

## **APPENDIX G**

### **Unanticipated Discovery Plan for Cultural Resources and Human Remains**

# **Unanticipated Discovery Plan for the Minnesota Power HVDC Modernization Project, Oliver County, North Dakota and St. Louis County, Minnesota**

Agency

State Historical Society of North Dakota

Prepared for

Minnesota Power

Prepared by

Merjent, Inc.

March 2024



**Unanticipated Discovery Plan for the  
Minnesota Power HVDC Modernization Project, Oliver County, North  
Dakota**

Submitted to  
**State Historical Society of North Dakota**

Prepared for  
**Minnesota Power  
30 West Superior Street  
Duluth, MN 55802**

Prepared by  
**Damien Reinhart**  
Principal Investigator  
**Damien Reinhart**

**Merjent, Inc.  
1 Main Street SE, Suite 300  
Minneapolis, MN 55414**

**March 16, 2024**



**TABLE OF CONTENTS**

|  | <b><u>Page</u></b> |
|--|--------------------|
| INTRODUCTION .....   | 1                  |
| QUALIFICATIONS .....                                       | 1                  |
| Construction Personnel.....                                | 1                  |
| DISCOVERY DEFINITION .....                                 | 2                  |
| PROCEDURES FOR ADDRESSING DISCOVERIES IDENTIFIED BY        |                    |
| CONSTRUCTION PERSONNEL .....                               | 2                  |
| TREATMENT OF DISCOVERIES BY ARCHAEOLOGICAL PERSONNEL ..... | 3                  |
| AGENCY NOTIFICATION AND REPORTING.....                     | 3                  |
| SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS .....  | 3                  |
| REFERENCES CITED .....                                     | 6                  |

**LIST OF TABLES**

| <b><u>Table</u></b>          | <b><u>Page</u></b> |
|------------------------------|--------------------|
| Table 1. Contact Information | 4                  |

**LIST OF APPENDICES**

|  |  |
|--|--|
| <b><u>Appendix</u></b>   |  |
| A    Procedures for Addressing Cultural Resource Discoveries by Construction Personnel |  |
| B    Procedures for the Treatment of Unanticipated Discovery of Human Remains          |  |

This page intentionally left blank.

## **INTRODUCTION**

This Unanticipated Discovery Plan (Plan) documents the procedures to be implemented in the event that cultural resources are discovered during construction of the Minnesota Power HVDC Modernization Project (Project). Minnesota Power is proposing a Project located on privately owned lands in Oliver County, North Dakota. Minnesota Power retained Merjent, Inc. (Merjent) to complete this Plan in support of the North Dakota Public Service Commission's Combined Certificate of Corridor Compatibility and Route Permit application.

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 regulations, this Plan contains procedures for addressing cultural resource discoveries identified by construction personnel during construction of the Project, including procedures for the initial treatment of discoveries, the evaluation and treatment of discoveries, and the treatment of human remains.

A Class I and Class III cultural resource inventory was performed for the Project area (Reinhart 2024). During the inventory, Merjent personnel identified three newly recorded cultural resources within the Project area that will be avoided by project re-design. Therefore, it was recommended that a determination of *No Significant Sites Affected* be granted for the Project to proceed as planned. The report is expected to be submitted to the State Historical Society of North Dakota (SHSND) for review and they will have 30 days to provide comment. This Plan has been prepared because the potential exists for exposure of previously unidentified or buried cultural material within the project route during mechanical excavation.

## **QUALIFICATIONS**

### **CONSTRUCTION PERSONNEL**

Training is necessary to ensure construction personnel recognize potential archaeological resources. All Minnesota Power responsible parties and construction personnel will meet with Minnesota Power 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 during the training program.

- Definition of a discovery and examples of discoveries.
- Steps towards discovery protection until such time as they can be properly evaluated by a qualified archaeologist.
- Proper notification of the appropriate Minnesota Power 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 dignity and respect.
- 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, house pit 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. 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. A flow chart presenting an abbreviated version of the procedures is provided in Appendix A. 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 Minnesota Power project manager.

Minnesota Power'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 (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.

Minnesota Power's responsible party will then notify and consult an archeologist 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, Minnesota Power 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, Minnesota Power's responsible party will notify 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 the feature(s) and/or other remains (including dimensions, qualitative characteristics, and associated remains); 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 can include, but is not limited to, excavation of controlled units over and around the feature area or placement of test units and/or auger 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. Collection of a discovery will occur when appropriate.

## **AGENCY NOTIFICATION AND REPORTING**

If a discovery is deemed potentially significant, Minnesota Power and the archaeologist will consult and coordinate with a Principal Investigator to determine the next course of action. If necessary, the Principal Investigator will coordinate with the 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 Project, regardless of significance, will be prepared by the archaeologist and submitted to the SHSND for review.

