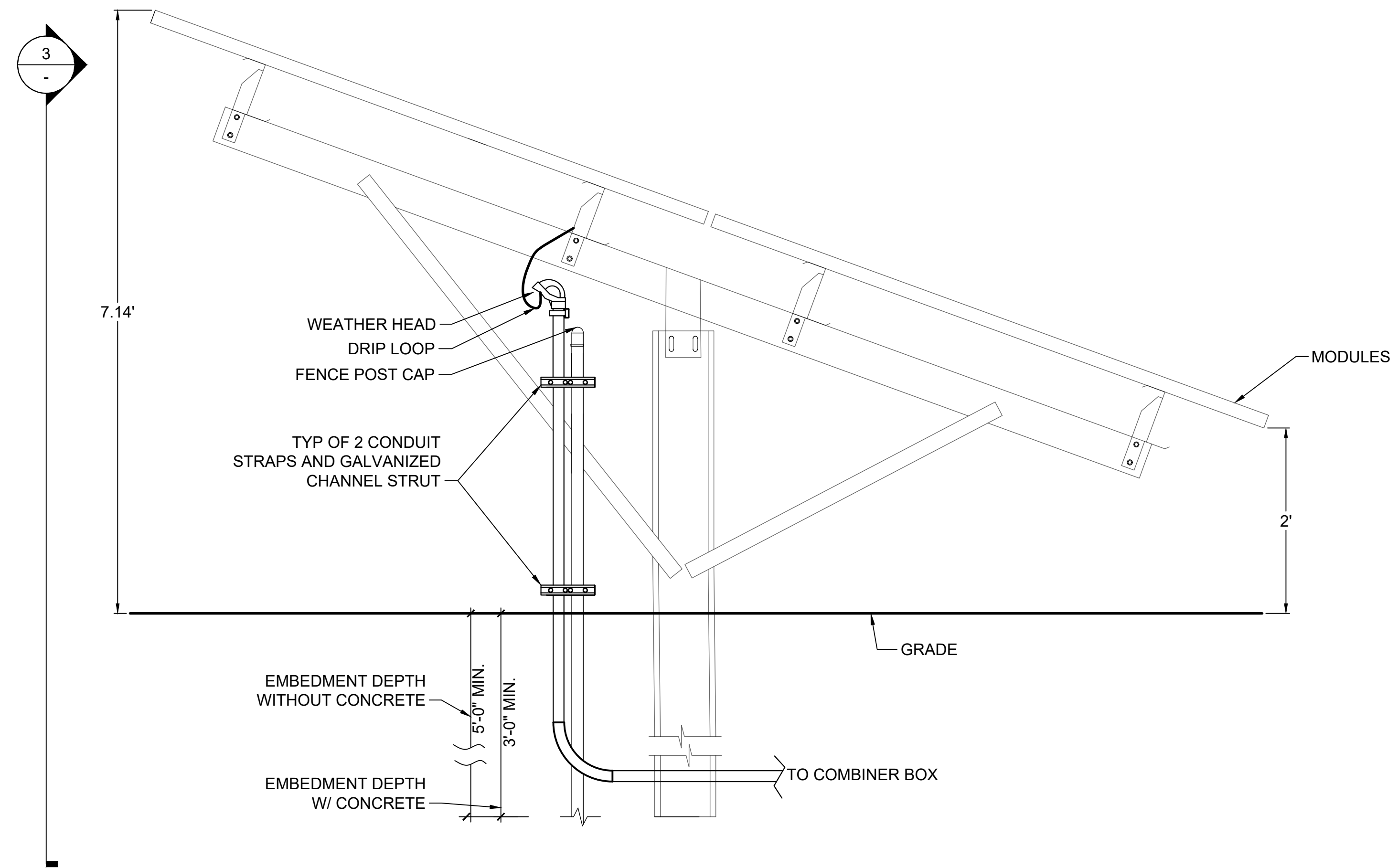
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SCALE: NTS



2 COMBINER BOX FRONT ELEVATION - FIXED TILT
SCALE: NTS



3 WEATHER HEAD SIDE ELEVATION - FIXED TILT
SCALE: NTS



4 WEATHER HEAD - FRONT ELEVATION - FIXED TILT
SCALE: NTS

NO.	DATE	DESCRIPTION
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PROJECT TITLE	SOMERSET SOLAR PROJECT
PROJECT LOCATION	LAKE ROAD, SOMERSET, NY
DATE	08/05/2022
DRAWN BY	CB
CHECKED BY	KL
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