

**MEMORANDUM OF AGREEMENT
AMONG
WESTERN AREA POWER ADMINISTRATION,
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER,
YANKTON SIOUX TRIBE,
SWEETLAND WIND FARM, LLC,
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE SWEETLAND WIND PROJECT
NEAR WESSINGTON, HAND COUNTY, SOUTH DAKOTA**

WHEREAS, Western Area Power Administration (WAPA) has received a request for interconnection by Sweetland Wind Farm, LLC (Sweetland) for the proposed Sweetland Wind Project (Project), which will interconnect with WAPA's Fort Thompson-Huron 230-kV transmission line; and

WHEREAS, WAPA has determined that the proposed interconnection constitutes a federal undertaking as defined in 36 CFR Part 800.16(y) (as revised in 2004), the regulations implementing Section 106 of the National Historic Preservation Act (NHPA), and WAPA is the lead federal agency for this undertaking; and

WHEREAS, the Project will feature up to 71 wind turbines with associated components, including collector lines, access roads, a substation, switchyard, laydown yard, overhead gen-tie line, borrow area, and an operation and maintenance building; and

WHEREAS, the Area of Potential Effect (APE) is defined as those lands within the 23,000-acre footprint of the generation facility that will be physically impacted, or have the potential to be impacted, by the proposed Project (direct APE), it is further defined as those lands within a three-mile radius from each proposed turbine location that may be visually or audibly impacted (direct and indirect APE) by the Project (Attachment A); and

WHEREAS, archaeological surveys were completed within the direct APE and 10 archaeological sites were located, of which two (39HD0120 and 39HD0126) are historic properties; and

WHEREAS, an architectural history survey was completed within the direct and indirect APE and located five historic structure sites, (Site BE-000-00087, Site ID 58568, Site ID 58551, Site ID 58537, and Site ID 58529), all of which are historic properties; and

WHEREAS, a traditional cultural property (TCP) survey was completed within the direct APE by the Crow Creek Sioux Tribe with participation from the Yankton Sioux Tribe and in consultation with the Cheyenne River Sioux Tribe and the Sisseton Wahpeton Oyate Tribe, and identified three historic properties (TCP-HD-TEMP 1, TCP-HD-TEMP 2, and TCP-HD-TEMP-3) containing hundreds of individual features; and

WHEREAS, the three identified TCP historic properties will incur visual adverse effects by the intrusion of turbines altering aspects of their integrity (setting and feeling) under Criterion A; and

WHEREAS, the information related to traditional cultural properties identified during this Project is the intellectual property of the contributing member tribes, and this sensitive information shall be withheld from public disclosure in accordance with Section 304 of the NHPA (54 U.S.C. § 307103) and 36 CFR § 800.11(c); and

WHEREAS, WAPA and the SHPO participated in the consultation pursuant to 36 CFR § 800 regulations implementing Section 106 of the NHPA (16 USC 470f); and

WHEREAS, WAPA has consulted with the American Indian nations listed in Attachment D as those who may attach cultural or religious significance to sites within the Project APE and invited those nations to participate in consultation as concurring parties; and

WHEREAS, WAPA has determined that the Yankton Sioux Tribe has responsibilities under this agreement and is an invited signatory; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), WAPA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

NOW, THEREFORE WAPA and the SHPO agree that upon acceptance of this Memorandum of Agreement (MOA) by all parties, and upon WAPA's decision to proceed

with the undertaking, WAPA shall require that the following stipulations are implemented in order to resolve the adverse effect of the construction of the Project.

STIPULATIONS

WAPA shall require that, and Sweetland agrees the following stipulations are to be implemented:

- I. Sweetland will:
 - A. Avoid direct impacts, per the monitoring plan, to architectural historic properties (Site BE-000-00087, Site 58568, Site 58551, Site ID 58537, and Site 58529) during all Project construction activities.
 - B. Avoid direct impacts, per the monitoring plan, to archaeological historic property 39HD0120 and unevaluated sites (39HD0116 – 39HD0119, 39HD0121, 39HD0122, 39HD0124, 39HD0125) during all Project construction activities per the monitoring plan
 - C. Avoid direct impacts to archaeological historic property 39HD0126 by spanning the site with overhead wire/cables, locating transmission poles outside of the site boundary, and using only the existing two-track road for construction and O&M activities within the site boundary.
 - D. Implement the Tribal Monitoring Plan (Attachment B).
 - E. Work in cooperation with interested tribes to support and fund cultural resources sensitivity training for construction personnel that will be led by the Yankton Sioux THPO.
 - F. Implement the Unanticipated Discovery Plan (Attachment C) with WAPA.
 - G. Ensure that all archaeological contractors meet the Secretary of Interior Standards for Archaeological and Historic Preservation (48 FR 44716) and that all reports by cultural resource consultants or contractors are reviewed and accepted by WAPA