## **SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS**

Should human remains be encountered during construction of the Minnesota Power HVDC Modernization 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 100 feet (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 will remain protected from any disturbance, such that no remains or associated artifacts are touched, moved, or collected.

Following notification of the construction manager and Minnesota Power project manager, Minnesota Power 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**

| <b>Contact/Agency</b>   | <b>Telephone</b> | <b>Address</b>  |
|---|------------------|---|
| County Sheriff's Office, Oliver County, North Dakota  | 701.794.3450     | 115 West Main Center, ND 58530-0188                                     |
| Coroner (Sheriff's Office), Coroner's Office, Beulah, North Dakota  | 701.873.4445     | 1312 Highway 49 Beulah, ND 58523  |
| Chief Archaeologist (Andrew Robinson), Archaeology and Historic Preservation Division, State Historical Society of North Dakota | 701.328.2666     | 612 East Boulevard Avenue Bismarck, North Dakota 58505 arobinson@nd.gov |

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 the 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.

A flow chart presenting an abbreviated version of the procedures to be followed should human remains be encountered is provided in Appendix B.

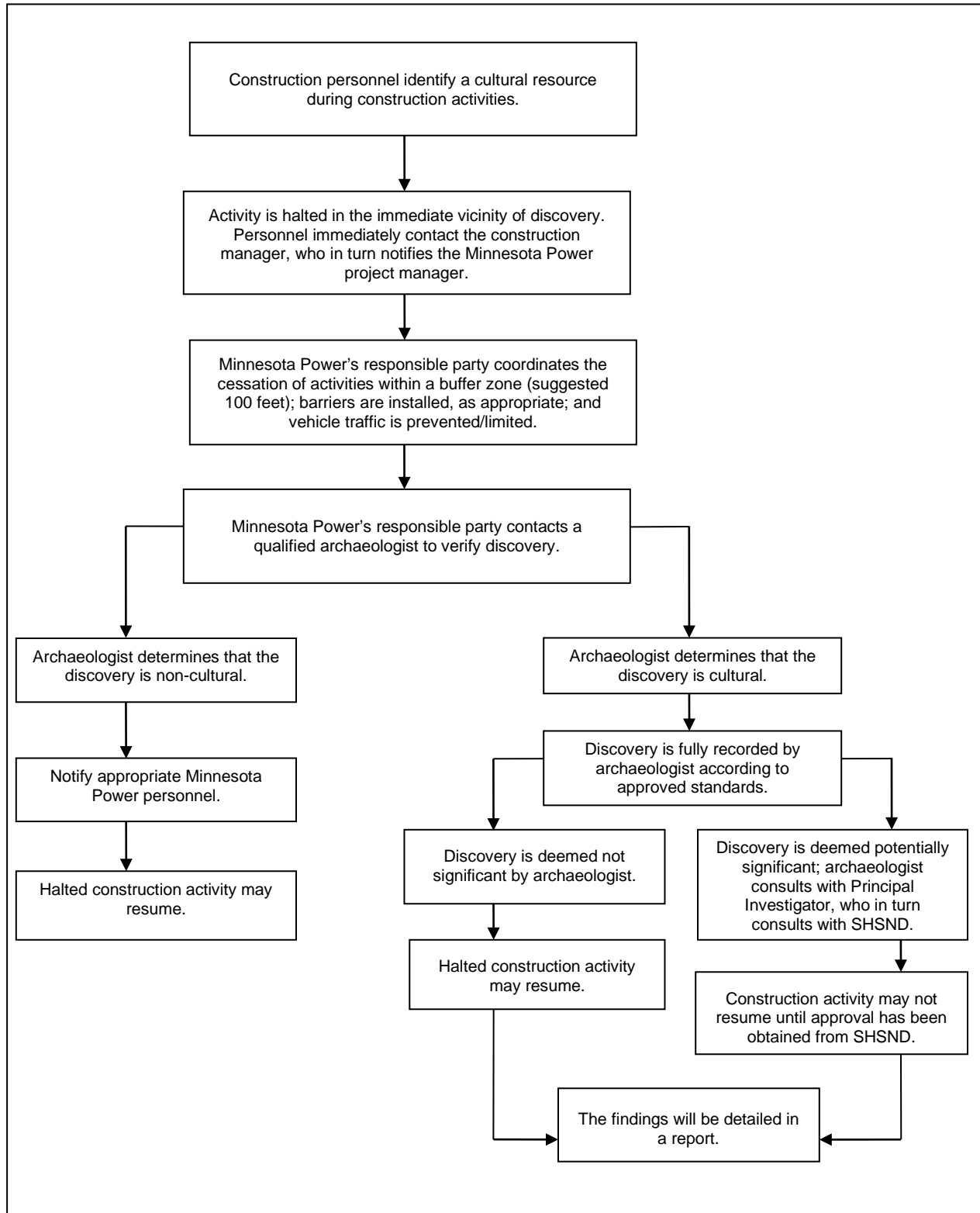
## **REFERENCES CITED**

Reinhart, Damien. 2024. *A Class I and III Cultural Resources Inventory of the Minnesota Power HVDC Modernization Project, Oliver County, North Dakota*. Submitted to the State Historical Society of North Dakota by Merjent, Inc. Minneapolis, MN.

