

Appendix F – Unanticipated Discoveries Plan



UNANTICIPATED DISCOVERIES PLAN

LANGDON WIND FARM PROJECT CAVALIER COUNTY, NORTH DAKOTA

Prepared for

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Atwell Project No. 22006034

Submitted by Atwell, LLC

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1 Introduction

This Unanticipated Discoveries Plan (UDP) has been developed to lay out specific protocols and procedures to be taken should unanticipated archaeological resources be discovered during construction, operation, or decommission of the proposed Langdon Wind Project (Project) located in Cavalier County, North Dakota. *Unanticipated Discoveries* are previously unknown or unrecorded archaeological resources, including human remains, discovered during Project activities. A series of steps to minimize physical impacts to archaeological resources is outlined in this UDP.

The protocols and procedures in the UDP outline actions to be taken if unanticipated discoveries are encountered during construction, operations, and decommission. The UDP is applicable to ground disturbing work associated with the Project during the construction, operations, and decommissioning phases. It may be revised from time to time to make adjustments in accordance with regulatory changes, approved practices, or expansion into previous non-Project areas.

The UDP includes procedures in accordance with the State Historical Society of North Dakota (SHSND) for compliance with state requirements. In addition, general requirements for meeting the National Historic Preservation Act (NHPA) are included in the UDP.

The objectives of these procedures are to identify and promote avoidance and/or the preservation and recording of any archaeological material discovered. A key component of the UDP is notification of archaeological authorities to resolve any issues that may arise from unanticipated discoveries.

2 Summary of Archaeological Investigations

An archaeological literature review, completed in November of 2022, indicated that two previous archaeological surveys had been conducted within the Project Area, one of which covered a significant portion of the Project Area. The literature review also indicated that one archaeological site lead, 32CVX15, has been previously recorded within the current Project Area. There is very little information recorded on the site form, but it appears that the Easby Post Office was once located somewhere within the general vicinity of the Project Area. Previous survey within the site lead boundary, in the vicinity of the Project Area, did not reveal any archaeological deposits.

Based on the literature review in conjunction with the fact that the Project Area has largely been previously surveyed and disturbed by the original construction of the wind farm, Atwell makes the following recommendations:

- The Project proceed as planned without additional cultural resource work prior to construction.
- An UDP be developed to establish procedures and relevant contact information in the event that human remains or archaeological deposits are discovered during the construction, operational, and decommission phases of the Project.
 - If buried archaeological resources are encountered, all activity should cease in the immediate area and within a 100-foot buffer area and the artifacts should be left in place. The Client's archaeologist should be contacted immediately, and unanticipated discovery procedures should be initiated.
 - If human remains are encountered, construction should stop in the immediate area of discovery and within a 100-foot buffer area, and law enforcement should be notified immediately. Law enforcement officials should determine whether the discovery is a crime scene and whether the remains are prehistoric or historic Native American remains. The SHSND should be contacted immediately if the human remains are determined to be prehistoric or historic in nature and/or Native American remains.

The report was submitted to the SHSND on January 30, 2023. Otter Tail Power Company (Otter Tail) is coordinating with SHSND regarding the concurrence letter.

3 Regulatory Background and Authority

The UDP is designed to meet North Dakota and federal regulations governing the discovery of archeological materials and human remains. The applicable state and federal regulations are:

- North Dakota Century Code 55-10-11 – Recognition of Federal Historical Preservation Law;
- North Dakota Century Code 23-06-27 – Protection of human burial sites, human remains, and burial goods;
- Section 106 of the National Historic Preservation Act, (NHPA), as Amended; and

Currently, no federal trigger has been identified for this Project; therefore, Section 106 regulation do not apply. However, this UDP has been designed to comply with Section 106 should a federal trigger be identified in the future.

North Dakota has stringent state laws protecting human burials. A human burial can be marked or unmarked. An “unmarked burial” includes any location where human remains have been or may be found inadvertently and where there is no surficial evidence of a burial site (i.e., cemetery fence lines, tombstones, grave markers, etc.). This includes all prehistoric or historic Native American burials as well as all early historic-period Euro-American, African-American, and other isolated burials and abandoned cemeteries that are no longer being used for internments or being maintained in good condition. Human burials are protected under North Dakota Century Code 23-06-27. This law outlines the penalties for disturbing these resources as well and outlines the reporting protocol in the event an unmarked grave, burial, or historic cemetery is discovered.