- H. Offer THPOs an opportunity for an additional site visit prior to the start of construction activities, as the onset of Covid-19 has prevented tribal members from traveling to view the TCPs without snow cover.
 - I. Not provide any information contained in the draft or final traditional cultural property report to any outside contractors, researchers, or students.
- II. WAPA will:
- A. Distribute any archaeological survey addendum reports for a 30-calendar day review and comment period to all signatories to this MOA.
 - B. Continue its ongoing program of tribal consultation throughout completion of the federal undertaking, and advise Sweetland and the SHPO of any issues identified through this program.
 - C. Implement the Unanticipated Discovery Plan (Attachment C) with Sweetland.
- III. Yankton Sioux THPO will:
- A. Coordinate with other interested tribes and oversee tribal monitors for construction activities per the construction monitoring plan.
 - B. Ensure that tribal monitors complete daily construction logs/reports describing the results of tribal monitoring and then distribute those reports to WAPA on a monthly basis (or as otherwise reasonably requested by WAPA) for a 30-calendar day review and comment period to all signatories to this MOA.
 - C. In cooperation with Sweetland, lead cultural resource sensitivity training for construction personnel.
- IV. DURATION
- This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, WAPA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with

Stipulation VIII below.

V. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or cause unanticipated effects on known historic properties, WAPA shall implement the discovery plan included as attachment C of this MOA.

VI. MONITORING AND REPORTING

Each month following the execution of this MOA until it expires or is terminated, WAPA shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in WAPA's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the way the terms of this MOA are implemented, WAPA shall consult with such party to resolve the objection. If WAPA determines that such objection cannot be resolved, WAPA will:

- A. Forward all documentation relevant to the dispute, including WAPA's proposed resolution, to the ACHP. The ACHP shall provide WAPA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, WAPA shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. WAPA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) daytime period, WAPA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, WAPA shall prepare a written response that considers any timely comments regarding the

dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.

- C. WAPA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, WAPA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. WAPA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by WAPA and the SHPO, its subsequent transmittal to the ACHP and the implementation of its terms are evidence that WAPA has afforded the ACHP an opportunity to comment on the Project and its effects on historic properties, and that WAPA has taken into account the effects of the undertaking on historic properties.

REQUIRED SIGNATORIES

WESTERN AREA POWER ADMINISTRATION

Signature: Lloyd A. Linke Digitally signed by Lloyd A. Linke
Date: 2020.09.18 09:29:44 -05'00' Date: _____

Print Name and Title: _____

SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICER

Signature: Jay D. Vogt Date: 09-08-2020

Print Name and Title: Jay D. VOGT, SD SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Signature: John U. Fowler Date: 10/30/2020

