

# Appendix L — Human Remains Plan for the Powder River Basin Oil and Gas Project

Upon the discovery of suspected human remains the following procedures will be implemented. Should archaeological techniques need to be employed at any stage of these procedures these must meet all applicable professional standards and be documented in a report or reports that are acceptable to the Bureau and the SHPO.

## Discovery Notification

Whenever any person discovers human remains on BLM land that may be Native American, the law requires the individual to immediately notify the BLM of such discovery. The staff archaeologist and field manager may be notified verbally, but the person who knows of the discovery must also make written notification. This will be done within 24 hours of the discovery. Upon notification of the discovery, BLM will take the following steps: (1) Notify the appropriate law enforcement authorities, the coroner and BLM's NAGPRA Coordinator, (2) take immediate further steps to protect the discovery; (3) Determine that indeed the discovery is on BLM lands that the discovery is likely Native American and (4) initiate consultation with the appropriate tribal authorities.

## Protecting the Remains

If the discovery occurs in connection with an authorized use, the activity that caused the discovery is to immediately cease and the materials are to be protected until the BLM can respond to the situation. Steps must be taken to secure and protect the remains. Appropriate measures may include posting a guard and/or covering the area with a tarp in adverse weather conditions. In all instances the goal is to prevent deterioration of or further damage to the remains and the area associated with those remains.

## Notification to Law Enforcement

The BLM will notify appropriate law enforcement agencies and the SHPO. Law enforcement personnel must be afforded priority to the discovery and determine if they feel criminal investigation is needed or warranted, i.e. the discovery represents a crime scene. Until law enforcement formally releases the scene the discovery location shall be considered a crime scene under the direct supervision of law enforcement personnel. The BLM staff archaeologist can advise law enforcement personnel regarding protection measures and information collection techniques. Upon notification that law enforcement has no further interest in the matter the following procedures are implemented.

## Assessment of the Remains

- A. BLM will first assess if it does indeed have human remains present. If the coroner or a forensic specialist has been involved in the project as per Step 3 above, it is likely that a determination of sex, race and approximate age of the human remains will have been made. Absent this information the BLM will take appropriate steps necessary to retrieve this basic information. The intent here is to provide information necessary to assess the nature of the remains in a non-destructive fashion.
- B. Should the remains be determined through the evidence available to not include Native American skeletal elements, disposition of the remains shall be determined by the BLM in consultation with the SHPO and potential relatives descendants.
- C. Should the remains be determined to include Native American skeletal materials then the BLM will comply with the Native American Graves Protection and Repatriation Act (NAGPRA). The Field Office will notify the BLM Deputy Preservation Officer to assist the Field Office in determining which tribe(s) should be notified of the discovery and determine notification procedures. Appropriate tribal officials should be provided an opportunity to visit the discovery site.

## Written Action Plan

Subsequent to Native American Consultation, any further efforts directed at protecting the discovery in situ, removing the remains from the site and/or repatriating the remains to tribal authorities will be done in accordance with a written Action Plan. This plan will be prepared or approved by BLM, in consultation with SHPO, and follow procedures and standards established by BLM in compliance with NAGPRA.

## Disposition of the Remains

The BLM is responsible for the security of the materials until they are transferred to a tribe. Once transfer has occurred, neither BLM nor any other Federal entity or its agents are responsible for the material. If the tribe wishes to have the materials curated, the tribe is responsible for entering into any agreements that may be required by the curatorial facility.

## Resumption of Activity

Work at the scene may not resume without expressed written permission of the Field Office Manager. This permission can only be given after the a written, binding agreement is executed between the necessary parties that adopts a recovery plan for removal, treatment, and disposition of the human remains or cultural items in accordance with 43 CFR Part 10.4(e).

## **Decision Record**

While a transfer of material may or may not take place, in all cases, a formal decision must be prepared. The preparation of the decision record and all tribal consultation should be formally documented and retained in the project file by the authorizing field office in cases where transfer does not occur and retained in the BLM State Office in cases where transfer does occur.