


**Appendix AA**  
**Unanticipated Discovery Plan**



# Unanticipated Discovery Plan, Philip Wind Energy Center, Haakon County, South Dakota

NOVEMBER 2024

*CONFIDENTIAL BUSINESS INFORMATION*

PREPARED FOR

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PREPARED BY

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**UNANTICIPATED DISCOVERY PLAN,  
PHILIP WIND ENERGY CENTER,  
HAAKON COUNTY, SOUTH DAKOTA**

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## INTRODUCTION

Philip Wind Partners, LLC (Philip Wind Partners), is proposing to construct the Philip Wind Energy Center (Project), a new wind energy facility and associated transmission infrastructure in Haakon County, South Dakota, near the town of Philip. The Project will have a nameplate capacity of 301.5 megawatts, will deliver up to 300 megawatts to the point of interconnection, and will result in the construction of up to 91 wind turbines. Additional Project facilities include, but are not limited to, access roads and underground collection lines, a switchyard, and other appurtenant facilities. Construction is anticipated to begin as early as 2025 with the Project expected to become operational as early as 2026. The expected life of the Project is approximately 30 years, after which time the Project would either be repowered or decommissioned.

Philip Wind Partners has executed an interconnection agreement with the Western Area Power Administration (WAPA) and Southwest Power Pool to interconnect with WAPA's existing system. As a federal agency, WAPA's decision to grant Philip Wind Partners' interconnection request or not constitutes a federal action that requires review and consultation under the National Environmental Policy Act and Section 106 of the National Historic Preservation Act.

A reconnaissance architectural inventory and a Level III pedestrian survey were conducted in 2023. During the reconnaissance architectural inventory, no sites were found within the direct area of potential affects (APE), and several sites were identified within the indirect APE; five of these sites possessed buildings or structures that are recommended as potentially eligible but unevaluated for the National Register of Historic Places. In a letter dated July 11, 2024, the South Dakota State Historic Preservation Office concurred with WAPA's determination that the Project as proposed would have No Adverse Effect on cultural resources. Philip Wind Partners is also committed to observing the applicable mitigation measures in Section 5.9.1.6 of the Upper Great Plains Programmatic Environmental Impact Statement, including consultation under Section 106 of the National Historic Preservation Act.

Significant historical or archaeological artifacts or sites located on lands under the jurisdiction of the State of South Dakota or its political subdivisions are protected under South Dakota Codified Law Chapter 1-19A-11.1 and 34-27, which provide special protection of human burial sites, human remains, and burial goods. The disturbance of human skeletal remains or funerary objects under South Dakota State law is a Class 6 felony:

“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.” (South Dakota Codified Law, Chapter 34-27-26)

In accordance with applicable South Dakota laws and regulations, this Unanticipated Discovery Plan (Plan) documents the procedures to be implemented in the event that unanticipated cultural resources are discovered 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. This Plan has been prepared because the potential exists for previously unidentified or buried cultural material to be exposed within Project sites/routes during construction activities. Philip Wind Partners retained SWCA Environmental Consultants to complete this Plan as a due diligence effort.

## **QUALIFICATIONS**

### **Construction Personnel**

Training is necessary to ensure construction personnel recognize potential archaeological resources. In compliance with this Plan, Philip Wind Partners will provide responsible parties and construction personnel with basic training prior to participating in construction. This training will be administered by Philip Wind Partners representatives and 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 toward discovery protection until such time as the discovery can be properly evaluated by a qualified archaeologist
- Proper notification of the appropriate Philip Wind Partners 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. Precontact discoveries include, but are not limited to, features (e.g., small hearth features, house pit features, storage features, etc.), artifact concentrations, and activity areas. Historic discoveries include, but are not limited to, features (e.g., 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 that unanticipated cultural resources are discovered. Figure 1 at the end of this Plan presents an abbreviated version of these procedures. 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 Philip Wind Partners project manager.