Print Name and Title: John Fowler Executive Director

INVITED SIGNATORIES

SWEETLAND WIND FARM, LLC

Signature: Michael Rucker Date: 9/2/2020

Print Name and Title: Michael Rucker, Manager

YANKTON SIOUX TRIBE

Signature: Robert Flying Hawk Date: 9-8-20

Print Name and Title: Robert Flying Hawk Chairman

CONCURRING PARTIES

CROW CREEK SIOUX TRIBE

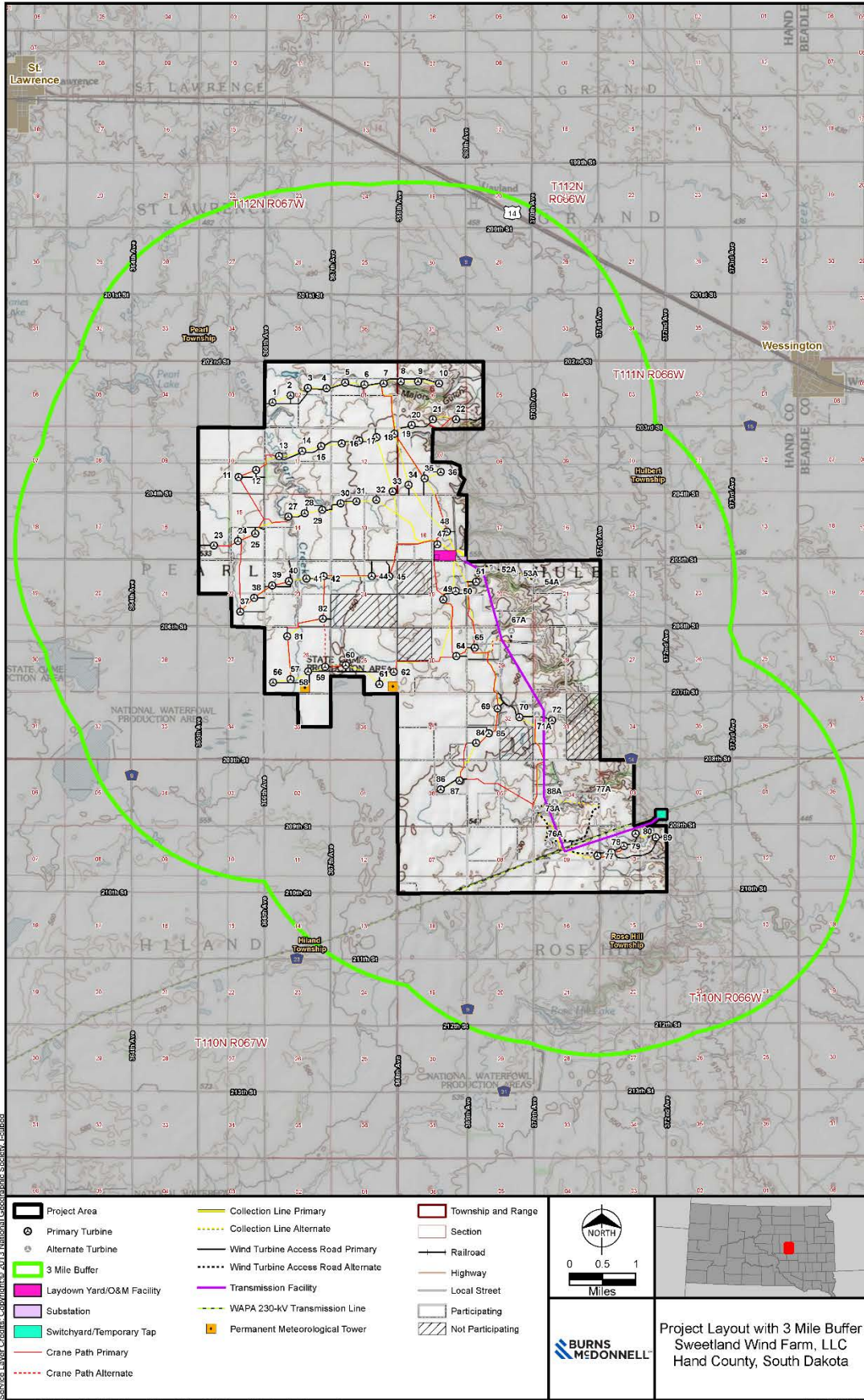
Signature: Merle G. Marks Date: 9/3/2020
Print Name and Title: MERLE G. MARKS CCST/THPO

ROSEBUD SIOUX TRIBE

Signature: Rodney Date: 9/9/20
Print Name and Title: Rodney Bordeaux, President

ATTACHMENT A
MAP OF PROJECT APE

Sweetland Wind Project
 Memorandum of Agreement
 9/18/2020



Path: Z:\Resources\Local\Clients\KCMEN\S\out\Clear\Em1\03028_Sweetland\Wind\ArcGIS\Geospatial>DataFiles\ArcDocs\CulturalFor_SHPPO\ProjectLayout_3miBuffer.mxd Immoarthick 9/1/2020
 COPYRIGHT © 2020 BURNS & MCDONNELL ENGINEERING COMPANY, INC.
 Source: Layer Credits: Copyright © 2013 National Geographic Society, Esri

Project Area	Collection Line Primary	Township and Range
Primary Turbine	Collection Line Alternate	Section
Alternate Turbine	Wind Turbine Access Road Primary	Railroad
3 Mile Buffer	Wind Turbine Access Road Alternate	Highway
Laydown Yard/O&M Facility	Transmission Facility	Local Street
Substation	WAPA 230-kV Transmission Line	Participating
Switchyard/Temporary Tap	Permanent Meteorological Tower	Not Participating
Crane Path Primary		
Crane Path Alternate		

NORTH

0 0.5 1
Miles

Project Layout with 3 Mile Buffer
 Sweetland Wind Farm, LLC
 Hand County, South Dakota

