



March 20, 2025

Barry Medenbach
Medenbach, Eggers & Carr
4304 US Highway 209
Stone Ridge, NY 12484

Re: DEC
Boices Lane Ext - Demolition of Existing Structures and Construction of Apartment Buildings
(212 Units)
701 to 715 Boices Lane (SBL 48.7-2-35.100), Town of Ulster, Ulster County, NY
24PR06225

Dear Barry Medenbach:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted materials in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project.

OPRHP has reviewed the revised Phase I Archaeological Survey report prepared for this project by Tracker Archaeology, Inc. (Tracker) (December 2024, Revised March 2025; 24SR00676). The survey resulted in the identification of the Boices Lane Precontact Site (USN 11118.000173). OPRHP understands that the project proponents have opted to conduct a Phase II Site Examination of the Boices Lane Precontact Site's two loci (centered around Shovel Test 128 and 195). OPRHP has reviewed the March 4, 2025, Phase II Scope of Work (SOW) prepared by Tracker. OPRHP recommends the SOW be revised to specify the following:

- Estimated range of proposed Shovel Tests (STs) across each locus.
- Estimated range of proposed Excavation Units across each locus.
- Excavation methodology and analysis of features (should they be identified).
- Evaluation of the site should include the establishment of each loci's boundaries.
- Identification of individuals or laboratories that may need to be employed to conduct the following analyses:
 - Faunal remains
 - Floral remains (macro and micro)
 - Bioarchaeologist/Physical Anthropologist - should human remains or possible human remains be unearthed.
- Please attach the OPRHP/SHPO's Human Remains Discovery Protocol (January 2025), the Delaware Nation Inadvertent Discovery Policy & Protocols, and the Stockbridge Munsee Policy for Treatment and Disposition of Human Remains and Cultural Items (2022) (see attached) to the SOW. Should human remains, or potential human remains be identified during archaeological investigation or construction, these protocols are to be adhered to.


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Please note that these comments do not include those of the interested Indigenous Nations. OPRHP understands that DEC's Office of Indian Nation Affairs (OINA) will continue to conduct Nation-to-Nation Consultation for this project. OPRHP respectfully requests that DEC keep our office apprised of any comments the Nations may offer. Fieldwork should not commence until the SOW has been revised and approved by OPRHP and the interested Indigenous Nations have had an opportunity to review and comment on the SOW.

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

Sincerely,



Josalyn Ferguson, Ph.D.
Scientist – Archaeology

sent via email

Attch.

c.c. Beynan Ransom & Christian Futyma, DEC
c.c. Daren Bonaparte, St. Regis Mohawk Tribe
c.c. Jeffrey Bendremer, Stockbridge Munsee Community
c.c. Katelyn Lucas, Delaware Nation
c.c. Susan Bachor, Delaware Tribe
c.c. Solomon Latham & Thomas Kentop, Medenbach, Eggers & Carr

**State Historic Preservation Office/
New York State Office of Parks, Recreation and Historic Preservation
Human Remains Discovery Protocol
(January 2025)**

If human remains are encountered during construction or archaeological investigations for projects being reviewed under Section 14.09 of the State Historic Preservation Act or Section 106 of the National Historic Preservation Act, the New York State Historic Preservation Office (“SHPO”) recommends that the following protocol be implemented.

- Human remains shall be treated with dignity and respect. Should human remains or suspected human remains be encountered, work in the general area of the discovery shall stop immediately and the location shall be secured and protected from damage and disturbance.
- If skeletal remains are identified and the archaeologist is not able to conclusively determine if they are human, the remains and any associated materials shall be left in place. A qualified forensic anthropologist, bioarchaeologist, or physical anthropologist shall assess the remains in situ to help determine if they are human.
- If the remains are determined to be human, law enforcement, the SHPO, the appropriate Indigenous Nations, and the involved state and federal agencies shall be notified immediately. If law enforcement determines that the burial site is not a criminal matter, no skeletal remains or associated materials shall be removed until appropriate consultation has concluded.
- If human remains are determined to be Indigenous, they shall be left in place and protected from further disturbance until a plan for their avoidance or removal is fully implemented. Please note that avoidance is the preferred option of the SHPO and the Indigenous Nations. The involved agency shall consult SHPO and the appropriate Indigenous Nations to develop a plan of action. Photographs of Indigenous human remains and associated materials should not be taken without consulting with the involved Indigenous Nations.
- If human remains are determined to be non-Indigenous, the remains shall be left in place and protected from further disturbance until a plan for their avoidance or removal is fully implemented. Please note that avoidance is the preferred option of the SHPO. The involved agency shall consult SHPO and other appropriate parties to develop a plan of action.
- The SHPO recommends that burial information is not released to the public to protect burial sites from possible looting.

