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Memorandum

Date: 1/31/2020
To: North Dakota Public Service Commission
Copy to: Mike Stahly, Cenex Pipeline, LLC
From: Grady Wolf - KLJ
RE: Cenex Pipeline, LLC. Liquid Petroleum Pipeline
Addendum to Certificate of Corridor Compatibility and Route Permit
Case No. PU-17-97

Remarks

Cenex submitted a consolidated application for a Certificate of Corridor Compatibility and a Route Permit to the ND Public Service Commission (PSC) in March 2017 for the 149.7 miles of pipeline that would occur in ND. The ND PSC issued a Findings of Fact, Conclusions of Law and Order (Order) for the project (Case No. PU-17-97) on March 14, 2018, and as subsequently amended on September 26, 2018.

An unanticipated discovery (Site 32WI02352) consisting of a stone feature site was found adjacent to and partially within the corridor of the Cenex Pipeline in Williams County. The site is located just south of 60th Street NW/County Road 8 approximately 1-mile east of 109th Ave NW/County Road 19. Loenbro bore crews utilizing a field access to move equipment and vehicles onto the Cenex right of way (ROW) disturbed existing vegetation in the area which provided better visibility to the site. On July 23, 2019, the site was identified by WBI while surveying the area as part of a separate project and was brought to KLJ's attention.

Certification Relating to Order Provision No. 15. provides that "if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society." Thus, upon the July 23 discovery of the site, the site was marked and preserved from further disturbance, construction in this area immediately ceased, and crews were notified to stay out of this area.

On July 24, 2019, KLJ cultural staff documented the site and began coordination with the North Dakota State Historical Preservation Office (NDSHPO) in accordance with the Unanticipated Discovery and Monitoring Plan (Docket #32) and as noted in Cenex's July & August 2019 Construction Report (Docket No.177). Upon evaluation, KLJ recommended the site Not Eligible for listing on the National Register of Historic Places (NRHP). Through continued coordination with NDSHPO it was determined that evaluative testing should occur at the site. KLJ conducted the testing over four days from October 14, 2019 to October 17, 2019, and this testing further supported a Not Eligible for NRHP nomination recommendation. Upon completion of the testing and beginning in November 2019, KLJ consulted with Pete Coffey, Tribal Historic Preservation Officer for the Mandan Hidatsa Arikara Three Affiliated Tribes. On January 3, 2020, Mr. Coffey concurred with KLJ's Not Eligible recommendation.

After receiving Mr. Coffey's concurrence, a formal memo documenting the findings and recommendations was submitted to NDSHPO on January 7, 2020 (*RE: Cenex Pipeline, LLC Refined Fuels Pipeline Testing Results at Unanticipated Discovery Site 32WI02352*), and on January 27, 2020, NDSHPO subsequently issued its concurrence. In accordance with Certification Provision No. 15, since the site's initial discovery, the site has continued to remain preserved and no construction activity has occurred within this area. KLJ recommends that construction activity in this location can continue without adverse effects to the site. Although the site is recommended Not Eligible, KLJ recommends installation of avoidance fencing prior to

construction activity. Avoidance fencing creating a 50-foot buffer will be installed adjacent to all features within the corridor. Features where the 50-foot buffer was compromised by the initial bore disturbance prior to the site's discovery will have fencing placed along the edge of the existing disturbance. Lastly, construction monitoring during boring will occur to ensure no features are impacted by construction. Mr. Coffey and NDSHPO concur with KLJ's recommendation that the site is Not Eligible for listing on the NRHP and that construction activity in this location can continue in accordance with KLJ's above recommendations without adverse effects to the site.

Ryan Wendel

From: Clark, Andrew <andrewclark@nd.gov>
Sent: Monday, January 27, 2020 1:54 PM
To: Ryan Wendel
Cc: Meidinger, Lorna B.
Subject: Cenex Pipeline, LLC Refined Fuels Testing Results at Unanticipated Discovery Site 32WI2352

Hi Ryan,

I reviewed the Memorandum entitled "Cenex Pipeline, LLC Refined Fuels Testing Results at Unanticipated Discovery Site 32WI02352" (1/7/2020). Based on the memorandum, I find the results acceptable and concur with a "No Significant Sites" finding for this location, provided that all recommendations outlined in the memo are followed. I look forward to seeing the full report on or before 2/17/2020.

