PLAN FOR UNANTICIPATED HISTORICAL PROPERTIES

AND HUMAN REMAINS

This plan was prepared to assist DPS in compliance with 36 CFR 800.11. It describes the measures to be taken by National Fuel in the event that cultural resources that may qualify as historic properties or human remains are discovered during construction of the proposed project.

A. Cultural Resources that May Qualify as Historic Resources:

1. Upon discovery of any archaeological artifact, sign, evidence etc., that may indicate that a cultural resource may be present within the project area, all ground disturbing activities, including the movement of machinery in the immediate area of the finds, will be immediately suspended by the environmental inspector and a trained cultural resource specialist will be contacted.

2. Following examination of the site or materials suspected to be an historic property, the environmental inspector will stop all ground-disturbing activities within 100 meters of the location unless there is clear evidence that materials do not represent archaeological materials. The boundaries of the stop work zone will be flagged or otherwise marked clearly.

3. The environmental inspector will immediately notify National Fuel to report the nature of the materials and the protective measures taken in the field to prevent further damage.

4. National Fuel will contact a 36 CFR 61 qualified archaeologist ("cultural resource specialist") to verify that a cultural resource has been identified and, if necessary, begin the process of evaluating the significance of the cultural resource.

5. The cultural resource specialist will be provided the opportunity to inspect the recovered materials and visit the site. The cultural resource specialist will then prepare and submit to National Fuel a written assessment of the nature and potential significance of the resource.

6. If the cultural resource specialist determines that a potentially historic property has been discovered, prior to the resumption of work in the marked area, National Fuel will notify the corresponding state SHPO office (New York State) as well as any consulting Indian tribe(s). National Fuel will consult with these agencies to determine the level of

investigation necessary to determine whether a historic property is present and seek approval for investigations, if additional excavation is deemed necessary.

7. Should the discovery be determined to be significant, National Fuel and the cultural resource specialist will, in consultation with the above agencies, develop a plan to modify the proposed project to avoid the historic property or a treatment plant to protect or mitigate impacts (e.g., data recovery) to those parts of the historic property that cannot be avoided.

State SHPO Contact Information:

New York State Division for Historic Preservation (SHPO)
New York State Office of Parks, Recreation & Historic Preservation
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Phone: (518) 237-8643
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Chautauqua County Archaeology Units:
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B. Unanticipated Human Remains

In the event that human remains or osteological material that may be human is discovered, work will be suspended and appropriate agencies notified by telephone and in writing as described above. In addition:

1. The remains will be carefully covered to protect them from further degradation by weather or disturbances by unauthorized individuals.

2. The local police authority/medical examiner and a physical anthropologist will be immediately notified. On the basis of the assessment by the police authority, in consultation with the cultural resource specialist, it will be determined whether the remains are human and whether they are of an archaeological or historic nature.

3. If the human remains or cultural items traditionally associated with human remains (e.g., funerary objects) are identified as potentially Native American, National Fuel will initiate an identification and

consultation process in conjunction with the relevant state SHPO office(s).

(New York State does not have statewide or local laws or regulations governing the treatment of graves burials, or human remains that are unmarked or unmapped. However, New York State does have an “Indian Law” Subdivision One Section 3.00 of the Parks and Recreation Law.)

4. If the remains are determined not to be Native American, National Fuel's cultural resource specialist will attempt to identify and consult with next-of-kin, lineal descendants, or culturally affiliated persons regarding future actions and disposition of the remains.

5. If further field investigations are required to determine the spatial limits of this and/or the possibility of additional human remains, a site-specific plan will be developed and submitted for approval by the State SHPO office(s) and concerned Native American tribes prior to the initiation of any field work.

6. Site-specific provisions for the subsequent avoidance, protection, monitoring, or mitigation (including repatriation) of the remains will be developed by National Fuel in consultation with SHPO and concerned Native American tribes.

7. State-specific regulations or guidance for the unanticipated discovery of human remains or cultural items may apply. National Fuel and its’ contractors will abide by all state-specific regulations regarding these discoveries. For reference, the New York State guidance document is attached at the end of this document.

State Historic Preservation Office/New York State Office of Parks, Recreation and Historic Preservation

Human Remains Discovery Protocol

(November 28, 2008)

In the event that human remains are encountered during construction or archaeological investigations within New York State, the New York State Historic Preservation Office (SHPO) recommends that the following protocol is implemented:

● At all times human remains must be treated with the utmost dignity and respect. Should human remains be encountered work in the general area of the discovery will stop immediately and the location will be immediately secured and protected from damage and disturbance.

● Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.

● The county coroner/medical examiner, local law enforcement, the SHPO, the appropriate Indian Nations, and the involved agency will be notified immediately. The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological.

● If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO and the Indian Nations. The involved agency will consult SHPO and appropriate Indian Nations to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance.

● If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.