NOTE: If human remains are encountered outside of a Section 14.09 or Section 106 project, you must follow the procedures of the New York State Unmarked Burial Site Protection Act (<https://nysm.nysed.gov/unmarked-burial-site-protection-act>).

DELAWARE NATION HISTORIC PRESERVATION
Inadvertent Discovery Policy & Protocols for Archaeology Consultation

The purpose of this policy is to outline procedures and expectations for tribal consultation to be followed by all agencies, contractors, etc. during ALL archaeological work, and/or in the event of an inadvertent discovery of human remains or cultural archaeological materials affiliated as Native American within Delaware Nation's homelands and areas of interest.

Procedures for Inadvertent Discovery of Funerary Remains and Objects:

1. If ANY potentially sensitive Native American archaeological resources (see list on next page), human remains, or animal burials are encountered, all onsite work shall cease in the immediate area with a 50-foot buffer of the discovery location until Delaware Nation is consulted or unless prior agreements are in place. See list on next page for resources or feature warranting notification to our office.

2. The lead agency shall contact the following representatives immediately (concurrently with the SHPO):

Carissa Speck, *Historic Preservation Director*
cspeck@delawarenation-nsn.gov
405-901-1715 x 1301

Katelyn Lucas, *Historic Preservation Officer*
klucas@delawarenation-nsn.gov
405-544-8115

3. Place tobacco (looseleaf preferred) with human remains and/or funerary objects if possible, and cover and/or wrap them with a natural fiber cloth such as cotton or muslin (unbleached).

4. Absolutely NO photographs are to be taken of human remains, animal burials, or funerary objects, nor drawings made, unless deemed necessary in consultation with Delaware Nation. Any photographs or drawings should be redacted from any reports that will be broadly distributed, along with locational details. Just using written or textual descriptions of sites is preferred.

5. Human or animal remains and any items deemed funerary or sacred should NOT be cleaned or processed, and handling should be limited. Non-destructive "in-field" documentation of the remains and cultural items shall be carried out in consultation with Delaware Nation, who will determine appropriate methods of recordation depending upon the circumstances.

6. The preferred treatment of funerary materials and human or animal burials is to leave them in-situ (in place) and protect them from further disturbance. If remains and/or cultural items are to remain in-situ, the requirements of 43 CFR 10 Sections 10.4-10.6 will have been fulfilled.

7. Our preference is that NO remains or potential funerary artifacts should be taken off site and should be housed in on-site facilities until Delaware Nation consults on next steps. If remains or artifacts must be removed from the site, procedures must be determined in consultation with Delaware Nation. Delaware Nation requests that no artifacts, but especially funerary remains and objects, should ever be removed from the state they were found in, including for lab documentation or analysis purposes.

8. The specific location(s) of discoveries shall be withheld from public disclosure (with the exception of local law officials, necessary consulting agencies, and tribal officials as described above) and protected to the fullest extent by federal law.

DELAWARE NATION HISTORIC PRESERVATION Inadvertent Discovery Policy & Protocols for Tribal Consultation

Delaware Nation's Historic Preservation Office treats ALL discoveries of Native American materials or features during any archaeological survey work and/or data recovery work essentially the same as inadvertent discoveries. We request daily or weekly updates on what artifacts and features are found (if any) so that we can consult on ALL stages of the work. We may send tribal monitors to be onsite during work, but still request updates regardless of whether or not we sent monitors to ensure everyone is kept informed and given time to review findings. Even in data recovery work where we expect that artifacts and/or remains will need to be removed and relocated to avoid destruction, we still expect to be consulted throughout the process to ensure all potential funerary or otherwise sacred materials are identified correctly and handled properly.

