

APPENDIX O
Plan for Unanticipated Historic Properties and Human Remains

Appendix O

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Mountain Valley Pipeline Project

Prepared by:



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ACRONYMS AND ABBREVIATIONS

ACHP	Advisory Council for Historic Preservation
APE	Area of Potential Effects
BLM	U.S. Department of the Interior, Bureau of Land Management
EC	Project Environmental Coordinator
EI	Environmental Inspector
FERC	Federal Energy Regulatory Commission
FS	U.S. Forest Service of the U.S. Department of Agriculture
JNF	Jefferson National Forest ¹
MP	milepost
MVP	Mountain Valley Pipeline, LLC
NAGPRA	Native American Graves Protection and Repatriation Act
NHPA	National Historic Preservation Act
NPS	National Park Service
PA	Project Archaeologist
Plan	Plan for Unanticipated Historic Properties and Human Remains
PM	MVP Project Manager
POD	Plan of Development
Project	Mountain Valley Pipeline Project
SHPOs	State Historic Preservation Officers
USC	United States Code
VDHR	Virginia Department of Historic Resources
WVDCH	West Virginia Division of Culture and History

¹ Jefferson National Forest refers to the southern portion of the current George Washington & Jefferson National Forests throughout this document. Originally two separate national forests, the JNF and the George Washington National Forest were administratively combined in 1995 and are administered as a single national forest unit.

1.0 INTRODUCTION

Mountain Valley Pipeline, LLC (MVP), a joint venture between EQM Midstream Partners, LP; NextEra Capital Holdings, Inc.; Con Edison Gas Midstream LLC; WGL Midstream; and RGC Midstream, LLC., is developing an approximately 303-mile long natural gas pipeline in West Virginia and Virginia (Project). MVP recognizes that despite the extensive archaeological field investigations that have been conducted prior to Project construction, it is nonetheless possible that potentially significant cultural resources could be discovered during Project construction, especially during excavation activities. MVP recognizes its role to protect and preserve cultural resources that might be found during construction activities, in accordance with federal and state legislation. Cultural resources in this context are defined as archaeological sites, objects, and features, and include human remains and associated grave goods.

This Plan for Unanticipated Historic Properties and Human Remains (Plan) was developed on behalf of MVP and in consultation with the West Virginia Division of Culture and History (WVDCH), the Virginia Department of Historic Resources (VDHR), the National Park Service (NPS), and the United States Forest Service (FS). The WVDCH and VDHR represent the State Historic Preservation Officers (SHPOs) in West Virginia and Virginia, respectively. Their offices are referred to generally as SHPO in this Plan. This Plan summarizes the approach MVP will follow to address the discovery of archaeological finds during construction activities within the Project's Area of Potential Effects (APE).

2.0 GUIDELINES, REGULATIONS AND LEGISLATION FOR UNANTICIPATED CULTURAL RESOURCES AND HUMAN REMAINS

This Plan will be followed in the event that cultural resources and/or human remains are encountered during construction of the MVP Project. The stipulations of the Plan as set forth below are in accordance with the current guidelines detailed in the following federal and state guidelines, regulations and legislation:

2.1 Federal

- Sections 106 and 110 of the *National Historic Preservation Act (NHPA)*, as amended (54 United States Code (USC) 306108 and 306101 et seq.)
- Section 6 of the *Archaeological Resources Protection Act*, as amended (16 USC 470ee)
- Secretary of the Interior's *Standards for Archaeology and Historic Preservation* (48 FR 44716-42)
- Advisory Council for Historic Preservation (ACHP): *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* (ACHP, February 23, 2007)
- Federal Energy Regulatory Commission (FERC) *Office of Pipeline Regulation: Guidelines for Reporting on Cultural Resources Investigations* (FERC 2002)
- *Native American Graves Protection and Repatriation Act (NAGPRA)*

2.2 West Virginia

- West Virginia SHPO's *Guidelines for Phase I, II, and III Archaeological Investigations and Technical Report Preparation*
- West Virginia State Code 29-1-8, and its implementing regulations, Title 82, Series 2: "Standards and Procedures for Administering State Historic Preservation Programs"

