

Casey A. Furey  
100 West Broadway, Suite 250  
P.O. Box 2798  
Bismarck, ND 58502-2798  
701.223.6585  
cfurey@crowleyfleck.com

July 6, 2018

*Via Hand Delivery and E-mail*

Mr. Darrell Nitschke  
Executive Director  
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480



*E-mail: ndpsc@nd.gov*

In re: Langdon Wind Energy Center Upgrade Project  
PSC Case No. PU-18-186  
Our File No. 035218-000043

Dear Mr. Nitschke:

Enclosed for filing please find one original and seven copies of :

1. SHPO letter dated May 24, 2018 regarding review of Class II and III Cultural Resources Inventory for Case PU-18-186; and
2. Unanticipated Discoveries Plan.

Please call should you have any questions.

Sincerely,

**CROWLEY FLECK PLLP**

A handwritten signature in blue ink, appearing to read "Casey Furey", written over the printed name below.

Casey A. Furey

CAF:bw  
Enc.

cc: Jerry Lein via email - jlein@nd.gov

**5** **PU-18-186** Filed: 7/6/2018 Pages: 8  
**SHPO letter and Unanticipated Discoveries Plan**



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

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*Governor of North Dakota*

North Dakota  
State Historical Board

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Claudia J. Berg  
*Director*

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May 24, 2018

Mr. Benjamin Banks  
Cultural Resources Specialist  
Atwell, LLC  
15500 College Boulevard  
Lenexa, KS 66219

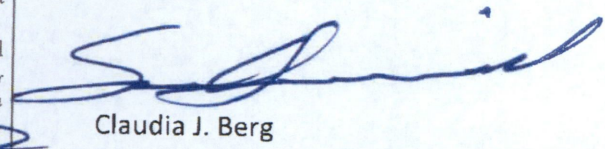
**ND SHPO Ref: 18-0947 ND Public Service Commission (PSC) "Class II and III Cultural Resources Inventory of the Langdon Wind Energy Center Repower Project, Cavalier County, North Dakota"**

Dear Mr. Banks,

We reviewed ND SHPO Ref: 18-0947 ND Public Service Commission (PSC) "Class II and III Cultural Resources Inventory of the Langdon Wind Energy Center Repower Project, Cavalier County, North Dakota," which addresses additional areas of project impact. We find this report acceptable. There has been a good faith effort to identify and avoid impacts to "Significant Sites," provided the project remains as described and mapped in this Atwell report revised April 19, 2018 and received in this office on May 21, 2018. We encourage the development of an unanticipated discovery plan.

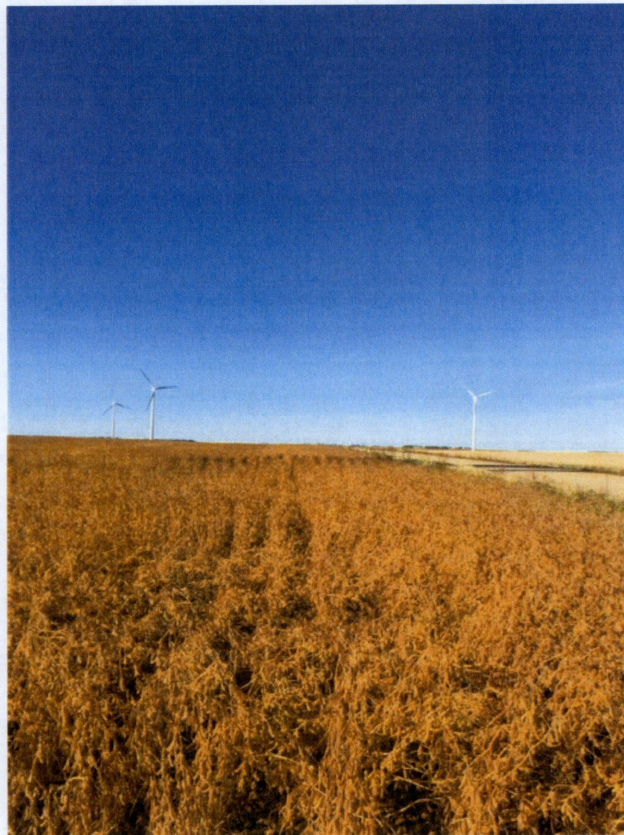
Thank you for the opportunity to review this project. If you have questions please contact or Susan Quinnell at [squinnell@nd.gov](mailto:squinnell@nd.gov) or (701) 328-3576.

