

DRAFT ENVIRONMENTAL ASSESSMENT

Land Acquisition for Expansion of the Western New York National Cemetery

(VA ID# NCA-2024-0001)

Corfu, New York



**U.S. Department of Veterans Affairs
Office of Construction and Facilities Management
425 I Street Northwest
Washington, D.C. 20001**

March 2025



EXECUTIVE SUMMARY

This Draft Environmental Assessment (EA) has been prepared to identify, analyze, and document the potential physical, environmental, cultural, and socioeconomic impacts associated with the Department of Veterans Affairs' (VA's) proposed acquisition of approximately 92 acres of land east of the Western New York National Cemetery (WNYNC) located at 1254 Indian Falls Rd., Corfu, New York (Genesee County) for future facility expansion.

This Draft EA has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 United States Code [U.S.C.] 4321 et seq.) and Environmental Effects of the Department of Veterans Affairs Actions (38 Code of Federal Regulations [CFR] Part 26).

Purpose and Need

The purpose of the Proposed Action is to acquire land near the existing WNYNC in order to provide a larger, expanded cemetery with additional burial capacity for eligible individuals once the existing WNYNC reaches capacity.

The Proposed Action is needed to address the eventual depletion of interment capacity at the WNYNC. The WNYNC is the only National Cemetery in western New York, with the next closest option for eligible individuals being the Bath National Cemetery located approximately 85 miles southeast of the WNYNC. VA estimates that the existing burial space at the WNYNC may not be depleted for 30 years or more. However, the Proposed Action would preserve land adjacent to the WNYNC for future expansion needs for the WNYNC and provide additional capacity and meet burial objectives for eligible Veterans in the region.

Proposed Action and Alternatives

This Draft EA examines in-depth two alternatives, the Proposed Action Alternative and the No Action Alternative, defined as follows:

- **Proposed Action Alternative:** VA would acquire the privately owned 92 acres to the east of the existing WNYNC for future development. The project site would be leased by VA to others for continued agricultural use until such time as the WNYNC nears interment capacity. VA would then expand the cemetery onto the 92 acres.
- **No Action Alternative:** Under the No Action Alternative, the Proposed Action would not be implemented. Veterans and their families in the region would continue to use the WNYNC until interment options are no longer available. In the future, VA would likely seek other land to expand the cemetery but may not be able to acquire the land contiguous with or near the existing WNYNC. The Proposed Action area would likely continue to be privately owned and utilized for agricultural purposes. The No Action Alternative would not meet the need to expand National Cemetery capacity to meet future demand in the Western New York area.

Affected Environment and Environmental Consequences

The Draft EA describes the baseline physical, environmental, cultural, and socioeconomic conditions at the project site and the general vicinity. Table ES-1 summarizes the potential environmental impacts associated with implementing the Proposed Action or the No Action alternative.

Table ES-1. Summary of Impact Analysis

Resource Area	Impacts of Proposed Action	Impacts of No Action
Aesthetics	No impacts anticipated	No impacts anticipated
Air Quality	No impacts anticipated	No impacts anticipated
Cultural and Historic Resources	Site acquisition and continued use of already cultivated areas are not anticipated to result in significant impacts historic properties. No significant impact.	No impacts anticipated
Geology and Soils	Site acquisition and continued use of already cultivated areas are not anticipated to result in significant impacts to soils. No significant impact.	No impacts anticipated
Hydrology and Water Quality	Site acquisition and continued use of already cultivated areas are not anticipated to result in significant impacts to hydrology and water quality. No significant impact.	No impacts anticipated
Wildlife and Habitat	The site has potential habitat for protected species, but site acquisition and continued use of already cultivated areas are not anticipated to result in significant impacts to protected species. No significant impact.	No impacts anticipated
Noise	No impacts anticipated	No impacts anticipated
Land Use	Site acquisition and continued use of already cultivated areas does not result in irreversible conversion of that farmland to nonagricultural use. No significant impact.	No impacts anticipated
Floodplains, Wetlands, and Coastal Zone Management	Wetlands are present at the site, but site acquisition and continued use of already cultivated areas are not anticipated to result in impacts to the wetlands. The project site is outside of floodplains and the coastal zone management area. No significant impact.	No impacts anticipated
Community Services	No impacts anticipated.	No impacts anticipated
Solid and Hazardous Materials	No impacts anticipated.	No impacts anticipated
Traffic and Transportation	No impacts anticipated	No impacts anticipated
Utilities	No impacts anticipated	No impacts anticipated
Socioeconomics	No impacts anticipated	No impacts anticipated

Resource Area	Impacts of Proposed Action	Impacts of No Action
Reasonably Foreseeable Effects	No impacts anticipated	No impacts anticipated

Agency Coordination and Public Involvement

During preparation of this Draft EA, VA reached out to selected federal, state, and local agencies, Native American Tribes, and elected officials for early input on the Proposed Action and environmental concerns to be addressed in the Draft EA. A scoping notice was also published in the *Buffalo News* on July 21 and 23, 2024, to announce VA's intent to develop an EA and to solicit input from interested stakeholders. Copies of correspondence and newspaper notices are provided in Appendix B.

As part of the public involvement process, VA invites all stakeholders and the general public to review and provide comments on the analyses presented in this Draft EA. VA will review comments received during the 30-day comment period. Relevant and applicable comments will be documented and addressed in the Final EA.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
LIST OF ACRONYMS AND ABBREVIATIONS.....	3
1 INTRODUCTION	4
1.1 Background	4
1.2 Purpose and Need.....	6
1.3 Decision-Making.....	6
2 ALTERNATIVES.....	7
2.1 Proposed Action.....	7
2.2 No Action Alternative.....	7
3 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES	9
3.1 Aesthetics.....	9
3.2 Air Quality	10
3.3 Cultural and Historic Resources	11
3.4 Geology and Soils	14
3.5 Hydrology and Water Quality.....	15
3.6 Wildlife and Habitat	17
3.7 Noise	19
3.8 Land Use.....	19
3.9 Floodplains, Wetlands, and Coastal Zone Management	21
3.10 Community Services.....	24
3.11 Solid Waste and Hazardous Materials.....	24
3.12 Traffic and Transportation	25
3.13 Utilities	26
3.14 Socioeconomics.....	26
3.15 Reasonably Foreseeable Impacts	27
3.16 Potential for Generating Substantial Public Controversy	28
4 MITIGATION AND MANAGEMENT MEASURES.....	29
5 PUBLIC PARTICIPATION, COORDINATION, AND CONSULTATION.....	30
5.1 Public Involvement.....	30
5.2 Consultation and Stakeholder Coordination	30
6 LIST OF PREPARERS.....	32
7 REFERENCES CITED	33
8 GLOSSARY	36
APPENDIX A. PERMITS	
APPENDIX B. AGENCY CONSULTATION AND PUBLIC INVOLVEMENT	

List of Tables

Table 1. Special Status Species and Potential Occurrence Determination	18
Table 2. Demographic Data Comparisons.....	27
Table 3. Economic Data Comparisons.....	27
Table 4. Genesee County Priority Development Projects	28
Table 5. Mitigation and Management Measures for the Proposed Action	29

List of Figures

Figure 1. Project Site Location.....	5
Figure 2. Aerial View of Land Acquisition Parcel.....	8
Figure 3. Archeological Loci in the Area of Potential Effects	13
Figure 4. Hydrological Features of the Project Site.....	16
Figure 5. Project Site Location Within Genesee County Agricultural District #2	20
Figure 6. Photographs of Wetlands 1 (left) and 2 (right) at the Project Site, May 2023	23

LIST OF ACRONYMS AND ABBREVIATIONS

APE	Area of potential effects
bgs	Below ground surface
BMP	Best management practices
CEQ	Council on Environmental Quality
CFM	Office of Construction and Facilities Management
CFR	Code of Federal Regulations
dB	decibel
dBA	A-weighted decibels
EA	Environmental assessment
EO	Executive Order
FEMA	Federal Emergency Management Agency
FONSI	Finding of no significant impact
IPaC	Information for Planning and Consultation
LOS	Level of service
NAAQS	National ambient air quality standards
NCA	National Cemetery Administration
NEPA	National Environmental Policy Act
NPDES	National pollutant discharge elimination system
NRCS	National Resources Conservation Service
NRHP	National Register of Historic Places
NWI	National Wetlands Inventory
NYCRR	New York Codes, Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
NYSDOT	New York State Department of Transportation
PCSD	Pembroke Central School District
PM ₁₀	Suspended particulate matter less than or equal to 10 micrometers
PM _{2.5}	Fine particulate matter less than or equal to 2.5 micrometers
SHPO	State Historic Preservation Officer
SWPPP	Stormwater pollution prevention plan
U.S.	United States
U.S.C.	United States Code
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
VA	Department of Veterans Affairs
WNYNC	Western New York National Cemetery

1 INTRODUCTION

This Draft EA has been prepared by the U.S. Department of Veterans Affairs (VA), acting as lead agency, in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code [U.S.C.] 4321 et seq.) and Environmental Effects of the Department of Veterans Affairs Actions (38 Code of Federal Regulations [CFR] Part 26).

This Draft EA identifies, analyzes, and documents the potential physical, environmental, cultural, and socioeconomic impacts associated with VA's proposed acquisition of approximately 92 acres of land east of the Western New York National Cemetery (WNYNC) located at 1254 Indian Falls Rd., Corfu, New York (Genesee County) for future facility expansion.

In accordance with the cited regulations, this Draft EA allows for public input into the federal decision-making process, provides federal decision-makers with an understanding of potential environmental effects of their decisions before making these decisions, identifies the measures the federal decision-maker could implement to reduce potential environmental effects, and documents the NEPA process.

1.1 Background

The NCA is the entity within VA that is responsible for establishing, constructing, and maintaining national cemeteries in order to provide reasonable access to burial benefits for Veterans pursuant to the provisions of the National Cemeteries Act of 1973 and other statutes. Under this mandate, the NCA is responsible for the operation and maintenance of 155 existing national cemeteries and the construction of new national cemeteries. NCA generally considers reasonable access to burial benefits to mean that a first interment option is available within 75 miles of the Veterans' residence.

The WNYNC, opened in 2020, comprises 269 acres in Genesee County, New York. The property has access off Exit 48A from the I-90 thruway and is located within the limits of the Town of Pembroke. The cemetery serves the needs of Veterans, spouses and eligible children within a 75-mile radius of nearby Batavia, NY. VA originally acquired 132 acres of the property in May 2014, and acquired an additional 137 acres in February 2018 for future expansion and to ensure the safety and efficiency of funeral processions and traffic.

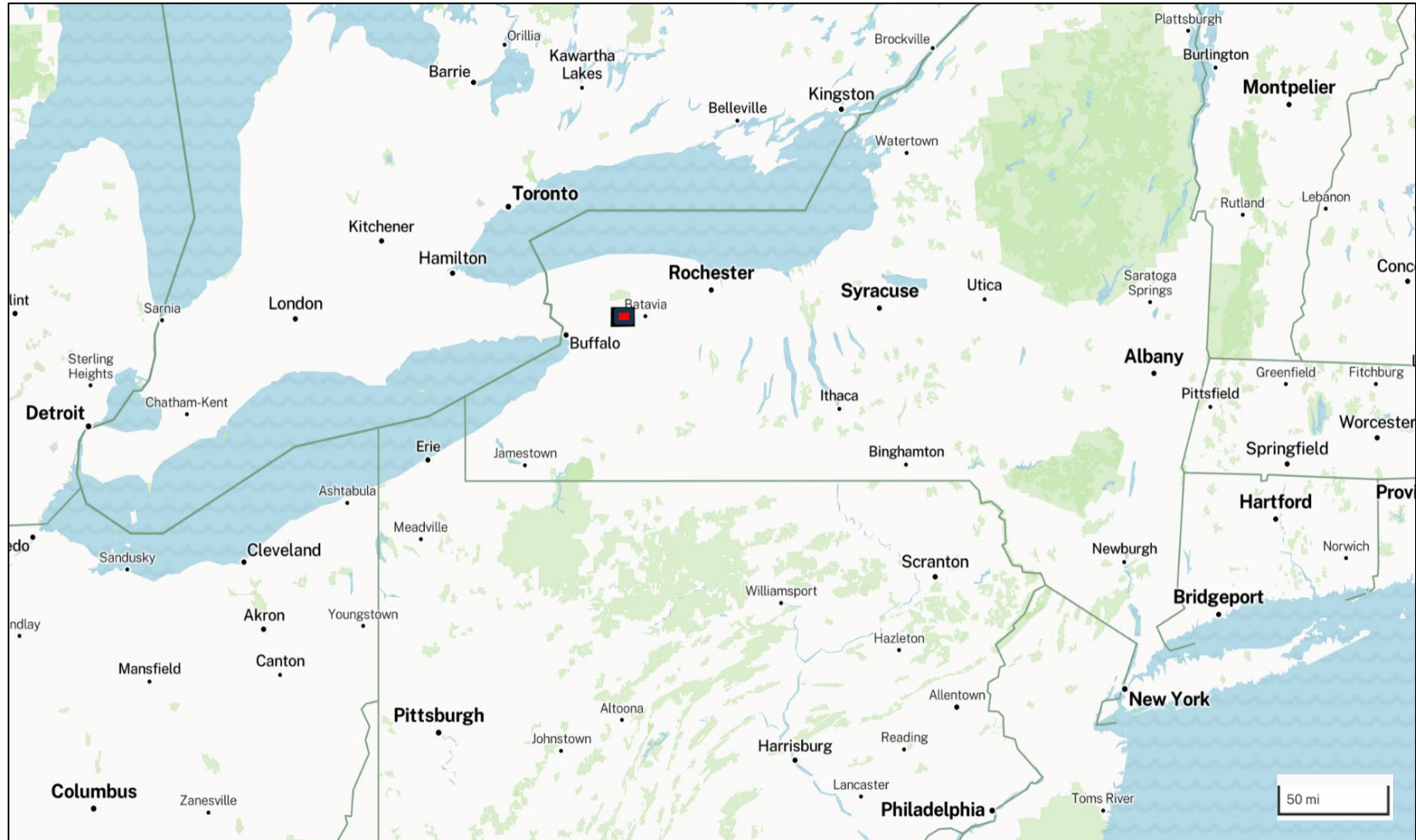


Figure 1. Project Site Location

1.2 Purpose and Need

The purpose of the Proposed Action is to acquire land near the existing WNYNC in order to provide a larger, expanded cemetery with additional burial capacity for eligible individuals once the existing WNYNC reaches capacity.

The Proposed Action is needed to address the eventual depletion of interment capacity at the WNYNC. The WNYNC is the only National Cemetery in western New York, with the next closest option for eligible individuals being the Bath National Cemetery located approximately 85 miles southeast of the WNYNC. VA estimates that the existing burial space at the WNYNC may not be depleted for 30 years or more. However, the Proposed Action would preserve land adjacent to the WNYNC for future expansion needs for the WNYNC and provide additional capacity and meet burial objectives for eligible Veterans in the region.

1.3 Decision-Making

VA, as a federal agency, is required to incorporate environmental considerations into their decision-making process for the actions they propose to undertake. This is done in accordance with the regulations identified in Section 1.1. Ultimately, VA will decide, in part based on the analysis presented in this Draft EA and after having taken potential physical, environmental, cultural, and socioeconomic effects into account, whether VA should implement the Proposed Action, and, as appropriate, carry out management, avoidance, and mitigation (if necessary) measures to reduce effects to the environment.

2 ALTERNATIVES

This section describes the proposed action and alternatives considered by VA, including those alternatives eliminated from further analysis. NEPA Section 102 requires review of “a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal.”

2.1 Proposed Action

Under the Proposed Action, VA would acquire the privately owned 92 acres to the east of the existing WNYNC that are currently being used for agricultural row-crop production (Figure 2). This land would be held by NCA until such time as the existing WNYNC nears interment capacity, and then NCA would expand the cemetery onto the 92 acres. This development need is not anticipated for 30 years or more. In the interim, the land would be leased by VA to others for continued agricultural row-crop production. Development plans for the expansion parcel do not exist at this time.

2.2 No Action Alternative

Under the No Action Alternative, VA would not expand the WNYNC to the project site. The project site would likely continue to be used for agricultural purposes under private ownership. Veterans and their families in the region would continue to use the WNYNC until interment options are no longer available. In the future, VA would likely seek other land to expand the cemetery but may not be able to acquire the land contiguous with or near the existing WNYNC. The No Action Alternative would not meet the need to expand National Cemetery capacity to meet future interment demand in the Western New York area. However, the No Action Alternative is carried forward for analysis to reflect the status quo and serves as a benchmark against which the effects of the Proposed Action can be evaluated.

