

Listed Exhibit: 9

**APPENDIX J  
UNANTICIPATED DISCOVERIES PLAN  
CULTURAL RESOURCES, HUMAN REMAINS,  
PALEONTOLOGICAL RESOURCES & CONTAMINATED MEDIA**

**Dakota Access Pipeline Project (DAPL)**

**A. INTRODUCTION**

Dakota Access, LLC is proposing to install approximately 1,100 miles of 12- to 30-inch pipeline from Stanley, North Dakota, crossing South Dakota and Iowa, to an existing tank hub near Patoka, Illinois crossing South Dakota and Iowa as well.

This document describes the procedures for dealing with unanticipated discoveries during the course of project construction. It is intended to:

- Maintain compliance with applicable Federal and State laws and regulations during construction of the Project;
- Describe to regulatory and review agencies the procedure the project or its representative will follow to prepare for and deal with unanticipated discoveries; and,
- Provide direction and guidance to project personnel as to the proper procedure to be followed should an unanticipated discovery occur.
- The plan will be implemented across all lands in the State of South Dakota regardless of ownership.

**B. PROCEDURES FOR THE DISCOVERY OF CULTURAL RESOURCES**

In the event that any member of the construction work force believes that a cultural resource discovery is encountered the following plan will be implemented:

1. All work within 100 feet both sides of the discovery will immediately stop and the Environmental Inspector (EI) will be notified. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the materials. A cultural resource can be prehistoric or historic and could consist of, but not limited to, for example:
  - An accumulation of shell, burned rocks, or other subsistence related materials
  - An area of charcoal or very dark soil with artifacts
  - Stone tools, arrowheads, or dense concentrations of stone artifacts
  - A cluster of bones in association with shell, charcoal, burned rocks, or stone artifacts
  - A historic structure or assemblage of historic materials older than 50 years

Prior to construction, the EI staff across the Project will be part of a comprehensive training program with construction and environmental staff on how to identify cultural resources and the type of cultural resources that might be identified. The EI's are instructed to cordon off the area and to call a professional archaeologist within 24 hours of discovery.

2. If the EI believes that the discovery is a cultural resource, the EI will take appropriate steps to protect the discovery site, including the following:
  - Flag the buffer zone around the find spot
  - Keep workers, press, and curiosity seekers, away from the find spot
  - Tarp the find spot
  - Have an individual stay at the location to prevent further disturbance until a qualified archaeologist has arrived

Upon discovery, the EI will notify the environmental Project Manager and/or Company Representative. Work in the immediate area will not resume until treatment of the discovery has been completed.

3. Dakota Access or its representative will arrange for discoveries on all lands to be evaluated by a qualified archaeologist in accordance with applicable regulations. A qualified archaeologist is an archaeologist who meets or exceeds the Secretary of Interior's Qualification and Standards, as outlined in 36 CFR, Part 61.
4. If the discovery is within an area of federal jurisdiction, the appropriate federal agency will be consulted. If the discovery is determined to have the potential for eligibility, the archaeologist and Dakota access will also consult with the SHPO on how best to avoid, minimize, or otherwise mitigate further impacts. Treatment measures may include mapping, photography, sample collection, or excavation safety.
5. 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—44737); the Advisory County on Historic Preservation (ACHP) publication "Treatment of Archaeological Properties" (ACHP 1980); and follow the guidelines set forth by the South Dakota State Historic Preservation Office.

### **C. PROCEDURES FOR THE DISCOVERY OF HUMAN REMAINS**

In the event that human remains or funerary objects are inadvertently discovered during either construction or maintenance activities, the following steps will be taken pursuant to South Dakota Codified Law Chapter 34-27-25, 34-27-28, 32-27-31:

1. The On-site manager/Contractor (EI) shall immediately halt construction activities within a 150 foot radius from the point of discovery and implement measures to protect the discovery from looting and vandalism. No digging, collecting, or moving human remains or other items shall occur after the

initial discovery. Protection measures may include the following:

- Flag the buffer zone around the find spot.
  - Keep workers, press, and curiosity seekers, away from the find spot.
  - Tarp the find spot.
  - Prohibit photography of the find unless requested by the agency official.
  - Have an individual stay at the location to prevent further disturbance until a law enforcement officer arrives.
2. The On-Site manager/Contractor (EI) shall notify law enforcement, the Federal/State Agency responsible for the project and the South Dakota State Archaeologist (State Archaeologist) within forty-eight (48) hours of the discovery.
  3. The Federal/State Agency responsible for the project shall notify the South Dakota State Historic Preservation Office (SHPO), Indian tribes, and other consulting parties within forty-eight (48) hours of the discovery.
  4. If local law enforcement determines that the remains are not associated with a crime, the Federal/State Agency responsible for the project shall determine if it is prudent and feasible to avoid disturbing the remains. If the Federal/State Agency in consultation with the Project Proponent/Applicant/Contractor determine that disturbance cannot be avoided, the Federal/State Agency shall consult with the State Archaeologist, SHPO, Indian tribes, and other consulting parties to determine acceptable procedures for the removal, treatment and disposition of the burial or remains. The Federal/State Agency shall ensure that the Project Proponent/Applicant/Contractor implements the plan for removal, treatment and disposition of the burial or remains as authorized by the South Dakota State Archaeologist.
  5. The Federal/State Agency shall notify the Project Proponent/Applicant/Contractor that they may resume construction activities in the area of discovery upon completion of the plan authorized by the State Archaeologist.

