



Unanticipated Discoveries Plan

Fond du Lac Line 4 Project
June 2020

ENBRIDGE ENERGY, LIMITED PARTNERSHIP
UNANTICIPATED DISCOVERIES PLAN
JUNE 2020 (REV 3)

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ACRONYMS AND ABBREVIATIONS

<i>ACHP</i>	<i>Advisory Council on Historic Preservation</i>
<i>APE</i>	<i>USACE Section 106 Area of Potential Effect</i>
<i>CFR</i>	<i>Code of Federal Regulations</i>
<i>Enbridge</i>	<i>Enbridge Energy, Limited Partnership</i>
<i>EI</i>	<i>Enbridge Environmental Inspection Staff</i>
<i>FDL</i>	<i>Fond du Lac Band of Lake Superior Chippewa</i>
<i>FDL Reservation</i>	<i>Fond du Lac Band of Lake Superior Chippewa Reservation</i>
<i>Minn. Stat.</i>	<i>Minnesota Statute</i>
<i>Monitor</i>	<i>Third-Party Cultural Resource Monitor, Tribal Monitor</i>
<i>MPUC</i>	<i>Minnesota Public Utilities Commission</i>
<i>NPS</i>	<i>National Park Service</i>
<i>NRHP</i>	<i>National Register of Historic Places</i>
<i>OSA</i>	<i>Minnesota Office of the State Archaeologist</i>
<i>Project</i>	<i>Fond du Lac Line 4 Project</i>
<i>RFA</i>	<i>Responsible Federal Agency</i>
<i>SHPO</i>	<i>Minnesota State Historic Preservation Office</i>
<i>USACE</i>	<i>U.S. Army Corps of Engineers</i>

DEFINITIONS

“Consulting Tribe,” means a Tribe included in the National Historic Preservation Act Section 106 consultation for this Project.

“Cultural Resources,” means locations of human activity, occupation, or usage that contain materials, structures, or landscapes that were used, built, or modified by people.

“Enbridge Environment,” means a member of the Enbridge Environmental Management Team responsible for ensuring compliance with environmental permit conditions and company commitments during construction.

“Enbridge Environmental Inspection Staff,” means the individual(s) responsible for implementing the various environmental requirements within the given construction area.

“Historic Properties,” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (“NRHP”). This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and/or cultural importance to an Indian tribe and that meet National Register criteria (36 Code of Federal Regulations 800.16((I)(1))).

“Third-Party Agency Monitor,” means agency personnel, either federal or state, who have an oversight role in the cultural resource compliance process during permitting and construction. These individuals may not necessarily be directly involved in field monitoring, but nonetheless have a role in decision making in regard to treatment of Unanticipated Discoveries.

“Third-Party Cultural Resource Monitor,” means a monitor the Permittee hires to address concerns related to observed or suspected Archaeological and Cultural Resources or human remains. This term also specifically references Tribal Monitors.

“Traditional Cultural Properties,” means a subtype of historic properties recognized as eligible for listing on the Minnesota State Register of Historic Places and/or NRHP, as further defined in National Register Bulletin #38, “Guidelines for Evaluating and Documenting Traditional Cultural Properties” and other federal guidance.

“Traditional Cultural Landscapes,” means a subtype of historic properties recognized as eligible for listing on the Minnesota State Register of Historic Places and/or NRHP, as further defined by National Park Service Preservation Brief 36, “Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes” and other federal guidance.

“Traditional Cultural Resources Survey,” which will be conducted in accordance with existing state and federal guidance and requirements, is intended to comply with Enbridge’s federal, state, and contracted obligations to conduct a survey to identify tribal historic properties and other cultural resources that may be affected by the Project, and must include: field surveys to identify Tribal Sites along the entire length of any approved route that identify (preserving confidentiality of sites) (sic); literature review; the results of Tribal consultation; and other matters.

“Tribal Sites,” means historic properties of tribal cultural and/or religious significance to Native American tribes.

“Tribe,” means a federally recognized Indian tribe.