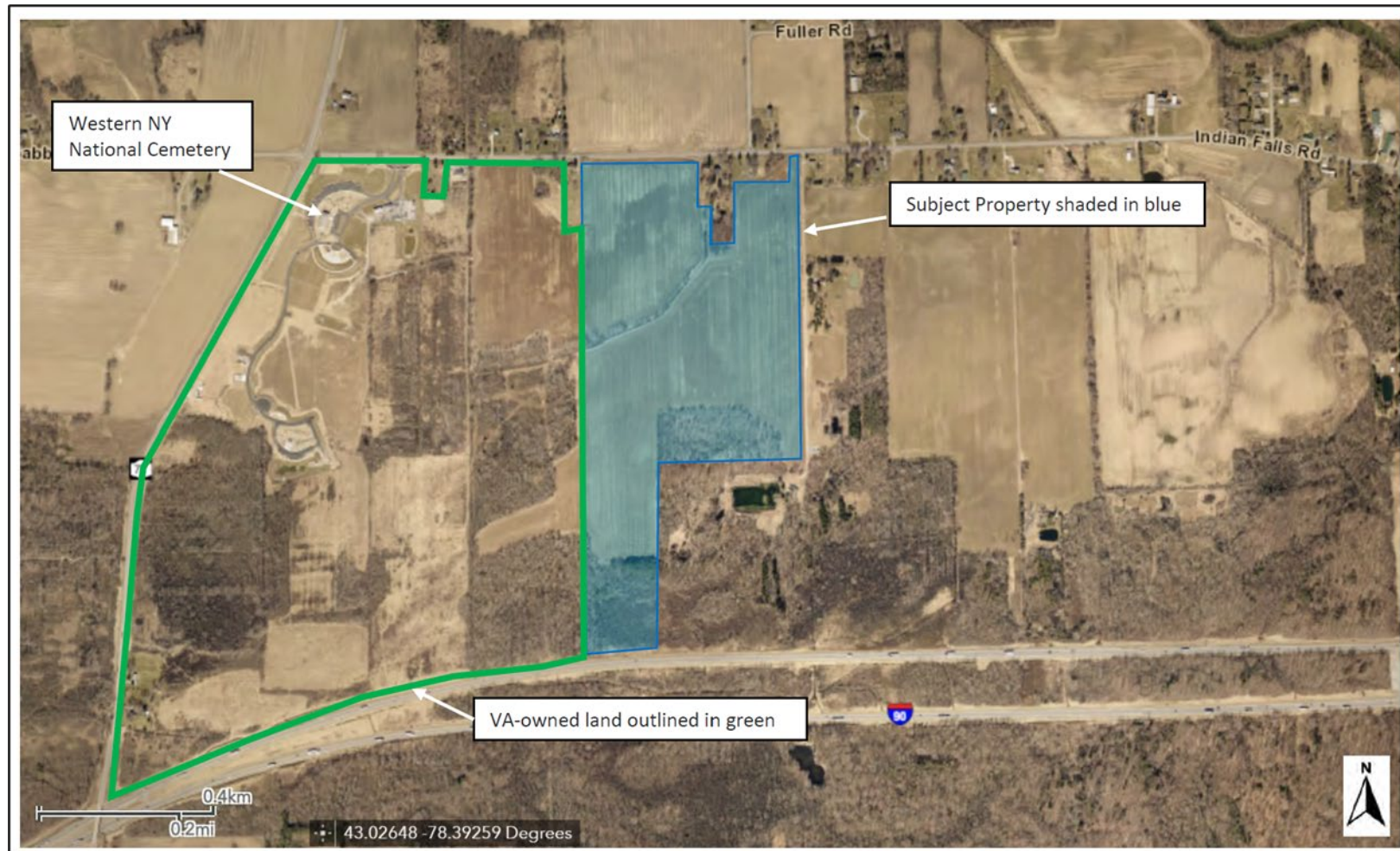


Figure 2. Aerial View of Land Acquisition Parcel

3 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This section describes the existing conditions at the project site and presents an analysis of the potential consequences of implementing the Proposed Action or the No Action alternative. The environmental impacts (or effects) of implementing each alternative were identified for each resource area and described in terms of significance. The significance of an action was evaluated in terms of its context and intensity, including duration, magnitude of the impact, and whether the impact is adverse or beneficial, as described in the following paragraphs:

- **Short-term or long-term.** In general, short-term impacts are those that would occur only with respect to a particular activity for a finite period, such as the time required for construction or installation activities. Long-term impacts are those that are more likely to be persistent and chronic.
- **Less-than-significant (negligible, minor, moderate) or significant (major).** These relative terms are used to characterize the magnitude or intensity of an impact. Negligible impacts are generally those that might be perceptible but are at the lower level of detection. A minor impact is slight, but detectable. A moderate impact is readily apparent. Major impacts are those that, in their context and due to their magnitude (severity), would significantly affect the quality of the human environment and, thus, warrant heightened attention and examination for potential mitigation.
- **Adverse or beneficial.** An adverse impact is one having unfavorable or undesirable outcomes on the man-made or natural environment. A beneficial impact is one having positive outcomes on the man-made or natural environment.

This Draft EA follows CEQ guidelines that encourage agencies to streamline environmental analyses in their EAs by focusing on whether the proposed action (including mitigation) would “significantly” affect the quality of the human environment and tailor the length of the discussion to the relevant effects (CEQ, 2020).

3.1 Aesthetics

3.1.1 Affected Environment

The project site is located in a rural area in the Town of Pembroke, Genesee County, New York approximately 10 miles west of Batavia, New York, and approximately 15 miles east of Buffalo, New York. The site currently consists mostly of cultivated farmland, with a wooded area with wetland characteristics in the southern portion of the parcel. The project site is surrounded to the east, west, and north by farmland and scattered residential properties, and bounded to the south by Highway I-90 and the Sportsters Rod & Gun Club (private gun club).

3.1.2 Effects of the Proposed Action

Acquisition of the project site by VA would not result in aesthetic effects in the near term, as current agricultural uses are expected to continue until such time as the WNYNC nears capacity. Aesthetic effects from future expansion of the National Cemetery on to the site would be studied once design plans are developed; cemetery expansion on to the parcel is not anticipated for 30 years or more.

3.1.3 Effects of the No Action Alternative

Under the No Action Alternative, no aesthetic impacts would result from VA's actions. The site would most likely continue to be utilized for agricultural use in the near future and could be developed for another use in the long term; aesthetics impacts could result from that changed land use.

3.2 Air Quality

3.2.1 Affected Environment

The U.S. Environmental Protection Agency (USEPA) and the New York State Department of Environmental Conservation (NYSDEC) regulate air quality in New York. These agencies develop rules, regulations, and policies for regulating air quality in accordance with applicable legislation. USEPA regulations may not be superseded; however, state and local regulations may be more stringent.

3.2.1.1 Air Quality Standards

The Clean Air Act of 1970 (42 U.S.C. 7401 et seq.), as amended, authorizes the USEPA to establish primary and secondary National Ambient Air Quality Standards (NAAQS) (40 CFR Part 50) that set acceptable upper concentration limits for the following criteria pollutants: suspended particulate matter less than or equal to 10 micrometers (PM₁₀), fine particulate matter less than or equal to 2.5 micrometers (PM_{2.5}), sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone, and lead.

Areas that violate NAAQS are designated as nonattainment areas; areas with levels below NAAQS are designated as attainment areas. An area may also be classified as a maintenance area if it was once classified as nonattainment but has since reached attainment for a probationary period through implementation of a maintenance plan. The project site is located in Genesee County, an area that is not currently designated as nonattainment or maintenance for any criteria pollutant (USEPA, 2024a).

3.2.1.2 Site Conditions

No regulated sources of air emissions currently exist on the project site. Non-regulated sources of air emissions at the site include those associated with off-road farming equipment.

Sensitive receptors for air quality impacts are the areas where persons that are the most sensitive to pollution effects, such as the very young, elderly, or people with respiratory and other related

illnesses live, work or play. Sensitive air quality receptors in the vicinity of the project site include scattered residences located to the north, east, and west. There are no hospitals, schools, or other types of sensitive receptors located within one mile of the site.

3.2.2 Effects of the Proposed Action

The Proposed Action would have no immediate impact on air quality as the site would continue to be leased for agricultural use in the near term. Air quality impacts from future cemetery expansion on to the parcel would be studied once design plans are developed. Cemetery expansion on to the parcel is not anticipated for 30 years or more.

3.2.3 Effects of the No Action Alternative

Under the No Action Alternative, no air quality impacts associated with VA's Proposed Action would result. The continued use of the site for row-crop production would not result in additional air quality impacts above the existing emissions produced for its current use.

3.3 Cultural and Historic Resources

3.3.1 Affected Environment

As part of the National Historic Preservation Act (NHPA) Section 106 process, and to supply additional information for the NEPA cultural resources assessment, Environmental Research Group (ERG) completed an initial cultural resources assessment for the project site on behalf of VA in 2023. The assessment included an examination of readily available data pertinent to the history, ethnography, and environment of the project area and its surrounds, and identification of interested parties for consultation on cultural resource issues with respect to this project. The area of potential effects (APE) for the Proposed Action (or undertaking) was defined as the approximately 92-acre project site and the entirety of the adjacent WNYNC. Background research did not identify any built resources, archeological sites, or traditional cultural properties listed in local, state, or national registers or zoning overlays within the project site. However, the adjacent WNYNC contains an archeological historic property, the Indian Falls VA Precontact Site (A03712.000035), which has been subject to multiple surveys since it was first documented in 2012; none of these archeological surveys extended to the project site (ERG, 2023a).

Because of the proximity of the project site to the Indian Falls VA Precontact Site (A03712.000035), VA commissioned a Phase I archeological investigation of the project site to further understand potential effects of the undertaking on this archeological resource. A Phase I archeological survey completed in September 2023 identified three areas (or loci) with archeological deposits at the project site that are presumed to be associated with the Indian Falls VA Precontact Site (identified as 7D, 8D, and 9D in Figure 3) (ERG, 2024). Following review of the Phase I investigation results, the State Historic Preservation Officer (SHPO) recommended mechanical scraping of the three referenced loci. This Phase II archeological survey was completed in October 2024. Deposits found during the Phase II survey were consistent with previous findings (ERG, 2025). VA has concluded

that Phase I/Phase II work has exhausted the data potential of the deposits within the project footprint.

3.3.2 Effects of the Proposed Action

Acquisition of the project site and continued use as agricultural land is not anticipated to result in adverse effects to historic properties. Once VA proceeds with expansion of the WNYNC to the project site, which is not expected for 30 years or more, archeological historic properties could be adversely affected by excavation activities during construction.

Consultation on this undertaking was initiated on December 5, 2023, with letters sent to the following potential consulting parties:

- New York State Parks, Recreation & Historic Preservation, serving as the SHPO
- Seneca-Cayuga Nation
- Seneca Nation of Indians
- Tonawanda Band of Seneca
- Genesee County Department of Planning
- Town of Pembroke Zoning and Codes Department
- Village of Corfu Planning Board

The Seneca Nation of Indians and the Tonawanda Band of Seneca responded with an interest in the project. Consultation was conducted with these tribes and the SHPO throughout the Phase I and II archeological investigations (see Appendix B for consultation correspondence). There were no comments from the interested tribes on the Phase I and II archeological investigation reports.

Since development of the project site is not anticipated for 30 years or more, there are no immediate effects to historic resources. The land is expected to remain in its present agricultural use until such time as the WNYNC burial capacity is depleted and the cemetery is expanded. Once design plans for the expansion are developed, VA will work with SHPO and tribal governments to minimize or mitigate potential adverse effects to historic properties.

3.3.3 Effects of the No Action Alternative

Under the No Action Alternative, the continued use of the project site as mostly agricultural land would not likely result in cultural resource impacts.

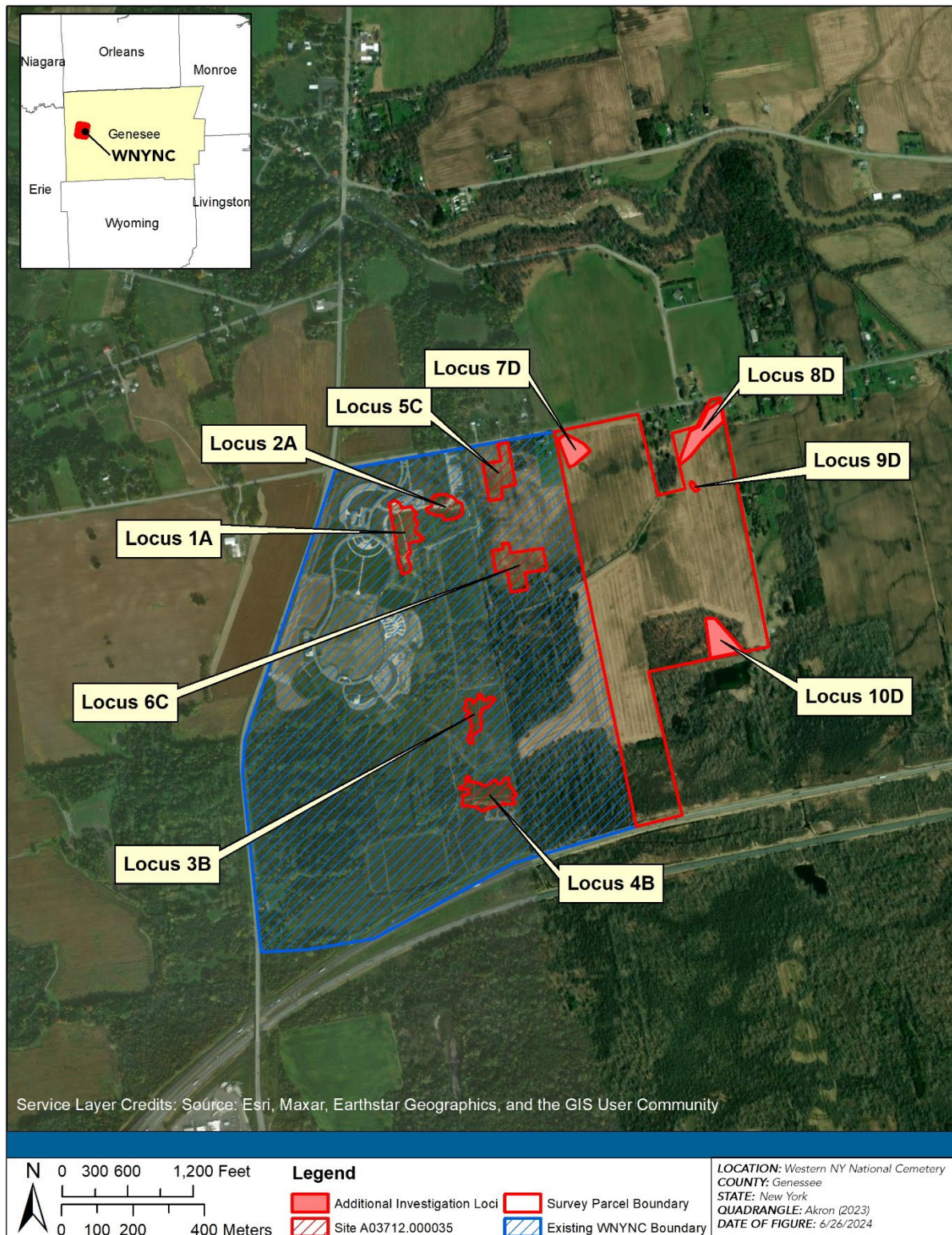


Figure 3. Archeological Loci in the Area of Potential Effects

3.4 Geology and Soils

3.4.1 Affected Environment

The project site is located in the Erie-Ontario Lowlands Province, a region of low rolling hills, terraces and marshes dissected by incised drainages that flow to Lake Ontario and Lake Erie. Regional mapping shows soils underlying the site to be primarily glacial lake-deposited silt, clay, and fine to medium sand that varies from finely laminated, thinly bedded to massive (indistinct) (Caldwell, et al., 1988). In general, glacial lake deposits are characterized by low permeability; however, bedding planes can have moderate horizontal permeability, particularly in sandy layers. Glacial sediment in the site vicinity is reported generally as 30 to 40 feet thick and overlying limestone bedrock. Karst topography and sinkholes associated with areas of shallow limestone bedrock are present in Genesee County; however, mapping shows no sinkholes in the immediate site vicinity (Reddy & Kappel, 2010).

The site is located in a region of low-level seismicity with few, if any, recognized seismogenic geologic structures. The USGS fault inventory database shows no mapped Quaternary age faults within 100 miles or more of the site (USGS, 2024).

Central Geotechnical Services conducted a geotechnical investigation of the project site for VA in January 2023. The investigation encountered an upper unit of disturbed topsoil and a lower unit of glacial lake and till deposits. The layer of disturbed topsoil extends from the ground surface to a depth of 1.5 to 2 feet below ground surface (bgs) across the site. The topsoil has presumably been disturbed by agricultural activities. Directly beneath the disturbed topsoil is an upper layer consisting of subhorizontal, weakly to well-stratified sandy silt to silty sand with trace subrounded gravel, cobbles, and boulders. Groundwater was encountered at five of the six exploratory borings drilled on the site. Free water was first encountered at depths between 4 to 13 feet bgs, and standing water levels in the borings was measured at depths of approximately 1 to 9 feet bgs. The shallow groundwater observed appears to be primarily seams of perched groundwater that lie above the regional piezometric groundwater surface of the limestone aquifer (Central Geotechnical Services, 2023).

3.4.2 Effects of the Proposed Action

Acquisition of the Proposed Action area would not significantly impact geology or soils as the land would continue to be leased for agricultural row-crop production. Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery expansion is not anticipated for several decades. At that time, VA would assess the potential impacts to geology and soils based on the project design.

3.4.3 Effects of the No Action Alternative

Under the No Action Alternative, there would be no construction at the site, and therefore no impacts to geology and soils.

3.5 Hydrology and Water Quality

3.5.1 Affected Environment

The project site is in the Niagara River/ Lake Erie Watershed; the northern portion of the site is in the Galloway Swamp-Tonawanda Creek Subwatershed (hydrologic unit code [HUC]12 041201040301), and the southern portion is in the Middle Murder Creek Subwatershed (HUC12 041201040202). Both the Tonawanda Creek and Murder Creek are identified as impaired waters due to the presence of fecal coliforms and phosphorus (NYSDEC, 2020).