Philip Wind Partners' responsible party involved in unanticipated discoveries of archaeological 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 50 feet (15 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 flagging, staking, or temporary fencing will be placed around the discovery area and established buffer zone to protect from further disturbance. Vehicle traffic within the vicinity may need to be limited or halted until the discovery is inspected.

Philip Wind Partners' responsible party will then consult an archaeologist qualified as a Principal Investigator under 36 Code of Federal Regulations 61 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. If the archaeologist determines that the discovery is non-cultural, Philip Wind Partners will be notified, and the responsible party will notify the construction manager that activities 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. Work will remain suspended within the buffered discovery area until the archaeologist completes the field visit and analysis. During the field visit, the archaeologist will determine if 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 all or a representative sample of 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 but identified human remains will not be photographed unless directed by an agency or law enforcement. 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, Philip Wind Partners and the qualified archeologist will coordinate to determine the next course of action. If necessary, the Principal Investigator will coordinate with the South Dakota State Historical Society (SDSHS) to propose procedures for further treatment of the discovery while minimizing impacts to the construction schedule to the extent practicable. Suspended construction activities in the discovery area may not proceed until approval has been obtained from the SDSHS and/or other involved agencies and parties.

The archaeologist will prepare a report detailing all cultural resources identified, recorded, tested, and/or excavated during the construction phase of the Project, regardless of significance, for submittal to the SDSHS for review as required by applicable regulations.

## SPECIAL PROCEDURES FOR DISCOVERIES OF HUMAN REMAINS

Should potential human remains be encountered during construction of the Project, per the protocol outlined above, all work will be halted at the immediate vicinity of the discovery and the construction manager will be notified who will then notify the Philip Wind Partners project manager. This location will be immediately secured, including a buffer zone of 50 feet (15 m) surrounding the discovery. Construction personnel, equipment, 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 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 Philip Wind Partners project manager, Philip Wind Partners will immediately notify local law enforcement, the county coroner, and the SDSHS. Contact information for relevant parties is listed in Table 1. Philip Wind Partners will also notify any applicable lead federal or state agency involved in the Project (e.g., U.S. Army Corps of Engineers, South Dakota Public Utilities Commission, etc.).

**Table 1. Contact Information**

Contact/Agency	Telephone	Address
County Sheriff's Office, Haakon County, South Dakota	(605) 859-2741	140 Howard Avenue #3 Philip, South Dakota 57567
DJ Rush, Medical Examiner and Coroner's Office, Haakon County, South Dakota	(605) 859-2400	P.O. Box 607 Philip, South Dakota 57567
Dustin Lloyd, Burial Coordinator, SDSHS	(605) 391-2928	937 E. North Street, Suite 201 Rapid City, South Dakota 57709

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 South Dakota Codified Law, Chapter 34-27, as follows.

- If the remains are believed to be human, Philip Wind Partners will notify local law enforcement, the county coroner, and the SDSHS, pursuant to South Dakota Codified Law, Chapter 34-27-25.
- If the human remains reported under South Dakota Codified Law, Chapter 34-27-25 are not associated or suspected to be associated with a crime, the state archaeologist (or other representative of the SDSHS) shall be notified within 15 days. The state archaeologist shall then follow the procedure set out in South Dakota Codified Law, Chapter 34-27-31.
- Pursuant to Chapter 34-27-31, the state archaeologist shall take no more than 1 year to identify human remains. If the remains are not associated with a tribal group, the state archaeologist will arrange for their final disposition after consulting with the director of the SDSHS. If the state archaeologist finds there is a connection to a tribal group, the archaeologist must notify the director and reach out to the group designated by the Office of Indian Affairs. If the tribal group



requests the return of the remains within a year, they must be returned; otherwise, the archaeologist will manage their final disposition after consultation.

Figure 2 presents an abbreviated version of the procedures to be followed should human remains be encountered.