1.0 INTRODUCTION

Enbridge Energy, Limited Partnership (“Enbridge”) is proposing to construct the Fond du Lac Line 4 Project (“Project”), which will relocate approximately 10 miles of the existing Line 4 pipeline from the center to the outer edge of the existing Enbridge Mainline Corridor within the within the external boundaries of the Fond du Lac Band of Lake Superior Chippewa Reservation.

This Unanticipated Discoveries Plan sets forth the guidelines to be used in the event Historic Properties (including both precontact archaeological or historic/architectural) or human skeletal remains are discovered during construction activities, as well as if unexpected effects to previously identified Historic Properties occur during construction. These measures were developed by Enbridge in accordance with applicable state and federal guidelines. Early and frequent communications are essential in meeting both the spirit and law of those guidelines; therefore, Appendix A shows the most current list of relevant contacts in the event of an unanticipated discovery during construction.

2.0 TRAINING OF CONSTRUCTION PERSONNEL

Prior to construction, Enbridge will train workers about the need to avoid archaeological, historic and cultural properties, how to identify archaeological, historic, and cultural properties, and procedures to follow if undocumented archaeological, historic and cultural properties, including human burials and gravesites, are found during construction. The training is detailed in the Cultural Resource Training Plan document included as Appendix G of the Draft Archaeological and Historic Resources Plan.

3.0 UNANTICIPATED DISCOVERY CONDITIONS

Pipeline construction excavations have the potential to uncover previously unknown archaeological sites and human skeletal remains, as well as many other cultural and natural elements such as modern refuse and faunal remains. While environmental surveys can effectively eliminate most discoveries during construction, Enbridge is aware that Project planning should anticipate even the remote possibility of a discovery. Although provisions in construction documents are established to avoid direct impacts to identified archaeological sites/Historic Properties, the intent of this plan is also to have provisions applicable to any instances where previously identified archaeological sites/Historic Properties are directly impacted in an unexpected/unanticipated manner during construction.

The Third-Party Cultural Resource Monitor (“Monitor,” specifically Tribal Monitors) and the Enbridge Environmental Inspection Staff (“EI”) will have the primary responsibility of initially distinguishing discoveries of significant archaeological and cultural resource sites or human skeletal remains from those that are neither. The unanticipated discovery of significant archaeological and cultural resource sites and human skeletal remains would require ceasing construction activities at the find location followed by a coordinated consultation effort among Enbridge, permitting agencies, landowners, and other interested parties, including Native American tribes. In the event that a suspected discovery is determined not to involve an archaeological or cultural resource site or human skeletal remains, construction would resume and there would be no need of the consultation process as outlined above; however, documentation of the event must be made and can include notes, photographs, and drawings as appropriate.

**Attachment D to Construction
Environmental Control Plan
(Section 4.3)**

**Docket No. PL-9/PPL-18-752
Compliance Filing - Section 4.3.6
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When archaeological and cultural materials or suspected human skeletal remains are identified by a Monitor or other individual during ground disturbing activities within the construction corridor, the Fond du Lac Tribal Historic Preservation Officer (“THPO”), the EI, and Third-Party Agency Monitor, if applicable, will be notified immediately of the discovery.