General Guidelines for Archaeological Work:

- NO artifacts should be taken off site, cleaned, processed, or be subject to invasive/destructive analysis—and should be housed in the on-site facilities—until they are reviewed by consulting Tribal Nations. **We underscore NO cleaning until review**, for cleaning both disrespects tribal protocols for sensitive materials and could destroy valuable scientific evidence on materials
- Our preference if human remains, animal burials, and/or funerary objects are discovered is always to leave them in-situ, halt all further work (following procedures on previous page), and request that projects avoid further impacts to the site
- If, in consultation with Delaware Nation, it is determined that funerary remains or objects canNOT be left in-situ and must be removed to protect them from destruction:
 - Any soils or other materials collected with them or having touched them should be kept with them, as Delaware Nation will also want those repatriated. This includes ALL materials found in one soil profile above and below, even charcoal, soil samples, any debitage or other items

General Guidelines for Identifying Sensitive Materials:

Anything found within the same soil profile, or one soil profile above and below, of human remains OR animal burials is also considered funerary by our office and should be treated as such. We will want to review more closely anything else found within half a mile of the location so that we can assess the broader cultural landscape. Workers should be able to provide general information on where materials are being found even during ongoing work, so that we can flag other potentially sensitive sites. Below is a general list of items we would flag as sensitive **even if remains are not immediately present**, and request be treated as sensitive unless we receive additional information that would suggest otherwise.

- Human remains
- Animal burials or remains of unusual or non-food species (dog, eagle, hawk, bear, turtle, otter, fisher)
- Shell middens
- Pottery in the following categories: complete pieces, pieces with effigies, large deposits, pieces intentionally/ceremonially broken
- Anything with carvings or effigies
- Crystals, fossils, fossilized teeth or bone
- Wampum or treaty medals
- ALL personal items: including beads, jewelry, pendants, earrings, mirrors, combs, pipes (either complete pipes or pipe fragments), and human or animal figures. Sensitive beads include beads made of shell, bone/ivory, clay, wood, stone, or glass. European trade beads were adopted by Native Americans and used for personal clothing, jewelry, and ceremonial pieces.
- Any metal or metal alloy materials including copper or brass wire, pendants, clothing adornments
- Any fabrics, textiles, and/or woven items including grass mats, especially if found in proximity to personal items
- Any materials with evidence of painting on them, painting making, or storage of paints, especially ochre
- Large deposits of debitage, points, tools, especially ones that look like they were intentionally/ceremonially broken
- Anything found with evidence of burning



**Stockbridge-Munsee Community
Band of Mohican Indians
Policy for
Treatment and Disposition of Human Remains and Cultural Items
That May be Discovered Inadvertently**

Purpose

The purpose of this policy is to outline procedures that will be followed by all agencies, contractors or others in the event of an inadvertent discovery of human remains or cultural materials that are identified as potentially Stockbridge-Munsee (Mohican).

Treatment and Disposition of Human Remains and Cultural Items

- 1) The federal agency or contractor shall contact the Stockbridge-Munsee Community immediately, but no later than three days after the discovery of the remains and/or artifacts at the contact information below:

updated September 2022

Jeff Bendremer, Tribal Historic Preservation Officer (THPO)	thpo@mohican-nsn.gov	413-884-6029 office 715-881-2254 cell
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If unavailable, contact:

Bonney Hartley, Tribal Historic Preservation Manager	Bonney.Hartley@mohican-nsn.gov	413-884-6048 office
Monique Tyndall, Cultural Affairs Director	Monique.Tyndall@mohican-nsn.gov	715-793-4270 office
Linda Mohawk Katchenago, Administrator	Linda.Katchenago@mohican-nsn.gov	715-793-4355 office

- 2) Place tobacco with human remains and/or funeral objects.
- 3) Cover remains and funeral objects with a natural fiber cloth such as cotton or muslin when possible.
- 4) No photographs will be taken.
- 5) The preferred treatment of inadvertently discovered cultural materials and/or human remains is to leave them *in-situ* (in place) and protect them from further disturbance.
- 6) Non-destructive "in-field" documentation of the remains and cultural items shall be carried out only in consultation with the Tribe, who will determine appropriate methods of recordation depending upon the circumstances.
- 7) If the remains and cultural items are to remain *in-situ*, the requirements of 43 CFR 10 Sections 10.4–10.6 will have been fulfilled.
- 8) The specific location(s) of discovery shall be withheld from disclosure (with the exception of local law officials and tribal officials as described above) and protected to the fullest extent by federal law.
- 9) If remains and funeral objects are to be removed from the site, specific procedures and considerations will be determined by Stockbridge-Munsee Tribe in consultation with the federal agency.