The U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI) recognizes two stream features on the project site. The stream that crosses at the southern portion of the project site is classified as riverine, intermittent, streambed, seasonally flooded (R4SBC). The stream that crosses diagonally in the mid-portion of the Subject Property is classified as riverine, intermittent, streambed, seasonally flooded, excavated (R4SBCx), indicating this stream may have been artificially created for drainage. The project site also contains wetlands, which are further addressed in Section 3.9.

3.5.2 Effects of the Proposed Action

Acquisition of the Proposed Action area would not significantly impact hydrology or water quality as the land would continue to be leased for agricultural row-crop production. Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery expansion is not anticipated for several decades. At that time, VA would assess the potential impacts to hydrology and water quality based on the project design.

3.5.3 Effects of the No Action Alternative

Under the No Action Alternative, existing hydrology and water quality would remain unchanged. This alternative would not involve any cemetery development activities, and as such, no impacts are anticipated.

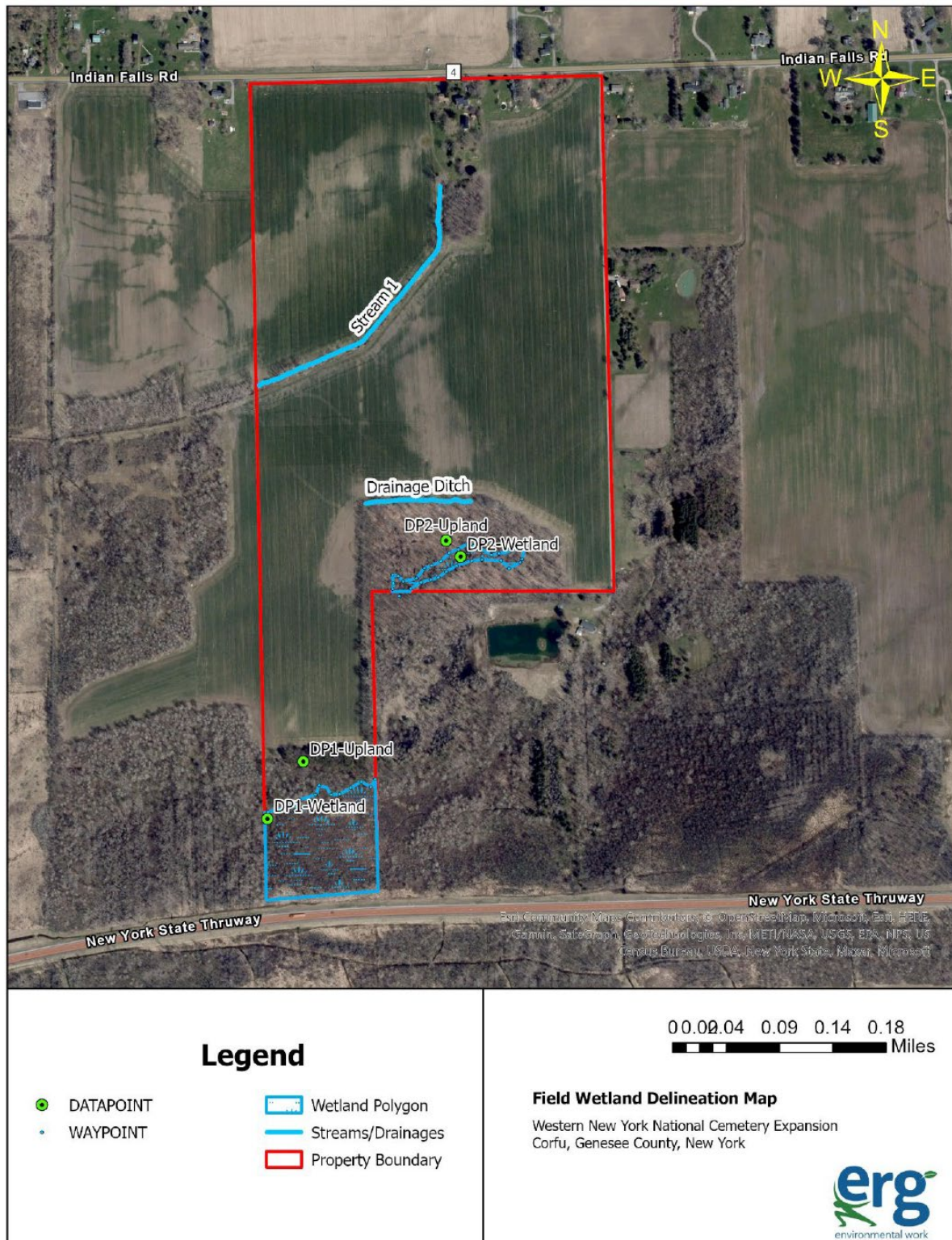


Figure 4. Hydrological Features of the Project Site

3.6 Wildlife and Habitat

3.6.1 Affected Environment

The project site occurs in a primarily agricultural area of Genesee County with scattered residential uses. Most of the project site (approximately 78%) is composed of tilled agricultural fields. The land generally slopes to the north towards a drainage channel that runs along the tree line and conveys water away from the southern boundary of the tilled land. The southern half of the property slopes south toward a wooded area with wetlands characteristics (Figure 5).

The USFWS Information for Planning and Consultation (IPaC) system identifies four special status species with potential to occur at the project site: the Northern long-eared bat (endangered), the Tricolored bat (proposed endangered), the Salamander mussel (proposed endangered), and the Monarch butterfly (candidate). No critical habitats are identified (USFWS, 2024a). In addition, NYSDEC identifies five species of plants in the Town of Pembroke as endangered, threatened, or rare (NYSDEC, 2024).

A reconnaissance-level field survey of the project site was conducted by a qualified biologist in June 2023, and none of the listed species were observed. Table 1 documents the listed species and their potential to occur at the site based on habitat conditions (ERG, 2023b).

3.6.2 Effects of the Proposed Action

As summarized in Table 1, the 2023 field survey identified potential habitat for the Northern long-eared bat and the Tricolored bat at the project site, specifically in the wooded areas that are not cultivated. Land acquisition by VA is anticipated to result in “no effect” to these species, as agricultural activities are anticipated to continue occurring in currently cultivated areas only. VA anticipates leasing the property for continued agricultural use until such time as the WNYNC reaches capacity and requires expansion.

Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery expansion is not anticipated for several decades. At that time, VA would assess the potential impacts to protected species based on the project design.

3.6.3 Effects of the No Action Alternative

Under the No Action Alternative, no construction by VA would occur. No impacts to wildlife or habitat would occur. Should any of project site ultimately be developed for another use, impacts would result from that new development and would depend upon the nature of the development.

Table 1. Special Status Species and Potential Occurrence Determination

Common Name (<i>Scientific Name</i>) Federal/State Listing Status	General Habitat Description	Potential to Occur at the Project Site
Mammals		
Northern long-eared bat (<i>Myotis septentrionalis</i>) FE, SE	Inhabits forested/wooded habitats and may include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures.	May occur. Site has wooded area that may provide suitable roosting habitat.
Tricolored bat (<i>Perimyotis subflavus</i>) FPE	Inhabits landscapes that are partly open, with large trees and plentiful woodland edges. They are found in a variety of terrestrial habitats, including grasslands, old fields, suburban areas, orchards, urban areas and woodlands, especially hardwood woodlands.	May occur. Site has wooded area that may provide suitable roosting habitat.
Mollusks		
Salamander mussel (<i>Simpsonaias ambigua</i>) FPE	Inhabits rivers and streams with fairly swift velocities but prefers shelter habitat with flat rocks and bedrock crevices.	Not anticipated to occur. The project study area lacks suitable habitat to support this species.
Insects		
Monarch butterfly (<i>Danaus plexippus</i>) FC	Roosts in wind-protected tree groves with nectar and water sources nearby.	Low potential to occur. Monarchs prefer open meadows and fields that contain a variety of wildflowers including milkweed.
Plants		
Northern wild comfrey (<i>Andersonglossum boreale</i>) SE	Occurs along the borders of woods and thickets, along trails, and in upland deciduous forests.	May occur. Site has wooded area that provides suitable habitat.
Sparse-flowered sedge (<i>Carex tenuiflora</i>) SE	Occurs in rich, saturated peatland soils in conifer or shrub swamp. It also inhabits sphagnum bogs and bog forests.	Not anticipated to occur. The project study area lacks suitable habitat to support this species.
Pink shinleaf (<i>Pyrola asarifolia</i> ssp. <i>Asarifolia</i>) ST	Occurs in shady habitats of peatlands, moist forests, marl bogs, and sites with acidic soils. It is also found in calcareous woods.	Not anticipated to occur. The project study area lacks suitable habitat to support this species.
Rock whitlow grass (<i>Draba arabisans</i>) ST	Occurs on dry cliffs, rocky ledges, talus slopes, open woodlands, and calcareous sites.	May occur. Site has wooded area that provides suitable habitat.
Heart-leaved plantain (<i>Plantago cordata</i>) SR	Occurs in marshes, along streams, specifically those with calcareous substrate, and in swampy woods.	May occur. Site has wooded area that provides suitable habitat.

Federal/State Designations Key: FE = federal endangered; FT = federal threatened; FPE = federal proposed endangered; FC = federal candidate; SE = state endangered; ST = state threatened; SR = state rare

3.7 Noise

3.7.1 Affected Environment

The project site is currently utilized for agricultural row-crop production, and the surrounding properties are primarily agricultural and residential. The existing noise environment around the project site is characterized primarily by noise from vehicle traffic along Indian Falls Rd. and distant traffic noise associated with I-90, located immediately south of the project site. The adjacent privately owned gun club to the south of the project site is also a potential source of noise. There are no significant sources of noise on the project site.

Noise-sensitive receptors include those land uses or populations where activities or people may be subject to stress or considerable interference from noise. Such locations or facilities include residential dwellings, hospitals, nursing homes, educational facilities, and libraries. Noise-sensitive receptors near the project site include the existing WNYNC as well as scattered residences along Indian Falls Rd.

3.7.2 Effects of the Proposed Action

The Proposed Action of acquiring approximately 92 acres adjacent to the WNYNC would not result in changes to the existing noise levels or generation sources. The site would continue to be leased and utilized for agricultural purposes until additional interment capacity was needed at the existing WNYNC. Once this point is reached, expansion and construction would occur. Effects from future construction would be studied once expansion plans are developed.

3.7.3 Effects of the No Action Alternative

Under the No Action Alternative, the Proposed Action would not be implemented at the project site. The noise environment would remain as described under the existing conditions. No significant impacts on the noise environment would occur.

3.8 Land Use

3.8.1 Affected Environment

The project site consists of tax parcels 18428910.-1-9 and 18428910.-1-10.11. These parcels have been used for agricultural production since at least the 1950s (Awen Solutions Group, 2023). The project site and surrounding parcels are zoned as Agricultural-Residential (AG-R) (Town of Pembroke, 2014). The parcels are also part of Genesee County Agricultural District #2 (New York State Department of Agriculture and Markets, 2022). Figure 5 depicts areas within the agricultural district shaded in green, with the project site outlined in red.

Approximately 95% of the project site is considered prime farmland, prime farmland if drained, or farmland of statewide importance. The Farmland Protection Policy Act (FPPA) protects these soil

categories and requires consultation with the National Resources Conservation Service (NRCS) for federal projects that will irreversibly convert farmland to nonagricultural uses.



Figure 5. Project Site Location Within Genesee County Agricultural District #2

3.8.2 Effects of the Proposed Action

As a Federal agency, VA is not subject to local zoning regulations; however, reasonable compatibility with existing and future land use designations and zoning ordinances in the project area must be considered (40 U.S.C. § 619(b)). Cemetery uses are permitted in the AG-R zoning with a special use permit (Town of Pembroke, 2023).

Because the project site is located in an agricultural district, state requirements pursuant to Title 1 of the New York Codes, Rules and Regulations (NYCRR) Part 371 apply to the Proposed Action. These regulations require filing of a notice of Intent with the Commissioner of the NYS Department of Agriculture and Markets for any project, regardless of the funding source, that will acquire or have any interest in more than one acre from an actively operated farm within an agricultural district, or more than 10 acres within any one agricultural district.

Following VA acquisition of the project site, the land use would remain as leased farmland until the existing WNYNC property is nearing capacity and expansion to the project site is required. Based on consultation with the NRCS, while most of the proposed site contains soils that are mapped prime farmland, prime farmland if drained, or farmland of statewide importance (all of which are

subject to FPPA), there is no irreversible conversion of that farmland to a nonagricultural use proposed at this time. As a result, FPPA does not currently apply to the purchasing of the property and leasing ground for continued agricultural production (NRCS, 2024).

At the time the land or portions of the land are converted to internment purposes, the proposed conversion should then be forwarded to the NRCS for review in accordance with the FPPA. To reduce impacts to prime farmland, NRCS recommends that conversion activities be focused on areas that are mapped not prime farmland and/or limit activities to areas mapped farmland of statewide importance as an alternative to areas mapped prime farmland or prime if drained (NRCS, 2024).

Based on the considerations above, impacts on land use from the Proposed Action are deemed to be less than significant.

3.8.3 Effects of the No Action Alternative

Under the No Action Alternative, there would be no change in use, and therefore no land use impacts due to VA's Proposed Action would occur.

3.9 Floodplains, Wetlands, and Coastal Zone Management

3.9.1 Affected Environment

Floodplains are areas of land adjacent to rivers and streams that convey overflows during flood events. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map indicates that the project site is classified as Zone C, which are areas of minimal flood hazard or above the 500-year flood level (FEMA, 1984). Zone C areas may have ponding and local drainage problems but do not warrant a detailed study or designation as base floodplain.

Wetlands are areas where water covers the soil or is present either at or near the surface of the soil all year or for varying periods of time during the year. Under Section 404 of the Clean Water Act and Sections 9 and 10 of the Rivers and Harbors Act, the U.S. Army Corps of Engineers (USACE) regulates the disposal of dredged or fill material into waters of the United States. Under Section 401 of the Clean Water Act, states have the authority to review and approve, condition, or deny all federal permits or licenses that might result in a discharge to waters of the state, including wetlands. Furthermore, the New York Freshwater Wetlands Act protects wetlands larger than 12.4 acres (5 hectares) in size and certain smaller wetlands of unusual local importance. The Act regulates uses that would have an adverse impact on wetlands, such as filling or draining, and regulates an adjacent area of 100 feet, which serves as a buffer area for the wetlands.

Wetlands have been identified at the project site through both resource mapping data and field verification. Data from USFWS NWI Mapper and NYSDEC Environmental Resource Mapper show wetlands in the southern portion of the project site. The NWI classifies that wetland as palustrine with a split class of forested and scrub-shrub, broad-leaved deciduous, seasonally flooded; this

wetland is also identified as state-regulated in the NYSDEC mapping. Field verification identified this wetland area as measuring approximately 5.1 acres (identified as Wetland 1 in Figure 4). Field surveying also identified a second wetland in a wooded area along the southern boundary with the Sportsters Rod and Gun Club (identified as Wetland 2 in Figure 4). Wetland 2 is a 0.8-acre wetland and does not appear on NWI maps and is not identified as a state-regulated wetland; however, it is within the state wetlands “checkzone.”

3.9.2 Effects of the Proposed Action

Freshwater forested/shrub wetlands (totaling approximately 5.9 acres) are located along the southern boundary of the project site. Acquisition of the property is not anticipated to have an effect on these wetlands, as VA plans to continue to lease the currently cultivated areas of the project site for continued agricultural production.

Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery development is not anticipated for several decades. At that time, VA would assess the potential impacts to wetlands based on the project design.

Because the project site is not located within a floodplain or a coastal management zone, the Proposed Action would have no effect on these resources.

3.9.3 Effects of the No Action Alternative

Under the No Action Alternative, existing wetland conditions would remain unchanged. This alternative would not involve the proposed expansion of the WNYNC, as such, no impacts would be anticipated.



Figure 6. Photographs of Wetlands 1 (left) and 2 (right) at the Project Site, May 2023

3.10 Community Services

3.10.1 Affected Environment

The project site is located within the Pembroke Central School District (PCSD). This school district includes one elementary school, one middle school, and one high school. No schools are located within one mile of the site (PCSD, 2024).

The Genesee County Sheriff's Department and the New York State Police provide police protection to the project site. The Pembroke Fire Department provides fire protection and emergency medical services. The New York State Department of Transportation (NYSDOT), Genesee County Highway Department, and Pembroke Highway Department provide local road and bridge maintenance.

United Memorial Medical Center (127 North Street, Batavia, New York) is located approximately 11.5 miles east of the project site. No other hospitals are located within 15 miles.

3.10.2 Effects of the Proposed Action

Implementing the Proposed Action would not result in community service impacts, including additional load to the local school system, fire or police departments, or any other community services. As the existing WNYNC is already present adjacent to the Proposed Action site, no significant changes to community services uses are anticipated.

3.10.3 Effect of the No Action Alternative

Under the No Action Alternative, no community service impacts from VA action would occur. The area would continue to be utilized as an agricultural field.