1. Immediately following notification of the discovery by a Monitor, the EI shall:
 - (a) Establish and delineate a 25-foot buffer around the edge of the discovery (using flagging and/or fencing), advise the on-site construction manager to halt all ground-disturbing activities within the buffered area until otherwise notified by Enbridge Environment, and implement measures to protect the discovery from looting and vandalism, including a 24-hour watch, if necessary; and
 - (b) Contact the THPO who will identify a qualified Professional Archaeologist (in the case of archaeological materials) meeting the Professional Qualification Standards of the Secretary of Interior as stated in Title 48 Federal Regulation 44716 and/or Physical Anthropologist (in the case of suspected human skeletal remains) with a graduate degree in said discipline and a recognized body of work in the professional community, to conduct an assessment of the discovery. The Professional Archaeologist should meet the qualification standards outlined in 36 Code of Federal Regulations (“CFR”) Part 61 in order to conduct the assessment. The Physical Anthropologist must be acknowledged as competent to positively identify human skeletal remains during the initial event of their discovery. As indicated below, this individual will work closely with the Office of the State Archaeologist (“OSA”) who has the statutory responsibility to authenticate human burials in Minnesota.
2. When contacted by the THPO, the Professional Archaeologist shall gather additional information from the discovery area and assess the potential significance and condition and integrity of the discovery according to the guidelines established by the National Park Service (“NPS”) in Bulletins 15 and 36 and their amendments:
 - (a) The Professional Archaeologist will determine whether the discovery is an archaeological site or cultural resource over 45 years of age. If the discovery is an archaeological site or cultural resource greater than 45 years of age, the Professional Archaeologist will record as much information as possible to secure a Smithsonian Trinomial Number from the OSA. The THPO would then notify Enbridge Environment that the process outlined in Section 4.0, below, will be initiated.
 - (b) If the discovery is not an archaeological site or cultural resource greater than 45 years of age, the Professional Archaeologist will document the discovery for the record and notify the THPO of their recommendation. The THPO will advise Enbridge Environment that the EI and on-site construction manager may restart ground-disturbing activities.
3. When contacted by the THPO, the Physical Anthropologist shall investigate the site to make an assessment of the likely nature of the remains:
 - (a) If the remains are likely human, then the THPO would notify Enbridge Environment that the process outlined in Section 5.0, will be initiated.

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- (b) If the discovery does not represent human skeletal remains, the Physical Anthropologist will document the discovery for the record and the THPO will inform Enbridge Environment to advise the EI and on-site construction manager to restart ground-disturbing activities.

4.0 DISCOVERY OF HISTORIC PROPERTIES

Upon the discovery of an archaeological site or cultural resource greater than 45 years of age, the THPO, in coordination with Enbridge Environment, will undertake agency notification as follows,

- (a) The Bureau of Indian Affairs (“BIA”) is the Responsible Federal Agency (“RFA”) for the Project, and the THPO will manage the notification process through this agency supported by Enbridge Environment.
- (b) If the discovery falls within the RFA Section 106 Area of Potential Effect (“APE”), the THPO will advise the RFA of the resource and provide information regarding its significance and condition and integrity.
- (c) If the discovery falls within a Jurisdictional Area of the United States Army Corps of Engineers (“USACE”), the THPO, in consultation with the RFA, will advise the USACE of the resource and provide information regarding its significance and integrity.
- (d) If the discovery is on state land, the THPO, in consultation with the RFA, will advise the land-managing agency of the resource, along with SHPO and OSA, and provide information regarding its significance, condition and integrity.
- (e) If the discovery is on private land, its disposition will be subject to the authority of the Minnesota Public Utilities Commission (“MPUC”). The THPO, in consultation with the RFA, will advise the state routing agency of the resource, along with the SHPO and OSA, and provide information regarding its significance, condition and integrity.

4.1 FEDERAL AGENCY JURISDICTION

- (a) The THPO, in coordination with Enbridge Environment, will notify the RFA of the resource, along with SHPO and OSA and provide information regarding its significance and condition and integrity.
- (b) Within 24 hours of notification, the RFA shall provide notice of the discovery to other parties who may wish to participate in consultation, including but not limited to the USACE, SHPO, OSA, Minnesota Indian Affairs Council, Native American tribal officials, Tribal Historic Preservation Officers and Consulting Tribes, the MPUC, land-managing agencies, or private landowner(s), as applicable. After 24 hours, consultation for eligibility and effect will continue in order for avoidance and mitigation options to be developed.
- (c) The RFA shall have 5 calendar days following notification to determine the discovery’s eligibility for listing on the National Register of Historic Places (“NRHP”) in consultation with the SHPO and other consulting parties. The RFA may extend the review period by an additional 7 calendar days by providing written notice to consulting parties prior

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to the expiration of the 5-calendar-day period. The RFA shall provide avoidance or mitigation treatment options by the end of the 5-calendar-day period.

