

**APPENDIX M**  
**UNANTICIPATED DISCOVERIES PLAN**

## **POST-REVIEW/UNANTICIPATED DISCOVERIES PLAN, BADGER STATE SOLAR PROJECT, JEFFERSON COUNTY, WISCONSIN**

This Plan and Procedures for Addressing Unanticipated Discoveries of Cultural Resources or Human Remains During Construction (Unanticipated Discoveries Plan) has been prepared to ensure that the Badger State Solar Project (project), proposed by Badger State Solar, LLC (Badger State), maintains full and complete compliance with all federal and state regulations concerning the protection of cultural resources, including Section 106 of the National Historic Preservation Act (NHPA), Wisconsin state law (including the 1985 Wisconsin Act 316, and Chapters 44.40 and 157.70 of the Wisconsin Statutes) as applicable, and to maintain compliance with the National Environmental Policy Act (NEPA) (42 United States Code [USC] 4321 et seq.; 7 Code of Federal Regulations [CFR] 1970.8(c)) and Section 106 of the National Historic Preservation Act (NHPA) (54 USC 306108).

### ***Personnel Responsibilities***

The lead project Environmental Inspector (EI) and the Secretary of the Interior (SOI)-qualified<sup>1</sup> cultural resources consultant will be responsible for training and advising the construction contractor's personnel on the procedures to follow in the event that an unanticipated discovery is made. All Tribal groups which have expressed interest in the project will be provided a copy of the training materials regarding cultural resources and unanticipated discoveries including any pictures or powerpoints prior to the pre-construction training to review and edit if needed. Training will occur as part of the pre-construction on-site training program for foremen, company inspectors, and construction supervisors, and training will include focus on types of cultural resources that could be encountered and how to identify artifacts, features, and bone. The EI will formally train and advise all operators of equipment involved in grading, stripping, or trenching activities to:

- A. Stop work immediately if they observe any indications of the presence of cultural materials (artifacts or other man-made features), animal bone, or possibly human bone;
- B. Contact the EI (or the Construction Inspector [CI] if the EI is not available) immediately;
- C. Comply with unanticipated discovery procedures (see below); and
- D. Treat human remains with dignity and respect.

### ***Unanticipated Discovery of Cultural Resources***

All EIs have the responsibility to monitor the area of construction for potential archaeological materials or features throughout the period involving earth disturbance. If during the course of construction potential cultural resources are identified, all work will be immediately halted at the general location of the discovery. The construction personnel and/or monitors involved in the discovery will immediately notify the CI and EI, who will notify Badger State. The EI or CI will ensure the find is protected and make stop work recommendations to Badger State.

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<sup>1</sup> Meets the 1983 Secretary of the Interior Professional Qualification Standards found online at: <https://www.nps.gov/subjects/historicpreservation/upload/standards-guidelines-archeology-historic-preservation.pdf>

All construction work involving subsurface disturbance in the immediate vicinity of the resource will be halted unless immediate cessation of construction activities will create an unsafe condition or endanger the construction crew. Specifically, work will be stopped at the location where the potential cultural resource was found and will not resume within 100 meters (in any direction) of the find until the construction is cleared to proceed. The size of the stop-work buffer may change for an identified resource depending on the results of initial findings by the SOI-qualified cultural resource consultant.

The SOI-qualified cultural resources consultant will conduct an on-site inspection of the identified cultural discovery in accordance with the approved methodology by the next business day, or as soon as practicable. This on-site inspection will assess the nature of the cultural discovery to determine if it represents a cultural site and if the site is eligible for the NRHP, to include shovel testing and site delineation, as well as consultation. The cultural resources consultant will -email a report to RUS with further description of the discovery and a recommendation regarding the need for future treatment. RUS will then consult with Badger State and the Wisconsin State Historic Preservation Officer (SHPO) / Wisconsin State Historical Society, as well as the interested tribes to determine the NRHP eligibility of the cultural discovery. Tribal representatives will be invited to visit the site.

- If the cultural resources consultant determines that the cultural discovery is not likely to be determined significant, is an isolated find, or is completely disturbed by prior construction activities, and if the SHPO, RUS, and interested tribes concur with this finding, RUS will inform Badger State that construction may resume. The decision will be documented by the cultural resources consultant. The method of documentation will be determined at the time and, depending on the circumstances, may range from a letter report to an email.
- If the cultural resources consultant determines that the cultural discovery represents a significant archaeological site and the SHPO, RUS, and interested tribes concur with this determination, then the cultural resources consultant will develop a plan for additional cultural investigations and/or mitigation of the identified cultural site. The plan will be submitted to RUS for their review. RUS will then submit this plan to the SHPO and interested tribes for review and concurrence. All proposed archaeological investigations will conform to *SOI Standards and Guidelines for Archeological Documentation* and will be conducted by an archaeologist who meets or exceeds the SOI's Professional Qualification Standards for Archeology as published in the Federal Register on September 29, 1983 (Federal Register 48:190:44738-44739). These activities will also adhere to the protocols outlined in the Wisconsin Archaeological Survey (WAS) 2012 *Guide for Public Archaeology in Wisconsin*.

Care will be taken to prevent any disturbance of the potential cultural resources, human remains and/or associated artifacts/materials during removal of vehicles and equipment. Until appropriate consultation has occurred, the discovery shall remain protected from any disturbance, such that no human remains or associated artifacts/materials are touched, moved, or collected.