ATTACHMENT B

CONSTRUCTION MONITORING PLAN



Sweetland Wind Project Hand County, South Dakota Cultural Resources Construction Monitoring Plan September 2020

Sweetland Wind Farm, LLC (Sweetland) is proposing to construct a wind project (Project) that will generate up to 200 megawatts (MWs) in Hand County, South Dakota. The Project will result in the construction of up to 71 wind turbines, depending on the final turbine model selected. Additional Project facilities may include but are not limited to access roads, an operations and maintenance facility, up to four permanent meteorological towers, electrical power underground collection lines and communication systems, a Project substation, a switchyard, an up to 7-mile long 230-kilovolt gen-tie-line, and additional construction areas that include crane paths, pull sites, laydown yards, and temporary access roads. Construction is anticipated to begin in 2020 with commercial operation by the end of fourth quarter of 2021. The Project will connect with a Western Area Power Administration (WAPA) transmission line, and WAPA serves as the lead Federal agency for the Project.

Prior to construction, a Historic-Age Resource Reconnaissance Survey and a Level III Intensive Cultural Resources Inventory were conducted by architectural historians and archaeologists from Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) who meet or exceed the Secretary of the Interior's (SOI) professional qualifications and standards, as outlined in 36 CFR 61. Additionally, joint tribal surveys were performed by tribal members representing the Crow Creek Sioux's Tribal Historic Preservation Office (THPO) and the Yankton Sioux's THPO. The Historic-Age Resource survey, Cultural Resources inventory work, and joint tribal surveys were completed in 2019. The Project has committed to avoid direct impacts to individual archaeological and traditional cultural property features located within the boundaries of all eligible and unevaluated sites. A 50-foot buffer will be placed around each individual feature during construction, except with respect to Site 39HD0126, which will be avoided by spanning the sites with wire/cables, locating transmission poles outside the boundaries of the site, and using the existing two-track road in the vicinity of the site for construction and O&M activities. Where applicable, the 50-foot buffer will be delineated on the ground utilizing a method developed by the lead tribal monitor (to be designated sixty days in advance of start of construction by WAPA), Sweetland, and by an archaeologist who meets or exceeds the SOI professional qualifications and standards and a qualified tribal member(s) or consultant selected by participating THPOs. Burns & McDonnell and Sweetland have developed an Unanticipated Discovery Plan to outline procedures to follow if cultural resources or human remains are encountered during construction. Tribal monitoring is at the request of Sweetland.

Construction monitoring locations will be determined through consultation between Sweetland, WAPA, a SOI qualified archaeologists, and the lead tribal monitor. As discussed further below, Sweetland will ensure that at least 48 hours prior to the initiation of construction activities in



Sweetland Wind Project
Cultural Resources Construction Monitoring Plan
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construction monitoring locations, if possible, the Project construction manager, or their representative, will notify the lead tribal monitor of the proposed schedule of activities and start times. If a tribal monitor is not present at a location at the time construction activities are to commence, construction will be temporarily delayed for no more than 60 minutes to enable the lead tribal monitor to secure a tribal monitor. If no tribal monitor is present at the site after 60 minutes, construction may proceed with a SOI qualified archaeologist in place of a tribal monitor. Discovery procedures will be followed pursuant to the *Unanticipated Discoveries Plan*.

Locations that require a tribal monitor to be present will be determined and provided to all participating parties (including the South Dakota State Historic Preservation Office [SDSHPO]) at least 60 days prior to the start of construction. Areas previously plowed for agricultural activities would be excluded from monitoring as they are unlikely to contain intact cultural resources.

Participating THPOs may elect to include an archaeological consultant to represent their interests. Tribal monitors are required to adhere to the *Sweetland Wind Project Incident Prevention Plan: Site-Specific Policy and Procedure* manual (Incident Prevention Plan) provided by Sweetland. Tribal monitors will be required to complete a Project Site Specific Orientation, that includes basic safety and health rules, as well as any other applicable requirements for being on site prior to construction. Per the Incident Prevention Plan, personal protective equipment (PPE) (hard hats, safety glasses, steel-toed boots, and safety vests) will also be required. PPE must always be worn when working in construction locations.