- (d) For properties determined eligible for listing on the NRHP pursuant to (c) above, the THPO, in coordination with Enbridge Environment, shall notify the RFA and other consulting parties of the proposed treatment measures to resolve adverse effects to the discovered resource. The consulting parties shall comment on the proposed treatment measures within 48 hours. The RFA shall ensure that the recommendations of the consulting parties are considered prior to granting approval of the proposed treatment measures. Once approval has been granted by the RFA, Enbridge Environment shall carry out the approved treatment measures and, after doing so, Enbridge may resume construction.
- (e) In the event of any disagreements between the consulting parties regarding the NRHP eligibility of the newly-discovered property or the treatment measures proposed to mitigate adverse effects to the property, the RFA shall seek and take into account the recommendations of the Advisory Council on Historic Preservation (“ACHP”). Within 48 hours of receipt of a request, ACHP shall provide the RFA with recommendations on how to resolve the dispute.
- (f) If, after consultation, the RFA determines that the discovery does not represent an NRHP-eligible resource, the RFA will direct the THPO and Enbridge Environment to resume ground-disturbing activities at the discovery location at their discretion.

4.2 NON-FEDERAL PUBLIC LANDS

- (a) The THPO, in consultation with the RFA, will notify the land-managing agency of the resource, along with SHPO and OSA and provide information regarding its significance and integrity. The OSA has the discretion to notify Native American tribal officials, state routing authority, and other state agencies as appropriate.
- (b) The land-managing agency will have 5 calendar days following notification to consult with the OSA, the SHPO (per Minnesota Statute [“Minn. Stat.”] 138.40), and other consulting parties including Tribes, as necessary, about the assessment of the discovery to determine its eligibility, avoidance, and/or mitigation measures. NPS criteria of eligibility for listing on the NRHP will be considered as a guideline to determine the significance of the find and OSA and SHPO will be consulted during the assessment, but the land-managing agency is not obliged to apply NPS standards solely in making its decision. The land-managing agency may assume the resource is eligible for listing on the NRHP while consultation occurs and may require avoidance, impact minimization, or mitigation. The land-managing agency may extend the review period by an additional 7 calendar days by providing written notice to consulting parties prior to the expiration of the 5-calendar-day period. The land-managing agency shall provide avoidance or mitigation treatment options by the end of the 5-calendar-day period.
- (c) For properties determined to be historic, the THPO, in consultation with the RFA, shall simultaneously notify the land-managing agency, SHPO, OSA, and Consulting Tribes, and other consulting parties with information regarding the discovery of the find and any treatment and measures it proposes for resolving adverse effects to the resource.

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The consulting parties shall provide their views on the proposed treatment measures to Enbridge Environment, the land-managing agency and other consulting parties within 48 hours. The land-managing agency shall ensure that the recommendations of the consulting parties are considered prior to granting approval of the proposed treatment measures. Once approval has been granted by the land-managing agency, Enbridge Environment shall carry out the approved treatment measures and, after doing so, Enbridge may resume construction.

- (d) If, after consultation, the land-managing agency determines that the discovery does not represent an NRHP-eligible or otherwise important resource, the land-managing agency will direct the THPO and Enbridge Environment to resume ground-disturbing activities at the discovery location at their discretion.