Best regards,

Andrew Clark, PhD
Chief Archaeologist
Archaeology and Historic Preservation Division
State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, North Dakota 58505-0830
701-328-3574

Memorandum

Date: January 7, 2020

To: Andrew Clark, State Historical Society of North Dakota

From: Ryan Wendel

RE: Cenex Pipeline, LLC Refined Fuels Pipeline Testing Results at Unanticipated Discovery Site 32WI02352

Remarks

The purpose of this memo is to report on the results of subsurface testing at 32WI2352, an unanticipated discovery stone feature site found adjacent to and partially within the corridor of the Cenex Pipeline, LLC Refined Fuels Pipeline in Williams County. The site is located just south of 60th Street NW/County Road 8 approximately 1 mile east of 109th Ave NW/County Road 19.

No cultural resources were observed within the proposed ROW during initial Class III survey (Hull and Wedell 2017, Hull 2017, Hull 2018). Vegetation at the location was noted to be fairly dense during survey, thus stone features were not visible. Given that no cultural resources were identified during survey, Cenex sub-contractor, Loenbro, commenced work boring under 60th Street NW/County Road 8. During that effort, access to the bore location created a new two-track between 60th Street NW/County Road 8 from a farm entrance along the Section 3/4 fence line into the proposed corridor from the west. The two-track reduced vegetation, increased ground visibility, and exposed stone features.

Email communication between KLJ and Cenex provides the following timeline:

- Wednesday 7/17/19 - Loenbro bore crew mobilized to the area south of 60th.
- Thursday 7/18/19 - Pilot hole is drilled and submitted. Pilot reamed for piping to be pulled through.
- Friday 7/19/19 - Bore pipe pulled back through bore from north of 60th.
- Saturday 7/20/19 - Loenbro bore crew demobilized from the area.
- Tuesday 7/23/19 – KLJ personnel observed WBI cultural crew staking potential ESA site in the area south of 60th used for access. KLJ notified all construction activity to stay out of the area and followed up with email to all involved.
- Wednesday 7/24/2019 – KLJ archaeologist Bill Norman returned to the location, confirmed the presence of stone features within the proposed Cenex corridor, and conducted a full recording of the site.

The July 24 recording included seven stone features within the Cenex Pipeline corridor and 24 stone features outside the corridor to the east, southeast, and south (Table 1). No additional cultural material was observed on the surface. Stone features include cairns, circles, and other atypical stone features such as crescents, small circles, semi-circles, and a triangle that appears hearth-sized, but lacks evidence of thermal alteration in the form of FCR, charcoal, or staining. Two other atypical features are present including a small linear array and an atypical “t”-shaped arrangement (Table 1).

Additional boring is planned on an east line from the existing bore disturbance described above. A portion of the east-trending bore would occur within the 50-foot site buffer. However, disturbance created by the original bore extends to the edge of the site buffer, thus no additional disturbance will be created within the buffer.

Following discussion with NDSHPO, KLJ returned to 32WI2352 between October 14 and October 24 to conduct evaluative testing (see map in separate attachment). A total of 31 shovel test probes, five 1-by-1 meter excavation units, and 1 50-by-50 cm excavation unit were completed. One shovel test and four of the excavation units encountered subsurface cultural material.

Shovel tests consisted of two east-west oriented lines spaced at five meters apart. These lines were placed just north and south of the most distinct stone circles in the north portion of the site on the level upland. These tests were arrayed in an attempt to identify any cultural materials potentially related to activity areas outside habitations. An additional line of shovel tests was oriented north-south near the existing bore disturbance to assess any potential impacts to buried cultural material. The remainder of the shovel tests were placed near a dispersed stone circle, a possible cairn, and the proposed "crescent" alignments.

All subsurface discoveries were shallow. Examination of the depositional sequence at the site demonstrates a consistent pattern of a mixed O/A horizon with dense root and organic matter overlying a heavily mixed Bt and Btk horizon with extensive bioturbation in the form of roots, insects, rodents, and kryoturbation. All lithic artifacts are from locally available sources. No temporally diagnostic artifacts were encountered and no central thermal/hearth features were identified within stone features. A single charcoal sample was collected from Test Unit 4.

