



**U. S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration**

**Natural Gas Distribution Infrastructure Safety and Modernization
Grant Program**

**City of New Albany Gas Department
New Albany, Mississippi**

**Finding of No Significant Impact
NGDISM-FY22-EA-2023-21**

PHMSA Approval:

Max Tuto

Approved 4/4/2024

I. Introduction

This document serves as the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Finding of No Significant Impact (FONSI) and provides final agency determinations and approvals for the federal actions to comply with the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.) and CEQ regulations (40 CFR parts 1500-1508). This FONSI is based on the information and analysis contained in the Tier 1 Nationwide Environmental Assessment for the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program¹ (Tier 1 EA) and the site-specific Tier 2 Environmental Assessment (Tier 2 EA), approved February 22, 2024, incorporated herein by reference.

II. Public Involvement

On November 9, 2022, PHMSA published a Federal Register notice (87 FR 67748) with a 30-day comment period soliciting comments on the "Tier 1 Nationwide Environmental Assessment for the Natural Gas Distribution Infrastructure Safety and Modernization Grant Program". During the 30-day comment period, PHMSA received one comment letter dated December 9, 2022, from the American Public Gas Association (APGA) on various aspects of the program and air quality related analysis identified in the EA. The APGA noted that the majority of projects would conduct pipe replacements by open trenching construction methods and that it is standard industry practice to seal and abandon legacy pipes rather than removing old pipeline for replacement. The APGA also provided perspectives on three areas relating to the environmental reviews of pipeline projects and include (1) the use of the specific studies (e.g., Lamb (2015)² and Weller et al. (2020)³ for quantifying greenhouse gas emissions, (2) utilization of the Social Cost of Greenhouse Gases (SC-GHG) and (3) the U.S. Army Corps of Engineer's Nationwide Permit (NWP) program. This APGA letter is available for public review at www.regulations.gov at the Docket No: PHMSA-2022-0123.

PHMSA reviewed the comment letter provided by APGA. PHMSA notes that project-specific construction methods are analyzed in the project specific Tier 2 EAs and that Tier 2 EAs include information on whether the work would include removal of old pipeline or abandonment. Regarding the suggested Lamb (2015) study for methane leak calculations, it is noted that PHMSA only utilized the pipeline material distribution reported by Weller et al. (2020) in order to quantify the leakage of methane from existing pipelines. The emission factors listed in the Tier 1 EA were calculated using data from Lamb (2015) and GRI/EPA (1996)⁴, not Weller et al. (2020). Table 1 of the Tier 1 EA lists the EPA methane emission factors, which were adopted from Lamb (2015). Regarding the SC-GHG, PHMSA analyzed the SC-GHG in accordance with the Council on Environmental Quality (CEQ) interim guidance to assist agencies in analyzing greenhouse gas (GHG) and climate change effects of their proposed actions under the National Environmental Policy Act (NEPA).⁵ CEQ recommends that agencies provide additional context for GHG emissions, including through the use of the best available social cost of GHG (SC-GHG) estimates, to translate climate impacts into the more accessible metric of dollars, allow decision makers and the public to make comparisons, help evaluate the significance of an action's climate change effects,

¹ <https://www.federalregister.gov/documents/2022/11/09/2022-24378/pipeline-safety-notice-of-availability-of-the-tier-1-nationwide-environmental-assessment-for-the>

² Lamb, B. K., Edburg, S. L., Ferrara, T. W., Howard, T., Harrison, M. R., Kolb, C. E., ... & Whetstone, J. R. (2015). Direct measurements show decreasing methane emissions from natural gas local distribution systems in the United States. *Environmental Science & Technology*, 49(8), 5161-5169.

³ Weller, Z. D., Hamburg, S. P., & von Fischer, J. C. (2020). A national estimate of methane leakage from pipeline mains in natural gas local distribution systems. *Environmental science & technology*, 54(14), 8958-8967

⁴ GRI/EPA 1996. Methane Emissions from the Natural Gas Industry. EPA-600/R-96-080. June 1996.

⁵ <https://www.federalregister.gov/documents/2023/01/09/2023-00158/national-environmental-policy-act-guidance-on-consideration-of-greenhouse-gas-emissions-and-climate>

and better understand the tradeoffs associated with an action and its alternatives. PHMSA also supports the Army Corps of Engineer's NWP program. Based on a review and assessment of the APGA's comments, PHMSA has determined that no further analysis is warranted.