Construction in the area of the cultural site will not resume until all required fieldwork, consultation, and coordination tasks are completed. Upon receipt of SHPO, RUS, and interested tribes concurrence that all required fieldwork has been completed, the cultural resources consultant will notify Badger State that work at the location of the cultural discovery may resume. The decision will be documented appropriately by the cultural resources consultant. The method of documentation may range from a letter report to an email, depending on the circumstances.

A technical report describing the work at all locations where unanticipated discoveries resulted in additional survey and/or data recovery will be prepared and submitted to RUS and Badger State for review within one year of the completion of fieldwork. If a consulting party requests information from the consultant, the consultant will supply the documentation to all consulting parties at the same time. RUS will submit the reviewed technical report to SHPO and interested tribes.

***Unanticipated Discovery of Human Remains and/or Associated Artifacts***

The following procedures will be initiated in the event unanticipated human remains are discovered. Should human remains be encountered during cultural resources survey or construction or maintenance and operation of the project, all work will be immediately halted at the general location of the discovery.

The construction personnel and/or monitors involved in the discovery will immediately notify the CI and EI, who will notify Badger State. Badger State would then notify the appropriate law enforcement agency (the Jefferson County Sheriff's Office), the Jefferson County Chief Medical Examiner (ME), and the Wisconsin SHPO / Wisconsin State Historical Society according to Wisconsin State burial laws. Contact information for each office is provided at the end of this plan. Each party will state their interest and arrange to meet to discuss the discovery.

In all cases, the location will be immediately secured, including a buffer zone of at least a 100-meter-radius from the discovery. Any human remains will be carefully covered with a tarp made of natural materials. 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 and/or associated artifacts/materials during removal of vehicles and equipment. Until appropriate consultation has occurred, the discovery shall remain protected from any disturbance, such that no human remains, or associated artifacts/materials are touched, moved, or collected.

Badger State will notify the local law enforcement agency (the County Sheriff's Office, as appropriate) and the County Coroner/ME. The law enforcement agency and County Coroner/ME will determine whether the discovery is a crime scene or if it should be forwarded to the SHPO, RUS, and interested tribes for their review. The subsequent treatment of the discovery will comply with regulations in Wisconsin state law governing unmarked burials and cemeteries, including the 1985 Wisconsin Act 316, the Wisconsin Statute 157.70, and Wisconsin Administrative Codes HS 1.03 and HS 2, as well as the WAS 2012 *Guide for Public Archaeology in Wisconsin*. The RUS and SHPO will formally initiate consultation with local Native American Tribes that have an expressed interest where the found human remains were identified.

Until consultation is complete, and a removal strategy or avoidance is defined, the human remains will remain in place (in the ground), protected from natural forces and from vandalism and looting. No photographs, aside from those necessary for law enforcement, will be taken. Construction in the area of discovery may resume only upon approval from the appropriate point of contact (e.g., RUS, SHPO, law enforcement, and/or ME). Consulting party representatives with an interest in the discovery will be

invited to visit the site once law enforcement has determined that the discovery is not of forensic interest.

Technical reports describing work at each location where human remains and/or associated artifact discoveries resulted in additional investigations will be prepared and submitted to RUS for review within one year of the completion of fieldwork. Human remains discovery reports need to be separate, individual reports, to protect confidential information. RUS will submit the reviewed technical report(s) to SHPO and interested tribes.

## **Post-Review Discovery Plan Contact List**

### **USDA RUS Contact**

Jeffrey D. Larson, RPA  
Archaeologist & Historian  
Environmental & Historic Preservation Division  
Water and Environmental Programs  
Rural Utilities Service, Rural Development  
United States Department of Agriculture  
1400 Independence Ave., S.W.  
Stop 1570  
Washington, DC 20250  
Phone: 202-692-4905  
Email: [jeffrey.larson@usda.gov](mailto:jeffrey.larson@usda.gov)

### **SHPO/Wisconsin Historical Society Contact**

Ms. Daina Penkiunas, State Historic Preservation Officer  
Wisconsin Historical Society  
816 State Street  
Madison, WI 53706  
Phone: 608-264-6511  
Human Remains Notification Contact: 800-342-7834 or 608-264-6507  
Fax: 608-264-6504  
Email: [daina.penkiunas@wisconsinhistory.org](mailto:daina.penkiunas@wisconsinhistory.org)  
Web: <https://www.wisconsinhistory.org/Records/Article/CS3124>

### **Tribe(s) Contact(s)**

Jon Greendeer, President  
Ho-Chunk Nation of Wisconsin  
W9814 Airport Road  
Black River Falls, WI 54615

Joan Delabreau, Chairwoman  
Menominee Indian Tribe of Wisconsin  
PO Box 910  
Keshena, WI 54135

Geoffrey Standing Bear, Principal Chief  
Osage Nation  
PO Box 779  
Pawhuska, OK 74056

Coly Brown, Chairperson  
Winnebago Tribe of Nebraska  
PO Box 687  
Winnebago, NE 68071-0687

**County Law Enforcement/Coroner Contacts**

Jefferson County Coroner  
Nichol Tesch, Medical Examiner  
311 S. Center Avenue, Room 114  
Jefferson, WI 53549  
Phone: 920-674-7119  
Fax: 920-674-7602

Jefferson County Sheriff  
Paul Milbrath  
411 S. Center Avenue  
Jefferson, WI 53549  
Phone: 920-674-7310  
Fax: 920-674-7126

**Badger State Solar, LLC Contact**

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Vice President, Development  
Phone: 908-797-6702  
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**Project Cultural Resources Consultant Contact**

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