

# Appendix E: Unanticipated Discoveries Plan

Basin Electric Deer Creek Station Project

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# Deer Creek Station Project

# Unanticipated Discoveries Plan

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*Prepared for:*

Basin Electric Power Cooperative

*Prepared by:*

Ethnoscience  
4140 King Avenue East  
Billings, Montana 59101

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## 1.0 Emergency Contact List

Entity	Name	Role	Telephone Number
Basin Electric Power Cooperative	Cris Miller	Senior Environmental Project Administrator	701-557-5635
Basin Electric Power Cooperative	Gavin McCollam	Deer Creek Project Manager	701-557-5770
Ethnoscience, Inc.	Lynelle Peterson	Consultant Archaeologist	406-252-7945
South Dakota Public Utilities Commission Capitol Building, 1st Floor 500 E. Capitol Ave Pierre, SD 57501-5070		South Dakota Public Utilities Commission	605-773-3201
South Dakota State Archaeological Research Center	James K. Haug	South Dakota State Archaeologist	605-394-1936
Western Area Power Administration	Jeff Irwin	Upper Great Plains Regional Preservation Officer (RPO)	701-221-4529

## 2.0 Unanticipated Discovery of Cultural Resources

### 2.1 Procedures at Time of Discovery of Unanticipated Cultural Resources

If unanticipated cultural resources<sup>1</sup> are discovered during construction of the Deer Creek Station Project, all construction activity will immediately cease within 100 feet in all directions from the discovery, and the discovery will be immediately reported to all parties identified in the Emergency Contact List in Section 1.0 of this plan. Ground-disturbing construction activities will not occur within 100 feet in any direction from the cultural resource until the Western Area Power Administration (Western) states that construction may resume.

Any unanticipated discovery will be investigated by Basin Electric's consultant archaeologist. Basin Electric may invite a tribal monitor to participate in the investigation of the cultural resource. Western's Regional Preservation Officer (RPO) shall participate in the investigation at his discretion. The consultant archaeologist will ascertain the nature of the cultural material, the extent of the cultural material, and the potential for intact deposits through an examination of the ground surface, backfill piles, and exposed construction surfaces. The consultant archaeologist will also discuss the potential for additional impacts to the cultural resource with the construction manager. Based on this examination, the consultant archaeologist will make an initial determination of the significance of the discovery as: (1) not a site (e.g., isolated find, or less than 50 years in age); (2) a National Register of Historic Places (NRHP)-ineligible site (e.g., a sparse scatter of historic artifacts with little potential for intact deposits); (3) a NRHP-eligible or culturally sensitive site for which no further impacts are likely to occur; (4) a NRHP-eligible or culturally sensitive site (e.g. exposed hearths, house pits) that is likely to be impacted with further construction; or, (5) a site for which additional information is required to ascertain extent and NRHP eligibility. The consultant archaeologist will provide information about the cultural resource to Western's RPO, who will determine the most appropriate action in accordance with 36 CFR 800.13. In the event that a cultural resource specialist or other necessary persons are not immediately available, Western will

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<sup>1</sup> For the purpose of this report a cultural resource is any tangible or observable evidence of human activity that is over 50 years in age, regardless of significance. Cultural resources consist of objects, sites, structures, or landscapes. Evidence of cultural activity can include artifacts (e.g. flaking debris, bone, bottle glass shards), features (e.g., charcoal stains, patterned arrangements of rock), as well as human remains and/or funerary objects.

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require that the discovery be covered or otherwise protected until such time that the cultural resource specialist or tribal monitor can be present for inspection and evaluation.

### 2.2 Emergency Salvage of Cultural Resources

Unstable earth conditions in trenches or other unforeseen natural or cultural events could endanger cultural resources discovered during construction of the water pipeline or natural gas pipeline. If cultural resources are in imminent danger of destruction, Basin Electric will apply prudent methods to stabilize landforms around the unanticipated discovery. Once stabilized the resource shall be assessed as described above, subject to safety concerns.

### 2.3 Curation or Disposition of Cultural Materials

All cultural materials recovered from privately owned lands are the property of the landowner. After necessary laboratory analysis is completed, landowners will be provided a copy of photographs and descriptions of cultural materials from their property and be encouraged to contribute the materials for curation with other materials collected during this project (if any). Cultural materials will be returned to those landowners who do not wish to contribute the materials. Contributed materials will be curated at the State Historic Preservation Office (SHPO) in Pierre.

## 3.0 Unanticipated Discovery of Human Remains

### 3.1 Human Remains and Funerary Objects

Any human remains encountered in a discovery situation will be handled according to the provisions of South Dakota burial law (SDCL 34-27). Under the provisions of this law, the discovery of human remains on private lands must be reported promptly to the local coroner and law enforcement personnel, as well as the South Dakota State Archaeologist. The remains cannot be disturbed or removed until reviewed by the state archaeologist, the South Dakota State Historical Society, and, if appropriate, the South Dakota Office of Tribal Government Relations.

Specific requirements of the South Dakota burial law include:

**34-27-25. Reporting discovery of human skeletal remains--Failure to report as misdemeanor.** Any person who encounters or discovers human skeletal remains or what he believes may be human skeletal remains in or on the ground will immediately cease any activity which may disturb those remains and will report the presence and location of such human skeletal remains to an appropriate law enforcement officer. Willful failure to report the presence or discovery of human skeletal remains or what may be human skeletal remains within forty-eight hours to an appropriate law enforcement officer in the county in which the remains are found is a Class 2 misdemeanor.

**34-27-26. Disturbing human skeletal remains or funerary objects as felony.** No person unless authorized by the state archaeologist may knowingly disturb or knowingly permit disturbance of human skeletal remains or funerary objects except a law enforcement officer or coroner or other official designated by law in performance of official duties. A violation of this section is a Class 6 felony.

**34-27-28. Notification to landowner and coroner--Notification to state archaeologist and tribal officials--Time limits.** If a law enforcement officer has reason to believe that the skeletal remains, reported pursuant to § 34-27-25, may be human, he will promptly notify the landowner and the coroner. If the remains reported under § 34-27-25 are not associated with or suspected of association with any crime, the state archaeologist will be notified within fifteen days. The state archaeologist will thereupon follow

the procedure set out in § 34-27-31, except that the skeletal remains will be turned over to the attorney general or any state's attorney should either request the remains for further investigation.

With respect specifically to the Deer Creek Station Project, if construction or other project personnel identify what they believe to be human remains, they will immediately halt construction at that location and notify the project construction manager who will notify the local coroner, local law enforcement, the South Dakota State Archaeologist, and Western's RPO within 24 hours of the discovery. The construction manager will then proceed to ensure that further construction does not occur within 100 feet in any direction from the edge of the discovery until the remains are assessed by State Archaeologist and/or Western's RPO or qualified archaeologist designated by the State and RPO. The manager will also secure the area of the apparent human remains to ensure no further disturbance or removal of those remains and associated material. The manager will also ensure that vehicular traffic across the area is restricted to locations that will not affect the discovery. The remains will be assessed by Western's RPO or a designee as well as one or all of the officials contacted (coroner, law enforcement, State Archaeologist). If the remains are human, Western will advise Basin on further consultation requirements and the treatment and disposition of the remains based on state law and, if applicable, consultation with American Indian nations. If the remains are not human, Western will advise Basin when it is appropriate to resume construction.



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