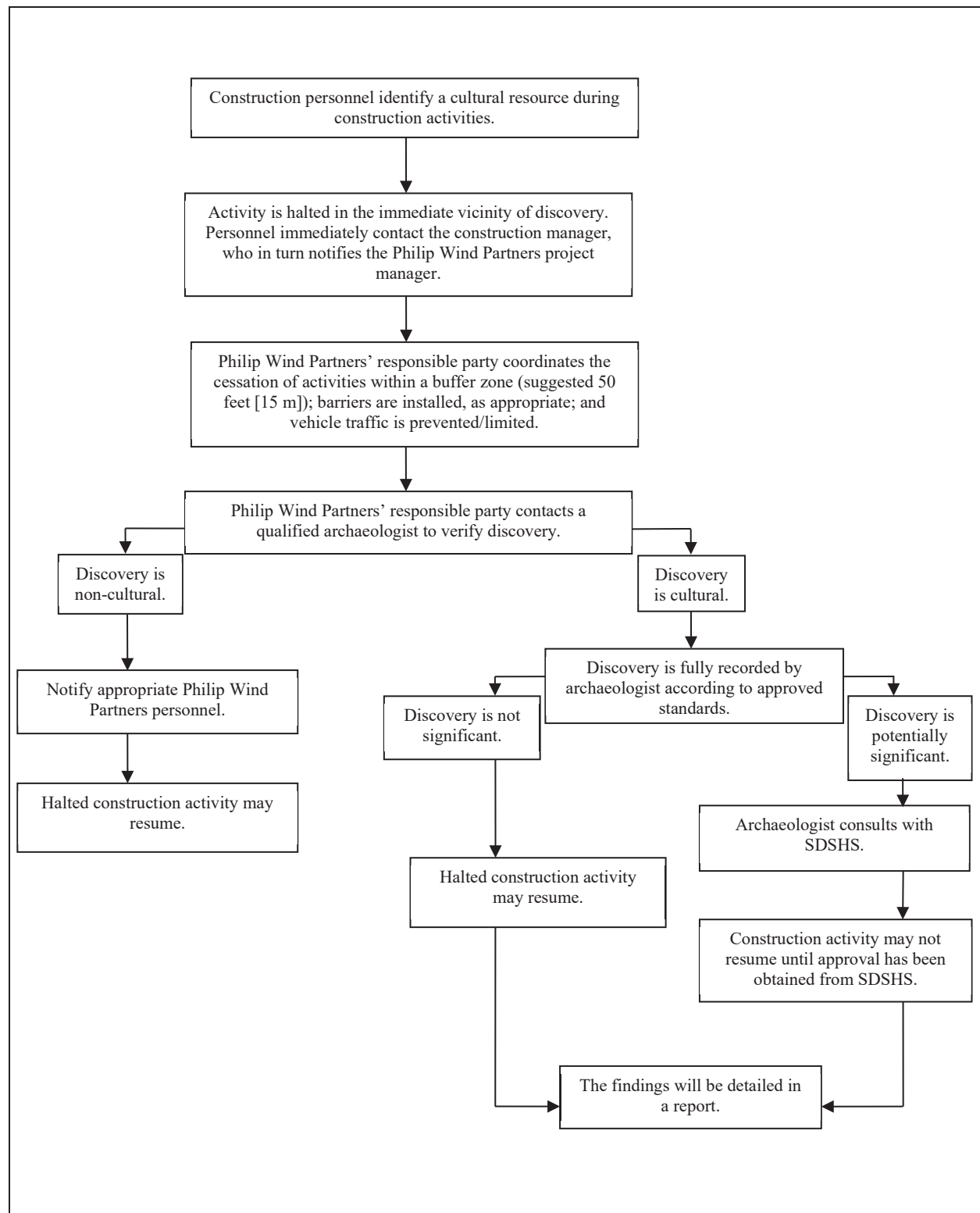


Figure 1. Procedures for addressing unanticipated discovery of cultural resources.