3.11 Solid Waste and Hazardous Materials

3.11.1 Affected Environment

The project site has been in agricultural use since at least the 1940s. No buildings or other infrastructure is known to have been present at the site. Currently, the land is leased for farming. Given the site's historic use as agricultural land, historic activities did not likely involve the use of significant quantities of hazardous substances and/or petroleum products, except for the application of agricultural chemicals. There is a natural gas line easement through the property and gas production wells to the north and south of the property, but there are no reported environmental concerns, such as chemical spills, associated with the easement or the nearby production wells. Historic and present-day uses of neighboring properties are residential and agricultural and do not present any recognized environmental concerns to the project site (Awen Solutions Group, 2023).

3.11.2 Effects of the Proposed Action

Acquisition of the project site is not anticipated to result in any effects to solid waste or hazardous materials, as the property would remain in its current agricultural use until such time as cemetery expansion to the project site is required.

3.11.3 Effects of the No Action Alternative

Under the No Action Alternative, no changes to the generation of solid waste or use or storage of hazardous materials are anticipated. Therefore, no impacts are anticipated.

3.12 Traffic and Transportation

3.12.1 Affected Environment

Access to the existing WNYNC and the project site is provided from Indian Falls and Alleghany Roads. Indian Falls Road (Genesee County Route 4) is a generally east-west oriented, two-lane paved rural county road along the northern boundary of the project site. Alleghany Road (State Route 77) is a generally north-south oriented, two-lane paved state highway that borders the WNYNC to the west. In addition, the project site is bordered to the south by Interstate 90 (New York State thruway); however, direct access from the I-90 to the project site is not available.

Data from 24-hour automatic traffic recorders was collected in March 2022 for area roads and intersections near the WNYNC. The data identified that 1.9% of weekday traffic was generated by the WNYNC, with 0.8% generation on the weekend. Level of service (LOS) for area intersections was rated at LOS A through C, meaning that the intersections experience minimal or no delays (John Gallup & Associates, 2022).

The 2022 traffic analysis and safety study for the intersection of State Route 77 and Indian Falls Road concluded that the intersection meets the U.S. Federal Highway Administration's Manual on Uniform Traffic Control Devices standards used nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel. This intersection also comports with the Association of State Highway and Transportation Officials and NYSDOT standards for sight distance. VA and NYSDOT have agreed on implementation of a number of enhanced traffic safety measures at this intersection, such as flashing intersection warning devices and new signage (John Gallup & Associates, 2022).

3.12.2 Effects of the Proposed Action

The Proposed Action is not anticipated to have an effect on area traffic, as VA plans to continue leasing the acquired project site for its present agricultural use until such time as the WNYNC nears capacity and requires expansion. Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery development is not anticipated for several decades. At that time, VA would assess the potential impacts to traffic based on the project design.

3.12.3 Effects of the No Action Alternative

Under the No Action Alternative, the Proposed Action would not be implemented at the project site, which would remain as agricultural land in the near term. The traffic environment would remain similar to what was described under the existing conditions.

3.13 Utilities

3.13.1 Affected Environment

Basic utilities available at the project site include electrical power provided by National Grid and broadband access through various providers. No potable water is currently supplied to the project site; current residential dwellers in adjacent parcels obtain their potable water through on-site private wells. The existing WNYNC has an adjacent municipal water supply line along Alleghany Rd. to the west. There is no natural gas, sanitary sewer, or stormwater infrastructure available in the vicinity of the project site.

3.13.2 Effects of the Proposed Action

The acquisition of the project site would not have an impact on utilities as the site would continue to be leased for agricultural purposes.

3.13.3 Effects of the No Action Alternative

Under the No Action Alternative, changes in utility needs are not expected to occur. The likely continued use of the project site for agriculture would result in no utility impacts.

3.14 Socioeconomics

The project site is located in a relatively low-density agricultural/residential area of Genesee County. Key industries for the county are agriculture and food processing; advanced manufacturing; and distribution and warehousing. Emerging industry clusters, including recent commitments in the semiconductor manufacturing and green energy manufacturing industries, have also been targeted to help establish a new economic base for the community (Genesee/Finger Lakes Regional Planning Council, 2021).

The population in Genesee County is slightly older than the state or national average and has a higher percentage of high school graduates. The percentage of the population that are Veterans is twice that of the state of New York and higher than the national percentage (Table 2).

Table 2. Demographic Data Comparisons

Area	All Individuals	Population Under 18 Age Years	Population Over 65 Age Years	High School Graduates	Veterans	Minority Population
Genesee County	58,388	20.3%	19.5%	92.5%	7.6%	11.2%
State of New York	20,201,249	20.2%	18.1%	87.6%	3.7%	46.0%
United States	331,449,281	21.7%	17.3%	89.1%	6.2%	41.6%

(U.S. Census Bureau, 2022)

Genesee County has a lower median household income than the state of New York or the U.S., but a lower percentage of population is below the poverty line (Table 3). The unemployment rate in Genesee County is lower than that of the state of New York or the U.S.

Table 3. Economic Data Comparisons

Area	Median Household Income ^a	Persons in Poverty ^a	Unemployment Rate, July 2024 ^b
Genesee County	\$68,178	10.5%	3.4%
State of New York	\$81,386	13.6%	4.3%
United States	\$75,149	12.5%	4.3%

^a (U.S. Census Bureau, 2023); ^b (U.S. Bureau of Labor Statistics, 2024)

3.14.1 Effects of the Proposed Action

Land acquisition of the project site is not expected to result in any socioeconomic effects, as the land would continue to be leased for agricultural production. Once the WNYNC is near capacity, the cemetery would be expanded on to the project site. Specific development plans are not yet available, as this cemetery development is not anticipated for several decades. At that time, VA would assess the potential impacts to socioeconomic based on the project design.

3.14.2 Effects of the No Action Alternative

Under the No Action alternative, the Proposed Action would not be implemented, and the capacity of the WNYNC would not be expanded. VA would need to find additional land, potentially not contiguous to the existing WNYNC, delaying future site design and planning and potentially limited any future development if land cannot be found. VA may not be able to meet its long-term cemetery needs for the region.

3.15 Reasonably Foreseeable Impacts

The Proposed Action is not expected to contribute to any reasonably foreseeable effects, as the acquisition of land will not result in a change in use. VA intends to continue leasing the land for agricultural purposes until such time as the WNYNC requires expansion on to the project site. Construction activities for the Proposed Action are not expected for possibly 30 years or more

based on present capacity at the WNYNC. Because construction for the Proposed Action is so far into the future, reasonably foreseeable future projects in the geographic area that coincide with the effects of the Proposed Action cannot be identified.

Genesee County has several investment opportunities currently under development for technological industrial parks that are looking to attract food processing, manufacturing, and companies in emerging industries to the area (Table 4). If these projects are successful, it is anticipated that they could be fully constructed and in operation by the time that VA initiates construction at the project site. Based on the size of these anticipated developments in the area, these projects would dwarf any impacts associated with the Proposed Action.

Table 4. Genesee County Priority Development Projects

Project Name	Total Funding and Sources	Number of Jobs Expected to be Created
Mega-Site High Tech/Clean Tech Advanced Manufacturing Park (WNY STAMP)	\$150-\$225M Federal, State, Local	9,300
Genesee Valley Agribusiness Park (250 acres)	\$10M Federal, State, Local, Private	1,200
LeRoy Food & Technology Park (73 acres)	\$2.1M State, Local	1,000

(Genesee Finger Lakes Regional Planning Council, 2023)

Based on the reasons above, no reasonably foreseeable effects are anticipated from implementation of the Proposed Action.

3.16 Potential for Generating Substantial Public Controversy

As discussed in Chapter 5 of this Draft EA, VA solicited scoping input from various federal, state, and local government agencies, Indian tribes, and interested stakeholders regarding the Proposed Action. None of the input received identified opposition or controversy related to the Proposed Action.

VA is publishing and distributing this Draft EA for a 30-day public comment period; during this time, there will be additional opportunity for stakeholders to identify any issues of controversy. Based on the significant positive effects of the Proposed Action and the findings of this Draft EA (no significant adverse environmental impact), it is not anticipated that there will be substantial public controversy regarding the Proposed Action.

4 MITIGATION AND MANAGEMENT MEASURES

This chapter summarizes the mitigation and management measures identified in Chapter 3 that are proposed to minimize and control adverse effects of the Proposed Action at acceptable, minor levels. “Mitigation” refers to measures taken to reduce an impact below a level of significance. “Management measures” are defined as routine BMPs and/or regulatory environmental compliance and protection measures that are regularly implemented as part of proposed activities, as appropriate.

In general, implementation of the mitigation and management measures identified in Table 5 will maintain impacts at less-than-significant levels for all resource areas.

Table 5. Mitigation and Management Measures for the Proposed Action

Technical Resource Area	Mitigation and Management Measures
Land Use (Section 3.8)	File a notice of Intent with the Commissioner of the NYS Department of Agriculture and Markets for the acquisition of more than one acre from an actively operated farm within an Agricultural District.

5 PUBLIC PARTICIPATION, COORDINATION, AND CONSULTATION

VA invites public participation in decision-making on new proposals through the NEPA process. Public participation with respect to decision-making on the Proposed Action is guided by the VA NEPA regulations (38 CFR Part 26). Consideration of the views and information of all interested persons promotes open communication and enables better decision-making. Agencies, organizations, and members of the public with a potential interest in the Proposed Action are urged to participate.

5.1 Public Involvement

VA initiated the public scoping process for the Proposed Action with publication of a notice in the *Buffalo News* a daily newspaper with circulation throughout Western New York, announcing the opportunity to provide early input on the Proposed Action. The notice was published on July 21 and 23, 2024. The notice was also posted on the VA Office of Construction and Facilities Maintenance (CFM) website (<https://www.cfm.va.gov/environmental/>) and emailed scoping notices to the federal, state, tribal and local stakeholders identified in Section 5.2.

VA is publishing and distributing this Draft EA for a 30-day public comment period, as announced by a Notice of Availability (NOA) to be published in the *Buffalo News*. The Draft EA is available for electronic download from the CFM website: <https://www.cfm.va.gov/environmental/index.asp>. VA is also sending notification of the availability of the Draft EA for review and comment via email or paper mailing to each of the stakeholders that were contacted during the NEPA scoping and Section 106 consultation.

5.2 Consultation and Stakeholder Coordination

5.2.1 Consultation

VA is consulting under Section 106 of the NHPA with the New York SHPO, the Seneca Nation of Indians, and the Tonawanda Band of Seneca regarding potential effects of the Proposed Action on historic properties. This process is ongoing.

5.2.2 Stakeholder Coordination

VA sent stakeholder scoping notification letters to the entities listed below. VA has addressed all substantive responses and information in this Draft EA. Appendix B contains copies of the scoping input.

Federal Agencies

- USEPA Region 2
- USFWS New York Ecological Services Field Office
- U.S. Army Corps of Engineers Buffalo District

State Agencies

- New York State Department of Environmental Conservation, Region 8
- New York State Department of Transportation, Region 4
- New York Office of Parks, Recreation and Historic Preservation
- New York State Historic Preservation Office (SHPO)

County/Local Agencies

- Town of Pembroke
- Genesee County Clerk's Office
- Genesee County Department of Planning
- Genesee County Emergency Services
- Genesee County Highway Department
- Genesee County Sheriff's Office
- Genesee County Veterans Service Agency

Federal Elected Officials

- U.S. Senator Chuck Schumer
- U.S. Senator Kirsten Gillibrand
- U.S. Representative Claudia Tenney (24th Congressional district)

State Elected Officials

- State Senator George M. Borrello (NY Senate District 57)
- State Assembly Member Stephen Hawley (NY Assembly District 139)

Federally Recognized Tribes

- Seneca Nation of Indians
- Seneca-Cayuga Nation
- Tonawanda Band of Seneca

Other Stakeholders

- Western New York National Cemetery Memorial Council

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8 GLOSSARY

Aesthetics – Pertaining to the quality of human perception of natural beauty. **Ambient** - The environment as it exists around people, plants, and structures.

Attainment Area - Region that meets the National Ambient Air Quality Standard (NAAQS) for a criteria pollutant under the CAA.

Bedrock - The solid rock that underlies all soil, sand, clay, gravel and loose material on the earth's surface.

Best Management Practices (BMPs) - Methods, measures, or practices to prevent or reduce the contributions of pollutants to U.S. waters. Best management practices may be imposed in addition to, or in the absence of, effluent limitations, standards, or prohibitions.

Commercial land use – Land use that includes private and public businesses (retail, wholesale, etc.), institutions (schools, churches, etc.), health services (hospitals, clinics, etc.), and military buildings and installations.

Compaction - The packing of soil together into a firmer, denser mass, generally caused by the pressure of great weight.

Council on Environmental Quality (CEQ) - An Executive Office of the President composed of three members appointed by the President, subject to approval by the Senate. Each member shall be exceptionally qualified to analyze and interpret environmental trends, and to appraise programs and activities of the Federal Government. Members are to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Criteria Pollutants - The CAA of 1970 required the USEPA to set air quality standards for common and widespread pollutants in order to protect human health and welfare. There are six "criteria pollutants": ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), lead (Pb), nitrogen dioxide (NO₂), and particulate matter.

Cultural Resources - The physical evidence of our Nation's heritage. Included are archaeological sites; historic buildings, structures, and districts; and localities with social significance to the human community.

Decibel (dB) - A unit of measurement of sound pressure level.

Effects or impacts - Changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives, including those effects that occur at the same time and place as the proposed action or alternatives and may include effects that are later in time or farther removed in distance from the proposed action or alternatives.

Emission - A release of a pollutant.

Endangered Species - Any species which is in danger of extinction throughout all or a significant portion of its range.

Environmental Assessment (EA) - A concise public document prepared by a federal agency to aid an agency's compliance with the Act and support its determination of whether to prepare an environmental impact statement or a finding of no significant impact.

Erosion - The wearing away of the land surface by detachment and movement of soil and rock fragments through the action of moving water and other geological agents.

Floodplain - The relatively flat area or lowlands adjoining a river, stream, ocean, lake, or other body of water that is susceptible to being inundated by floodwaters.

FONSI – Finding of No Significant Impact; a document by a Federal agency briefly presenting the reasons why an action, not otherwise categorically excluded, will not have a significant effect on the human environment, and for which an environmental impact statement therefore will not be prepared.

Fugitive Dust - Particles light enough to be suspended in air but not captured by a filtering system. For this document, this refers to particles put in the air by moving vehicles and air movement over disturbed soils at construction sites.

Geology - Science which deals with the physical history of the earth, the rocks of which it is composed, and physical changes in the earth.

Groundwater - Water found below the ground surface. Groundwater may be geologic in origin and as pristine as it was when it was entrapped by the surrounding rock, or it may be subject to daily or seasonal effects depending on the local hydrologic cycle. Groundwater may be pumped from wells and used for drinking water, irrigation, and other purposes. It is recharged by precipitation or irrigation water soaking into the ground. Thus, any contaminant in precipitation or irrigation water may be carried into groundwater.

Hazardous Substance - Hazardous materials are defined within several laws and regulations to have certain meanings. For this document, a hazardous material is any one of the following: Any substance designated pursuant to section 311 (b)(2)(A) of the Clean Water Act. Any element, compound, mixture, solution, or substance designated pursuant to Section 102 of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Any hazardous substance as defined under the Resource Conservation and Recovery Act (RCRA). Any toxic pollutant listed under TSCA. Any hazardous air pollutant listed under Section 112 of CAA. Any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action pursuant to Subsection 7 of TSCA. The term does not include: 1) Petroleum, including crude oil or any thereof, which is not otherwise specifically listed or designated as a hazardous substance; 2) Natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). A list of hazardous substances is found in 40 CFR Part 302.4.

Hazardous Waste - A solid waste which, when improperly treated, stored, transported, or disposed of, poses a substantial hazard to human health or the environment. Hazardous wastes are identified in 40 CFR Section 261.3 or applicable foreign law, rule, or regulation.

Impacts – see Effects

Industrial Land Use – Land uses of a relatively higher intensity that are generally not compatible with residential development. Examples include light and heavy manufacturing, mining, and chemical refining.

Listed Species - Any plant or animal designated as a State or Federal threatened, endangered, special concern, or candidate species.

Low-income population - individuals whose ratio of household income to poverty level in the past 12 months was less than 2.

Minority population - individuals who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial.

Mitigation - Measures taken to reduce adverse impacts on the environment.

Mobile Sources - Vehicles, aircraft, watercraft, construction equipment, and other equipment that use internal combustion engines for energy sources.

Monitoring - A process of inspecting and recording the progress of mitigation measures implemented.

National Ambient Air Quality Standards (NAAQS) - Nationwide standards set up by the USEPA for widespread air pollutants, as required by Section 109 of the Clean Air Act (CAA). Currently, six pollutants are regulated by primary and secondary NAAQS: carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), particulate matter, and sulfur dioxide (SO₂). National Environmental Policy Act (NEPA) - U.S. statute that requires all Federal agencies to consider the potential effects of Proposed Actions on the human and natural environment.

Non-attainment Area - An area that has been designated by the EPA or the appropriate State air quality agency as exceeding one or more National or State ambient air quality standards. Parcel - A plot of land, usually a division of a larger area.

Particulates or Particulate Matter - Fine liquid or solid particles such as dust, smoke, mist, fumes, or smog found in air.

Pollutant - A substance introduced into the environment that adversely affects the usefulness of a resource.

Potable Water - Water which is suitable for drinking.

Sensitive Receptors - Include, but are not limited to, asthmatics, children, and the elderly, as well as specific facilities, such as long-term health care facilities, rehabilitation centers, convalescent centers, retirement homes, residences, schools, playgrounds, and childcare centers.