#### **D. PROCEDURES FOR THE DISCOVERY OF PALEONTOLOGICAL RESOURCES**

In the event that any member of the construction work force believes that a paleontological resource discovery is encountered the following plan will be implemented:

1. All work within 100 feet both sides of the discovery will immediately stop and the EI will be notified. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the materials. A paleontological resource would be expected to be in the form of fossils. In-situ fossils are usually found within layers of geologically old sediments and rocks where the creature lived, died, and became fossilized. However, through geologic, hydrologic, and marine activity, many fossils and parts of fossils have been carried into younger geologic areas.
2. If the EI believes that the discovery is a paleontological resource, the EI will take appropriate steps to protect the discovery site. This will include flagging the immediate area of discovery and stop work

or exclusion zone, as well as notifying the Environmental Project Manager and/or Company Representative. Work in the immediate area will not resume until treatment of the discovery has been completed.

3. The Project Environmental Manager will arrange for the discovery to be evaluated by a qualified geologist/paleontologist in accordance with applicable regulations. The geologist/paleontologist will evaluate the remains and provide recommendations for how to manage the resource.
4. If the find is on state land, the Project Environmental Manager will notify the land managing state agency and the South Dakota Geological Survey, pursuant to South Dakota's Codified Law 5-1-20, which addresses the need to obtain a permit to record, excavate, or collect paleontological resources on state land. If the find is on federal or municipal land, the Project Environmental Manager will inform the appropriate land managing agency of the find. Treatment measures may include mapping, photography, sample collection, or excavation activity. The geologist/paleontologist will implement the appropriate treatment measure(s) and provide a report on its methods and results as required.

#### **E. PROCEDURES FOR THE DISCOVERY OF CONTAMINATED MEDIA**

Indicators of possible contamination include, but are not limited to:

- Buried drums or containers, rusted or in otherwise poor condition
- Stained or otherwise discolored soil (in contrast to adjoining materials)
- Spoil material containing debris other than obvious construction material
- Chemical or hydrocarbon odors emanating from excavations
- Oily residues
- Visible sheen or other discoloration on groundwater
- Structures such as pipelines (concrete, PVC or steel) or underground storage tanks.

The EI and appropriate contractor personnel will be trained in hazard identification and worker protection and these topics will be discussed regularly in safety meetings. A desktop assessment for contaminated along the Project route indicated that contamination it not likely to be encountered during construction. In the unlikely event that contamination is encountered the following activities should take place:

1. Immediately cease construction activities within that area and notify the EI and Project Environmental Manager. Work in the immediate area will not resume until an assessment of the discovery has been completed and the Company has released the site. If safe to do so, the EI will take appropriate steps to mark (flag) off the area to identify the exclusion zone. Work in the immediate area will not resume until an assessment discovery has been completed.
2. If potentially contaminated groundwater or soil reaches (or has the potential to reach) surface waters, booms and/or absorbent materials shall be immediately deployed to contain and reduce downstream migration of the spilled material.
3. Upon notification, the Project Environmental Manager will perform or direct a hazard assessment to determine appropriate control measures to be implemented at the specific site. Activities may include sampling vapors, soil, sediments, groundwater, and/or wipe samples of materials.

4. If warranted by the assessment, the Project Environmental Manager will notify appropriate Federal, State and Local agencies.
5. Company or the designated person(s) will make appropriate notifications to regulating agencies as necessary. Upon evaluation of the sampling results, additional notifications may be made to coordinate a work plan for measures to be implemented in the contaminated area to resume activities in a safe, environmentally compliant, and effective manner. Measures may include additional personal protective equipment, segregation of contaminated media, treatment or off-site disposal of contaminated media.
6. All identification /characterization, handling, labeling, storage, manifesting, transportation, record keeping, and disposal of potentially contaminated materials shall be conducted in accordance with all applicable federal, state, and local regulations and guidance.

## **F. PROJECT CONTACTS**

### **Environmental Inspector**

Contact: TBD Prior to Construction  
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### **Chief Inspector**

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### **DAPL Project Manager**

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### **South Dakota State Historical Society**

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### **South Dakota Geological Survey**

Contact: Derric Iles, State Geologist  
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### County Sherriff Department Contacts

County	Sherriff	Address	Phone	Fax
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