

Appendix G

Unanticipated Discovery Plan

**Unanticipated Discovery Plan for
Cultural Resources Identified During
Construction of the Plains All-American
Pipeline Nelson Takeoff to Ross
Pipeline, Mountrail County, North
Dakota**

Agency

State Historical Society of North Dakota

Prepared for

Plains All-American Pipeline, L.P.

Prepared by

SWCA Environmental Consultants

January 2012

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Identified During Construction of the
Plains All-American Pipeline Nelson Takeoff to Ross Pipeline,
Mountrail County, North Dakota**

Agency

State Historical Society of North Dakota

Prepared for

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TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
TRAINING	2
DISCOVERY DEFINITION	2
PROCEDURES FOR ADDRESSING DISCOVERIES IDENTIFIED BY CONSTRUCTION PERSONNEL	3
TREATMENT OF DISCOVERIES BY ARCHAEOLOGICAL PERSONNEL.....	3
AGENCY NOTIFICATION AND REPORTING.....	4
SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS	4

LIST OF TABLES

<u>Table</u>	<u>Page</u>
1 Contact Information.....	5

INTRODUCTION

This Unanticipated Discovery Plan documents the procedures to be implemented in the event that cultural resources are discovered inadvertently during construction of the Nelson Takeoff to Ross Pipeline in Mountrail, North Dakota. Plains All-American Pipeline, L.P. (PAA) proposes to construct an approximately 16.89-mile-long crude oil pipeline. The jurisdictional agency presiding over the construction of the Nelson Takeoff to Ross Pipeline is the North Dakota Public Service Commission (NDPSC). Construction activities will remain within the 70-foot-wide temporary construction right-of-way (ROW), centered on the final proposed pipeline centerline.

SWCA Environmental Consultants (SWCA) conducted a Class I and Class III cultural resource inventory for the project, during which one previously recorded cultural resource was revisited and nine cultural resources were newly recorded, including six sites and three isolated finds Lechert and Herson 2012¹). Of the nine newly recorded resources, two are prehistoric stone circle sites (32MN915 and 32MN916), two are historic farmsteads (32MN913 and 32MN914), one is an historic dump and scatter of farm machinery (32MN917), one is an historic dump (32MN918), and three are historic isolated finds (32MNX863, 32MNX864, and 32MNX865). The previously recorded site, 32MN83, is a newly recorded segment of the historic Great Northern Railway.

Four sites (32MN913, 32MN914, 32MN917, and 32MN918) and three isolated finds (32MNX863, 32MNX864, and 32MNX865) are recommended not eligible for listing on the National Register of Historic Places (NRHP) and no further work is recommended. Two sites (32MN915 and 32MN916) have been left unevaluated regarding their NRHP eligibility pending further work. For 32MN915 and 32MN916, SWCA recommends avoidance of at least 50 feet from the edge of each site boundary. Reroutes have been surveyed around both sites and, as proposed, the sites will be avoided by the project. One site, 32MN83, is eligible for nomination to the NRHP under Criterion A; however, the newly recorded segment of 32MN83 is recommended as a non-contributing portion of the larger resource due to the impacts to its physical and historic integrity. PAA plans to avoid 32MN83 by boring underneath the site.

Although all NRHP eligible or unevaluated cultural resources identified during the Nelson Takeoff to Ross Pipeline cultural resource inventory have been adequately avoided through alignment shifts, the potential still exists for exposure of previously unidentified or buried cultural material within the project area during mechanical excavation and construction. Significant historical or archaeological artifacts or sites located on lands under the jurisdiction of the State of North Dakota or its political subdivisions are protected under Section 55-02-07 of the North Dakota Century Code (NDCC). Furthermore, NDCC Section 23-06-27 and North Dakota Administrative Code (NDAC) Section 40-02-03 provide special protection of human burial sites, human remains, and burial goods. In accordance with applicable North Dakota

¹ Lechert, Stephanie, and Chandler S. Herson
2012 *A Class I and Class III Cultural Resource Inventory of the Plains All-American Pipeline Nelson Takeoff to Ross Pipeline, Mountrail County, North Dakota*. An unpublished report prepared by SWCA Environmental Consultants and submitted to the State Historical Society of North Dakota.

laws and regulations, this plan contains procedures for addressing cultural resource discoveries identified by construction personnel during construction of the Nelson Takeoff to Ross Pipeline, including procedures for the initial treatment of discoveries, the evaluation and treatment of discoveries, and the treatment of human remains.