Solid Waste - Any discarded material that is not excluded by 40 CFR section 261.4(a) or that is not excluded by variance granted under sections 260.30 and 260.31.

Threatened species - Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

Topography - The relief features or surface configuration of an area.

Toxic Substance - A harmful substance which includes elements, compounds, mixtures, and materials of complex composition.

Wetlands - Areas that are regularly saturated by surface or groundwater and, thus, are characterized by a prevalence of vegetation that is adapted for life in saturated soil conditions. Examples include swamps, bogs, fens, marshes, and estuaries.

Wildlife Habitat - Set of living communities in which a wildlife population live.

APPENDIX A. PERMITS

This appendix lists environmental permits, licenses, or other agreements that may need to be obtained by VA or its contractors to implement the Proposed Action. No permits have been identified for land acquisition. Key federal, state, or local requirements are identified for both construction and operation of the cemetery expansion.

Resource Area	Agency	Permit type
Land Use	Commissioner of the NYS Department of Agriculture and Markets	Notice of Intent pursuant to 1 NYCRR Part 371 for work within an agricultural district

APPENDIX B. AGENCY CONSULTATION AND PUBLIC INVOLVEMENT

SCOPING

Buffalo News Scoping Notice Affidavit	B-1
Notice of Scoping to Stakeholders	B-3
Scoping Comments	B-6
NRCS Correspondence.....	B-12

NHPA SECTION 106 CONSULTATION

NHPA Section 106 Letters	B-19
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Buffalo News Scoping Notice Affidavit

THE BUFFALO NEWS

AFFIDAVIT OF PUBLICATION

State of Pennsylvania, County of Lancaster, ss:

Laquansay Nickson Watkins, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Buffalo News, a daily newspaper printed and published in the City of Buffalo, County of Erie, State of New York, and that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and the hereto attached:

PUBLICATION DATES:

Jul. 21, 2024, Jul. 23, 2024

NOTICE ID: d6uX34Vh5WSO9yQz3UZG

PUBLISHER ID: 112427

NOTICE NAME: Western NY Scoping

Publication Fee: 905.21

(Signed) Laquansay Nickson Watkins

VERIFICATION

State of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 07/23/2024

Nicole Burkholder

Notary Public
Notarized remotely online using communication technology via Proof.

**Notice of Intent to Prepare an
Environmental Assessment**

The U.S. Department of Veterans Affairs (VA) is preparing an environmental assessment (EA) in compliance with the National Environmental Policy Act to evaluate the potential environmental impacts associated with the proposed acquisition of approximately 92 acres east of the Western New York National Cemetery at 1254 Indian Falls Rd., Corfu, NY 14036, for future facility expansion.

VA requests input on the scope of issues for analysis, potential alternatives, or information/analyses relevant to the Proposed Action. A scoping notice describing the Proposed Action is available at <https://www.cfm.va.gov/environmental/>. VA is also providing the public with information about the undertaking and seeking public comment and input about the undertaking's effects on historic properties pursuant to Section 106 of the National Historic Preservation Act. Scoping comments will be accepted for 30 days from the first publication of this notice. Comments may be submitted via email to vacoenvironment@va.gov. Please include the subject line "WNYNC Expansion EA" in all correspondence.

Dated: July 21, 23, 2024

Notice of Scoping to Stakeholder



U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

July 11, 2024

Sent via email

SUBJECT: Notice of Scoping for the Proposed Land Acquisition for the Expansion of the Western New York National Cemetery [VA ID# NCA-2024-0001]

Dear Valued Stakeholder:

The U.S. Department of Veterans Affairs (VA) is proposing to acquire approximately 92 acres east of the Western New York National Cemetery (WNYNC) at 1254 Indian Falls Rd., Cortu, NY 14036, for future development (Figures 1 and 2). The purpose of the Proposed Action is to provide additional land for future development of the WNYNC to serve the projected interment needs of Veterans in the area after the current burial space is depleted.

VA is preparing an environmental assessment (EA) to assess the potential environmental impacts of the Proposed Action. VA is preparing the EA in accordance with the regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S. Code 4321 - 4370), as implemented by the Council on Environmental Quality regulations (40 Code of Federal Regulations [CFR] 1500-1508), and VA's NEPA regulations (38 CFR Part 26).

VA is requesting input on the scope of issues for analysis, potential alternatives, or information/analyses relevant to the Proposed Action. The EA will evaluate the potential direct and indirect impacts to the environment resulting from the Proposed Action and alternatives, as well as cumulative impacts with other actions and projects in the project area.

Through this notice, VA is also providing the public with information about the undertaking and seeking public comment and input about the undertaking's effects on historic properties pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, (54 USC § 306108), and its implementing regulations (36 CFR Part 800 – Protection of Historic Properties). VA is using its procedures for public involvement under NEPA in lieu of public involvement requirements in Subpart B of the Section 106 regulations per 36 CFR 800.2(d)(3). This notice does not serve as an invitation to consult under Section 106, it is solely to seek and consider the views of the public. VA will initiate its Section 106 review and send invitations to consulting parties separately.

If you have comments on the scope of the EA, the range of alternatives, and environmental issues for in depth analysis, please email your comments to vaecoenvironment@va.gov with the subject line "WNYNC Expansion EA".

VA anticipates publishing the Draft EA for a 30-day public review and comment period. VA will notify stakeholders, publish a notice of availability of the Draft EA in the *Buffalo News*, and invite comments on the Draft EA at that time.

Respectfully,

GLENN ELLIOTT
Digitally signed by GLENN ELLIOTT
Date: 2024.07.11 14:51:08 -0400

Glenn Elliott
Director, Project Development Services Division
Office of Construction and Facilities Management



Figure 1. Site Location

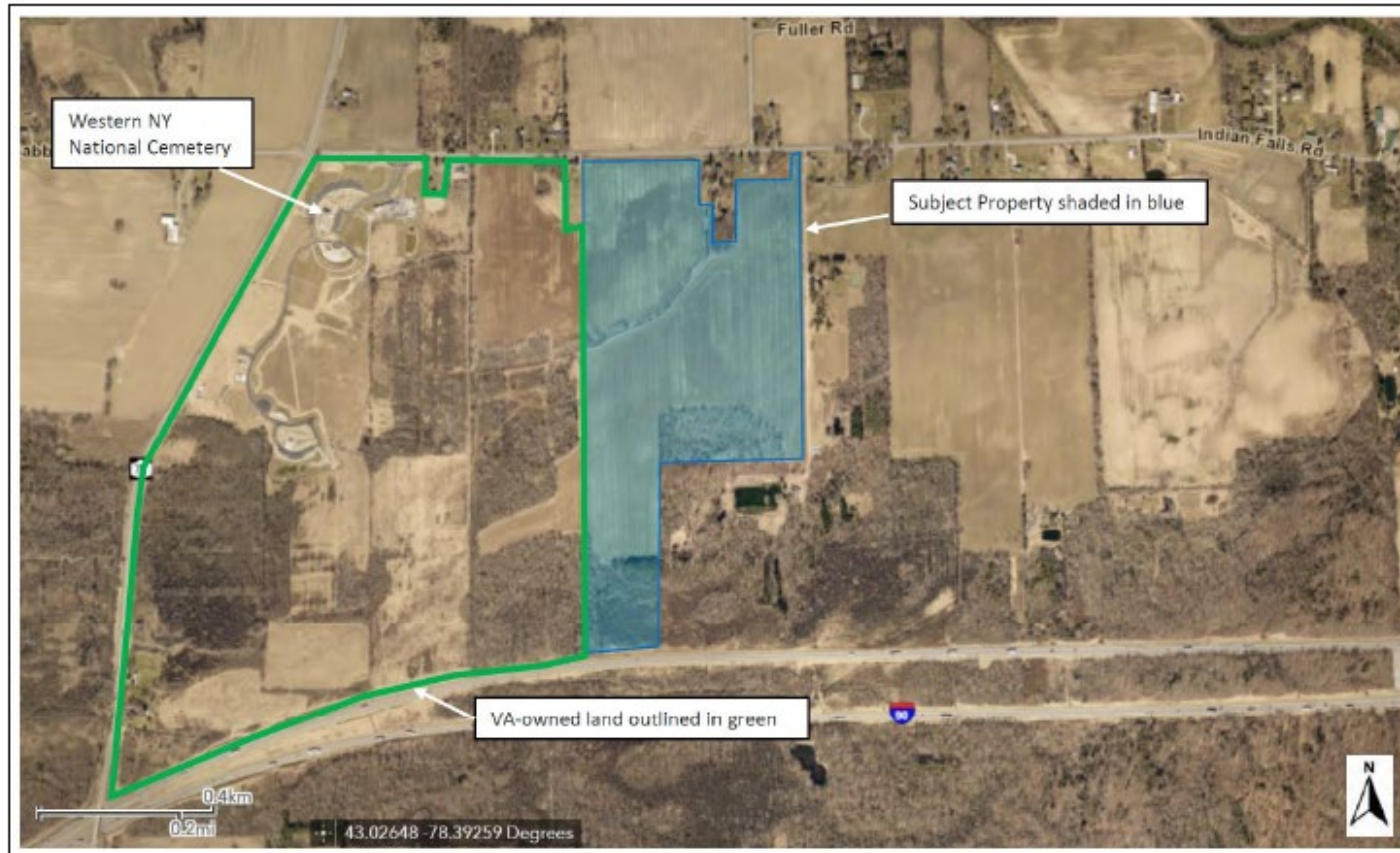


Figure 2. Map of Land Acquisition Parcel

Scoping Comments

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
P: (585) 226-5400 | F: (585) 226-2830
www.dec.ny.gov

August 21, 2024

Glenn Elliott
U.S. Department of Veteran Affairs
425 I Street NW
Washington, DC 20420

Re: **Jurisdictional Review**
Expansion of the Western New York National Cemetery
1254 Indian Falls Road, Corfu (T), Genesee (C)

Glenn Elliott:

The New York State Department of Environmental Conservation (the Department) has reviewed the information provided for the expansion of the Western New York National Cemetery on 1254 Indian Falls Road in Corfu, NY. Please find the following comments for the approximated project location (see attached area map).

Biotic Communities/Endangered and Threatened Species of Flora and Fauna

We have reviewed the available information in the New York State Natural Heritage Program databases for known occurrences of federally-listed or proposed endangered or threatened species; state-listed endangered, threatened or rare animal and plant species; significant natural communities; and other significant habitats. There are occurrences of northern long-eared bat (*Myotis septentrionalis*) in the vicinity of the project site. It is recommended that a professional (biologist, botanist or landscape architect) familiar with the identification of these species undertake a survey of the literature and determine if the proposed project contains habitats which would favor these species. If favorable habitats exist, a field survey would be needed to determine if the species is actually present. If populations of the endangered or threatened species are found to be in the project area, project modifications should be considered to avoid or minimize impact. In addition, if a state-listed threatened or endangered species of wildlife, or its habitat is present within or near a project area, a Part 182 Incidental Take permit may be required from the DEC.

Article 15 Protection of Waters

There are no streams or ponds that appear on our state regulatory maps at the project site you've identified. However, your project may be subject to federal wetland regulations.

Article 24 NYS Freshwater Wetlands

The project area appears to be near or in currently mapped NYS Freshwater Wetlands. The actual wetland boundary must be field verified by a qualified wetland professional. Once a recent delineation is conducted, activities should be avoided/minimized within the regulated 100-foot adjacent area and the wetland itself. Additional information on the freshwater wetland permit program including application procedures can be found on webpage <http://www.dec.ny.gov/permits/6058.html>.

Federal Wetlands

While the Department asserts jurisdiction over NYS regulated freshwater wetlands, the U. S. Army Corps of Engineers regulates federally protected wetlands. For questions regarding federal wetlands, and the



Department of
Environmental
Conservation

federal permitting process, contact the U. S. Army Corps of Engineers at: Chief, Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, NY 14207 or (716) 879-4330.

Section 401 Water Quality Certification (WQC)

Work in certain waters and wetlands of the United States may require a permit from the U. S. Army Corps of Engineers (Corps). If a Corps permit is required, the Corps may request that the DEC make a determination (Water Quality Certification, pursuant to Section 401 of the Federal Clean Water Act) that discharges from the proposed activities, for which an applicant is seeking a Corps permit approval, will comply with the applicable effluent limitations, water quality standards, and any other applicable conditions of the State Law.

Documentation in support of a 401 Water Quality Certification would include demonstration of compliance with either the Department's State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-20-001) or the MS4 (Municipal Separate Storm Sewer Systems). This documentation would include submission of a completed Notice of Intent and, in an MS4 area, a copy of the local municipality's approved MS4 Stormwater Pollution Prevention Plan (SWPPP) Acceptance Form as part of a complete application. The actual SWPPP could also be required depending on the project.

Stormwater General Permit – Construction

This project may need to be compliant with the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-20-001). Construction activities that involve one acre or more of land disturbance must obtain SPDES stormwater permit coverage through either an individual permit or GP-0-20-001. To obtain authorization under GP-0-20-001 a Stormwater Pollution Prevention Plan (SWPPP) must be prepared in accordance with all applicable requirements of GP-0-20-001 and a completed Notice of Intent (NOI) form must be submitted to the Department.

An owner or operator of a construction activity that is subject to the requirements of a regulated, traditional land use control MS4 must first prepare a SWPPP in accordance with all applicable requirements of GP-0-20-001 and then have its SWPPP reviewed and accepted by the regulated, traditional land use control MS4 prior to submitting the NOI to the Department. The owner or operator must then submit the signed "MS4 SWPPP Acceptance" form along with a completed NOI to the Department. For additional information on the Department's stormwater program please visit the following webpage: <http://www.dec.ny.gov/chemical/8468.html>.

Agricultural Districts

The project area is located in an agricultural district. Should any of the following apply to the project: acquisition of land, the advance of funds, or construction of a utility (for example) by a state agency, a public benefit corporation or a local unit of government, the funding agency is obligated to file a Notice of Intent. This notice must be filed with the Commissioner of the NYS Department of Agriculture and Markets (AM), pursuant to 1 NYCRR Part 371 for any work contemplated within an agricultural district. The NYS AM can be contacted by writing to: NYS Department of Agriculture and Markets, 307 Rice Hall, Cornell University, Ithaca NY 14853-5601.

Please also note that projects involving a non-agricultural use subject to review under SEQR located wholly or partially within an agricultural district, would be classified as Type I actions if they exceed 25% of any Type I threshold listed the SEQR regulations (6 NYCRR Part 617.4(b)). In addition, projects subject to review under SEQR generally require an evaluation of project's potential impacts on land and agricultural resources (see 6 NYCRR Part 617.2 (I) and SEQR Long and short EAFs, Part II).

Historic, Architectural, Archeological, and Cultural Resources

GIS review indicates that the project site is located within an archaeologically sensitive area. It is suggested that recommendations be sought from NYS OPRHP regarding the potential impacts on historic and archeological resources from the development of this area. Additional information can be found on NYS OPRHP's website at <http://nysparks.com/shpo/online-tools/> or by calling (518) 237-8643. Potential impacts to these resources must be considered in the State Environmental Quality Review (SEQR) documentation. For example, previous disturbance should be described to indicate whether future project components will have the potential to further affect archeological resources.

Invasive Species Recommendations

To minimize the spread of invasive species during construction, consider the following best management practices (BMPs):

- Clean all construction equipment of mud, seeds, vegetation, and other debris as you move from one area to another.
- Excavate topsoil separately from subsoil for appropriate backfilling.
- Return all ground disturbance to pre-construction conditions and stabilize disturbed areas with seeding and mulch as soon as possible.

Stream Protection Recommendation Notes

A portion of a stream is located on the subject property. Streamsides, sometimes called riparian zones or stream corridors, are the link between land and water, and the health of streams depends in large part on the condition of the streamside. Over the past two decades, research has shown that naturally vegetated corridors along streams perform numerous services essential for human health and welfare. Healthy stream corridors can reduce floods; trap sediment; remove dissolved contaminants; provide shade; contribute leaf matter (important for insect food and fish habitat); provide wildlife habitat; offer recreational opportunities; and increase aesthetic value and desirability of a property.

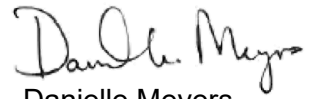
In order to protect the stream corridor, consider the following:

- Maintain a healthy, vegetated streamside buffer by preserving trees and shrubs along the stream edge and limiting logging to removing large branches that fall into the stream and divert streamflow and cause erosion.
- Control water flow through the streamside buffer to filter contaminants and reduce erosion by managing stormwater runoff from dwellings to prevent channelized flow; minimizing impervious areas near the streamside by using stone or brick instead of pavement for driveways and walkways; and excluding vehicles, livestock, or excessive pedestrian traffic.
- Prevent contaminants from entering the stream corridor by minimizing or eliminating buffer area exposure to fertilizer, herbicides, pesticide, animal waste, household and automotive chemicals, trash, debris, and piles of leaf litter and by maintaining septic systems.

Please be advised that the project is still subject to any other necessary local approvals. In the case that the project scope or location changes, please contact us so that we may reevaluate this determination. State regulations applicable to the location subject to this determination are occasionally revised and you should verify the need for permits if the project is delayed or postponed. This determination regarding the need for permits will remain effective for one year unless you are otherwise notified.

If you have any questions, feel free to contact me at 585-226-5399 or by email at danielle.meyers@dec.ny.gov.

Thank you,

A handwritten signature in black ink, appearing to read "Danielle Meyers". The script is cursive and fluid.