The approved Tier 2 EA for the City of New Albany Gas Department was released on PHMSA's website [Tier 2 Site Specific Environmental Documents | PHMSA \(dot.gov\)](https://www.phmsa.dot.gov/about-phmsa/working-phmsa/grants/pipeline/tier-2-site-specific-environmental-documents)⁶ for public review on February 27, 2024, with a public comment period from February 27, 2024 to April 1, 2024. A notice of the Tier 2 EA was published in *The New Albany Gazette* on February 28, 2024. An electronic copy of the EA was available for public review on PHMSA's website at [PHMSA-Tier2-EA-City-of-New-Albany-approved.pdf \(dot.gov\)](https://www.phmsa-dot-gov.s3.amazonaws.com/PHMSA-Tier2-EA-City-of-New-Albany-approved.pdf) and on New Albany Gas Department's website at [Electric | New Albany Light Gas and Water | United States \(newalbanylgw.com\)](https://www.newalbanylgw.com/electric) and a hard copy was available at the New Albany City Hall, 101 West Bankhead Street, New Albany, Mississippi.

PHMSA did not receive any comments on the Tier 2 EA. The Tier 1 EA described that the majority of site-specific projects would utilize the insertion method of pipe replacement; however, it is noted that the City of New Albany would use directional bore and open trenching construction methods to replace the natural gas pipelines. These construction methods were disclosed and assessed in the Tier 2 EA.

III. Selected Action Alternative

The Selected Action alternative is identified as the "Proposed Action" in the Tier 2 EA and includes the following:

The Selected Action includes the replacement of a total of 3.2 miles of unprotected steel pipeline that was installed in the early 1950s. The vulnerable pipeline to be replaced is located within the City of New Albany's (City) existing right-of-ways (ROW) and will not require new ROW or easements. The replacement gas lines will be protected steel installed with a minimum cover depth of 54 inches. Construction methods include trenching and directional boring. At most locations, the new gas lines will be located next to the existing gas lines. However, depending on the limitations in the area and the location of other utilities, the new gas lines may need to be installed on the opposite side of the street. The City will abandon the existing pipes in place after utility services have been moved to the new pipeline.

The Selected Action alternative was chosen as it best meets the project's purpose and need to: (1) improve upon the safe delivery of energy by reducing the likelihood of incidents, as well as methane leaks; (2) avoid economic losses caused by pipeline failures; and (3) protect the environment and reduce climate impacts by remediating aged and failing pipelines and pipes prone to leakage.

IV. Minimization and Mitigation

- The City of New Albany shall implement the following mitigation measures:
 - Efficient use of on-road and non-road vehicles, by minimizing speeds and vehicles;
 - Minimizing excavation to the greatest extent practical;
 - Use of cleaner, newer, non-road equipment as practicable;
 - Minimizing all vehicle idling and at minimum, conforming with local idling regulations;
 - Ensuring that all vehicles and equipment are in proper operating condition;

⁶ <https://www.phmsa.dot.gov/about-phmsa/working-phmsa/grants/pipeline/tier-2-site-specific-environmental-documents>