- West Virginia State Code 29-1-8a, “Protection of human skeletal remains, grave artifacts and grave markers,” and its implementing regulations, Title 82, Series 3: “Standards and Procedures for Granting Permits to Excavate Archaeological Sites and Unmarked Graves”

2.3 Virginia

- VDHR’s Guidelines for Conducting Historic Resources Survey in Virginia (October 2011)
- Virginia Antiquities Act, (§ 10.1-2305 Code of Virginia), “Permit required for the archaeological excavation of human remains;” Section 2305 of the Virginia Antiquities Act provides a permit process for archaeological field investigations involving the removal of human remains and artifacts from graves. These permits are issued through the VDHR’s Office of Review and Compliance.

3.0 CONSULTATION WITH SHPOS AND NATIVE AMERICAN TRIBES

On October 13, 2014, MVP initiated consultation with WVDCH and VDHR. On December 2, 2014, MVP reached out to federally recognized Native American Tribes, to inquire about their concerns regarding potential Project effects on historic properties and human remains. Contact information for the WVDCH, VDHR, and tribes who expressed an interest in ongoing communication is included in Section 4.3 - Contacts Table in this Plan. In the event that cultural resources and/or human remains are encountered during construction, MVP will contact the state offices and interested Tribes to inform and elicit responses.

4.0 UNANTICIPATED DISCOVERY PROTOCOL

4.1 Training

MVP will be responsible for advising construction personnel on the procedures to follow in the event that historic properties or human remains (an unanticipated discovery) are discovered during construction activities. Training will occur as part of the pre-construction on-site training program for all construction personnel.

Copies of this Plan will be incorporated into all relevant construction documents and will be available in hard copy format on-site during construction. The training will emphasize the procedures to follow in the event that an unanticipated discovery is encountered during Project construction.

4.2 Notification and Assessment Procedures (Not Including Human Remains)

The following steps outline the protocols to be taken in the event an unanticipated discovery is made during Project construction:

- 1 Work in the immediate vicinity of the discovery should cease once an unanticipated discovery has been revealed;
- 2 Notify the Environmental Inspector (EI) as soon as possible of the unanticipated discovery;
- 3 Flag or fence off the discovery location and take measures to ensure the security and integrity of the discovery without delay. Work in the area of the discovery will not resume until the EI grants clearance;
- 4 The EI will quickly contact the MVP Project Manager (PM) and the Project Environmental Coordinator (EC);

- 5 The EC will contact the Project Archaeologist (PA) within 24 hours of the discovery;
- 6 The PA will, within 48 hours of notification, conduct a preliminary assessment of the discovery to determine whether it is potentially a significant archaeological site;
- 7 If the PA determines that the find is not an archaeological site, the PA will report the information to the EI and the EC. The EI will then grant clearance to the construction crews for work to resume;
- 8 If the PA determines that the find may be an archaeological site and potentially NRHP-eligible, the PA will inform the EI and EC of this determination;
 - a. The EC will, within 24 hours of the determination that the site may be NRHP-eligible, notify the FERC, the relevant SHPO, and Interested Tribes, and the NPS and FS if appropriate, of the determination. Work will not resume until authorized by the FERC and other appropriate agencies;
 - b. Following consultation with the relevant SHPO and the FERC, (and Interested Tribes, NPS, and FS if appropriate), the PA will evaluate the discovery and assess its horizontal and vertical extent, cultural association(s), and degree of disturbance. MVP will ensure that the PA has full access to the discovery;
 - c. The PA will inform the EI, EC, the FERC, and the relevant SHPO of the findings and recommendations. If the finds are determined to not be significant, the EI and EC, after consultation with the FERC, the relevant SHPO, and Interested Tribes, and when appropriate the FS and NPS, will grant clearance to the construction team to resume work. If a determination of potential NRHP-eligibility is made, EC will authorize the archaeological investigators to develop an archaeological treatment plan which will be submitted to the FERC, the relevant SHPO, and Interested Tribes, and when appropriate the FS and NPS, for review;
 - d. If the NRHP-eligible discovery cannot be avoided by Project construction, MVP, in consultation with the FERC, the relevant SHPO, Interested Tribes, and when appropriate the FS and NPS, will authorize the archaeological investigators to implement the mitigation plan;
 - e. At the conclusion of archaeological fieldwork, the PA will submit a report of the treatment results and recommendations to MVP. MVP will provide the report for review to the FERC, the relevant SHPO, Interested Tribes, and to NPS and FS if appropriate;
 - f. Upon receiving written acceptance of the results of the implemented treatment from the FERC, the EC and EI will grant clearance to the construction team to resume work.