TRAINING

Training in the recognition of potential archaeological resources is necessary. All PAA responsible parties and construction personnel will meet with PAA representatives for basic training prior to participating in construction. This training will provide orientation regarding recognition of cultural resources as well as a general overview of the culture history of the region, so that construction personnel are familiar with the types of archaeological resources that may be encountered during construction. The training will also outline the steps to be followed in the event of a significant archaeological discovery during construction (e.g., the discovery of human remains). The following items will be reviewed within the training program:

- definition of a discovery and examples of discoveries;
- steps towards discovery protection until such time as the discovery can be properly evaluated by a qualified archaeologist;
- proper notification of the appropriate PAA personnel;
- the necessity of reporting discoveries in a timely manner and complying with the other stipulations provided in this plan;
- the need to treat any human skeletal remains that are encountered with sensitivity, dignity, and respect; and
- penalties for failure to report discoveries or to comply with the procedures outlined in this plan.

DISCOVERY DEFINITION

Archaeological discoveries consist of evidence of human activity that is more than 50 years old with potential to yield data pertinent to regional history and prehistory. Prehistoric discoveries include, but are not limited to, features (small hearth features, housepit features, storage features, etc.), artifact concentrations, and activity areas. Historic discoveries include, but are not limited to, features (historic hearths, trash deposits, structures, old canals, roads, etc.), artifact concentrations, and activity areas. Isolated prehistoric artifacts, historic artifacts, or small concentrations of non-human bone will not be considered discoveries.

PROCEDURES FOR ADDRESSING DISCOVERIES IDENTIFIED BY CONSTRUCTION PERSONNEL

The following procedures will be initiated in the event unanticipated cultural resources are discovered. When a discovery is encountered, the construction activity that resulted in the exposure of the discovery will be immediately halted and the construction manager will be notified. The construction manager in turn will notify the PAA project manager.

PAA's responsible party involved in unanticipated discoveries of archeological materials will order construction contractors to suspend ground-disturbing activities adjacent to the discovery. Cessation of ground-disturbing activity will encompass a sufficient area to protect the discovery and provide a buffer zone for adequate and safe investigation of the discovery and any associated features or artifacts. A recommended guideline for the buffer zone is at least 100 feet (approximately 30 meters [m]) around the discovery, but its size can be adjusted to protect the discovery adequately without unnecessary hindrance to construction. Visual barriers such as temporary fencing will be placed around the discovery area to protect it from further disturbance. Vehicle traffic within the vicinity may need to be limited or halted until the discovery is inspected.

PAA's responsible party will then notify and consult an archaeologist qualified under NDAC Section 40-02-02 to review the discovery. In the event a qualified archaeologist is not immediately available, photographs of the discovery may be transmitted to the archaeologist for review, at which time the archaeologist will determine if a field visit is required. During the review phase, suspension of all work and vehicle traffic in the buffered area is required. If the archaeologist determines that the discovery is non-cultural, PAA will be notified and the halted construction activity can resume.

If the discovery is deemed cultural and a field visit is required, the archaeologist will be scheduled for an on-site visit as soon as possible. In the meantime, PAA's responsible party will instruct the construction manager to suspend work within the buffered discovery area until the field visit by the archaeologist occurs. During the field visit, the archaeologist will determine whether the discovery is potentially significant.