Cultural resource construction monitoring at identified monitoring locations will entail having tribal monitors present during ground-disturbing activities that may intersect native soils. The tribal monitors will closely observe the topsoil removal process and inspect each disturbance for evidence of subsurface features and cultural material

Tribal monitors will be permitted to stand near construction soil removal equipment in order to observe soils as they are moved or removed. The positioning of the tribal monitors in proximity to soil removal equipment will be agreed upon between the construction manager and the tribal monitors to ensure the safety of personnel, including the tribal monitors, and the ability to observe and document cultural resource materials and features. Tribal monitors will be in close communication with the equipment operators to provide adequate opportunities for observation and documentation. When a tribal monitor observes the exposure of potential cultural resource material or features, they will be permitted to access the discovery location to allow for a close visual inspection. Excavated spoil piles may be inspected in the course of the construction excavation. If cultural materials are identified in spoil piles, it is expected that these resources would be removed for further examination and that the opportunity to screen spoil soil and sediments would be made available if requested.

The lead tribal monitor will be apprised daily by the Project's construction manager, or their representative, of scheduled construction activities. All effort should be made by the Project's



construction manager, or their representative, to communicate construction schedules as early as possible (with a minimum of 48 hours prior to excavation) to allow for adequate staffing of the archaeological and tribal monitoring crew. A member of the tribal monitoring team will be designated daily to coordinate with the Project construction manager, or their representative, in the morning prior to the start of work and at the end of the day. The lead tribal monitor will be responsible for maintaining daily construction logs/reports describing the results of tribal monitoring. The lead tribal monitor will distribute such logs/reports to WAPA on a monthly basis (or as otherwise reasonably requested by WAPA).

Construction monitoring would be conducted with the goal of keeping Project construction on schedule while maintaining respect for any cultural resources in the area. Where monitoring is conducted, new ground disturbing activities would be limited to daylight hours, sunrise to sunset.

If cultural resources are encountered during construction monitoring, all construction activities shall stop within 50 feet of the discovery to allow for adequate evaluation in accordance with the Sweetland Wind Farm *Unanticipated Discovery Plan*. If the discovery is determined to be a cultural feature, the guidelines provided in the Sweetland Wind Farm *Unanticipated Discovery Plan* shall then be implemented.

PROJECT CONTACTS

WAPA

David Kluth, Regional Preservation Officer - cell 605-354-4884, kluth@wapa.gov
Upper Great Plains Region
cell 605-354-4884, kluth@wapa.gov
200 4th Street SW
Huron, South Dakota 57350

Sweetland Wind Farm, LLC

Mark Wengierski, Senior Project Manager – 720-592-0512; cell 832-646-7730,
mark@scoutcleanenergy.com
Zach Lasek, Associate Project Manager – cell 804-955-9516,
zach@scoutcleanenergy.com
4865 Sterling Drive, Suite 200
Boulder, Colorado 80301

Construction Project Manager

To be determined prior to the start of construction

Tribal Historic Preservation Office

To be determined prior to the start of construction



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Cultural Resources Construction Monitoring Plan
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South Dakota State Historical Society

Jay D. Vogt, State Historic Preservation Officer – 605-773-3458; Jay.Vogt@state.sd.us
Jenna Carlson Dietmeier, PhD, Review and Compliance Coordinator – 605-773-8370;
Jenna.CarlsonDietmeier@state.sd.us
900 Governors Drive
Pierre, South Dakota 57501

South Dakota Archaeological Research Center

Renee Boen, Director and State Archaeologist – 605-394-1938; Renee.Boen@state.sd.us
217 Kansas City Street
Rapid City, South Dakota 57709
Phone: 605-394-1938

ATTACHMENT C

UNANTICIPATED DISCOVERY PLAN



Sweetland Wind Project Hand County, South Dakota Unanticipated Discovery Plan September 2020

INTRODUCTION

Sweetland Wind Farm, LLC (Sweetland) is proposing to construct a wind project (Project) that will generate up to 200 megawatts (MWs) in Hand County, South Dakota. The Project will result in the construction of up to 71 wind turbines, depending on the final turbine model selected. Additional Project facilities may include but are not limited to access roads, an operations and maintenance facility, up to four permanent meteorological towers, electrical power underground collection lines and communication systems, a Project substation, a switchyard, an up to 7-mile long, 230-kilovolt (kV) gen-tie-line, and additional construction areas that include crane paths, pull sites, laydown yards, and temporary access roads. Construction is anticipated to begin in 2020 with commercial operation by the fourth quarter of 2021. The Project will connect with a Western Area Power Administration (WAPA) transmission line, and WAPA serves as the lead Federal agency for the Project.