- On-road and non-road engines must meet EPA exhaust emission standards (40 CFR Parts 85, 86, and 89);
- Covering open-bodied trucks while transporting materials;
- Watering, or use of other approved dust suppressants, at construction sites and on unpaved roadways, as necessary;
- Minimizing the area of soil disturbance to those necessary for construction;
- Minimizing construction site traffic by the use of offsite parking and shuttle buses, as necessary;
- Reduce pressure to 100 PSI, prior to venting methane.
- The City of New Albany shall avoid staging in wetlands or floodplains and all preconstruction contours shall be restored with natural areas reseeded or repaved as soon as practical. Best Management Practices shall be used during construction to control sediment and erosion and prevent pollutants from entering adjacent waterways.
- The City of New Albany shall coordinate with the local floodplain administrator to obtain any necessary permits for conducting work in special flood hazard areas, prior to the commencement of work.
- The City of New Albany shall avoid any direct impacts to open water resources by using directional bore methods, maintaining appropriate distances from the edge of any water resources for entrance and exit pits and tie-ins.
- The City of New Albany shall utilize best management practices to control sediment and erosion during construction to prevent any migration of soils into adjacent waterways.
- The City of New Albany shall ensure that engineering specifications for the project include capturing all drilling mud and to engage special procedures to safely handle inadvertent returns.
- The City of New Albany shall ensure that appropriate construction and restoration activities minimize any potential impacts to groundwater. All impacted areas would be restored to pre-construction conditions.
- In the event of a release of hazardous materials/waste into the environment during construction, the City of New Albany shall notify the appropriate emergency response agencies, potentially impacted residents, and regulatory agencies of the release or exposure.
- The City of New Albany shall utilize a Stormwater Pollution Prevention Plan which would identify appropriate construction and restoration activities to minimize the potential impacts to groundwater. All impacted areas would be restored to pre-construction conditions.
- The City of New Albany shall utilize best management practices, as appropriate, to control sediment and erosion during construction which may include silt fencing, check dams, and promptly covering all bare areas. All impacted areas shall be restored to pre-construction conditions.
- The City of New Albany is responsible for abiding by all applicable federal, state, and local regulations.
- If, during project implementation, a previously undiscovered archaeological or cultural resource that is or could reasonably be a historic property is encountered or a previously known historic property will be affected in an unanticipated manner, all project activities in the vicinity of the discovery will cease and the City of New Albany will immediately notify PHMSA. This may include discovery of cultural features (e.g., foundations, water wells, trash pits, etc.) and/or artifacts (e.g., pottery, stone tools and flakes, animal bones, etc.) or damage to a historic

property that was not anticipated. PHMSA will notify the State Historic Preservation Office and participating federally recognized tribes and conduct consultation as appropriate in accordance with 36 CFR § 800.13. Construction in the area of the discovery must not resume until PHMSA provides further direction.

- In the event that unmarked human remains are encountered during permitted activities, all work shall halt and the City of New Albany shall immediately contact PHMSA as well as the proper authorities in accordance with applicable state statutes to determine if the discovery is subject to a criminal investigation, of Native American origin, or associated with a potential archaeological resource. At all times human remains must be treated with the utmost dignity and respect. Human remains and associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be photographed, collected, or removed until PHMSA has conducted the appropriate consultation and developed a plan of action. Project activities shall not resume until PHMSA provides further direction.
- All work, material, equipment, and staging to remain within the road's existing right-of-way or utility easement or other staging areas as identified in the environmental documentation. If the scope of work changes in any way that may alter the effects to historic properties as described herein, the grant recipient must notify PHMSA, and consultation may be reopened under Section 106.
- Staging areas for the Undertaking are currently unknown. Staging should be confined to paved areas; if staging cannot be confined to paved areas, geotextile fabric or other similar protective measures (such as pressure distributing mats) must be laid in any affected unpaved area to minimize ground disturbance, prevent soil compaction, and protect archaeological features and artifacts.
- The City shall coordinate with state and local agencies regarding anticipated traffic disruptions, as needed during construction and shall notify any potentially impacted residents and/or business owner of temporary parking impacts. The City shall have a traffic control plan in place, prior to construction, and coordinate with the appropriate agency well in advance of any impacted emergency services or essential agency functions.
- The City of New Albany shall adhere to Ordinance Sec. 14-8 regarding noise.
- The City shall provide advanced notification of service disruptions and construction schedule to all affected parties including residents and businesses adjacent to the project area.
- The City of New Albany shall ensure their DIMP procedures are updated as necessary, the work is constructed in accordance with industry best practices and the project would comply with all local, state, and federal regulations, including those for safety.
- The City of New Albany shall use standard construction safety methods and procedures; and conduct regular safety audits of crews performing work in the field and subsequent follow-up reporting and/or training, as required.

V. Findings and Determinations

Based on the analysis in this Tier 2 EA, PHMSA did not identify any significant adverse impacts on human health or the natural environment that would result from implementation of the Selected Action Alternative. The project will not require any additional right-of-way or easements.

PHMSA issued a Section 106 'No Adverse Effect to Historic Properties' finding for the project and sent a letter to the Mississippi Department of Archives and History initiating Section 106 consultation and requesting concurrence on PHMSA's finding of 'No Adverse Effect to Historic Properties' on February 7, 2024. The Union County Historical Society and Heritage Museum and the New Albany Main Street Association were copied on the letter and invited to participate as consulting parties. PHMSA also sent letters on February 7, 2024, to the following federally recognized tribes, inviting them to participate in consultation:

- Alabama-Coushatta Tribe of Texas
- Chickasaw Nation
- Choctaw Nation of Oklahoma
- Coushatta Tribe of Louisiana
- Muscogee (Creek) Nation

The letter to the tribes initiated Section 106 consultation to determine if there were any historic properties of cultural or religious significance to the tribes, to determine if the tribes would like to be consulting parties, and to notify the tribes of PHMSA's intention to make a finding of 'No Adverse Effect to Historic Properties'.

