

Attachment 11

Inadvertent Discovery Plan

An Inadvertent Discovery Plan: Cultural Resources and Human Remains, Chopin Wind Project, Umatilla County, Oregon

Teara Farrow Ferman
Cultural Resources Protection Program

Prepared for
Chopin Wind, LLC

October 14, 2013



CONFEDERATED TRIBES
of the
Umatilla Indian Reservation

46411 Timine Way

PENDLETON, OREGON 97801

Inadvertent Discovery Plan: Cultural Resources and Human Remains Chopin Wind Project, Umatilla County, Oregon

INTRODUCTION

Chopin Wind, LLC, a Delaware Limited Liability Company by BayWa r.e. Wind, LLC, its sole member, proposes to construct a wind power generation project south and southeast of Milton-Freewater, Oregon known as The Chopin Wind Project. Project activities will include the installation of approximately 33 new wind turbines, access roads, underground power collection systems, the construction of a new substation, and above ground transmission lines. The majority of the project where the proposed turbines would be located is between Pine Creek and Dry Creek. The interconnection with the proposed transmission line is located between Weston and Milton-Freewater to the east of both communities. Specifically, the turbine corridor project area is situated within Sections 17, 20, 21, 22, 27, 28, 29, and 32, all Township 5 North, Range 35 East, Willamette Meridian (WM), and the point of interconnection project area is located in Sections 1 and 2, Township 4 North, Range 36 East, WM. The elevation of the project area ranges between 1540 and 1840 feet (469 to 561 meters) above sea level in the turbine corridor area, and between 2760 and 2944 feet (841 to 898 meters) above sea level in the point of interconnection project area. The entire project will be located in Umatilla County, Oregon.

The purpose of this Inadvertent Discovery Plan is to 1) ensure compliance with applicable federal and state laws and regulations regarding cultural resources and human remains, 2) develop work site protocols to be followed in the event of an inadvertent discovery; and 3) identify appropriate point of contacts associated with the protocol.

CULTURAL RESOURCES LAWS

The Chopin Wind project will follow state of Oregon cultural resource laws as there are no federal lands or nexus involved in the project. For informational purposes federal laws are listed below in case the project becomes federalized at any point. The state cultural resource laws that must be abided by include, but are not limited to, the following:

Federal

- National Historic Preservation Act of 1966, as amended, and its implementing regulations (36CFR800)
- Archaeological Resources Protection Act of 1979 (Public Law 96-95, 16 U.S.C. 470aa-470mm)
- Native American Graves Protection and Repatriation Act of 1990, and its implementing regulations (36CFR61)

State of Oregon

- Oregon Administrative Rules 736-051-0080 through 0090, archaeological excavation permits
- Oregon Revised Statutes (ORS) 97.740-97.760, Indian graves and protected objects
- ORS 358.905-358.955, protection of archaeological objects and sites
- ORS 390.235, archaeological permit requirements

MONITORING

Chopin Wind, LLC will retain qualified archaeologists or a cultural resources monitor who will be supervised by an individual meeting the Secretary of Interior's Standards and Guidelines. The monitor will compile daily monitoring forms indicating date, time, activities observed, and any findings. Monitoring work will be documented in a letter report which will be submitted to Chopin Wind, LLC and the Oregon State Historic Preservation Office.

PROTOCOL FOR THE INADVERTENT DISCOVERY OF HUMAN REMAINS AND ARCHAEOLOGICAL RESOURCES

In the event of the inadvertent discovery of human remains and/or archaeological resources, the archaeologist and all project construction staff will follow the following protocols:

- 1) All work within 100 feet of the discovery will be stopped; this will be known as the discovery area (discovery and buffer zone). The discovery will be left in place and not disturbed, and the Site Inspector will be notified.
- 2) The discovery area will be protected through security measures. The integrity of the discovery is of highest concern and appropriate steps will be taken to protect the discovery. A physical barrier such as hazard fencing will be placed around the discovery area to avoid unauthorized personnel and equipment from entering the discovery area.
- 3) A transportation corridor, outside of the discovery area boundary, can be created if necessary to allow for vehicles and personnel to move to and from project areas while the discovery is being handled.
- 4) At the discretion of the qualified archaeologist, an additional buffer (beyond the initial 100 feet buffer) may be added to the discovery area to ensure that no activities impact the discovery location including unauthorized personnel.
- 5) If the discovery includes human remains, the Site Inspector will notify the Oregon State Police, the Confederated Tribes of the Umatilla Indian Reservation, and the Oregon State Historic Preservation Office. The Oregon State Police will assist in determining whether it should be treated as a crime scene or as a human burial.
- 6) The Site Inspector will ensure that no construction work will be allowed to resume until after treatment of the discovery has been completed.