4.3 Notification and Assessment Procedures (Human Remains)

Human remains are physical remains of a human body or bodies including, but not limited to, bones, teeth, hair, and preserved soft tissues (mummified or otherwise preserved) of an individual. Remains may be articulated or disarticulated bones or teeth. Disturbance of human remains, burial places and or burial offerings and other grave furnishings without appropriate permits is a felony in West Virginia and Virginia.

The following steps outline the protocols to be taken in the event an unanticipated discovery of human remains is made during Project construction.

- 1 Cease work in the immediate vicinity of the discovery once an unanticipated discovery has been made;
- 2 Ensure that all human remains and/or grave items are left in place and treated with dignity and respect. Do not collect, disturb, or remove materials determined to be human remains or associated grave objects. All efforts will be made to exclude the general public from viewing any gravesites and/or funerary objects and no photographs of any gravesites and/or funerary objects will be released to or taken by the press;
- 3 Immediately notify the EI of the discovery that appears to be associated with human remains or an unmarked grave;
- 4 Flag or fence off the discovery location within the same day as the discovery and take measures to ensure the security and integrity of the discovery. Work will not resume in the area of the find until the EI grants clearance to recommence;
- 5 The EI will contact the PM and the EC on the day of the discovery;
- 6 The EC will notify the PA on the day of the discovery;
- 7 The PA will examine the discovery within 48 hours of receipt of notification of the discovery. If the PA determines that the finds are human remains or funerary grave items, the PA will immediately notify the EI and EC. The PM will notify the appropriate law enforcement agency. The EC will notify the FERC, the relevant SHPO, and Interested Tribes. The NPS and FS will be notified if the discovery is located on property managed by that agency;
 - a. West Virginia Code requires communication of finds to the county sheriff within 48 hours (§29-1-8a (d)), although as a matter of practice the sheriff should be notified on the day of the discovery.
 - b. The Virginia Department of Historic Resources recommends that the finder of unmarked human remains contact local or state police immediately (http://www.dhr.virginia.gov/homepage_general/faq_cem_presv.htm#A).
 - c. If the find is on National Forest System lands, the FS will notify the tribes per NAGPRA and 43CFR10.

If, upon inspection by the appropriate legal authorities, the remains are determined to be forensic and not archaeological (i.e., of a criminal nature), then MVP must await action by the authorities before construction may resume;

- 1 If the remains are determined to be archaeological in nature, MVP will determine whether a Project modification can avoid disturbing the remains. If Project actions cannot avoid the remains, MVP, in consultation with the FERC, the relevant SHPO, Interested Tribes, and NPS and FS as appropriate, will evaluate the remains and any associated sites, artifacts or features for their eligibility for listing in the National Register. While the process to determine NRHP eligibility may vary depending upon the nature of the particular discovery, in general the