Prior to construction, a Historic-Age Resource Reconnaissance Survey and a Level III Cultural Resources Inventory were conducted. The work was completed in 2019. The Project has committed to avoid direct impacts to individual archaeological and traditional cultural property features located within the boundaries of all eligible and unevaluated sites. A 50-foot buffer will be placed around each individual feature during construction, except with respect to Site 39HD0126, which will be avoided by spanning the sites with wire/cables, locating transmission poles outside the boundaries of the site, and using the existing two-track road in the vicinity of the site for construction and O&M activities. Where applicable, the 50-foot buffer will be delineated on the ground by the lead tribal monitor (to be designated sixty days in advance of start of construction by WAPA), Sweetland, and an archaeologist who meets or exceeds the Secretary of the Interior's (SOI) professional qualifications and standards, as outlined in 36 CFR 61, and a qualified tribal member(s) or consultant selected by participating Tribal Historic Preservation Offices (THPOs). Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell) and Sweetland have developed this Unanticipated Discovery Plan (Plan) to outline procedures to follow if cultural resources are encountered during construction.

Cultural resources construction monitoring may be utilized at specific locations in accordance with the *Construction Monitoring Plan*. These locations will be determined through consultation between Sweetland, WAPA, Burns & McDonnell archaeologists, and the lead tribal monitor designated by the participating Tribal Historic Preservation Offices (THPOs) prior to the start of construction. A list of construction monitoring locations will also be provided to the South Dakota State Historic Preservation Office (SDSHPO). A separate *Construction Monitoring Plan* has been prepared and will apply where construction monitoring is deemed necessary.

TRAINING FOR CONSTRUCTION STAFF

Prior to the start of construction, construction management staff will undergo training to recognize cultural materials, archaeological features and cultural sensitivity. The training will be led by a Burns & McDonnell archaeologist and designated tribal representative(s). Training will consist of classroom training through Power Point presentations and lecture, in addition to handouts that categorize cultural material and feature types and provide step-by-step procedures (as detailed below) of what to do if cultural material or features are encountered during Project construction or maintenance activities. Handouts will include a copy of the Unanticipated Discoveries Plan. Construction management staff will oversee the implementation of the plan with their employees.

Training will cover types of resources that could be identified during construction. Subsurface precontact features may include cache pits, hearths, earth ovens, post-molds, house floors, or discrete artifact concentrations. Surface or near surface precontact features may include cairns, stone circles, stone effigies, or other stone alignments. Historic-age features may include building and structure foundations, cellars, vaults, privy pits, cisterns, wells, and dugouts.

PROTOCOL FOR THE UNANTICIPATED DISCOVERY OF CULTURAL RESOURCES (NOT INCLUDING HUMAN REMAINS)

If during the construction process any member of the construction staff, tribal monitor, or other Project personnel identify what they believe to be cultural feature(s) or discrete precontact artifact concentration(s), they will immediately cease all work within 50 feet of the discovery and adhere to the following protocols:

1. The Project construction manager shall be notified immediately. The Project construction manager shall then contact Sweetland, the WAPA Regional Preservation Officer (RPO), and the Burns & McDonnell lead archaeologist within 24 hours.
2. A 50-foot buffer zone around the discovery will be flagged.
3. Members of the construction staff, press, and curiosity seekers will be restricted from the buffer zone.
4. The discovery will be covered with a tarp or similar material.
5. Construction staff will be responsible for securing the discovery spot until the arrival of the lead Burns & McDonnell archaeologist or member of the Burns & McDonnell archaeological team, and the WAPA RPO.
6. The WAPA RPO will notify the SDSHPO, THPOs and other consulting parties that have been involved in the Project or have requested notification if an unanticipated discovery has been made, and the Advisory Council on Historic Preservation within 48 hours of the discovery. The notification shall describe WAPA's official assessment of NRHP eligibility, if applicable within the 48-hour time frame, along with a proposed action to resolve any adverse effects.
7. If WAPA, in consultation with Sweetland, determines that the discovery cannot be avoided by the Project, WAPA shall consult with the SDSHPO, and participating

8. THPO's to determine acceptable procedures for the removal, treatment, and disposition of the remains.

Any unanticipated discovery will be investigated by a Burns & McDonnell archaeologist in coordination with the WAPA RPO. WAPA will invite tribal monitors to participate in the investigation of the cultural resource at every stage of discovery. The Burns & McDonnell archaeologist will evaluate the nature of the cultural material, the extent of the cultural material, and the potential for intact cultural deposits through the examination of the ground surface, back-fill piles, and disturbed or exposed construction locations. Based on this examination, the Burns & McDonnell archaeologist will provide WAPA's RPO a preliminary evaluation of the discovery.