4 Unanticipated Discovery Procedures

The general process for managing unanticipated discoveries is outlined in the following section, followed by information specific to archaeological sites and human remains or unmarked burials.

A responsible person who will be involved with all aspects of Project-related ground disturbing work during the construction, operations, and decommissioning phases should be identified. The designated responsible person (cultural liaison) should be present onsite during most Project activities and have some level of training, awareness, and sensitivity to the cultural resources that may be encountered within the Project site. This person will act as the Project liaison with the owner, Project archeologist, and cultural resources authorities in the event of unanticipated discoveries. S/he also will serve as the initial contact in the event of unanticipated discoveries during Project activities and be listed in the contacts section of this UDP.

During the Project kick-off meeting, all contractors will be made aware of the UDP and will be provided contact information for the cultural liaison, who will contact the Project archeologist to evaluate the need for further action. Whenever new personnel are brought onsite, they also will be informed of the UDP and the contact information. A copy of the UDP, including contact information, shall be posted in an accessible location onsite for reference as needed.

4.1 Archaeological Material

For purposes of the UDP, “archaeological material” could be from prehistoric or historic periods and includes, though not exclusively, the following types of materials (see Appendix A for additional examples):

- An area of charcoal or charcoal-stained soils associated with historic-period or prehistoric-period remains, such as bones, pottery sherds, shell, stone tools or chips;
- An arrowhead, pottery sherds, shell, stone tool, or stone chips;
- A historic-period bottle, old glass fragments, square nails, bricks and mortar, decorated white ware ceramics, etc.;
- A cluster of shell, sherds, and/or bones or large field stones or burned rocks in association with stone tools or chips;
- Dredging, pumping, industrial, and/or agricultural equipment older than 50 years;
- Buried structures, brick foundation piers or concrete slabs from remnant outbuildings or residences;
- A cluster of darkened soils in association with bones; and
- Undisturbed mounds of soil in areas that were once wetlands or shorelines.

The following general procedure is to be executed if archaeological material is discovered.

1. The site supervisor/foreman is informed of the discovery. The site supervisor/foreman will then contact the cultural liaison.
2. All construction activity within 100 feet of the discovery area/feature/site will cease immediately.
3. All remains or materials are to be left in place unless in jeopardy because of Project activities.
4. The area will be secured to prevent any damage or loss of removable objects. If feasible, a fence or other barrier will be erected to demarcate and protect the discovery area.
5. The cultural liaison will contact the Project archeologist, who will record the discovery location and delineate the extent of the discovery relative to planned Project activities. The Project archeologist will assess, record, and photograph the find.
6. Within 48 hours of the discovery, the Project archeologist will notify the SHSND and provide a brief written summary of the discovery that will include a recommendation on the NRHP eligibility of the resources, the effect of Project activity on historic properties, if present, and a proposed treatment to resolve adverse effects, if applicable.
7. The SHSND will review the recommendation made by the Project archaeologist and determine the appropriate course of action.
8. If cultural resources or remains have the potential to be culturally significant to a living Native American Tribe, the SHSND will notify the appropriate Tribes.
9. If human remains or unmarked burial sites are discovered, procedures in the next section should be followed.

4.2 Human Remains and Unmarked Burials

It is recommended that the Project follow the unanticipated discoveries protocol outlined in this section if any human remains or unmarked burial sites are discovered during Project activities.

Human remains may include any human body parts. Burial artifacts and burial sites are not easily recognized, but generally would include intact prehistoric pots, clusters of artifacts, or modern grave features (e.g., headstones, coffin parts, etc.). If in doubt whether the bones or other materials are human, it is best to stop work in the immediate area of the discovery and seek advice from the Project archaeologist.

Procedures for unanticipated discoveries involving human remains or unmarked burials are outlined below. In the event that human remains, an unmarked burial, or an abandoned cemetery is encountered by Project staff, the following procedures are applicable.

