

Protocols for the Unanticipated Discovery of Historic Properties, Treatment of Human Remains, Response to Vandalism, and Emergency Response

Prepared for

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PROTOCOL FOR THE UNANTICIPATED DISCOVERY OF HISTORIC PROPERTIES

Despite efforts to identify cultural materials within the APE, it is possible for unknown cultural resources, particularly archaeological resources, to be uncovered or located during routine maintenance and construction activities. If any cultural resources that appear to be older than 50 years are encountered by PacifiCorp staff during routine maintenance and construction activities the following protocols will be implemented:

- If any member of a construction, maintenance, or other field crew believes that he or she has discovered cultural resources, all work within 100 feet of the discovery will stop, and the work supervisor will be immediately notified. The area of work stoppage may be expanded based on consultation with PacifiCorp's work supervisor and cultural resources coordinator and will be adequate to provide for the security, protection, and integrity of the cultural materials.
- The work supervisor and/or cultural resources coordinator will take appropriate steps to protect the discovery site. At a minimum, the immediate area and/or within 100 feet of the discovery site will be secured. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not be re-started until treatment of the discovery has been completed.
- The cultural resources coordinator will be responsible for conducting a review by a qualified professional of the discovery and consider whether the discovery is potentially eligible for listing in the NRHP.
- If the discovery appears to be eligible for listing in the NRHP, the cultural resources coordinator will immediately consult with the Federal Energy Regulatory Commission (FERC), affected Indian tribes, and the SHPO and/or USFS regarding significance. If the consulting parties determine that the discovery is an eligible prehistoric or historic Native American deposit, then PacifiCorp will further consult with the SHPO and/or USFS and affected Indian tribes to determine potential cultural heritage significance and the appropriate treatment of the find. Treatment measures may include mapping, photography, limited probing and sample collection, or other activity.
- The cultural resources coordinator will prepare a report on the methods and results of the treatment measures within 1 month of completion of the measures. The report will be addressed to the FERC, affected Indian Tribes, SHPO and/or USFS for review and comment. After a 30-day review period, PacifiCorp will make revisions that take into account review comments and will provide a copy of the final report to each of these parties.

PROTOCOL FOR TREATMENT OF HUMAN REMAINS

The possibility of preserved human skeletal material, or conclusive material evidence of burial sites, cannot be disregarded. In the event that human remains are encountered within the Project boundary, whether during planned maintenance and construction activities, authorized archaeological excavations, or as a result of natural processes, the following protocol will be strictly followed:

- All ground disturbing activity within 100 feet of the remains will be halted immediately.
- The cultural resources coordinator will be immediately contacted and will assume responsibility for assuring that this protocol is followed.
- Compliance with federal and state laws including the Native American Graves Protection Act (NAGPRA) [25 U.S.C. 2001 et. seq.] and its implementing regulations, 43 C.F.R. Part 10, the Oregon Revised Statute 97.745(4), and the Advisory Council on Historic Preservation's (ACHP) Policy Statement on the Treatment of Burial Sites, Human Remains, and Funerary Objects (February 23, 2007) will be required depending on the location at where the discovery was made.
- All skeletal material will be left in place until a designated professional archaeologist or medical examiner directs its removal.
- If the discovery is located on USFS lands, the cultural resources coordinator will contact the USFS immediately. The USFS will notify the Wallowa County Medical Examiner, Wallowa County Sheriff, State Police, SHPO, Legislative Commission on Indian Services (CIS), and all appropriate Indian tribes within forty-eight (48) hours of the discovery.
 - The Medical Examiner will determine whether the remains are part of a potential crime scene. A forensic anthropologist may be required to determine whether the remains are of Native American ancestry.
 - Within seventy-two (72) hours after notification, the USFS shall determine the treatment, including mitigation and disposition of the unmarked human burial or unregistered grave following the Archaeological Resources Protection Act (ARPA) [16 U.S.C. 470aa-470mm] and its implementing regulations 43 C.F.R. Part 7. The USFS shall implement a culturally sensitive plan for reburial. The human remains and any associated funerary objects will not be manipulated, or transported from the original location until a plan is developed in consultation with the Medical Examiner, SHPO, and affected tribes. These actions will help ensure compliance with NAGPRA, which prohibits any person willfully removing human remains and/or objects of cultural significance from its original location. All parties shall regard the find and reburial as confidential unless all parties prepare and sign an information release agreement.

- If the discovery is located on state or private lands, the cultural resources coordinator will notify the Wallowa County Medical Examiner, Wallowa County Sheriff, State Police, SHPO, USFS, CIS, all appropriate Indian tribes, and the landowner within forty-eight (48) hours of the discovery.
 - The Medical Examiner will determine whether the remains are part of a potential crime scene. A forensic anthropologist may be required to determine whether the remains are of Native American ancestry.
 - Within seventy-two (72) hours after notification, the State Police will determine jurisdiction. If the State Police refers the matter to the SHPO, the SHPO, in consultation with the CIS and applicable Indian tribes, shall determine the treatment, including mitigation and disposition of the unmarked human burial or unregistered grave and shall implement a culturally sensitive plan for reburial. The human remains and any associated funerary objects should not be manipulated, or transported from the original location until a plan is developed in consultation with the above named parties. These actions will help ensure compliance with ORS 97.745, which prohibits any person willfully removing human remains and/or objects of cultural significance from its original location. All parties shall regard the find and reburial as confidential unless all parties prepare and sign an information release agreement.
- If the Medical Examiner determines the remains to be historical and Indian, the interests of the Tribes become paramount.
- If the remains are determined to be Indian, no analyses beyond inventory will be performed without written consent of the Tribes.
- The remains will not be transported off site, except to protect them from imminent damage.
- The remains will not be transported beyond the borders of the state of Oregon without written consent from the SHPO and the Tribes.
- PacifiCorp will allow reburial on utility property if the Tribes desire that action. Selection of a PacifiCorp-managed reburial location will take into account foreseeable future uses of the location.
- If the Medical Examiner determines the remains to be historical and non-Indian, PacifiCorp will use historic documentation in an attempt to locate familial descendants. If descendants are located, PacifiCorp will allow reburial on utility property if that is requested.
- The location of reburials will be noted on planning maps to prevent future disturbance. These maps will be kept confidential and will not be available to the public.