Sincerely,

  
Claudia J. Berg  
Director, State Historical Society of North Dakota

**UNANTICIPATED DISCOVERIES PLAN FOR  
CULTURAL RESOURCES AND HUMAN REMAINS**

**LANGDON WIND ENERGY CENTER  
CAVALIER COUNTY, NORTH DAKOTA**



**Prepared for:**



NextEra Energy Resources, LLC  
700 Universe Boulevard  
Juno Beach, Florida 33408

**July 2018**

**PLAN AND PROCEDURES ADDRESSING**

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## UNANTICIPATED DISCOVERIES OF CULTURAL RESOURCES AND HUMAN REMAINS

### I. INTRODUCTION

This document outlines the procedure NextEra Energy Resources, LLC (NextEra) will follow to prepare for and address any unanticipated discoveries of cultural resources, including archaeological sites and possible human remains. It provides direction to NextEra personnel and their consultants as to the proper procedure to follow in the event that unanticipated discoveries are made during construction of the Langdon Wind Energy Center (the Project). This plan complies with North Dakota's *Protection of Human Remains and Burial Goods* law (North Dakota Century Code [NDCC] 23-06-27) and accompanying administrative rules (North Dakota Administrative Code [NDAC] 40-02-03) that also applies to the Project if human remains are inadvertently discovered during the course of construction.

### II. TRAINING AND ORIENTATION

The NextEra Environmental Project Manager (PM) will provide training as part of the pre-construction on-site training program for foremen, company inspectors and construction supervisors. The NextEra Construction Manager (CM) will be responsible for advising construction-contractor personnel on the procedures to follow in the event that an unanticipated discovery is made. The CM will advise all operators of equipment involved in grading, stripping, or trenching activities to:

- A. Stop work immediately if they observe any indications of the presence of cultural materials (artifacts or other human-made features), animal bone, or possibly human bone.**
- B. Contact the NextEra Environmental PM as soon as possible if the CM is not available.**
- C. Comply with unanticipated discovery procedures.**
- D. Treat human remains with dignity and respect.**

### III. PROCEDURE WHEN CULTURAL MATERIALS ARE OBSERVED

Cultural materials include human-made objects (prehistoric pottery or chipped stone tools and waste flakes and historic period items (items that are approximately 50 years old or greater such as bottle glass, can dumps, old farm equipment, etc.) and features (e.g., walls constructed of natural materials such as cobbles, surfaces paved by cobbles, brick, or other material), or other remnants of cultural activity.

- A. Stop work in the immediate vicinity of the observed cultural materials**
  - 1. Notify the CM of the discovery.
  - 2. If the CM believes that an unanticipated discovery has been made:
    - a) CM directs all ground-disturbing activities to stop within a minimum of 100 feet of the discovery.
    - b) CM will protect and secure the evidence in place by delineating the find with flagging or fencing.
    - c) Project activities can continue outside of the delineated unanticipated find area.

**B. Minimize movement of vehicles and equipment in area immediately surrounding the discovery.**

**C. CM will immediately notify the following NextEra individuals:**

***NextEra Environmental PM***

Adrienne Charbonneau  
NextEra Energy Resources, LLC  
700 Universe Boulevard  
Juno Beach, FL33408  
(561) 691-7510 (office); (850) 445-7015 (mobile)  
[Adrienne.Charbonneau@nexteraenergy.com](mailto:Adrienne.Charbonneau@nexteraenergy.com)

***NextEra Archaeologist/Cultural Resources Manager***

Dr. Richard W. Estabrook  
NextEra Energy Resources, LLC  
700 Universe Boulevard  
Juno Beach, FL33408  
(561) 691-3054 (office); (561) 427-5483 (mobile)  
[Richard.Estabrook@nexteraenergy.com](mailto:Richard.Estabrook@nexteraenergy.com)

**E. The NextEra Environmental PM will immediately notify the following Consultant individuals:**

***Consultant Project Manager***

Ethan Jahnke  
Atwell, LLC  
143 Union Boulevard, Suite 700  
Lakewood, CO 80228  
(303) 928-6777 (office) ; (303)910-4568 (mobile)  
[ejahnke@atwell-group.com](mailto:ejahnke@atwell-group.com)

***Consultant Project Archaeologist***

Jim Welch  
Atwell, LLC  
143 Union Boulevard, Suite 700  
Lakewood, CO 80228  
303-928-6758 (office) ; (720) 879-1035 (mobile)  
[jwelch@atwell-group.com](mailto:jwelch@atwell-group.com)

**F. Within 1 day (when possible) the Project Archaeologist will examine the location of the discovery, accompanied by the CM.**

1. If the Project Archaeologist determines that the discovery is not a cultural resource, the archaeologist will immediately advise the CM, and/or the NextEra Environmental PM, any of whom will have the authority to remove the stop-work order. The Project Archaeologist

will submit a letter report (evaluation summary) including photographs of the discovery site to NextEra within 10 business days.

