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April 9, 2012

Judith R. Cooper
Principal Investigator
SWCA Environmental Consultants
116 North 4th Street, Suite 200
Bismarck, North Dakota 58501

NDSHPO REF.: 12-0594a PSC Magellan Fargo Relocation Project, Cass
County, North Dakota Unanticipated Discovery Plan
[T139N R49W Sections 4 and 9]

Dear Judy:

We have reviewed correspondence and project document for 12-0594a PSC
Magellan Fargo Relocation Project, Cass County, North Dakota:
"Unanticipated Discovery Plan for Cultural Resources Identified During
Construction of the Magellan Fargo Relocation Project Cass County, North
Dakota," by Stephanie Lechert and Judith R. Cooper (SWCA, February 2012),
and find it acceptable.

Thank you for the opportunity to review this project. If you have questions
please contact either Paul Picha at ppicha@nd.gov or (701) 328-3574 or Susan
Quinnell at squinnell@nd.gov or (701) 328-3576.

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
and
Director, State Historical Society of North Dakota

c: Patrick Fahn, ND PSC

31 **PU-12-42**
Exhibit 6

Filed: 4/12/2012 Pages: 10

Magellan Pipeline Company, L.P.



Paul Picha
Chief Archaeologist
State Historical Society of North Dakota
Archeology & Historic Preservation Division
North Dakota Heritage Center
612 East Boulevard Avenue
Bismarck, ND 58505-0830

April 3, 2012

Dear Mr. Picha,

Attached is an Unanticipated Discovery Plan prepared by SWCA Environmental Consultants (SWCA) on behalf of Magellan Midstream Partners, LP (Magellan), for the proposed Fargo Relocation project in Cass County, North Dakota. A Class I cultural resources report was submitted for the project and the State Historical Society of North Dakota concurred with the project determinations (NDSHPO Ref. 12-0594, correspondence dated February 2, 2012). The attached document outlines the procedures for the initial treatment of discoveries, the evaluation and treatment of discoveries, and the treatment of human remains should they be encountered by construction personnel during construction.

SWCA requests review and concurrence of the attached Unanticipated Discovery Plan. Please let me know if you have any questions or suggested revisions to the document.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith R. Cooper". The signature is fluid and cursive, written over a white background.

Judith R. Cooper
Principal Investigator
SWCA Environmental Consultants
116 North 4th Street, Suite 200
Bismarck, ND 58501
701-258-6622

Unanticipated Discovery Plan for Cultural Resources Identified During Construction of the Magellan Fargo Relocation Project, Cass County, North Dakota

Agency

State Historical Society of North Dakota

Prepared for

E3 Environmental, LLC

Prepared by

SWCA Environmental Consultants

February 2012

**Unanticipated Discovery Plan for Cultural Resources
Identified During Construction of the
Magellan Fargo Relocation Project,
Cass County, North Dakota**

Agency

State Historical Society of North Dakota

Prepared for

**E3 Environmental, LLC
817 Vandalia Street
St. Paul, Minnesota 55114**

Prepared by

Stephanie Lechert and Judith R. Cooper

Submitted by

**SWCA Environmental Consultants
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Principal Investigator: Judith R. Cooper

February 23, 2012

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INTRODUCTION

This Unanticipated Discovery Plan documents the procedures to be implemented in the event that cultural resources are discovered inadvertently during construction of the Fargo Relocation project in Cass, North Dakota. Magellan Midstream Partners, LP (Magellan) proposes to construct a 2,053.12-foot-long reroute of a segment of existing pipeline (Magellan Pipeline), which would facilitate the transfer and transportation of petroleum products. The jurisdictional agency presiding over the construction of the Fargo Relocation project 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 literature review for the project to determine if any known cultural resources are present within the project area. The Class I file search did not identify any sites within the proposed project area, but a desktop analysis of available aerial and historical data revealed two previously undocumented sites within the project area as well as an historical site lead just outside of the project area (Lechert 2012¹). SWCA documented these three resources as part of the project. 32CS5122 is a segment of U.S. Highway 10, also known historically as the Red Trail or the National Parks Highway. 32CS5123 is a segment of the historic Magellan Pipeline, referenced above. 32CSX336 is a site lead for the Magellan Pipeline Company Terminal.

Regarding National Register of Historic Places eligibility, 32CS5122 is recommended as a non-contributing portion of an eligible site. 32CS5123 is recommended not eligible and 32CSX336 has been left unevaluated pending further historic research. Magellan plans to bore beneath 32CS5122; therefore, the site will be avoided by the current project. As a not eligible resource, 32CS5123 requires no further work. 32CSX336 is located outside of the proposed project area and will not be impacted. Due to presence of significant modern disturbances in the project area, including the construction of residential neighborhoods (including a trailer park and apartment complexes), commercial buildings, several roads, sidewalks, parking lots, drainage ditches, tree rows, and an oil storage facility/terminal, a Class III inventory was not required by the State Historical Society of North Dakota for project clearance.

Although all NRHP eligible or unevaluated cultural resources identified during the Fargo Relocation project Class I cultural resource inventory are located outside of the project area, 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 laws and

¹ Lechert, Stephanie

2012 *A Class I Cultural Resource Inventory of the Magellan Fargo Relocation Project, Cass County, North Dakota*. An unpublished report prepared by SWCA Environmental Consultants and submitted to the State Historical Society of North Dakota.

regulations, this plan contains procedures for addressing cultural resource discoveries identified by construction personnel during construction of the Fargo Relocation project, 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 Magellan responsible parties and construction personnel will meet with Magellan 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 in 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 Magellan 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 (five items or less) 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 Magellan project manager.

Magellan'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.

Magellan'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, Magellan 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, Magellan'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, Magellan 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 Fargo Relocation 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 Fargo Relocation project, 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 Magellan project manager, Magellan 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
Chief of Police (Arland Rasmussen), West Fargo Police Department, West Fargo, North Dakota	701-433-5500	West Fargo Police Department 800 4th Avenue East, Suite 2, West Fargo, ND 58078
Coroner (John Baird), Cass County, North Dakota	701-241-1360	401 3rd Ave N Fargo, ND 58102-4811
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.