The discovery will be treated as described below depending on whether the discovery represents human remains or archaeological resources.

Human Remains

Any human remains, burial sites, or funerary objects that are discovered during construction will be treated with the utmost respect, dignity, and confidentiality. No photograph should be

taken unless they are needed to help identify whether or not the items observed are human remains. The treatment of Native American human remains will follow the State of Oregon's developed protocol, *Treatment of Native American Human Remains Discovered Inadvertently or Through Criminal Investigations on Private and Public, State-Owned Lands in Oregon* (https://www.oregonlegislature.gov/cis/Documents/treatment_remains111412.pdf). These protocols were created by the Government to Government Cultural Resource Cluster Group in September 2006 and updated October 2009, February 2011.

Contacts

Oregon State Police:

- Sgt. Chris Allori, Office (503) 731-4717, Cellular (503) 708-6461

State Historic Preservation Office (SHPO):

- Dennis Griffin, State Archaeologist, Office (503) 986-0674, Cellular (503) 881-5038

Legislative Commission on Indian Services (LCIS):

- Karen Quigley, Director, Office (503) 986-1067

Confederated Tribes of the Umatilla Indian Reservation:

- Primary: Teara Farrow Ferman, Program Manager, Office (541) 429-7230, Cellular (541) 377-2959
- Secondary: Catherine Dickson, Principal Investigator, Office (541) 429-7231

If any inadvertent discovery of human remains is on federal or tribal lands, the inadvertent discoveries section of the Native American Graves Protection and Repatriation Act will be followed.

Archaeological Resources

It is illegal to disturb an archaeological site on private or public land without obtaining an archaeological excavation permit, ORS 358.920(1)(a). These laws apply when archaeological resources are inadvertently discovered and determined to be archaeological. The qualified archaeologist will follow the Treatment of Inadvertent Discoveries and Site Preservation protocols developed in the *Guidelines for Conducting Field Archaeology in Oregon*, developed by the Oregon State Historic Preservation Office (SHPO), April 2007 (http://www.oregon.gov/oprd/HCD/ARCH/docs/draft_field_guidelines.pdf).

The qualified archaeologist shall make a preliminary assessment of whether the cultural material or site is potentially significant and recommendations on additional steps to mitigate effects. The assessment must be reviewed by the Oregon SHPO for concurrence prior to beginning any ground disturbing activities. Depending on the project activities, nature of the discovery, and the statutory jurisdiction, the Oregon SHPO may require a treatment plan to be developed.

To make the preliminary assessment, the qualified archaeologist will need to conduct a field assessment of the site to determine its potential State Register eligibility and the project's potential effects to the discovery site. Additional information and archaeological work may be necessary to determine significance, site boundaries, and State Register eligibility. If the site meets State Register criteria, the discovery area will be avoided and protection in place. If site avoidance is not possible, archaeological data recovery of the site may need to be completed if other treatment options are not more appropriate. All treatment options should be discussed and documented with the appropriate interested parties. A data recovery plans will be developed in coordination with the Oregon SHPO and an archaeological permit applied for prior to any ground disturbing activities.

Contacts

State Historic Preservation Office (SHPO):

- Dennis Griffin, State Archaeologist, Office (503) 986-0674, Cellular (503) 881-5038, Dennis.Griffin@state.or.us

Confederated Tribes of the Umatilla Indian Reservation:

- Catherine Dickson, Principal Investigator, Office (541) 429-7231, CatherineDickson@ctuir.org

If any inadvertent discovery of archaeological resources is on federal or tribal lands, the National Historic Preservation Act and Archaeological Resources Protection Act will be followed.