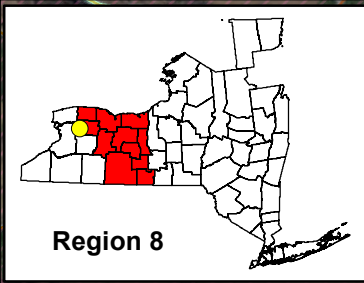
Danielle Meyers
Environmental Analyst

Ecc.

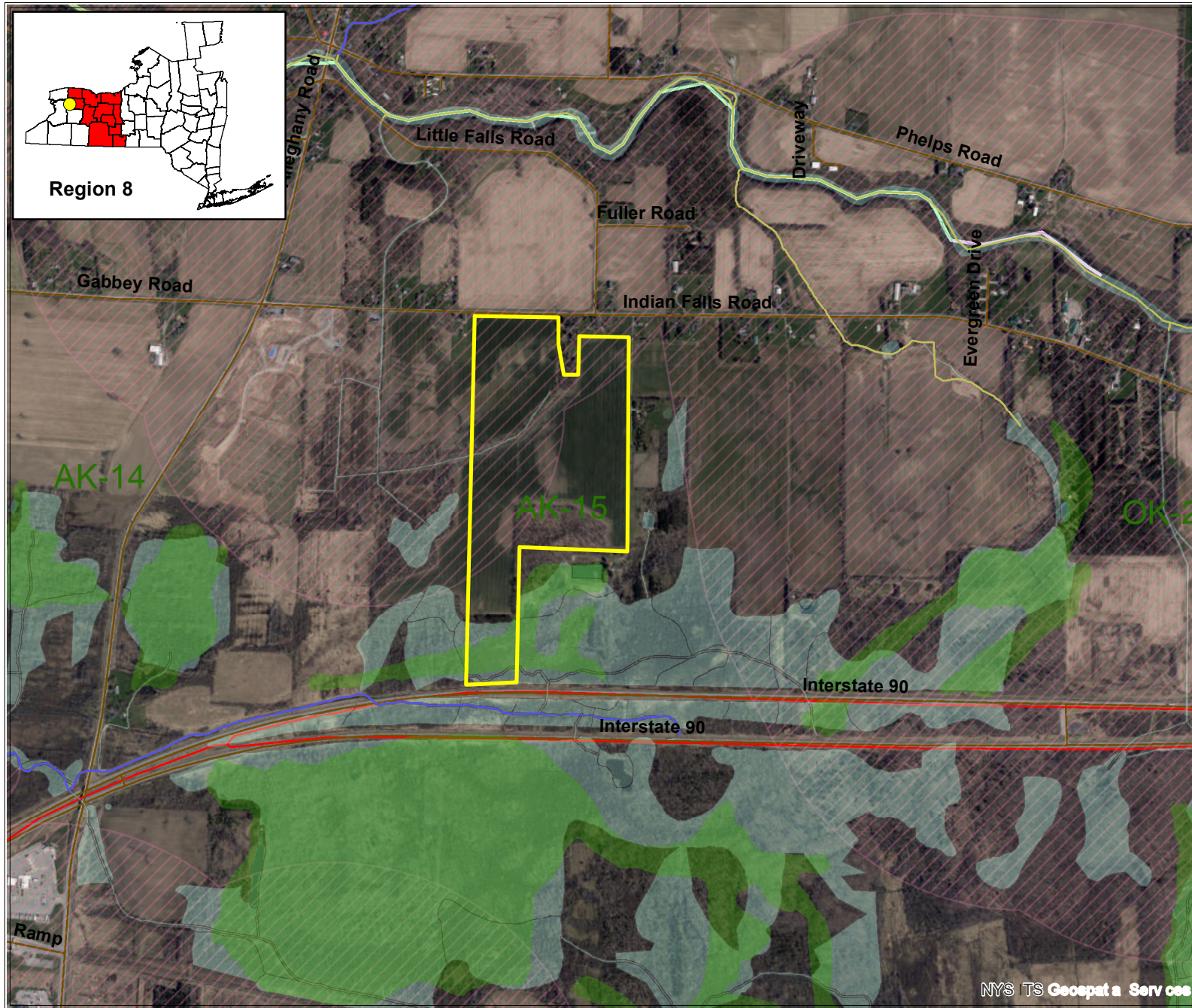
Attachments: Area Map



Division of Environmental Permits Projection: NAD_1983_UTM_Zone_18N



Region 8



NYS ITS Geospatial Services

0 1,000 2,000 4,000 6,000 Feet

1 inch = 1,421 feet

Date: 8/21/2024

PROJECT LOCATION MAP

Glenn Elliott
U.S. Department of
Veteran Affairs
425 I Street NW
Washington, DC 20420

Expansion of WNY
VA Cemetery
1254 Indian Falls Road
Corfu, NY 14036

Legend

Project Area

Water Quality Classifications

Unprotected

Protected

NYS Wetlands

NYS Regulated Wetlands

National Wetlands Inventory

Wetlands Regulated by USACE

Archeological Sites of Sensitivity

Present

Disclaimer: This map was prepared by the NYSDEC Division of Environmental Permits using the most current data available. It is deemed accurate but is not guaranteed. NYSDEC is not responsible for any inaccuracies in the data and does not necessarily endorse any interpretations or products derived from the data.



Department of
Environmental
Conservation

NRCS Correspondence



U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420

August 2, 2024

Heath Eisele, District Conservationist
USDA Natural Resource Conservation Service
Batavia Service Center
29 Liberty St Ste 3
Batavia, NY 14020-3294
heath.eisele@usda.gov

**SUBJECT: Farmland Conversion Impact for Land Acquisition and Expansion of
the Western New York National Cemetery, Corfu, New York**

Dear Mr. Eisele:

The U.S. Department of Veterans Affairs (VA) is proposing to acquire approximately 92 acres east of the Western New York National Cemetery (WNYNC) at 1254 Indian Falls Rd., Corfu, NY 14036, for future cemetery expansion (Figures 1 and 2). The property to be acquired corresponds to Genesee County tax parcels 18428910.-1-9 and 18428910.-1-10.11, and is currently used for agricultural row-crop production. This land would be acquired and held by VA National Cemetery Administration (NCA) until such time as the existing WNYNC nears interment capacity, and then NCA would expand the cemetery onto the 92 acres. This development need is not anticipated for 30 years or more. In the interim, the land would be leased by VA to others for continued agricultural row-crop production.

VA is requesting your assistance in completing the enclosed Farmland Conversion Impact Form (AD-1006) for the proposed acquisition. We are also soliciting any comments or concerns you may have regarding potential effects of the proposed action on farmland resources.

VA appreciates your time and attention to this request. Should you have any questions or concerns, please contact me at (202) 632-5529 or via email at fernando.fernandez@va.gov.

Respectfully,

Fernando Fernandez
Environmental Engineer
Office of Construction and Facilities Management

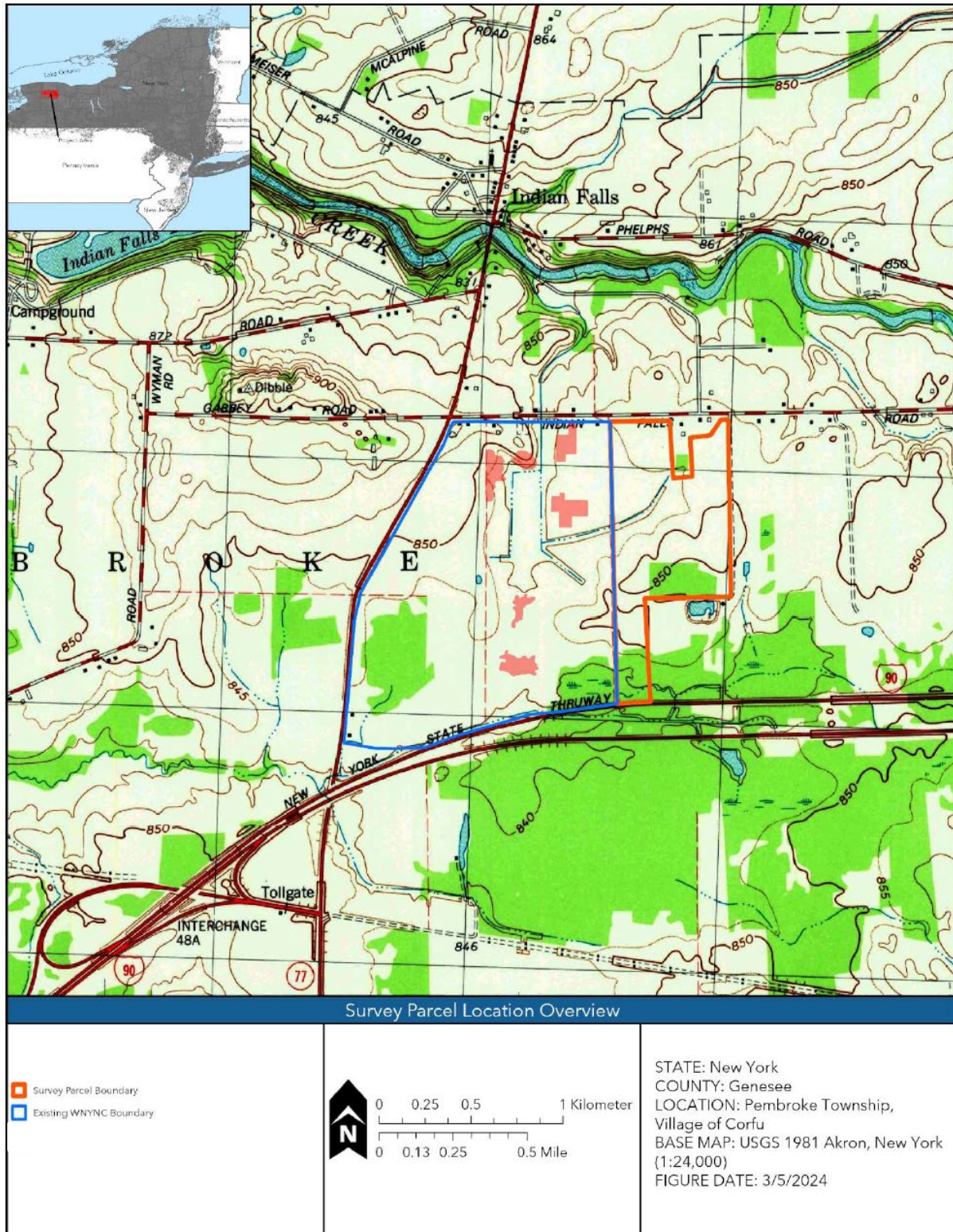


Figure 1. Location Map for Land Acquisition Parcel (outlined in red)

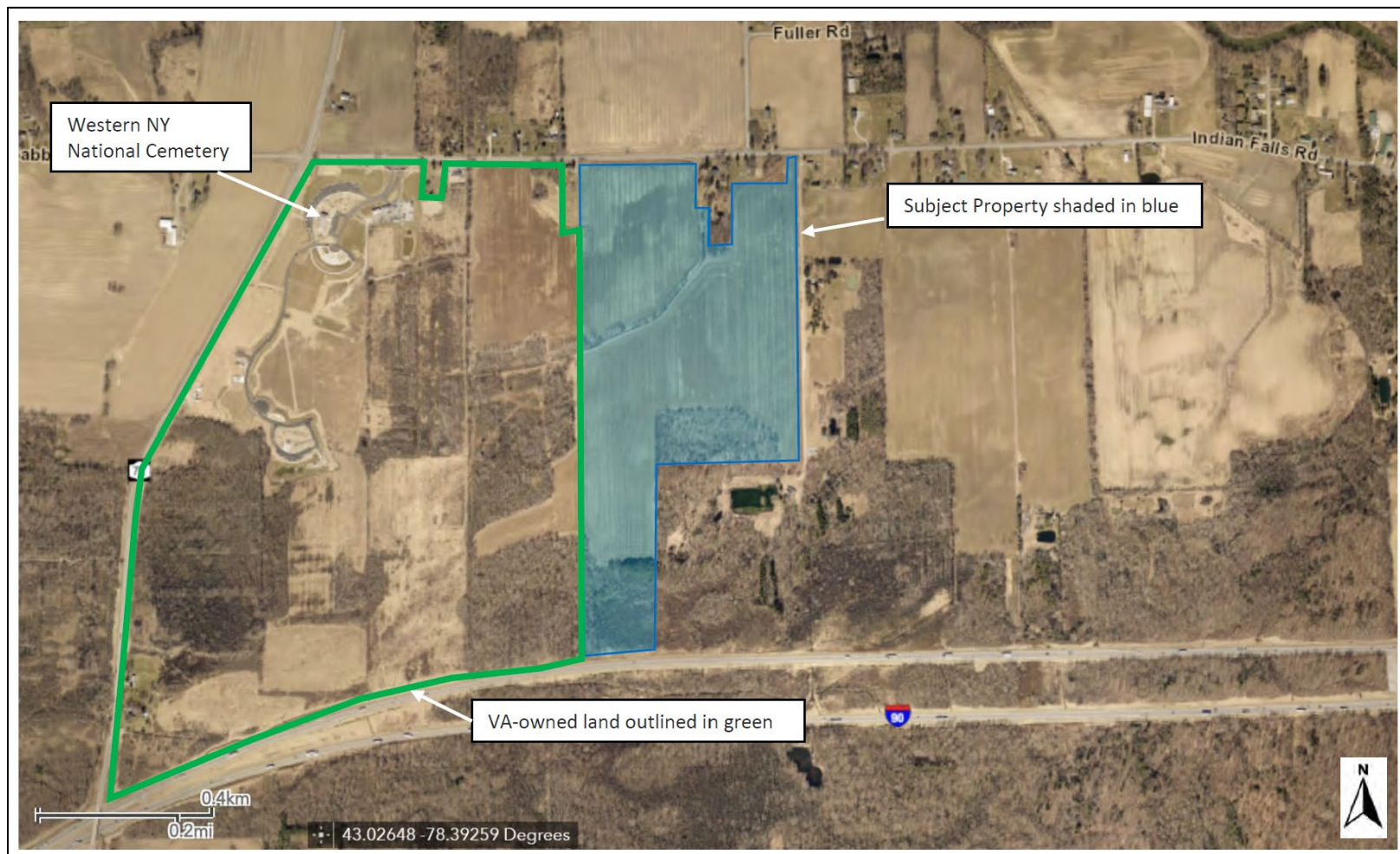


Figure 2. Aerial View of Land Acquisition Parcel



August 7, 2024

Fernando Fernandez Ortiz, Environmental Engineer
US Department of Veterans Affairs
Office of Construction & Facilities Management
Washington, DC 20420

Re: FPPA Review—Land Acquisition and Expansion of the Western New York National Cemetery, Corfu, Genesee County, NY

Mr. Fernandez Ortiz,

I have received the materials with the information for the project cited above in response to your request for review in accordance with the Farmland Protection Policy Act (FPPA).

While most of the proposed site does contain soils that are mapped prime farmland, prime farmland if drained, or farmland of statewide importance (all of which are subject to FPPA), there is currently no irreversible conversion of that farmland to a nonagricultural use proposed at this time. As a result, FPPA does not currently apply for purchasing of the property and leasing the ground for continued agricultural production.

If conversion of the land or portions of the land to internment purposes occurs, the proposed conversion should then be forwarded for review in accordance with the FPPA. To reduce impacts to prime farmland, it would be recommended that conversion activities (within existing VA property as well as the proposed expansion property) be focused on areas that are mapped not prime farmland and/or limit activities to areas mapped farmland of statewide importance as an alternative to areas mapped prime farmland or prime if drained.

If you have any questions, please feel free to contact me.

Respectfully,

Daniel Ufnar
State Soil Scientist

NHPA Section 106 Consultation Letters

- 12/5/2023 - Initiation of Consultation (sample)
- 5/24/2024 - Distribution of Phase IB archeological survey report
- 7/24/2024 - Response from SHPO on the Phase IB Archaeological Survey Report results
- 2/23/2025 - Distribution of Phase II archeological survey report (sample)



**U.S. DEPARTMENT OF VETERANS AFFAIRS
Office of Construction & Facilities Management
Washington DC 20420**

December 5, 2023

Sydney Snyder
New York State Parks, Recreation & Historic Preservation
PO Box 189, Peebles Island
Waterford, New York 12188-0189

**RE: Initiation of Section 106 Consultation for the Proposed Expansion of the Western
New York National Cemetery in Genesee County, New York (12PR020608)**

Ms. Synder:

The U.S. Department of Veterans Affairs (VA) is initiating consultation pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (54 USC 306108) (NHPA), with the New York State Office of Parks, Recreation & Historic Preservation (OPRHP), the State Historic Preservation Officer (SHPO) of New York for the above-referenced project in Genesee County, New York.

The NHPA requires federal agencies to consider the effects of their undertakings on historic properties both individually and cumulatively. VA conducted an Initial Cultural Resources Impact Prediction (ICRIP) that is enclosed with this letter to assist in identifying historic properties at the sites and to document the general character of the area.

Undertaking

VA is proposing to acquire approximately 92.6 acres of undeveloped property adjacent to the existing Western New York National Cemetery. Further expansion of the National Cemetery will allow for the addition of burial space for Veterans into the future.

