

## Appendix 13 - Unanticipated Discovery Plan



SUMMIT  
CARBON  
SOLUTIONS

## Unanticipated Discoveries Plan – Cultural Resources and Human Remains – North Dakota

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Summit Carbon Solutions

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DRAFT

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## 1 Introduction

Summit Carbon Solutions (SCS) intends to execute a project to capture and transport carbon dioxide (CO<sub>2</sub>) in North Dakota (the Project), pump stations, main line valves, and approximately 320 miles of CO<sub>2</sub> pipeline that will cross portions of Burleigh, Cass, Dickey, Emmons, Logan, McIntosh, Morton, Oliver, Richland, and Sargent Counties. The Project is part of a larger system identified as the Midwest Carbon Express (MCE) also located in South Dakota, Nebraska, Minnesota, and Iowa. MCE scope includes construction of capture facilities, approximately 2,000 miles of new CO<sub>2</sub> pipeline, pipeline facilities (pump stations, metering stations, etc.), and permanently storage in Class VI sequestration injection facilities.

SCS has committed to conducting historic and cultural surveys on 100% of disturbed areas across MCE, including the Project. If previously unidentified historic properties are discovered by monitors, construction personnel, or unanticipated adverse effects on previously identified historic properties occur as Project construction activities are carried out, the construction contractor will immediately halt all construction activity in the vicinity and implement measures to protect the discovery from further impacts, looting, or vandalism.

This document describes the procedures for dealing with unanticipated discoveries during the course of Project construction in the State of North Dakota. The plan will be implemented across all lands regardless of ownership. It is intended to:

- Maintain compliance with applicable Federal and State laws and regulations during construction of the Project.
- Describe the procedure the Project or its representative will follow to prepare for and deal with unanticipated discoveries.
- Provide directions and guidance to Project personnel as to the proper procedure to be followed should an unanticipated discovery occur.

Ahead of Project construction, Environmental Inspection (EI) staff and construction personnel across the Project will complete a comprehensive training program, including how to identify and protect possible cultural resources or human remains. EIs and construction personnel will have a responsibility to communicate possible discoveries to qualified staff retained by SCS, such as a professional archaeologist or physical anthropologist. A qualified archaeologist is an archaeologist who meets the Secretary of the Interior's Qualifications and Standards, as outlined in Title 36 of the Code of Federal Regulations (CFR) Part 61 and can be permitted by the State Historical Society of North Dakota (SHSND).

## 2 Protection and Discovery of Cultural Resources

The EI staff will be responsible for erecting exclusionary fencing prior to construction in select locations where significant cultural resource sites are mapped directly adjacent to the Project workspace area. The EI staff may also install exclusionary signage that indicates a sensitive resource is present, and no trespassing may occur beyond the boundary fencing. EI staff will also be responsible for monitoring and spot-checking exclusion zones throughout all stages of construction to ensure the sites are entirely avoided by construction staff, equipment, or activity. If an exclusion zone is breached, or a cultural resources discovery is encountered outside of an exclusion zone, the procedures outlined below will be implemented. Cultural resources may include:

- Accumulation of shells, burned rocks, or other subsistence related materials;
- Area of charcoal or very dark soil with artifacts;
- Stone tools, projectile points, or dense concentrations of stone artifacts;
- Cluster of bones in association with shell, charcoal, burned rocks, or stone artifacts; and

- Historic structure or assemblage of historic materials older than 50 years.