2. If the Project Archaeologist determines that the discovery is a cultural resource, the Project Archaeologist will immediately advise the NextEra Environmental PM and CM. The Project Archaeologist will also notify the North Dakota Chief Archaeologist by telephone, with written confirmation by email to the North Dakota Chief Archaeologist.

**F. Notifications to North Dakota Chief Archaeologist about observations of cultural material will:**

1. Inform the North Dakota Chief Archaeologist by telephone why the resource is not significant and request concurrence by the North Dakota Chief Archaeologist for construction to recommence.
2. Inform the North Dakota Chief Archaeologist about a recommended scope-of-work for evaluating the significance of the resource and evaluating potential Project effects on the resource. The scope of work will be written and submitted to the NextEra Environmental PM and the North Dakota Chief Archaeologist within two (2) business days. If approved by the North Dakota Chief Archaeologist during telephone consultations, cultural resource investigations may begin.
3. Invite the North Dakota Chief Archaeologist to observe the implementation of any proposed work.
4. Perform the evaluation per the agreed upon scope of work.

**G. When the evaluation of the cultural resources is complete:**

1. The NextEra Environmental PM and the Project Archaeologist will notify the North Dakota Chief Archaeologist by telephone and discuss the potential significance of the resource.
2. As soon as possible following the field investigation, the Project Archaeologist will provide the NextEra Environmental PM with a written report describing the results of the fieldwork.
3. If the resource is believed to be significant and cannot be avoided by construction activities, the Project Archaeologist will prepare a proposal for data recovery for submission to NextEra Environmental PM and the North Dakota Chief Archaeologist.
4. If proposed mitigation measures may be carried out without being impeded or affected by construction, the submittal to North Dakota Chief Archaeologist will be accompanied by a request for concurrence that construction in the area of the discovery may be permitted to resume.

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#### **IV. PROCEDURE WHEN HUMAN REMAINS AND/OR POTENTIALLY HUMAN SKELETAL MATERIALS ARE OBSERVED**

Human remains are physical remains of a human body or bodies including, but not limited to, bones, teeth, hair, and preserved soft tissues (mummified or otherwise preserved) of an individual. Remains may be articulated or disarticulated bones or teeth. Disturbance of human remains, burial places and or burial offerings is a felony under the North Dakota Century Code, Chapter 23-06-27 and Chapter 40-02-03.

- A. Workers will treat all human remains with dignity and respect.**
- B. Immediately stop work in the vicinity of an unanticipated discovery involving potentially human remains.**
- C. Immediately notify the CM about the find.**
- D. The CM will stop all ground-disturbing activities within a minimum of 100 feet of the discovery.**
  - 1. Protect and secure the evidence of the discovery.
  - 2. Delineate the area with flagging or safety fencing.
  - 3. Minimize movement by vehicles and equipment in the immediate vicinity of the discovery.
  - 4. CM will immediately notify the NextEra Environmental PM who will, in turn, immediately notify the designated contacts (see Section III C and III D for contact information):
- E. Within 1 day (when possible) of the discovery, the Project Archaeologist will examine the discovery to determine if the remains are likely human and have an archaeological association, and if that association is aboriginal or non-aboriginal.**
- F. If skeletal remains are determined to be non-human and there is no archaeological association or paleontological significance, the Project Archaeologist making the determination will immediately advise the CM and/or the NextEra Environmental PM, and construction may resume.**
  - 1. The Project archaeologist will submit a letter report including photographs of the discovery site to the NextEra within 10 business days.
- G. If the skeletal remains are non-human but are associated with an archaeological site, follow the steps described in Section III A through G.**
- H. If the skeletal remains are possibly human, the Project Archaeologist will notify the NextEra Environmental PM, and the Cavalier County Sheriff's office. The appropriate Sheriff will call the North Dakota State Forensic Examiner to determine if the remains are associated with a crime scene. If the remains are historic or prehistoric, the North Dakota Chief Archaeologist will be contacted.**

***Cavalier County Sheriff***

Greg Fetsch, Sheriff  
901 3<sup>rd</sup> Street  
Langdon, North Dakota 58249  
(701) 256-2555

***North Dakota State Forensic Examiner***

George Mizell, MD  
North Dakota State Forensic Examiner's Office  
2637 East Main  
Bismarck, North Dakota 58506-5520  
(701) 328-6138  
[gmizell@state.nd.us](mailto:gmizell@state.nd.us)

***North Dakota Chief Archaeologist***

Paul R. Picha, Chief Archaeologist  
State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, North Dakota 73019  
(701) 328-3574  
[ppicha@nd.gov](mailto:ppicha@nd.gov)

- I. If human remains are removed by the County Sheriff, State Forensic Examiner or Chief Archaeologist, construction work will not recommence until permission is granted in writing by the North Dakota Chief Archaeologist and appropriate law enforcement agencies.**