The Mississippi Department of Archives and History, acting in its capacity as the State Historic Preservation Office responded on March 4, 2024, concurring with PHMSA's determination that the proposed undertaking will have No Adverse Effect on historic properties provided that all ground disturbing activity is confined to existing ROW. The Choctaw Nation of Oklahoma responded on March 7, 2024, that the area of potential effect is outside the Tribe's area of interest.

The Department of Culture and Humanities from the Chickasaw Nation responded on March 12, 2024, accepting the invitation to consult under Section 106 and identified eight land patents that are located within the area of potential effect. The Chickasaw Nation also requested that "in the event the agency becomes aware of the need to enforce other statutes, we request to be notified under ARPA, AIRFA, NEPA, NAGPRA, NHPA, and Professional Standards." PHMSA replied on April 3, 2024 acknowledging that the area of potential effects for the Undertaking passes through lands in Union County, Mississippi, patented to members of the Chickasaw Nation as part of the 1832 Treaty of Pontitock (Pontotoc) Creek, specifically lands patented to Cut-tah-ho-chubby (Section 36, Township 6, Range 2 East and Sections 1 and 12, Township 7, Range 2 East), In-na-ho-ke-ta (Section 8, Township 7, Range 3 East), and Tow-wa-sha-yea (Sections 6 and 7, Township 7, Range 3 East). PHMSA likewise acknowledged the historical road from the King's village to La Grange, Tennessee passing through the patents. Based on review of the additional information provided, PHMSA reaffirmed the prior finding that the Undertaking will have No Adverse Effect on Historic Properties.

No responses were received from other tribes, or consulting parties within 30 days of submitting the consultation letters. Therefore, in accordance with 36 CFR § 800.5(c)(1), PHMSA may proceed with carrying out the undertaking.

The Cultural Resource mitigation measures are listed above in Section IV, Minimization and Mitigation. One additional Mitigation Measure was added that clarifies that all work, material, equipment, and staging are to remain within the road's existing right-of-way or utility easement, or other staging areas as identified in the environmental documentation. Should the project area or scope of work change, or if

cultural materials are encountered during construction, PHMSA would re-open consultation with SHPO and the federally recognized tribes. In the event of unanticipated discoveries, the grantee is required to stop work and notify PHMSA immediately. In turn, PHMSA would consult with SHPO and the federally recognized tribes. Attached to this FONSI is a document providing details on the protocol and requirements regarding unanticipated discoveries.

Consistent with the Tier 1 EA and the Tier 2 EA, PHMSA is making a FONSI determination, in accordance with 40 CFR 1501.6, for this project as it meets the following conditions:

- The Tier 2 Environmental Questionnaire for the selected action is complete and accurate.
- The types and extent of anticipated environmental impacts are as expected in the Tier 1 EA.
- Project proponent commits to compliance with applicable Federal and State environmental requirements.
- The project proponent commits to perform mitigation measures described in the Tier 2 Site Specific Environmental Assessment.
- PHMSA's review of the Tier 2 Environmental Questionnaire did not identify adverse and unanticipated types or levels of environmental impacts.

After careful and thorough consideration of the facts herein, the undersigned finds that the proposed Federal action, namely the Selected Action alternative, is consistent with existing environmental policies and objectives as set forth in NEPA and other applicable environmental requirements and is not a major federal action significantly affecting the quality of the human environment or otherwise, including any condition requiring consultation pursuant to Section 102(2)(c) of NEPA. Furthermore, PHMSA finds that the Tier 1 EA and Tier 2 EA satisfy the requirements of NEPA (42 U.S.C. 4321 et seq.) and CEQ regulations (40 CFR parts 1500-1508). As a result, PHMSA will not prepare an Environmental Impact Statement.

March 12, 2024

Ms. Amy Hootman, Section 106 Specialist
United States Department of Transportation
Pipeline & Hazardous Materials Safety Admin.
1200 New Jersey Avenue, SE
Washington, DC 202590

Dear Ms. Hootman:

Thank you for the letter of notification regarding the proposed replacement of a natural gas pipeline by the City of New Albany Gas Department in Union County, Mississippi. We accept the invitation to consult under Section 106 of the National Historic Preservation Act.