Property Description

This property acquisition consists of two cropland and lightly forested parcels near 1376 Indian Falls Road. The parcels fall to the north of the New York State Thruway (I-90), south of Indian Falls Road, east of the extant national cemetery, and west of a north-to-south trending private drive. The parcels include Tax Parcel: 18428910.-1-10.11 owned by Duane Schmigel and Tax Parcel: 18428910.-1-19 owned by John Thompson. Not included in the acquisition are the residential parcels located at 1376 and 1400 Indian Falls Road (Tax Parcel: 18428910.-1-10.2 owned by Matthew Mahaney and Tax Parcel: 18428910.-1-11.22 owned by Joseph Laporta).

Area of Potential Effects

The Area of Potential Effects (APE) is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties. The proposed APE for this Undertaking encompasses the 92.6-acre acquisition parcels for site development as well as the entire Western New York National Cemetery, which is eligible for the National Register of Historic Places (Figure 1).

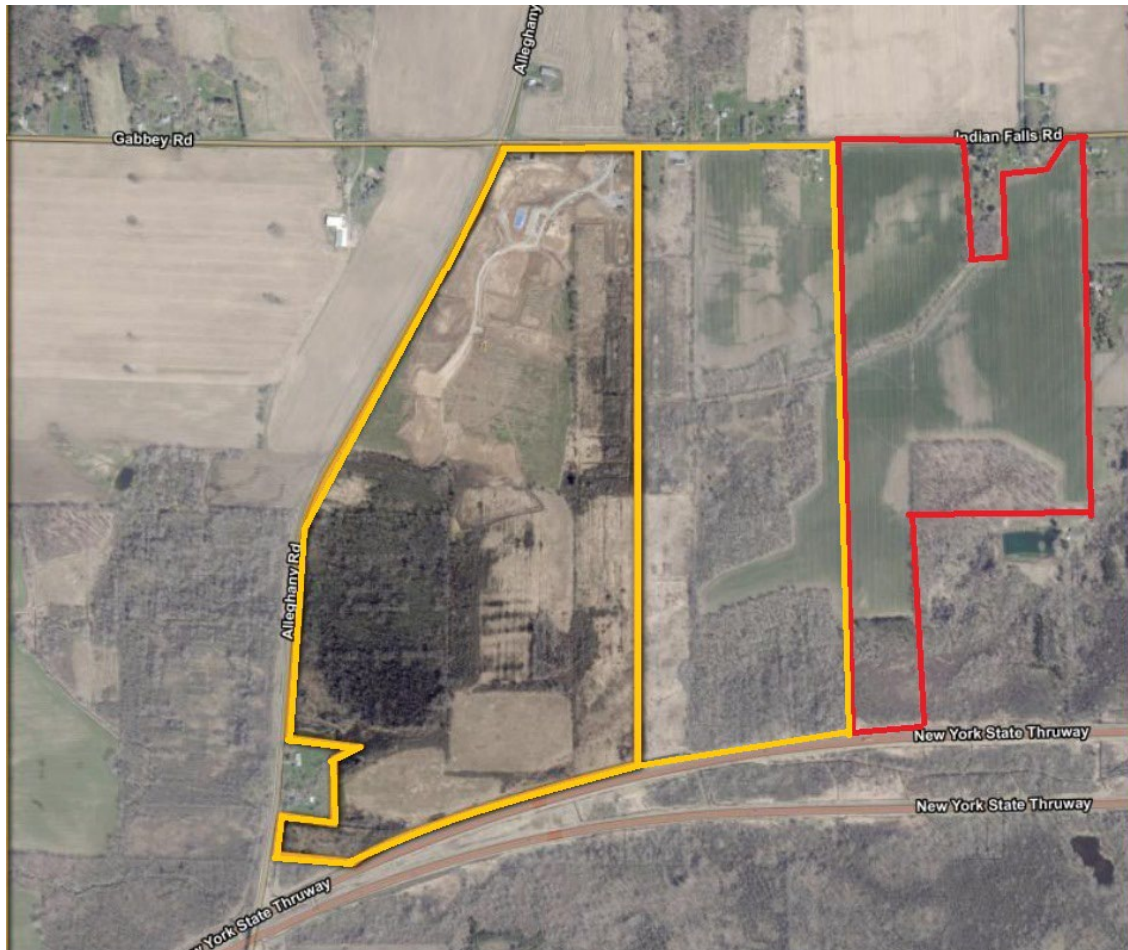


Figure 1. Area of Potential Effects, which includes the new land acquisition (approximate boundary in red) and the existing Western New York National Cemetery (boundary in orange)

Identification of Historic Properties

VA reviewed the National Register of Historic Places (NRHP), OPRHP's online Cultural Resource Information System (CRIS), previous cultural resources studies, and other resources to identify historic properties at or near the APE. USGS Topographic (Topo) Maps and other information regarding the physical setting of this project parcel were reviewed to assist with the interpretation of subsurface water movement near the property and the potential for archeological resources.

Built Resources

Our review of this data confirmed that the only built resource eligible for listing on the NRHP located within the APE is the Western New York National Cemetery. No NRHP-listed historic districts, multiple property listings, or individually listed historic buildings or structures are in the APE.

Archeological Resources

VA's review of OPRHP CRIS data confirms that the Indian Falls VA Precontact Site (A03712.000035) falls within the APE, and eight other archeological sites are found within one mile of the Undertaking. Accordingly, in late September 2023, VA undertook a Phase I archeological survey across the 92.6-acre expansion parcel(s). Shovel test probes (STPs) were excavated at 15-meter (m) intervals, 35 centimeters (cm) in diameter. The majority of the survey parcel was planted with corn at the time of the survey, while the southeastern corner is wooded with mixed hardwoods and moderate understory of saplings and scrub vegetation and the far southwestern corner is wooded wetland with mixed hardwoods, dense scrub, and wetland vegetation. A total of 1,650 STPs were excavated within the survey parcel. Of the excavated STPs, 66 contained artifacts.

Preliminary results indicate there are four archeological sites (FS-001, FS-002, FS-003, and FS-004) and seven isolated finds (ISO-001, ISO-002, ISO-003, ISO-004, ISO-005, ISO-006, and ISO-007) within the survey area (Figure 2). Site FS-001 consists of a precontact lithic scatter confined to the Ap horizon, which is defined by 29 positive STPs. Site FS-002 consists of precontact lithic scatter defined by 18 positive STPs, which is mostly confined to the Ap horizon. However, within one STP archeologists encountered a precontact thermal/hearth feature. An additional STP also contained a potential/remnant thermal/hearth feature. Site FS-003 consists of a late nineteenth to mid-twentieth century artifact scatter defined by six positive STPs and surface scatters of domestic artifacts and architectural debris. Site FS-004 is another lithic scatter confined to the Ap horizon which is defined by three positive STPs. All the isolated finds consist of a single positive STP each containing a single lithic artifact.

Based on the types of artifacts and possible cultural features, the precontact archeological deposits at the expansion parcels appear to be associated with the NRHP-eligible Indian Falls VA Precontact Site (A03712.000035).

Historic Landscapes

No identified historic landscapes are located on or within a one-mile radius of the APE.

Traditional Cultural Properties

No Traditional Cultural Properties are known to fall on or within a one-mile radius of the APE.

Prior Consultation

In October 2023, VA informally consulted with OPRHP and provided for their review a copy of the End of Fieldwork Memorandum (EoFM) generated immediately upon conclusion of the Phase I archeological study. Based on their review of the EoFM, OPRHP suggested that further investigation of the four archeological sites (excluding the isolated finds) via mechanical stripping is warranted. That said, OPRHP stated that they would defer to the preference of the Tonawanda Band of Seneca as to the nature and extent of additional work.

On 20 October 2023, VA initiated consultation with the Tonawanda Band of Seneca by sharing the EoFM and requesting the tribe's comments per 36 CFR Part 800 on any concerns about historic properties, advise on the identification and evaluation of historic properties, and comment on the Undertaking's effects on such properties. To date, the tribe has not responded to VA's request for comment.

Effects and Determination

The extant portion of the national cemetery will not be physically or visually affected by the Undertaking. However, based on the findings of the recent Phase I archeological survey, the Undertaking will physically impact archeological deposits associated with the Indian Falls VA Precontact Site (A03712.000035). Accordingly, VA anticipates an adverse effect to historic properties, and pursuant to § 800.6, VA requests OPRHP's concurrence on the agency's finding per 36 CFR Part 800. Additionally, VA requests OPRHP's input on additional measures (e.g., supplemental mechanical stripping and/or creative mitigation) that might be taken to mitigate the Undertaking's effects to historic properties.

Should you require further information, please contact me at marianne.marinucci@va.gov. Thank you in advance for your consideration.

Sincerely,

Marianne Marinucci
VA Project Manager

cc: Héctor M. Abreu-Cintrón, VA Federal Preservation Officer
Angela McArdle, Senior Historic Preservation Specialist

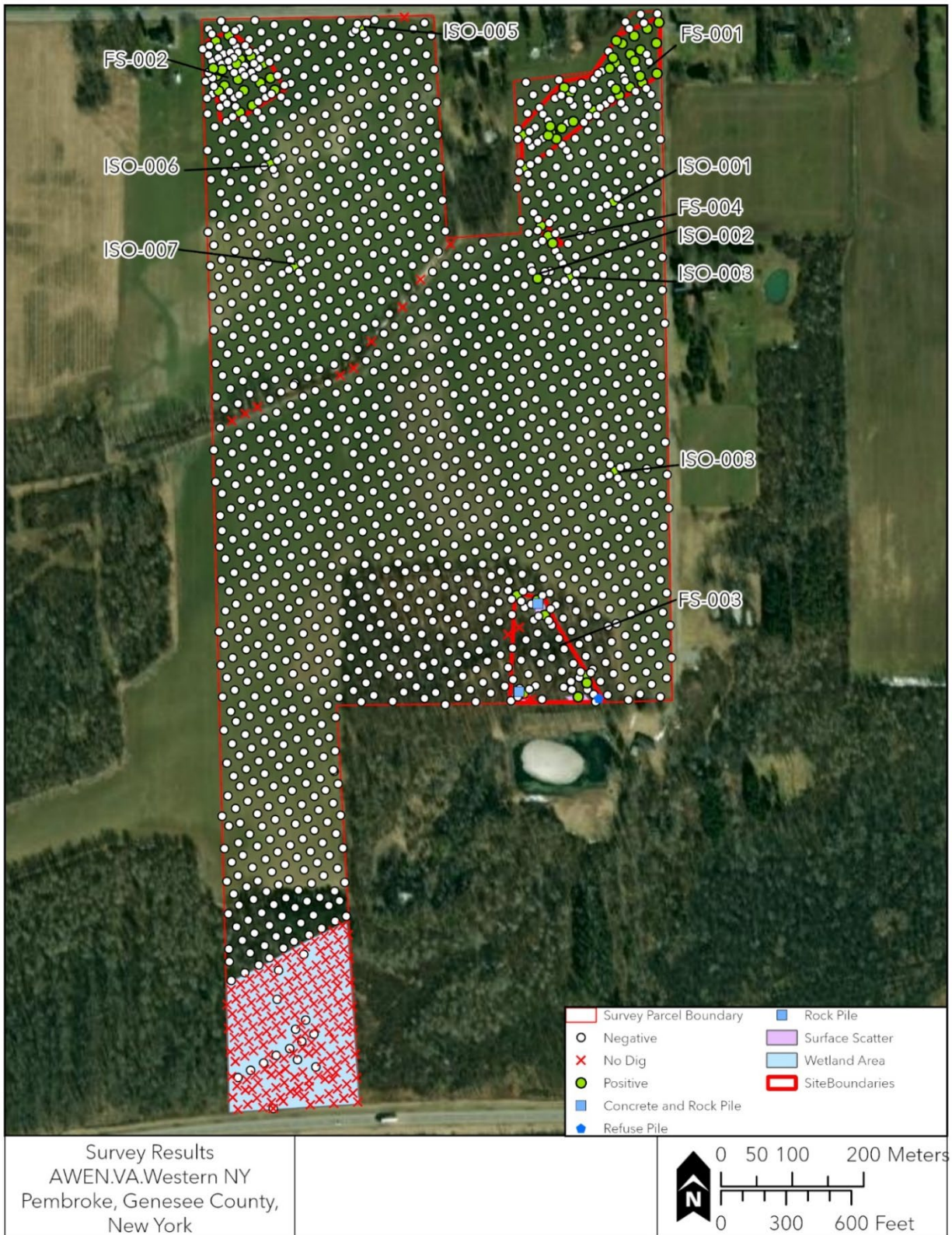


Figure 2. Survey results.



**U.S. DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
Washington DC 20420**

28 May 2024

Joe Stahlman
THPO, Seneca Nation of Indians
Onöhsagwë:de' Cultural Center
82 W Hetzel
Salamanca, NY 14779
Joe.stahlman@sni.org

RE: Phase IB Archaeological Survey in Support of the Expansion of the Western New York National Cemetery, Town of Pembroke, Genesee County, New York NYSHPO PR#: 12PR02608

Dear Mr. Stahlman,

The U.S. Department of Veterans Affairs (VA), in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) (54 USC 306108), as amended, and its implementing regulations (36 CFR Part 800), conducted a Phase IB Archaeological Survey in support of the expansion of the Western New York National Cemetery in the Town of Pembroke, Genesee County, New York. The findings from this investigation are included in the attached draft technical report, which is provided for your review and comment.

The subject report, *Phase IB Archaeological Survey in Support of the Expansion of the Western New York National Cemetery, Town of Pembroke, Genesee County, New York (12PR02608)*, was prepared by Environmental Research Group, LLC (ERG). The investigation was conducted in compliance with both state and federal guidelines, including Section 106 of the NHPA, the Advisory Council on Historic Preservation's (ACHP) implementing regulations (36 CFR Part 800), the Secretary of the Interior's (SOI) Standards and Guidelines for Archeology and Historic Preservation (1983), and the New York Archaeological Council's (NYAC) Cultural Resource Standards Handbook (October 2000) and Guidelines for the use of Archaeological Monitoring as an Alternative to Other Field Techniques (April 2002).

If you require further information, please contact me by email at William.Hooker@va.gov.

Thank you,

W. Edward Hooker, III (Ed)
Historic Architect and Cultural Resources Manager
Department of Veterans Affairs
National Cemetery Administration

cc: Héctor M. Abreu-Cintrón, VA Federal Preservation Officer
Angela McArdle, Senior Historic Preservation Specialist
Marianne Marinucci, Project Manager



**U.S. DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
Washington DC 20420**

28 May 2024

Roger Hill
Chief, Tonawanda Band of Seneca
7027 Meadville Road
Basom, NY 14013
tonseneca@aol.com

**RE: Phase IB Archaeological Survey in Support of the Expansion of the Western New York
National Cemetery, Town of Pembroke, Genessee County, New York
NYSHPO PR#: 12PR02608**

Dear Chief Hill,

The U.S. Department of Veterans Affairs (VA), in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) (54 USC 306108), as amended, and its implementing regulations (36 CFR Part 800), conducted a Phase IB Archaeological Survey in support of the expansion of the Western New York National Cemetery in the Town of Pembroke, Genessee County, New York. The findings from this investigation are included in the attached draft technical report, which is provided for your review and comment.

The subject report, *Phase IB Archaeological Survey in Support of the Expansion of the Western New York National Cemetery, Town of Pembroke, Genessee County, New York (12PR02608)*, was prepared by Environmental Research Group, LLC (ERG). The investigation was conducted in compliance with both state and federal guidelines, including Section 106 of the NHPA, the Advisory Council on Historic Preservation's (ACHP) implementing regulations (36 CFR Part 800), the Secretary of the Interior's (SOI) Standards and Guidelines for Archeology and Historic Preservation (1983), and the New York Archaeological Council's (NYAC) Cultural Resource Standards Handbook (October 2000) and Guidelines for the use of Archaeological Monitoring as an Alternative to Other Field Techniques (April 2002).

If you require further information, please contact me by email at William.Hooker@va.gov or by phone at 202-280-8398.

Thank you,

W. Edward Hooker, III (Ed)
Historic Architect and Cultural Resources Manager
Department of Veterans Affairs
National Cemetery Administration

cc: Héctor M. Abreu-Cintrón, VA Federal Preservation Officer
Angela McArdle, Senior Historic Preservation Specialist
Marianne Marinucci, Project Manager



**U.S. DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
Washington DC 20420**

28 May 2024

Nancy Herter, Ph.D.
Archaeology Unit Program Coordinator
New York State Parks, Recreation & Historic Preservation
PO Box 189, Peebles Island, Waterford, New York 12188-0189
(518) 268-2179 | nancy.herter@parks.ny.gov
<https://parks.ny.gov/shpo>

**RE: Phase IB Archaeological Survey in Support of the Expansion of the Western New York
National Cemetery, Town of Pembroke, Genessee County, New York
NYSHPO PR#: 12PR02608**

Dear Dr. Herter,

The U.S. Department of Veterans Affairs (VA), in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) (54 USC 306108), as amended, and its implementing regulations (36 CFR Part 800), conducted a Phase IB Archaeological Survey in support of the expansion of the Western New York National Cemetery in the Town of Pembroke, Genessee County, New York. The findings from this investigation are included in the attached draft technical report, which is provided for your review and comment.

The subject report, *Phase IB Archaeological Survey in Support of the Expansion of the Western New York National Cemetery, Town of Pembroke, Genessee County, New York (12PR02608)*, was prepared by Environmental Research Group, LLC (ERG). The investigation was conducted in compliance with both state and federal guidelines, including Section 106 of the NHPA, the Advisory Council on Historic Preservation's (ACHP) implementing regulations (36 CFR Part 800), the Secretary of the Interior's (SOI) Standards and Guidelines for Archeology and Historic Preservation (1983), and the New York Archaeological Council's (NYAC) Cultural Resource Standards Handbook (October 2000) and Guidelines for the use of Archaeological Monitoring as an Alternative to Other Field Techniques (April 2002).