The unanticipated discovery will be mapped using Global Positioning System (GPS) units with sub-meter accuracy. Burns & McDonnell will prepare a site map based on GPS mapping, photographs, field notes, and sketch maps prepared during the investigation of the find to document cultural, environmental, and topographic features. All features will be fully recorded in compliance with the Secretary of the Interior Standards.

The Burns & McDonnell archaeologist will promptly provide WAPA's RPO all available information regarding the discovery. The WAPA RPO will determine the appropriate action in accordance with 36 CFR 800.13(b) and (c).

PROTOCOL FOR THE UNANTICIPATED DISCOVERY OF HUMAN REMAINS

If skeletal remains are encountered during either Project construction or maintenance, all activities will cease within 50-feet of the discovery. If the skeletal remains are determined to be human the following section outlines the specific procedures to be taken into consideration 36 CFR § 800.13(b)(3) and South Dakota's Codified Laws, Chapters 34-27: Cemeteries and Burial Records, specifically Chapters 34-27-25, 34-27-28, and 34-27-31. If the skeletal remains are deemed not to be human, then the preceding section shall apply.

Not reporting the discovery of human skeletal remains under South Dakota State law is a Class C misdemeanor:

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 shall immediately cease any activity which may disturb those remains and shall 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. (South Dakota Codified Law, Chapter 34-27-25)

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).

If human remains are discovered during Project construction or maintenance activities, the following will take place in accordance with procedures defined in South Dakota Codified Law and 36 CFR § 800.13(b)(3):

1. Any construction activity in the vicinity of the burial that may disturb the human skeletal remains, or burial artifacts associated with it, will immediately cease on discovery and the Project construction manager will be contacted immediately. The Project construction manager will then, in turn, notify the county sheriff, county coroner, the WAPA RPO, the South Dakota Archaeological Center, Sweetland, and the Burns & McDonnell lead archaeologist of the discovery within 24 hours.
2. The WAPA RPO will notify SDSHPO and THPOs that have been involved in the Project or have requested notification if an unanticipated discovery has been made, and the Advisory Council on Historic Preservation within 48 hours of the discovery (by phone call and/or e-mail). The notification shall describe WAPA's official assessment of NRHP eligibility, if applicable within the 48-hour time frame, along with a proposed action to resolve any adverse effects.
3. A 50-foot buffer zone around the discovery will be flagged.
4. All areas within 50 feet of the burial will be protected from further disturbance until the above listed parties are notified, they consult on the Project, and they devise a scope of work under which the Project may proceed.
5. No digging or moving of the human remains after the discovery shall occur.
6. All appropriate respect will be shown for any burial discovered on the Project including shielding the burial from members of the construction force, other Project personnel, press, and curiosity seekers.
7. The burial will be carefully covered and secured for protection degradation by weather, unauthorized individuals, and looting.
8. Photos of the discovery will be prohibited unless requested by the WAPA RPO.
9. An individual will be assigned to stay at the discovery spot until the arrival of law enforcement.
10. The county sheriff will determine if the remains are associated with a crime.
11. If the skeletal remains are believed to be human, the County Sheriff will notify the landowner and the coroner, pursuant to South Dakota Codified Law, Chapter 34-27-28.
12. The county coroner will determine if the remains are human.

13. If the skeletal 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 shall be notified within fifteen days. The State Archaeologist shall then follow the procedure set out in South Dakota Codified Law, Chapter 34-27-31.
14. As outlined in South Dakota Codified Law, Chapter 34-27-31 if review by the State Archaeologist demonstrates that there is a direct relationship of the remains or objects to a tribal group, the State Archaeologist shall notify the director of the SDSHS and shall initiate contact with officials of the tribal group as designated by the office of Indian Affairs. If within one year of the first contact with the tribal group the tribal group requests the return of the remains or objects, the State Archaeologist shall turn over to the tribal group the remains or objects. If, within one year of the first contact with the tribal group, as set forth in this section, the tribal group has not requested the return of the remains or objects, the State Archaeologist is responsible for their final disposition after consultation with the director of the SDSHS.
15. If WAPA, in consultation with Sweetland, determines that the discovery cannot be avoided by the Project, WAPA shall consult with the State Archaeologist, SDSHS, and THPO's to determine acceptable procedures for the removal, treatment, and disposition of the burial or remains.