Based on this second and closer surface observation of the stone features, coupled with the results of subsurface testing, it is suggested that a number of the exposed rocks and rock clusters are not anthropogenic. Many that were initially considered cultural features are likely exposures of naturally occurring cobbles from glacial till and subsequent erosion of buried glacial till at the edges of the upland landform.

Based on the extensive testing conducted, KLJ further supports a recommendation of not eligible to NRHP nomination under Criterion A, B, C, and D. KLJ consulted with Pete Coffey, Tribal Historic Preservation Officer for the Mandan Hidatsa Arikara Affiliated Tribes. After reviewing the forms, excavation notes, feature photographs, and having a number of discussions with the KLJ archaeologist who lead the excavations, John Kennedy, Mr. Coffey concurred with the KLJ recommendation of not eligible for National Register of Historic Places nomination. Mr. Coffey agreed that a number of the rock clusters may be natural and felt that, even if they were possibly anthropogenic in nature, did not represent unique or significant features. Therefore, the features lack association with events that made a significant contribution to the broad patterns of history (Criterion A), nor do they embody distinctive characteristics of type, period, or construction (Criterion C). There is no evidence of association with significant persons (Criterion B) and, as demonstrated during testing, there is a lack of significant subsurface cultural material that would provide research potential (Criterion D).

KLJ also recommends that construction activity in this location can continue without adverse effects to the site. Despite the not eligible NRHP recommendation, KLJ recommends installation of avoidance fencing prior to construction. This fencing will be installed adjacent to all features within the corridor. Features where the 50-foot buffer was compromised by the initial bore disturbance will have fencing placed along the edge of the existing disturbance. Avoidance fencing will ensure no further inadvertent disturbance to the site. Lastly, KLJ recommends construction monitoring during boring to ensure no features are impacted by construction.

KLJ will follow this memo with a formal report, per our previous conversations regarding the project. If you have any questions or concerns, please don't hesitate to contact me at 406-447-3356 or at

ryan.wendel@kljeng.com

Thank you,
Ryan Wendel RPA



KLJ Cultural Resource Department Manager

Table 1. Summary of Features at 32WI2352.

Feature Type	Feature Count	Feature #s	Comments
Cairn	14	2, 5, 6, 8, 10, 11, 16, 17, 20, 22, 24, 28, 30, 31	Includes intact and collapsed cairns
Circle	8	4, 7, 9, 13, 14, 15, 21, 25	Includes complete circles with double-courses and partial circles
Other	9	1, 3, 12, 18, 19, 23, 26, 27, 29	Includes crescents (F23, F26, F27, F29), small semi-circles lacking FCR (F1, F19), an atypical linear alignment (F3), a triangular arrangement (F12), and a "t"-shaped array (F18)

Table 2. Summary of Positive Tests at 32WI2352.

Test Unit	Final Depth	Depth of Discovery(ies) cmbs	Artifacts
STP 31	18	0-10	1 - size1 gray porcellanite tertiary flake Two bison-sized tooth enamel fragments
TU-1	20	0-10	1 - size3 siltstone secondary flake 1 - size4 siltstone primary flake 1 - large mammal long bone fragment
TU-3	10	0-10	1 - size2 gray porcellanite tertiary flake
TU-4 (50x50 cm)	30	10-20	1 - charcoal chunk
TU-6	20	0-10	1 - size2 KRF tertiary flake

REFERENCES CITED

Hull, Matthew

- 2017 Addendum To: Cenex Pipeline, LLC Refined Fuels Pipeline: A Class III Cultural Resource Inventory in Williams, Mountrail, and Ward Counties, North Dakota. Report prepared for Cenex Pipeline LLC and on file at the State Historical Society of North Dakota, Bismarck.
- 2018 Second Addendum To: Cenex Pipeline, LLC Refined Fuels Pipeline: A Class III Cultural Resource Inventory in Williams, Mountrail, and Ward Counties, North Dakota. Report prepared for Cenex Pipeline LLC and on file at the State Historical Society of North Dakota, Bismarck.

Hull, Matthew and Chris von Wedell

- 2017 Cenex Pipeline, LLC Refined Fuels Pipeline: A Class III Cultural Resource Inventory in Williams, Mountrail, and Ward Counties, North Dakota. Report prepared for Cenex Pipeline LLC and on file at the State Historical Society of North Dakota, Bismarck.