- PacifiCorp will treat areas of known burials; both *in-situ* and reburials, with the respect accorded any cemetery.
- PacifiCorp shall resume activities in the area of the discovery upon receipt of written authorization from the Wallowa County Sheriff, State Police, SHPO, or CIS (whoever has jurisdiction under state law).

PROTOCOL FOR RESPONSE TO VANDALISM

Vandalism consists of disturbance to historic properties, including unauthorized digging into archaeological sites or collection of artifacts. The probability for vandalism within the project is low; however, if at any time, PacifiCorp employees or contractors encounter unauthorized visitors who appear to be digging or collecting materials from the ground surface, or are in possession of excavation equipment, or if a PacifiCorp representative encounters evidence of recent unauthorized excavations or abandoned digging equipment (such as screens or shovels), the following protocol will be implemented.

- If a possible vandal or looter is present, the PacifiCorp representative will note information about the person, their equipment, and their vehicle and immediately relay the information to the work supervisor, who will confirm the information and notify the Wallowa County Sheriff's Office and/or USFS.
- If the PacifiCorp representative notes abandoned excavations or digging equipment, they will notify within 24 hours the cultural resources coordinator, who will notify the Wallowa County Sheriff's Office and/or USFS and the SHPO. The cultural resources coordinator will visit the site as soon as possible to assess any damage.
- If a hunter-fisher-gatherer site has been vandalized, the cultural resources coordinator will notify representatives of the federally recognized Indian tribes and the SHPO about this assessment and will invite them to attend the site inspection.
- The assessment of impact will be described in a formal letter report from PacifiCorp to the FERC, affected Indian tribes, SHPO, and USFS, if applicable.
- In consultation with the FERC, affected Indian tribes, SHPO, and USFS (if applicable), PacifiCorp will identify what actions, if any, should be taken to mitigate damage to an affected site and/or prevent further damage.
- Any act of vandalism or looting that involves human remains will also trigger the protocol for the treatment of human remains outlined above.
- All acts of vandalism or looting will be referred to the Wallowa County Sheriff and/or USFS for investigation and possible prosecution.

PROTOCOL FOR EMERGENCY RESPONSE

A number of events can occur within the Project that require a rapid response in order to safeguard facilities, provide for protection of wildlife habitat, protect public and private property, and prevent serious injury or loss of human life. These include, but are not limited to; forest fire, wind and electrical storms, mass wasting events (erosion), flood, earthquake, and dam or other Project facility failure. The emergency response protocol is designed to be implemented after such events have occurred.

- The supervisor of response will notify the cultural resources coordinator of the location and nature of the emergency activities.
- The cultural resources coordinator will check relevant databases for historic properties in the vicinity of the emergency.
- If historic properties are in the area of the emergency or the response (for example, both the area of the forest fire and the location of the construction of a fire line), then the cultural resources coordinator will be responsible for conducting a professional review by a qualified person of the condition of those properties.
- The cultural resources coordinator will use existing documentation as a comparison to a field visit to determine if historic properties and/or cultural resources have been destroyed, damaged, or endangered by the emergency event or the response. If any of these conditions exist, then the cultural resources coordinator will document them in the field with mapping, photographs, and, in the case of imminent loss, collection of artifacts. The cultural resources coordinator will prepare a report documenting the nature and location of the emergency event, the nature of the response, the impact on the historic properties and/or cultural resources, and any proposals to prevent further damage to the properties and to mitigate for the loss. This report will be submitted to the FERC, affected Indian tribes, SHPO and/or USFS within 4 months of the event for review and comment. After a 30-day comment period, the comments of all of the consulting parties will be incorporated into a final report and copies will be sent to all of the participating parties.
- If no alteration to the condition of the properties has occurred, a letter to that effect noting the date(s) of the field visit(s) will be placed on file in lieu of the formal report.

AGENCY CONTACTS

Wallowa Whitman National Forest, USFS

Primary Contact: Eric Harvey
(office: 541-523-6391)

Wallowa County Medical Examiner

Primary Contact: Lowell E. Euhus, MD
(office: 541-426-4502)

Wallow County Sheriff

Primary Contact: Steve Rodgers
(office: 541-426-3131 or 911)

State Police

Primary Contact: Lt. Steven R. Lane, Department of State Police
(office: 503-378-3387 x242) (cell: 503-931-7273)

State Historic Preservation Office

Primary Contact: Dr. Dennis Griffin, State Archaeologist
(office: 503-986-0674) (cell: 503-881-5038)

Secondary Contact: John Pouley, Assistant State Archaeologist
(office: 503-986-0675) (cell: 503-480-9164)

Legislative Commission on Indian Services:

Primary Contact: Karen Quigley, Director (office: 503-986-1067)