The Chickasaw Nation makes the agency aware of the following land patents that are located within the area of potential effect:

- Article 5 Land Patent #61 was issued to Chickasaw CUT TAH HO CHUBBY and is in Section 36 Township 6 South, Range 2 East and Section 1, Township 7 South, Range 2 East.
- Article 5 Land Patent #60 was issued to Chickasaw TO WAH SHA YEA and is in Section 6, Township 7 South, Range 3 East, and is listed as a residence.
- Article 6 Land Patent #367 was issued to Chickasaw LAH PO SHE MAH and was removed from Section 6, Township 7 South, Range 3 East.
- Article 6 Land Patent #478 was issued to Chickasaw AH SHAH CHA and was removed from Section 6, Township 7 South, Range 3 East.
- Article 6 Land Patent #15 was issued to Chickasaw IN NA HO KE TA and is in Section 8, Township 7 South, Range 3 East.
- Article 5 Land Patent #866 was issued to Chickasaw TAH NA CHA and was removed from Section 8, Township 7 South, Range 3 East.
- Article 6 Land Patent #252 was issued to Chickasaw LAH FIN HAH and was removed from Section 8, Township 7 South, Range 3 East.
- Article 6 Land Patent #239 was issued to ISH PO HA and was removed from Section 8, Township 7 South, Range 3 East.

In addition, we make the agency aware of the 1830 GLO survey map, which shows the Road from the King's to LaGrange in Sections 6, 7, and 8, Township 7 South, Range 2 East and the Old Road from Memphis to Cotton Gin Port in Section 36, Township 6 South, Range 2 East and Section 1, Township 7 South, Range 2 East. In the event the agency becomes aware of the need to enforce other statutes, we request to be notified under ARPA, AIRFA, NEPA, NAGPRA, NHPA, and Professional Standards.

We appreciate your efforts to preserve and protect significant historic properties. If you have any questions, please contact Ms. Karen Brunso, tribal historic preservation officer, at (580) 272-1106 or by email at hpo@chickasaw.net.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa John', with a long horizontal flourish extending to the right.

Lisa John, Secretary
Department of Culture and Humanities

cc: PHMSASection106@dot.gov



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 3, 2024

Lisa John
Secretary
Department of Culture and Humanities
Chickasaw Nation
520 East Arlington
Ada, OK 74820

Section 106 Continuing Consultation: PHMSA Pipeline Replacement Project in New Albany, Mississippi
Grant Recipient: City of New Albany Gas Department
Project Location: City of New Albany, Union County, Mississippi

Dear Lisa John:

The Pipeline and Hazardous Materials Safety Administration (PHMSA) thanks the Chickasaw Nation for its prompt response to PHMSA's invitation to be a consulting party under Section 106 of the National Historic Preservation Act of 1966, as amended, for the PHMSA Pipeline Replacement Project in New Albany, Mississippi (Undertaking). PHMSA acknowledges that the area of potential effects (APE) for the Undertaking passes through lands in Union County, Mississippi, patented to members of the Chickasaw Nation as part of the 1832 Treaty of Pontitock (Pontotoc) Creek, specifically lands patented to Cut-tah-ho-chubby (Section 36, Township 6, Range 2 East and Sections 1 and 12, Township 7, Range 2 East), In-na-ho-ke-ta (Section 8, Township 7, Range 3 East), and Tow-wa-sha-yea (Sections 6 and 7, Township 7, Range 3 East). PHMSA likewise acknowledges the historical road from the King's village to La Grange, Tennessee passing through the patents.

PHMSA recognizes the Chickasaw Nation's historical relationship to the project area and by reason of the negative survey results generated by eight (8) prior archaeological surveys conducted in and around the APE, the absence of documented archaeological sites within one quarter of a mile of the APE, and anticipated ground disturbance related to the Undertaking being restricted to previously disturbed portions of the existing right of way, PHMSA reaffirms its prior finding that the Undertaking will have No Adverse Effect on Historic Properties.