If you require further information, please contact me by email at William.Hooker@va.gov.

Thank you,

W. Edward Hooker, III (Ed)
Historic Architect and Cultural Resources Manager
Department of Veterans Affairs
National Cemetery Administration

cc: Héctor M. Abreu-Cintrón, VA Federal Preservation Officer
Angela McArdle, Senior Historic Preservation Specialist
Marianne Marinucci, Project Manager



**New York State
Parks, Recreation and
Historic Preservation**

KATHY HOCHUL
Governor

RANDY SIMONS
Commissioner *Pro Tempore*

July 24, 2024

Angela McArdle
Senior Historic Preservation Specialist
U.S. Department of Veterans Affairs
Office of Construction & Facilities Management
810 Vermont Avenue NW (003C), Washington, DC 20420

Re: VA
Proposed Western New York National Cemetery
1232 Indian Falls Road, Town of Pembroke, Genesee County, NY
12PR02608

Dear Angela McArdle:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project.

The SHPO has reviewed the Phase IB Archaeological Survey Report for the 90-acre expansion parcel prepared for this project (April 2024; 24SR00310). The archaeological survey identified four new loci of the Indian Falls VA Precontact Site (USN 03712.000035). Based on this review, the SHPO recommends that a Supplemental Archaeological Survey consisting of mechanical soil stripping and feature excavation be completed for the newly identified Indigenous loci (Loci 7D, 8D, and 9D).

No further archaeological work, including mechanical soil stripping and archaeological monitoring, is recommended for the late 19th-mid 20th century artifact scatter (Locus 10D).

We concur with the report recommendation that the five isolated finds identified during the archaeological survey are Not Eligible for the State/National Registers of Historic Places (S/NRHP). No further archaeological work is warranted for the isolated finds.

If you have any questions, I can be reached at Sydney.Snyder@parks.ny.gov.

Sincerely,

Sydney Snyder
Scientist - Archaeology



**U.S. DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
Washington DC 20420**

February 21, 2025

Nancy Herter, Ph.D.
Archaeology Unit Program Coordinator
New York State Parks, Recreation & Historic Preservation
PO Box 189, Peebles Island, Waterford, New York 12188-0189
nancy.herter@parks.ny.gov

**RE: Ongoing Section 106 Consultation for the Proposed Expansion of the Western New York National Cemetery, Town of Pembroke, Genesee County, New York
(NYSHPO PR#: 12PR02608)**

Dear Dr. Herter:

The U.S. Department of Veterans Affairs (VA) is continuing consultation pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (54 USC 306108) (NHPA), with the New York State Office of Parks, Recreation & Historic Preservation (OPRHP), the State Historic Preservation Officer (SHPO) of New York for the above-referenced project in Genesee County, New York.

In October 2024, VA conducted a Phase II archeological evaluation of three additional loci associated with the previously identified NRHP-eligible Indian Falls VA Pre-Contact site (A03712.000035), which has been the subject of previous NHPA Section 106 consultation to assess potential effects to this historic property. The additional loci (Locus 7D, 8D, and 9D) were identified during a 2023 Phase IB survey. Following the survey, VA, in consultation with the OPRHP, determined additional archaeological excavations were warranted to investigate the newly identified loci associated with the Indian Falls VA Precontact site (A03712.000035). VA is providing the OPRHP with a draft Phase II archeological report for review and comment.

Undertaking

VA is proposing to acquire approximately 92.6 acres of undeveloped property adjacent to the existing Western New York National Cemetery. Further expansion of the National Cemetery will allow for the addition of burial space for Veterans into the future.

Property Description

This property acquisition consists of a majority agricultural parcel near 1376 Indian Falls Road. The parcels fall to the north of the New York State Thruway (I-90), south of Indian Falls Road, east of the extant national cemetery, and west of a north-to-south trending private drive. The parcels include Tax Parcels 18428910.-1-10.11 and 18428910.-1-9 owned by the estate of Duane

Schmigel. Not included in the acquisition are the residential parcels located at 1376 and 1400 Indian Falls Road (Tax Parcel 18428910.-1-10.2 owned by Matthew Mahaney and Tax Parcel 18428910.-1-11.22 owned by Joseph Laporta).

Area of Potential Effects

The Area of Potential Effects (APE) is the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties. The proposed APE for this Undertaking encompasses the 92.6-acre acquisition parcels for site development as well as the entire Western New York National Cemetery, which is eligible for the National Register of Historic Places (NRHP) (**Figure 1**).

Prior Consultation

On 20 October 2023, VA initiated consultation with the OPRHP and the Tonawanda Band of Seneca by sharing an End of Fieldwork Memorandum (EoFM) generated immediately upon conclusion of the Phase IB archeological study for initial review because additional archaeological deposits associated with the Indian Falls VA Precontact Site (A03712.000035) were encountered. The OPRHP and the Tonawanda Band of Seneca are signatories to a prior Memorandum of Agreement (MOA) for this archaeological site.

On 8 January 2024, VA sent letters to the following potential Consulting Parties to initiate Section 106 consultation:

- OPRHP
- Seneca-Cayuga Nation
- Seneca Nation of Indians
- Tonawanda Band of Seneca
- Genesee County Department of Planning
- Town of Pembroke and Zoning and Codes Department
- Village of Corfu Planning Board

Of these potential Consulting Parties, only the ORPHP, Seneca Nation of Indians, and the Tonawanda Band of Seneca expressed an interest in consultation. VA held meetings with both Tribes in January-February of 2024. VA followed up with the full Phase IB report on 28 May 2024. No comments were received on the report.

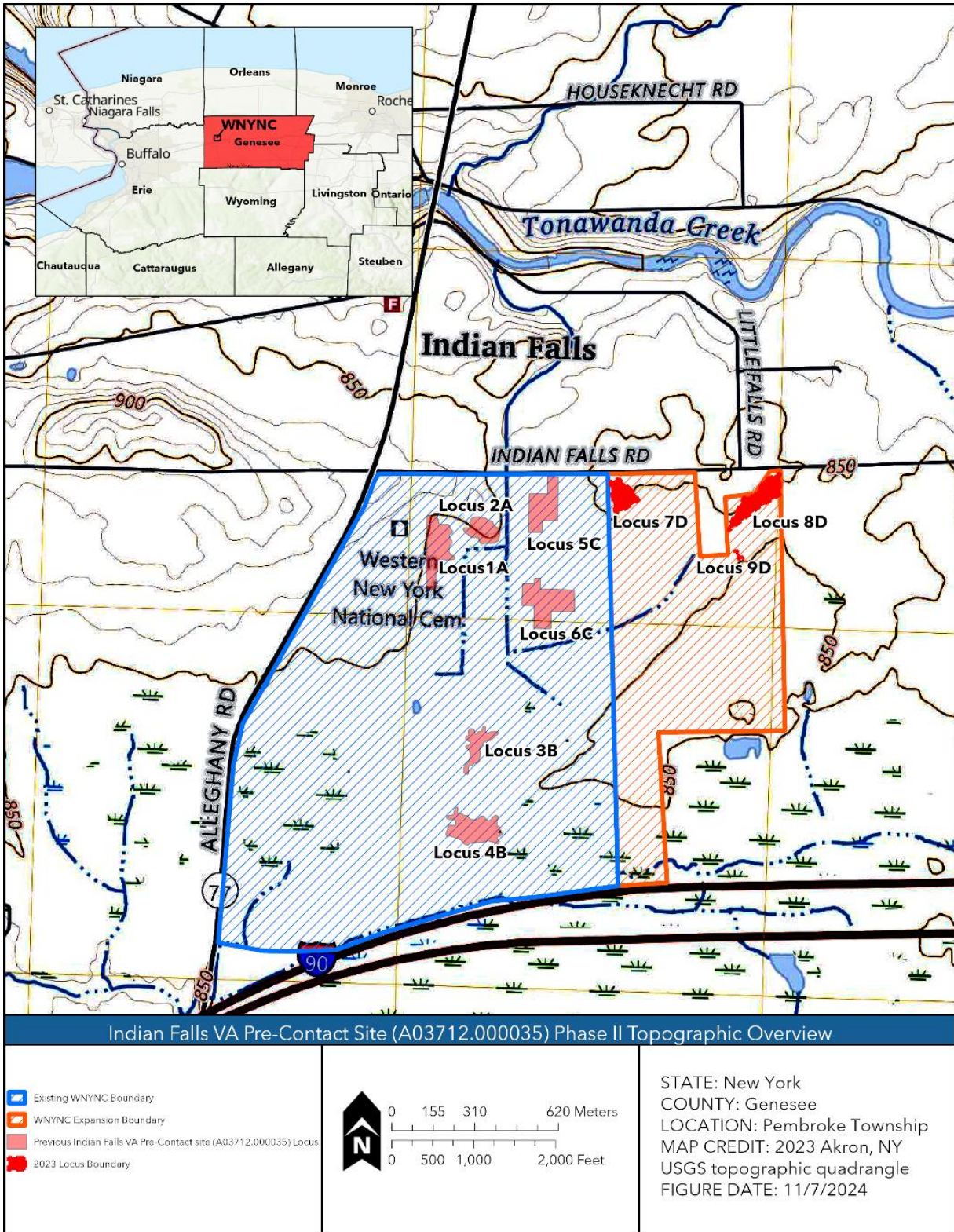


Figure 1. Area of Potential Effects, which includes the new land acquisition (approximate boundary in orange) and the existing Western New York National Cemetery (boundary in blue).

Evaluation of Historic Properties within the Survey Area

VA reviewed the NRHP, OPRHP's online Cultural Resource Information System (CRIS), previous cultural resources studies, and other resources to identify historic properties at or near the APE. USGS Topographic (Topo) Maps and other information regarding the physical setting of this project parcel were reviewed to assist with the interpretation of subsurface water movement near the property and the potential for archeological resources.

Built Resources

Our review of this data confirmed that the only built resource eligible for listing on the NRHP located within the APE is the Western New York National Cemetery. No NRHP-listed historic districts, multiple property listings, or individually listed historic buildings or structures are in the APE.

Archeological Resources

Prior Phase IB survey work identified three additional loci (Loci 7D, 8D, and 9D) associated with the previously identified NRHP-eligible Indian Falls VA Pre-Contact site (A03712.000035). All Phase II fieldwork for the project was completed over a single mobilization between October 15 and October 21, 2024. The Phase II archeological investigations at Loci 7D, 8D, and 9D consisted of the mechanical removal of the Ap horizon (plowzone) within a total of 15 5x5-meter (m) windows. The mechanically excavated windows served to identify and document intact remnant portions of cultural features beneath the disturbed Ap horizon. The results of the 2023 Phase IB shovel tests survey guided the placement of the mechanical excavation windows (Creswell et al. 2023). The 15 5x5-m mechanical excavation windows were distributed across the three loci based on artifact distribution data collected during the previous investigation. Ultimately, six windows were excavated within Locus 7D, eight windows excavated within Locus 8D, and one window excavated within Locus 9D.

Locus 7D

Six (6) windows were mechanically excavated within Locus 7D (**Figure 2**). Window 2 in Locus 7D contained one thermal feature. Lithic debitage and a single projectile point along with a charcoal sample recovered from the feature. ERG also recovered one biface fragment from the profile of a second 5x5-m window (Window 5) which did not contain features.

Locus 8D

Eight (8) windows were mechanically excavated within Locus 8D (**Figure 3**). Window 4 contained a single thermal feature. ERG recovered lithic debitage as well as a charcoal sample from the feature. Additionally, a projectile point was recovered from the base of the A horizon approximately 1.6 meters from the feature.

Locus 9D

One (1) window was mechanically excavated within Locus 9D (**Figure 4**). No features were found, and no artifacts were recovered.



Figure 2. Locus 7D Phase II archaeological investigation results map.



Figure 4. Locus 8D Phase II archaeological investigation results map.

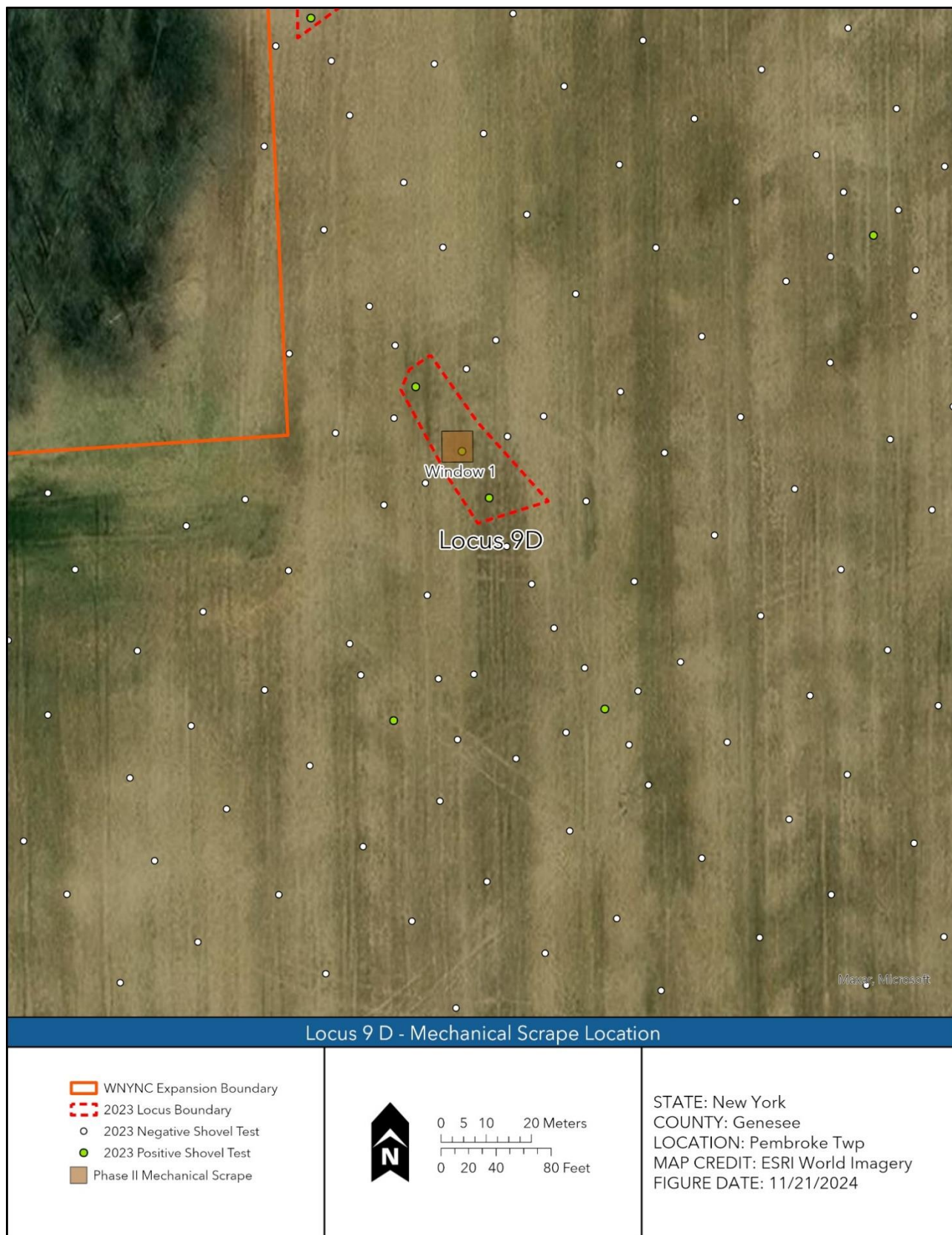


Figure 5. Locus 9D Phase II archaeological investigation results map.

Findings and Conclusions

The Phase II investigation of Loci 7D, 8D, and 9D at the Indian Falls VA Pre-contact Site (A03712.000035) consisted of the mechanical excavation of 15 5x5-m windows located at areas of highest artifact frequency as identified during the 2023 Phase IB archaeological survey. Only two of the mechanically excavated windows contained cultural features at the transition between the Ap horizon and Bt/E horizon subsoils; one at Locus 7D and the other at Locus 8D. Both features are classified as hearth remnants and lithic debitage, a core, and tools were recovered in association with the features. Additionally, charcoal samples were recovered from both. Artifact analysis and C-14 testing are underway.

The results of the Phase II investigation are consistent with those of previous investigations of the site. As such, VA proposes the research potential of Loci 7D, 8D, and 9D at the Indian Falls VA Pre-contact Site (A03712.000035) is exhausted. While the site initially demonstrated data potential (NRHP Criterion D), that potential has been realized through previous survey, testing, and data recovery prior to ERG's study, as well as the work presented herein. Further excavation, which would result in the recovery of redundant data, is not warranted. Accordingly, VA believes that the site no longer retains the research potential to yield information important to human history.

VA seeks your concurrence with this conclusion. Should you require further information, please contact me at William.Hooker@va.gov or by phone at 202-280-8398.

Sincerely,

W. Edward Hooker, III (Ed)
Historic Architect and Cultural Resources Manager
Department of Veterans Affairs
National Cemetery Administration

cc: Héctor M. Abreu-Cintrón, VA Federal Preservation Officer
Angela McArdle, Senior Historic Preservation Specialist
Marianne Marinucci, Project Manager

Attachment