4.3 Private Lands Subject to State Routing Authority Jurisdiction

- (a) The THPO, in consultation with the RFA, will notify the state routing authority of the resource, along with SHPO and OSA and provide information regarding its significance and integrity.
- (b) Within 24 hours of notification, the state routing authority shall provide notice of the resource to other parties, including, but not limited to, the SHPO, the OSA, Native American tribal officials, state agencies, and private landowner(s), as applicable to comply with the permit and to notify the parties that the resource requires determinations of eligibility and effect in order to develop avoidance and/or mitigation options.
- (c) The state routing authority will have 5 calendar days following notification to consult with the SHPO, OSA, and other consulting parties as appropriate, about assessing the discovery. Criteria of eligibility for listing on the NRHP will be considered as a guideline to determine the significance of the find and SHPO and OSA may be consulted during the assessment, but the state routing authority is not obliged to apply the standards in making its decision. The state routing authority may assume the resource is eligible for listing on the NRHP while consultation occurs and may require avoidance, impact minimization, or mitigation. Construction may not resume until the SHPO, OSA, or other consulting parties have developed avoidance or mitigation strategies and notified Enbridge Environment. The state routing authority shall provide avoidance or mitigation treatment options by the end of the 5-calendar-day period.
- (d) For properties eligible for listing on the NRHP, the THPO, in consultation with the RFA, shall notify the state routing authority and other consulting parties of the treatment measures it proposes to resolve impacts to the resource. The consulting parties shall provide their views on the proposed treatment measures within 48 hours. The state routing authority shall ensure that the recommendations of the consulting parties are considered prior to granting approval of Enbridge's proposed treatment measures. Once approval has been granted by the state routing authority, Enbridge Environment shall carry out the approved treatment measures and, after doing so, Enbridge may resume construction.
- (e) If, after consultation, the state routing authority determines that the discovery does not represent an NRHP-eligible or otherwise important resource, the state routing

authority will direct the THPO and Enbridge Environment to resume ground-disturbing activities at the discovery location at their discretion.

5.0 DISCOVERY OF HUMAN SKELETAL REMAINS

1. When unmarked human burial or skeletal remains are encountered during construction activities, Enbridge will comply with all applicable laws, specifically:
 - (a) Minnesota's "Private Cemeteries Act" (Minn. Stat. §307.08); and
2. In the event that a human burial or skeletal remains are encountered during ground-disturbing construction activity, all construction shall immediately cease in the vicinity, and Enbridge Environment will implement the notification procedures illustrated in the flow chart, which is briefly summarized below:
 - (a) Enbridge Environment notifies the local coroner and law enforcement agency (county sheriff) that a potential discovery of human remains has occurred;
 - (b) The coroner and law enforcement make an official ruling on nature of the remains (forensic or archaeological). If the remains are archaeological, Enbridge Environment coordinates with THPO;
 - (c) The THPO notifies the RFA, land-managing agency, or state routing authority of the find and initiates consultation regarding the appropriate measures to handle the discovery; and
 - (d) Once there is confirmation of the discovery of human remains, Minn. Stat. §307.08 requires notification of the Minnesota OSA.

After permission to resume construction has been issued by the RFA, land-managing agency, or state routing authority, the THPO will advise Enbridge Environment that the EI and on-site construction manager may restart ground-disturbing activities.