TREATMENT OF DISCOVERIES BY ARCHAEOLOGICAL PERSONNEL

When a discovery is reviewed by an archaeologist, the discovery will be fully recorded according to approved standards. The initial treatment of any discovery will consist of recording the location of the discovery; recording summary data concerning feature(s) (including dimensions, qualitative characteristics, and associated material); photographing the discovery and the overall context of the exposed material; and profiling trench walls containing cultural features or strata (where safe and prudent). The feature(s) will then be excavated and a sample or all feature fill will be collected for laboratory analysis including pollen studies, flotation, and carbon dating, as appropriate. Feature plans and profiles will be drawn. Features will be photographed. Uncollected feature fill will be screened using 0.25-

inch mesh. If necessary, additional horizontal exposure of sediments/deposits around the feature may be investigated to evaluate the feature context.

When appropriate, the location around the discovered cultural material will be tested to determine the extent of the cultural material. Testing may include excavation of controlled units over and around the feature area or placement of test units and/or augur probes. Testing will be designed to identify the nature and extent of the discovery and any associated activity area(s) or other features, if present.

AGENCY NOTIFICATION AND REPORTING

If the discovery is deemed potentially significant, PAA and the archaeologist will consult and coordinate with the State Historical Society of North Dakota (SHSND) to propose procedures for further treatment of the discovery, while minimizing impacts to the construction schedule to the extent possible. Suspended construction activities in the discovery area may not proceed until approval has been obtained from the SHSND and other involved agencies and parties.

A report detailing all cultural resources identified, recorded, tested, and/or excavated during the construction phase of the Nelson Takeoff to Ross Pipeline project, regardless of significance, will be prepared by the archaeologist and submitted to the SHSND for review within six months of project completion.

SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS

Should human remains be encountered during construction of the Nelson Takeoff to Ross Pipeline, per the protocol outlined above, all work will be immediately halted at the general location of the discovery. This location will be immediately secured, including a buffer zone of at least 100 feet (approximately 30 m) surrounding the discovery. Construction personnel and vehicles will promptly vacate the buffer zone. Vehicle traffic within the buffer zone will be limited to that necessary to remove vehicles and equipment from the buffer zone. Care will be taken to prevent any disturbance of the potential human remains during removal of vehicles and equipment. Until appropriate consultation has occurred, the discovery shall remain protected from any disturbance, such that no remains or associated artifacts are touched, moved, or collected.

Following notification of the construction manager and PAA project manager, PAA will immediately notify local law enforcement, the county coroner, and the SHSND. Contact information for relevant parties is listed in Table 1.

Table 1. Contact Information.

Contact/Agency	Telephone Number	Address
County Sherriff's Office (Kenneth G. Halvorson), Mountrail County, North Dakota	701-628-2975	101 N Main Street Stanley, North Dakota 58784
Coroner (Kenneth G. Halvorson), Mountrail County, North Dakota	701-628-2975	101 N Main Street Stanley, North Dakota 58784
Chief Archaeologist (Paul Picha), Archaeology and Historic Preservation Division, North Dakota State Historical Society	701-328-3574	North Dakota State Historical Society 612 East Boulevard Avenue Bismarck, North Dakota 58505

The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological. The subsequent treatment of the discovery, including custody of the remains, will follow guidelines set forth in NDCC Chapter 23-06 and NDAC Section 40-02-03, as follows.

- If the remains are deemed forensic (non-archaeological), the county coroner will retain custody of the remains and determine the plan of action.
- If the remains are deemed to be archaeological (historic or prehistoric) in nature, within 24 hours of notification, the SHSND will send a staff member to evaluate the remains and determine the race and age of the remains, if possible. The subsequent plan of action will depend on the race of the burial.
 - If human remains are determined to be non-Native American, the SHSND will retain custody of the burial and, following consultation with appropriate parties, determine a plan of action.
 - If the human remains are determined to be Native American or of unknown race, the remains will be left in place and protected from any form of disturbance until a plan for their protection or removal can be generated. The SHSND will contact and consult with the North Dakota Intertribal Reinterment Committee to determine the subsequent plan of action.