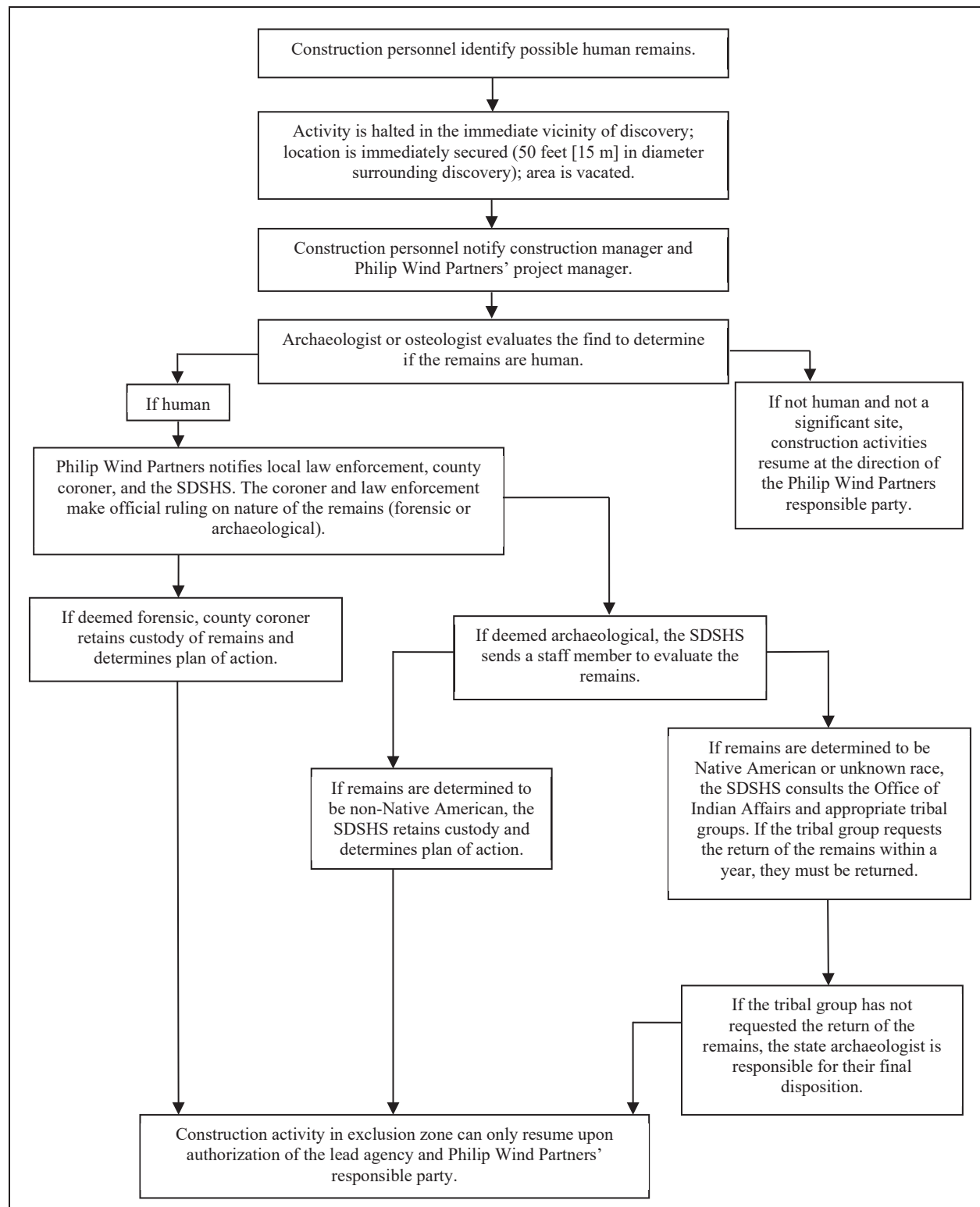


Figure 2. Procedures for the treatment of unanticipated discovery of human remains.