1. On discovery of the remains, construction activities (including excavation or any other below ground work) within 100 feet of the discovery will cease.
2. The site supervisor/foreman will be informed of the discovery. The site supervisor/foreman will then notify the cultural liaison.
3. Temporary site protection measures (e.g., high visibility warning tape and stakes, avoidance signs in language[s] understandable to the Project team, etc.) will be installed around the discovery area to prevent unintentional incursion and potential damage to the remains.
4. The cultural liaison will contact local law enforcement (e.g., police department, county sheriff) within 24 hours. Local law enforcement will notify the appropriate medical examiner's office.
5. The cultural liaison will contact the Project archaeologist, who will be or will engage a qualified professional archaeologist who is permitted in North Dakota and who has a background in osteology, forensic anthropology, physical anthropology, or equivalent.
6. The Project archaeologist will notify the SHSND within 48 hours of the discovery and provide the SHSND with a brief summary of the findings and recommendations.
7. The local law enforcement officials must be given site access to assess the nature and age of the remains. If the medical examiner's office determines that the human remains are older than 50 years of age and there is no need for a legal inquiry or criminal investigation, the SHSND will have jurisdiction over the remains.
8. If the SHSND believes the remains may have ethnic affinity with a living Native American Tribe, the SHSND will notify the appropriate Tribal representative(s) of the discovery.
9. Consultation will be initiated between the Project personnel (consisting of Otter Tail or their agent, the Project archaeologist or qualified professional archaeologist, and the cultural liaison) and the SHSND to determine the final disposition of the human remains. The below will be considered during consultation if the remains are determined to be Native American.
 - a. The National Park Services' Native American Graves Protection and Repatriation Act (NAGPRA) (U.S. Code 25, §3001, et seq.) database and Tribal websites.
 - b. Information available at the Great Plains Regional Office of the Bureau of Indian Affairs.
 - c. The potential interest of additional state-recognized Tribes.

10. No work that will cause a direct effect to the discovery area will proceed until all human remains and associated artifacts have been recovered, and, where applicable, the appropriate regulatory agencies have given clearance for the Project work to proceed.

5 Key Personnel and Officials

In the event of an unanticipated discovery, the key personnel and agency officials listed below should be contacted consistent with the steps outlined above.

Cultural Liaison

Bryce Haugen
Energy Supply
215 S. Cascade St.
Fergus Falls, MN 56537
(701) 739-8385
bhaugen@otpc.com

Project Archaeologist

Matthew Chouest
2 Towne Square
Southfield, MI 48076
(517) 231-2053
mchouest@atwell-group.com

State Historical Society of North Dakota (SHSND)

Andrew J. Robinson
State Archaeologist
State Historical Society of North Dakota
Archaeology and Historic Preservation
612 East Boulevard Avenue
Bismarck, ND 58505-0830
Phone: (701) 328-3575
Email: andrewrobinson@nd.gov

Cavalier County Sheriff's Office

901 3rd Street #4
Langdon, NH 58249
Phone: (701) 256-2555

Cavalier County Coroner's Office

909 2nd Street
Langdon, ND 58249
Phone: (701) 256-6100

APPENDIX A - EXAMPLES OF ARCHAEOLOGICAL RESOURCES

Surface or subsurface structures, shelters, facilities, or features, including, but not limited to

- domestic structures
- storage structures
- cooking structures
- ceremonial structures
- artificial mounds
- earthworks
- fortifications
- canals
- reservoirs
- gardens or fields
- bedrock mortars
- grinding surfaces
- rock alignments
- cairns
- trails
- borrow pits
- cooking pits
- refuse pits
- burial pits or graves
- hearths
- kilns
- post molds
- wall trenches

- middens
- Surface or subsurface artifact concentrations or scatters
- Whole or fragmentary tools, implements, containers, weapons or weapon projectiles, clothing, and ornaments, including, but not limited to:
 - pottery
 - other ceramics
 - cordage
 - basketry
 - other weaving
 - bottles
 - other glassware
 - bone
 - ivory
 - shell
 - metal
 - wood
 - hide
 - feathers
 - pigments
 - flaked stone
 - ground stone
 - pecked stone
- By-products, waste products, or debris resulting from manufacture or use of human-made or natural materials
- Organic waste, including, but not limited to: vegetal and animal remains, coprolites
- Human remains, including, but not limited to: bone, teeth, mummified flesh, burials, cremations

- Rock carvings, rock paintings, intaglios, and other works of artistic or symbolic representation
- Rock shelters and caves or portions thereof containing any of the above material remains
- All portions of shipwrecks, including, but not limited to: armaments, apparel, tackle, cargo
- Any portion or piece of any of the foregoing