Please note that when PHMSA issues a final decision as part of its National Environmental Policy Act (NEPA) review, we include the following conditions in the decision that must be followed as part of the project and attach PHMSA's Unanticipated Discoveries Protocols (Attachment A):

- If, during project implementation, a previously undiscovered archaeological or cultural resource that is or could reasonably be a historic property is encountered or a previously known historic property will be affected in an unanticipated manner, all project activities in the vicinity of the discovery will cease and the (project sponsor) will immediately notify PHMSA. This may include discovery of cultural features (e.g., foundations, water wells, trash pits, etc.) and/or artifacts (e.g., pottery, stone tools and flakes, animal bones, etc.) or damage to a historic property that was not

anticipated. PHMSA will notify the State Historic Preservation Office and participating federally recognized tribes and conduct consultation as appropriate in accordance with 36 CFR § 800.13 regarding post-review discoveries. Construction in the area of the discovery must not resume until PHMSA provides further direction.

- In the event that unmarked human remains are encountered during permitted activities, all work shall halt, and the (project sponsor) shall immediately contact PHMSA as well as the proper authorities in accordance with applicable state statutes to determine if the discovery is subject to a criminal investigation, of Native American origin, or associated with a potential archaeological resource. At all times human remains must be treated with the utmost dignity and respect. Human remains and associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be photographed, collected, or removed until PHMSA has conducted the appropriate consultation and developed a plan of action. Project activities shall not resume until PHMSA provides further direction.

PHMSA appreciates your participation in this process. Should you need additional information or have any additional concerns or questions please contact Brian M. Albright, Section 106 specialist, at PHMSASection106@dot.gov or 856-381-6233.

Sincerely,



Matt Fuller
Senior Environmental Protection Specialist

MF/ba

cc: Jason Holloman, Environmental Protection Specialist, USDOT Volpe Center
Damond Smith, PHMSA Grant Coordinator
Kirk Perry, Historic Preservation Executive Officer
Karen Brunso, Tribal Historic Preservation Officer, Chickasaw Nation

Enclosures:

Attachment A: PHMSA Unanticipated Discoveries Protocols

Attachment A
PHMSA Unanticipated Discoveries Protocols

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)
UNANTICIPATED DISCOVERIES PROTOCOLS

A. Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects:

In accordance with 36 CFR § 800.13, if a previously undiscovered archeological or cultural resource that is or could reasonably be a historic property is encountered or a previously known historic property will be affected in an unanticipated manner during construction, the Grant Recipient will implement the following procedures. This may include discovery of cultural features (e.g., foundations, water wells, trash pits, etc.) and/or artifacts (e.g., pottery, stone tools and flakes, animal bones, etc.) or damage to a historic property that was not anticipated. We advise construction personnel to cease construction and for the Grant Recipient to consult with PHMSA to address post-review concerns. Each step within these procedures will be completed within seven (7) days unless otherwise specified:

1. The person or persons encountering such properties or effects shall immediately stop construction in the area of the discovery and notify the Grant Recipient, who will contact PHMSA and the Section 106 point of contact (POC; contact information listed below). Upon notification by the Grant Recipient of a discovery, PHMSA shall immediately notify the State Historic Preservation Office (SHPO), participating Tribe(s)/Nation(s), and other consulting parties that may have an interest in the discovery, previously unidentified property or unexpected effects, and consult to evaluate the discovery for eligibility for listing in the National Register of Historic Places (National Register) and/or the effects of the undertaking on historic properties.
2. The Grant Recipient will take all reasonable measures to avoid or minimize harm to the property until PHMSA has completed consultation with the SHPO, participating Tribe(s)/Nation(s), and any other consulting parties. They will require the contractor to immediately cease all ground disturbing and/or construction activities within a 100-foot radius buffer zone of the discovery, which PHMSA may reduce or expand based on SHPO standards. For any discovered archeological resources, the Grant Recipient will also halt work in surrounding areas where additional subsurface remains are reasonably expected to be present.
3. The Grant Recipient will ensure that no excavation, operation of heavy machinery, or stockpiling occurs within the buffer zone. The Grant Recipient will secure the buffer zone through the installation of protective fencing. The Grant Recipient will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106 process is complete. Work in all other Project areas may continue.
4. Following notification of an unanticipated discovery or effect, the Grant Recipient, in coordination with PHMSA, the Section 106 POC, and consultants as appropriate, will investigate the discovery site and evaluate the resource(s). The Grant Recipient or their consultant will prepare and submit a written document containing a proposed determination of National Register eligibility for the resource and/or, if relevant, an assessment of the Undertaking's effects on historic properties. PHMSA may elect to assume eligibility and/or adverse effects for expediency.
5. If the unanticipated discovery is determined to be eligible for listing in the National Register and/or adverse effects cannot be avoided, the Grant Recipient, in coordination with PHMSA, will propose in writing to SHPO and participating Tribe(s)/Nation(s) and consulting parties, treatment measures to resolve adverse effects.
6. If it is necessary to develop treatment measures, the Grant Recipient, in coordination with PHMSA, will implement the approved treatment measures. The Grant Recipient will ensure construction-related activities within the buffer zone do not proceed until consultation with SHPO, Tribe(s)/Nation(s) and other consulting parties concludes with: 1) a determination that the resource is not National Register-eligible or there are no new adverse effects; 2) the agreed upon treatment

measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.

B. Unanticipated Discovery of Human Remains

If the unanticipated discovery includes what is or suspected to be human remains, the Grant Recipient will implement the following procedures. At all times human remains must be treated with the utmost dignity and respect. Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be photographed, collected or removed until appropriate consultation has taken place and a plan of action has been developed. We advise construction personnel to cease construction and for the Grant Recipient to consult with the PHMSA to address post-review concerns. Each step within these procedures will be completed within seven (7) days unless otherwise specified:

1. If marked or unmarked graves, human skeletal remains, or skeletal remains believed to be human are encountered during development, all potential disturbance to the graves, skeletal remains, or associated items (e.g., artifacts, headstones, etc.) must cease and law enforcement be notified in accordance with applicable State statute(s) and to determine if the discovery is subject to a criminal investigation. The Grant Recipient will notify PHMSA and the Section 106 POC within twenty-four (24) hours of the initial discovery.
2. Work in the general area of the discovery will stop immediately and the Grant Recipient will immediately secure and protect the human remains and any associated artifacts in place in such a way that minimizes further exposure or damage from the elements, looting, and/or vandalism. The Grant Recipient will ensure a perimeter with a 100-foot radius buffer zone around the discovery is established where there will be no excavation, operation of heavy machinery, or stockpiling. PHMSA may reduce or expand this buffer zone based on SHPO standards. The Grant Recipient will secure the buffer zone through the installation of protective fencing at minimum. The Grant Recipient will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106 process is complete. Work in all other Project areas may continue.
3. If a criminal investigation is not appropriate, the Grant Recipient will ensure compliance with any applicable State and local laws pertaining to human remains, funerary objects, and cemeteries. Discoveries of human remains on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC §3001-3013, 18 USC § 1170); and the Archaeological Resources Protection Act (ARPA) (14 USC § 470), as applicable. PHMSA, in coordination with the Grant Recipient, will consult with the appropriate Tribe(s)/Nation(s) and consulting parties.
4. In the event the human remains encountered are of Native American origin, PHMSA, in coordination with the Grant Recipient, will consult with the appropriate Tribe(s)/Nation(s) and SHPO to determine treatment measures for the avoidance, recovery or reburial of the remains and any associated artifacts. When applicable, PHMSA and the Grant Recipient will follow the principles within the ACHP's Policy Statement on Burial Sites, Human Remains, and Funerary Objects, dated March 1, 2023.
5. If the remains are not of Native American origin, the Grant Recipient, in coordination with PHMSA, will consult with the SHPO and participating consulting parties to determine if the discovery is a historic property, take into account the effects on the historic property, and resolve adverse effects, as appropriate.
6. If it is necessary to develop treatment measures, the Grant Recipient, in coordination with PHMSA, will implement the approved treatment measures. The Grant Recipient will ensure ground disturbing and construction-related activities within the buffer zone do not proceed until consultation with the SHPO, consulting Tribe(s)/Nation(s) and participating consulting parties

concludes with: 1) a finding that the resource is not National Register-eligible or there are no new adverse effects; 2) the agreed upon treatment measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.

7. The Grant Recipient, in coordination with PHMSA, will also ensure ground disturbing and construction-related activities within the buffer zone do not proceed until the Grant Recipient has complied with all applicable State or local cemetery or burials laws.

Points of contact are as follows:

- PHMSA: Matt Fuller - (217) 707-8169; Matt.Fuller@dot.gov
- Section 106 POC (Volpe): Brian M. Albright – (856) 381-6233; PHMSA106@dot.gov