- condition and number of remains, the identification of possible associated diagnostic artifacts (i.e. artifacts of known cultural and time association), and the presence of observable and definable features would be characteristics that may be indicative of the NRHP-eligibility of the discovery. There may prove to be other characteristics that could also contribute to the potential NRHP-eligibility of the discovery.
2. If the remains are determined to be not eligible for listing in the National Register, MVP in consultation with the FERC, the relevant SHPO, Interested Tribes, and NPS and FS as appropriate, will direct the PA to develop a disinterment/re-interment treatment plan;
 - a. Once the treatment plan is approved by FERC, the relevant SHPO, Interested Tribes, and NPS and FS as appropriate, the EC will authorize the PA to implement the treatment plan;
 - b. **In Virginia**, if the human skeletal remains must be removed, MVP shall obtain a Permit for Archaeological Removal of Human Burials from the VDHR and consultation would be done with Interested Tribes. **In West Virginia**, any removal of human remains would be done in or guided by consultation with the WVDCH and Interested Tribes;
 - c. The treatment plan will address the curation of any artifacts recovered in the process of excavation and provide for appropriate final disposition of the remains in accordance with applicable laws. MVP will be responsible for all costs associated with the discovery, evaluation and agency consultation, excavation, investigation and study, disinterment, repatriation, re-interment, reporting, and curation of any human remains and associated funerary items encountered during Project construction; and,
 - d. Project construction may resume only after successful implementation of the treatment plan (which may entail excavation of all identifiable human remains and associated features and artifacts, disinterment or removal of human remains and associated grave goods), and after MVP receives written approval by the FERC, the relevant SHPO, and Interested Tribes, and from NPS and FS if appropriate.

CONTACTS TABLE	
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Environmental Inspector (EI) Robert Robertson 2200 Energy Drive Canonsburg, PA 15317 Tel: (601) 940-4536 RRobertson@equitransmidstream.com	Project Archaeologist (PA) Evelyn Tidlow PO Box 345 Beulah, MI 49617 Tel: (612) 812-5478 Evelyn.tidlow@exp.com
PA – West Virginia To Be Determined Prior to Construction	PA – Virginia To Be Determined Prior to Construction
FEDERAL AGENCY CONTACTS	
FEDERAL ENERGY REGULATORY COMMISSION Paul Friedman Federal Energy Regulatory Commission Office of Energy Projects 888 First Street, NE Washington, D.C. 20426 Tel: (202) 502-8059 paul.friedman@ferc.gov	
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INTERESTED TRIBES	
<p>Acee Watt THPO United Keetoowah Band of Cherokee Indians in Oklahoma 18263 West Keetoowah Circle Tahlequah, OK 74464 Tel: (918) 871-2852 awatt@ukb-nsn.gov</p>	<p>Ms. Burgundy Fletcher Historic Preservation Specialist Peoria Tribe of Indians of Oklahoma P.O. Box 1527 Miami, OK 74355 Tel: (918) 540-2535 Ext. 9234 bfletcher@peoriatribe.com</p>
<p>Chief Leo Henry, Clerk Haudenosaunee Tuscarora Nation 2006 Mt. Hope Road Lewiston, NY 14092 Tel: (716) 601-4737 Fax: (880) 990-3310</p>	<p>Katelyn Lucas THPO Delaware Nation P.O. Box 825 Anadarko, OK 73005 Tel: (405) 544-8115 klucas@delawarenation-nsn.com</p>

CONTACTS TABLE	
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<p>Steve Vance THPO Cheyenne River Sioux Tribe Cultural Preservation Office 98 S. Willow Street Eagle Butte, SD 57625 Tel: (605) 964-7554 Stevev.crstpres@outlook.com</p>	<p>Paul Barton THPO Eastern Shawnee Tribe of Oklahoma Cultural Preservation Office 70500 E 128 Rd Wyandotte, OK 74370 Tel: (918) 238-5151 Ext. 1833 pbarton@estoo.net</p>
<p>Ione Quigley THPO Rosebud Sioux Tribe Tribal Historic Preservation Cultural Resources Management Office P.O. Box 809 Rosebud, SD 57570 Tel: (605) 747-4255 Rst.thpo@rst-nsn.gov ione.quigley@rst-nsn.gov</p>	<p>Russell Townsend THPO Eastern Band of Cherokee Indians Qualla Boundary P.O. Box 455 Cherokee, NC Tel: (828) 554-6851 syerka@nc-cherokee.com</p>
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<p>Fayette County 100 North Court Street Fayetteville, WV 25840 (304) 574-4216</p>	<p>Nicholas County 700 Main Street, Suite 3 Summersville, WV 26651 (304) 872-7880</p>
<p>Greenbrier County Lewisburg: (304) 647-6634 Rupert: (304) 392-6320</p>	<p>Webster County 2 Court Square #G3 Webster Springs, WV 26288 (304) 847-2006</p>

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