Appendix A

**Minnesota Unanticipated Discovery
Contact Lists**

**Attachment D to Construction
Environmental Control Plan
(Section 4.3)**

**Docket No. PL-9/PPL-18-752
Compliance Filing - Section 4.3.6
Unanticipated Discoveries Plan**

Contact Lists North Dakota, Minnesota, and Wisconsin		
State/County/Agency	Contact	Address/Telephone
FEDERAL		
Bureau of Indian Affairs	Timothy Guyah, Midwest Regional Office Archaeologist	5600 American Blvd W, Ste 500 Bloomington, MN 55437 Telephone: (612) 725-4512 E-mail: timothy.guyah@bia.gov
U.S. Army Corps of Engineers	Nancy Komulainen-Dillenburg, St. Paul District Archaeologist	U.S. Army Corps of Engineers 4111 Technology Drive NE Suite 295 Bemidji, MN 56601 Telephone: (651) 290-5340 E-mail: Nancy.S.Komulainen-Dillenburg@usace.army.mil
Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee	Kevin DuPuis, Chairman	1720 Big Lake Road, Cloquet, MN 55720 Telephone: (218) 879-4593 Fax: (218) 879-4146 E-mail: kevindupuis@fdlrez.com
Fond du Lac Band of Lake Superior Chippewa Tribal Historic Preservation Officer ("THPO")	Jill Hoppe, THPO	1720 Big Lake Road, Cloquet, MN 55720 Telephone: 218-878-7129 E-mail: JillHoppe@fdlrez.com
MINNESOTA		
Enbridge	Matt Piescher, Lead Environmental Inspector Brooks Bosco, Environmental Inspector Tim Hanks, Environmental Inspector Lance Johnson, Environmental Inspector	Cellphone: 320-336-9303 E-mail: mpiescher19@gmail.com Cellphone: 970-270-7002 E-mail: brooksbosco@gmail.com Cellphone: 970-631-2772 E-mail: hanks_tim@hotmail.com Cellphone: 218-760-8479 E-mail: lance_h_johnson@yahoo.com
Independent (Third-Party Environmental Monitors)	Chris Winchester, Lead Third-Party Environmental Monitors Tom Connell, Third-Party Environmental Monitors Brian Montgomery, Third-Party Environmental Monitors Lena Thurmond, Third-Party Environmental Monitors	Cellphone: 719-569-1138 E-mail: Winchester.chris@outlook.com Cellphone: 715-558-1739 E-mail: tconnell1000@gmail.com Cellphone: 561-348-0350 E-mail: montgomeryb33@gmail.com Cellphone: 281-300-3147 E-mail: lenathurmond@gmail.com
Minnesota State Historic Preservation Office	Sarah Beimers, Environmental Review Program Manager	Minnesota State Historic Preservation Office Department of Administration 50 Sherburne Avenue, Suite 203 St. Paul, MN 55155 Telephone: (651) 201-3290 E-mail: sarah.beimers@state.mn.us
Minnesota State Historic Preservation Office	David Mather, SHPO National Register Archaeologist	Minnesota State Historic Preservation Office Department of Administration 50 Sherburne Avenue, Suite 203 St. Paul, MN 55155 Telephone: (651) 201-3289 E-mail: david.mather@state.mn.us