**APPENDIX A**  
**Procedures for Addressing Cultural Resource Discoveries  
by Construction Personnel**



## **Procedures for Addressing Cultural Resource Discoveries by Construction Personnel**





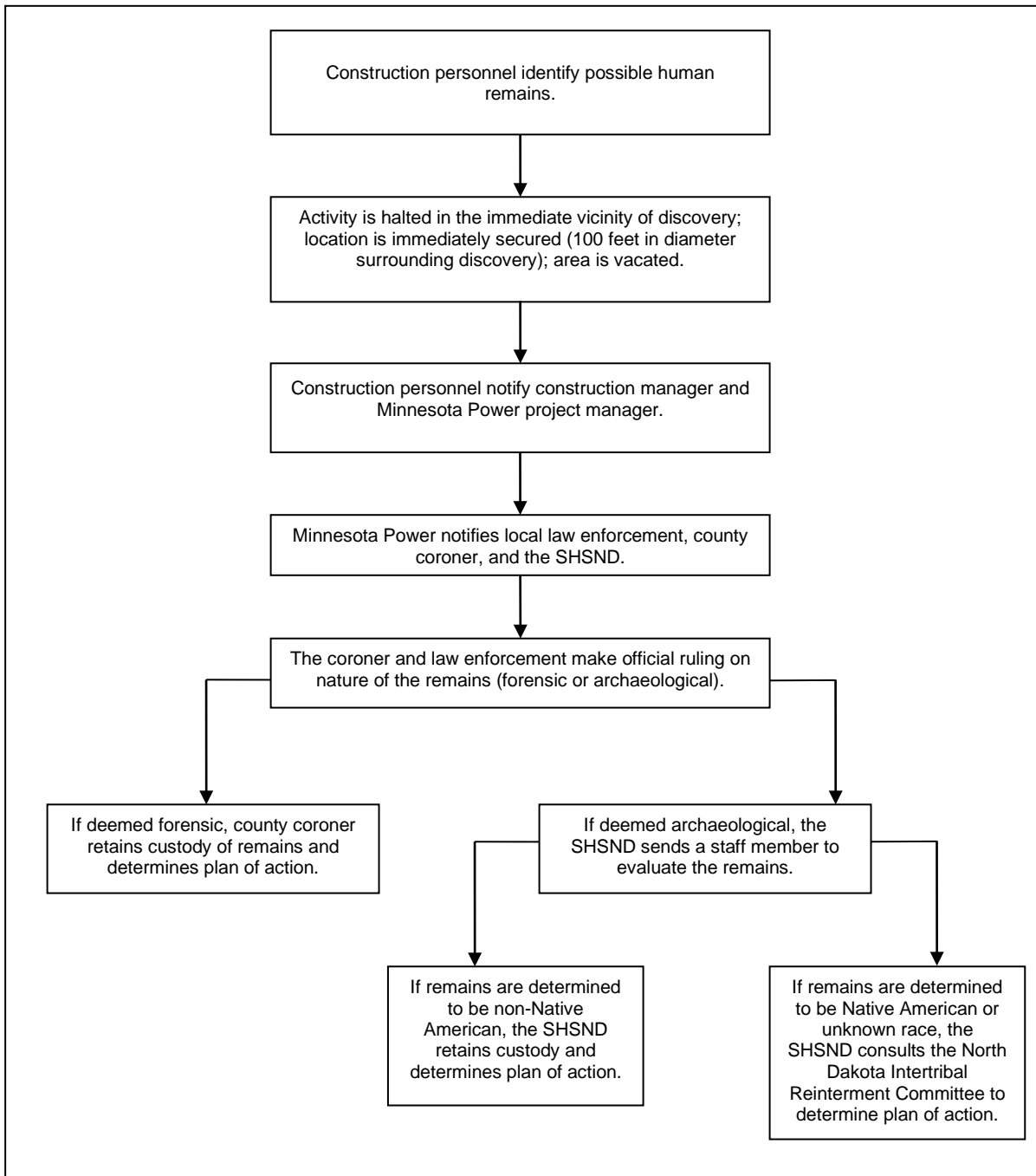
This page intentionally left blank.

## **APPENDIX B**

### **Procedures for the Treatment of Unanticipated Discovery of Human Remains**



## **Procedures for the Treatment of Unanticipated Discovery of Human Remains**



This page intentionally left blank.