REPORTING

If unanticipated discoveries are identified and determined to be archaeological resources, the Burns & McDonnell archaeologist will prepare a technical report on the archaeological investigations. This technical report will follow the *Standards and Guidelines for Archaeological Documentation* (48 CFR 44734-44737), the Advisory Council on Historic Preservation (ACHP) publication "*Treatment of Archaeological Properties*" (ACHP 1980); and SDSHPO Guidelines and will be submitted to the SDSHPO for review and comment. A copy of the final report will be submitted to the Archaeological Research Center to be archived. Copies of the report will also be provided to Sweetland, WAPA, and the lead tribal monitor to provide to the respective THPOs.

DISPOSITION OF RESOURCES

In South Dakota, cultural materials recovered from private lands, except for human remains and associated grave goods, are the property of the private landowner(s). If a landowner does not wish to take possession of any cultural materials recovered, upon request of a tribe(s) or the lead tribal monitor on behalf of any tribe(s), Sweetland will consult with the landowner to procure a Gift Agreement with the respective tribe(s). If such an agreement can be obtained, the artifacts and associated documentation will then be turned over to such tribe(s). In the event that the lead tribal monitor does not request possession of the artifacts on behalf of any tribe(s), or a tribe(s) does not directly make such request, then said artifacts may be returned as closely as possible to where they were discovered or be curated at the South Dakota Archaeological Research Center in Rapid City, South Dakota. To the extent that artifacts require curation in accordance with this plan, Sweetland will be responsible for the associated curation costs and expenses. If the



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artifacts are returned to the site, they will be reburied, and the location documented by Burns & McDonnell archaeologist (under the direction of Sweetland) with a GPS, and a report of such location(s) will be provided by Sweetland to WAPA, SDSHPO, and the lead tribal monitor to provide to the respective THPOs.

PROJECT CONTACTS

WAPA

David Kluth, Regional Preservation Officer – cell 605-354-4884, kluth@wapa.gov
Upper Great Plains Region
200 4th Street SW
Huron, South Dakota 57350

Sweetland Wind Farm, LLC

Mark Wengierski, Senior Project Manager – 720-592-0512; cell 832-646-7730,
mark@scoutcleanenergy.com
Zach Lasek, Associate Project Manager – cell 804-955-9516,
zach@scoutcleanenergy.com
4865 Sterling Drive, Suite 200
Boulder, Colorado 80301

Construction Project Manager

To be determined prior to the start of construction

Burns & McDonnell

Douglas Shaver, Project Archaeologist – 816-844-4447; cell 816-213-8281;
deshaver@burnsmcd.com
9400 Ward Parkway
Kansas City, Missouri 64114

South Dakota State Historical Society

Jay D. Vogt, State Historic Preservation Officer – 605-773-3458; Jay.Vogt@state.sd.us
Jenna Carlson Dietmeier, PhD, Review and Compliance Coordinator – 605-773-8370;
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900 Governors Drive
Pierre, South Dakota 57501

South Dakota Archaeological Research Center

Renee Boen, Director and State Archaeologist – 605-394-1938; Renee.Boen@state.sd.us
217 Kansas City Street
Rapid City, South Dakota 57709
Phone: 605-394-1938



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Dustin Lloyd, Burial Coordinator – 605-394-1936; Dustin.Lloyd@state.sd.us

Hand County Sheriff's Office

Shane Croeni, Sheriff
415 West 1st Avenue, Suite 102
Miller, South Dakota 57362
Phone: 605-853-2408
Emergency: 911

Hand County Coroner's Office

Dr. Stephen Schroeder, Coroner
410 N. Broadway
Miller, South Dakota 57362
Phone: 605-853-2268
Email: steve.schroeder@avera.org

ATTACHMENT D
TRIBAL CONSULTATION LIST

CROW CREEK SIOUX TRIBE,
YANKTON SIOUX TRIBE,
CHEYENNE RIVER SIOUX TRIBE,
SISSETON WAHPETON OYATE,
CHEYENNE AND ARAPAHO TRIBES,
LOWER SIOUX INDIAN COMMUNITY,
MANDAN, HIDATSA, AND ARIKARA NATION,
NORTHERN CHEYENNE TRIBE,
SANTEE SIOUX TRIBE OF NEBRASKA,
SPIRIT LAKE TRIBE,
FORT BELKNAP INDIAN COMMUNITY,
FLANDREAU SANTEE SIOUX TRIBE,
LOWER BRULE SIOUX TRIBE,
STANDING ROCK SIOUX TRIBE,
OGLALA SIOUX TRIBE,
ROSEBUD SIOUX TRIBE,
UPPER SIOUX INDIAN COMMUNITY,
FORT PECK ASSINIBOINE AND SIOUX TRIBES