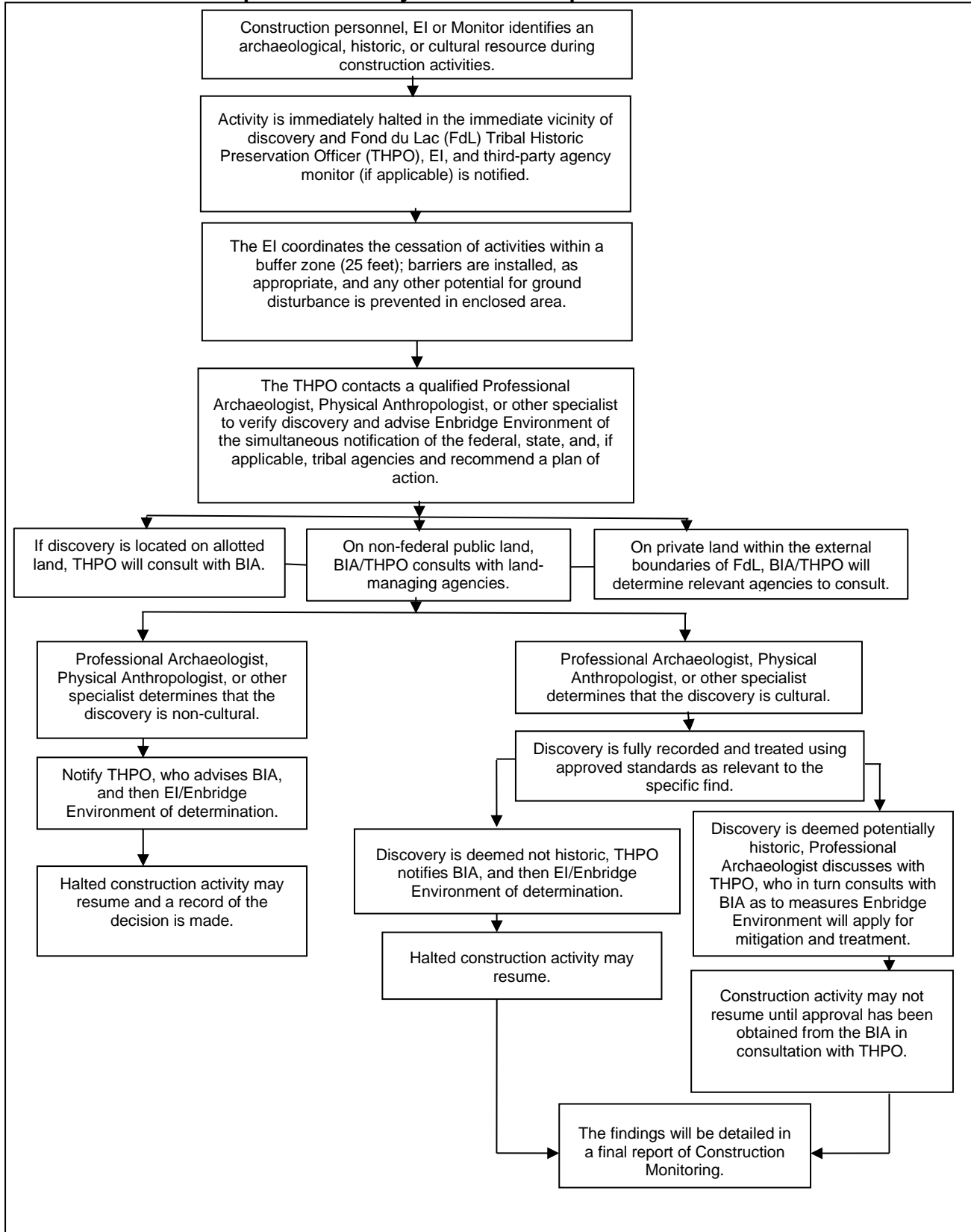
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Contact Lists North Dakota, Minnesota, and Wisconsin		
State/County/Agency	Contact	Address/Telephone
Office of the State Archaeologist	Amanda Gronhovd, Minnesota State Archaeologist	Office of the State Archaeologist Fort Snelling History Center 200 Tower Avenue St. Paul, MN 55111 Telephone: (612) 725-2411 E-mail: Amanda.Gronhovd@state.mn.us
Minnesota Geological Survey	Harvey Thorleifson, Director	Minnesota Geological Survey 2642 University Ave. St. Paul, MN 55114-1057 Telephone: (612) 627-4780, ext. 224
Minnesota Department of Natural Resources (DNR)	TBD	500 Lafayette Rd., St. Paul, MN 55155 Telephone: E-mail:
Minnesota Department of Natural Resources	Mike Magner, DNR Archaeologist	Mike Magner DNR Forestry/ Fish & Wildlife Archaeologist DNR Forestry Resource Assessment Office 483 Peterson Road Grand Rapids, MN 55744 Telephone: (218) 322-2513 E-mail: mike.magner@state.mn.us
Minnesota Public Utilities Commission	Scott Ek	121 7th Place E, Suite 350 Saint Paul, MN 55101 Telephone: E-mail:
Minnesota Indian Affairs Council	Melissa Cerda, Cultural Resource Director	161 St. Anthony Ave, Suite 919 St. Paul, MN 55103 Telephone: (651) 276-2797 E-mail: melissa.cerda@state.mn.us
St. Louis County	Ross Litman	100 N 5th Avenue W Room 103 Duluth, MN 55802 Telephone: (218) 726-2340
Carlton County	Kelly Lake, County Sheriff	317 Walnut Avenue Carlton, MN 55718 Telephone: (218) 384-3236

Appendix B
Unanticipated Discovery Flow Charts

Unanticipated Discovery of Historic Properties Flow Chart ¹



Unanticipated Discovery of Human Remains Flow Chart ¹