## 2.1 Discovery Procedures

- 1) When a finding is made, the EI staff or construction personnel that identified the finding will notify their supervisor, the EI, and other personnel in the vicinity, and all ground disturbing work within a 100-foot radius will cease.
- 2) The EI will:
  - Immediately notify SCS or its representative;
  - Flag a 100-foot buffer zone around the find spot;
  - Ensure adequate security is in place to keep workers, press, and curiosity seekers away from the find spot;
  - Cover the find spot with a tarp; and
  - Have an individual stay at the location to prevent further disturbance until the qualified archaeologist has reviewed the find spot. The qualified archaeologist's review can be accomplished in-person or remotely with information provided by individuals at the find spot. This information would include photographs of suspected artifacts and/or cultural features as well as the setting of the find spot.
- 3) The EI will investigate the find spot in consultation with a qualified archaeologist. If it is determined that the find spot is not a cultural resource discovery, the EI will remove construction restrictions at the location. If the archaeologist evaluates the find spot as a cultural resources discovery, the EI will continue to protect the discovery location as noted above. The EI will include the event (regardless of how it is evaluated) in the applicable Project documentation.
- 4) If, upon field review by a qualified archaeologist, the finding is determined to be a cultural resources discovery, the qualified archaeologist will evaluate the resource in accordance with applicable regulations. The qualified archaeologist will make an initial recommendation of eligibility for inclusion on the National Register of Historic Places (NRHP). If the site is not likely to be NRHP-eligible, the qualified archaeologist will conclude the evaluation by preparing a site form that essentially exhausts the research potential of the site and, subsequently, the EI will remove construction restrictions at the location. If the discovery is determined to have the potential to be NRHP-eligible, the archaeologist and SCS or its representative will also consult with the SHSND on how best to avoid, minimize, or otherwise mitigate further impacts.
- 5) If the discovery is within an area of federal or state jurisdiction, the appropriate federal/state agency will be immediately notified and consulted accordingly. Treatment measures may include mapping, photography, sample collection, or excavation. Note that SCS or its representative may choose to notify and coordinate with Native American Tribes. Notified federal or state agencies may also consult with these entities for compliance with applicable statutes or guidelines.
- 6) The archaeologist will implement the appropriate treatment measure(s) and provide a report on its methods and results as required. The investigation and technical report will be performed in compliance with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation (48 CFR 44734—44737f); the Advisory County on Historic Preservation (ACHP) publication "Treatment of Archaeological Properties" (ACHP 1980); and follow the guidelines set forth by the SHSND. SCS or its representative will also consult with the applicable federal, tribal, and state entities on how best to avoid, minimize, or otherwise mitigate further impacts.

### 3 Procedures for the Discovery of Human Remains

In the event suspected human remains or funerary objects are discovered during construction activities, the following steps will be taken pursuant to North Dakota Century Code 23-06-27:

- 1) All ground disturbing work within a 100-foot radius will cease. An EI will be notified, assuming one is not already on-site.
- 2) The EI will investigate the finding in consultation with a qualified archaeologist (virtually or in-person). If it is determined that the finding is not human remains, funerary objects, or archaeological, the EI will remove construction restrictions at the location. If it is determined that the finding may include human remains or funerary objects, the finding will be considered a discovery and the EI will take appropriate steps to protect the discovery location, including the following:
  - Immediately notify SCS or its representative;
  - Flag a buffer zone around the find spot;
  - Ensure adequate security is in place to keep workers, press, and curiosity seekers away from the find spot;
  - Cover the find spot with a tarp; and
  - Have an individual stay at the location to prevent further disturbance until law enforcement arrives.
- 3) If the discovery occurs on federal lands, SCS or its representative shall notify the federal law enforcement to initiate that agency's specific protocols.
- 4) If the discovery occurs on non-federal lands (both non-federal public and private), SCS or its representative shall notify the county sheriff. As required by North Dakota Century Code 23-06-27, SCS will also notify the SHSND of the discovery if it occurs on non-federal lands.
- 5) Should the human remains be determined not to be associated with a crime scene, federal law enforcement or the SHSND (depending on jurisdiction) will determine if the discovery is Native American. If the discovery is determined to be Native American, federal law enforcement (on federal lands) will engage Native American Tribes to resolve next steps for handling the discovery under the Native American Graves Protection and Repatriation Act. If the SHSND has jurisdiction (on non-federal public and private lands) the SHSND will coordinate with the appropriate Tribes to resolve next steps for handling the discovery under the Private Cemeteries Act (North Dakota Code 23-06-07).
- 6) After permission to resume construction has been issued by federal law enforcement, county sheriff, or SHSND, SCS or its representative shall notify the on-site construction manager to restart ground-disturbing activities.

## 4 Project Contacts

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