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January 23, 2017

In response, reply to
2014-MLT-28468

ORIGINAL

Heather Millis
TRC Solutions
50101 Governor's Drive, Suite 250
Chapel Hill, NC 27517

Re: Rover Pipeline, Additional Archaeological Investigations at two Sites Ohio

Dear Ms. Millis,

This is in response to correspondence from your office dated January 9, 2017 (received January 12). The comments of the Ohio State Historic Preservation Office (SHPO) are submitted in accordance with provisions of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 [36 CFR 800]).

The documentation lays out the research design for additional archaeological investigations at sites 33-WE-662 and 33-MO-158. The additional investigations will add to our understanding of the archaeological record within the project corridor. This information supports analysis of effects of the undertaking and provides a better understanding of the likely extent of the archaeological sites outside of the area of direct effects.

The SHPO has reviewed and is in agreement with the research design for the additional archaeological investigations at the two sites. We have no objection to the initiation of the archaeological investigations provided acceptable weather conditions.

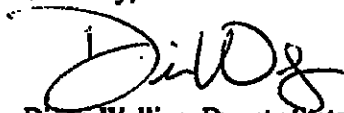
We offer the following suggestions as guidance to be considered in carrying out the research design. Given the data from the Phase I archaeological survey we agree that it is unlikely that human remains will be identified. When we recommended work at these sites we factored in the low probability of identifying human remains or items of cultural patrimony. Our emphasis is on gaining a better understanding of daily, routine, activities commonly interpreted as associated with resource procurement and processing. However, in the unlikely event that human remains are identified, we recommend following the guidance provided by the SHPO on the Treatment of Human Remains (see attached) because there are no state laws in Ohio that deal with this sensitive issue and because there are difficulties in applying federal laws to protect human remains in this kind of undertaking.

Regarding the photography of artifacts, the SHPO has offered guidance suggesting that it is helpful to emphasize photographs of diagnostic artifacts. Our attempt in offering this guidance is not to limit or restrict but rather to shape priorities that emphasize the compilation of quality images that support a database. It isn't our position to require photographs of each individual artifacts, but depending on the number of artifacts in the assemblage and the number of diagnostic artifacts there may be assemblages where a few non-diagnostic artifacts are included in the group of photographed artifacts. Simply put we expect high quality photographs of a selected number of artifacts from each of the two sites.

Ms. Heather Millis
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Please feel at liberty to contact me or members of the review team with any questions regarding this matter at any time at (614) 298-2000 .

Sincerely,



Diana Welling, Deputy State Historic Preservation Officer
Resource Protection and Review

DW/ds (SHPO Serial Number 1066839)

xc:

The Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

OHIO HISTORY CONNECTION

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January 1997

OHPO Policy Statement on Treatment of Human Remains

The Ohio Historic Preservation Office (OHPO) recognizes the importance of providing careful and respectful treatment for human remains recovered during archaeological investigations. In order to assist archaeologists in responding to this issue, we offer the following information concerning OHPO recommendations regarding treatment of human remains and associated grave goods. This information and our recommendations are based on our understanding of the current relevant legislation and regulations (including the National Historic Preservation Act [NHPA], Archaeological Resources Protection Act [ARPA], American Indian Religion Freedom Act [AIRFA], and Native American Graves Protection and Repatriation Act [NAGPRA]).

Prior to the Initiation of Field Work

When the work is on federal land or Native American land, consultation prior to implementation of a project is required. Although prior consultation is not required when the project is not on either federal land or Native American land, it is our position to encourage coordination with interested parties at every opportunity.

Where the project is not on federal land or Native American land, it is our opinion that until evidence of burials or interments (as broadly defined) is found you do not have to contact any Native American Tribal Authority nor do you have to contact any Native American organization regarding disposition or repatriation. However, it is also our recommendation that, even before burials are found, if a person representing a Native American organization contacts you then you should consider that organization an interested party and they should be provided with a full disclosure of the nature of the project. Consultation with a federally recognized tribal authority and/or a Native American organization is recommended for large scale projects where the recovery of burials or sacred objects is likely. We also note that consultation with federally-recognized tribal authorities and/or other parties may be necessary in some cases, for example, in the process of identifying traditional cultural properties.

For projects not on federal land or Native American land, if no human remains are found then there is no need for consultation with tribal authorities concerning disposition or repatriation. If you have been contacted by an interested party concerned with these issues, then they should be notified, after the completion of the project, that no human remains were found. As an aside, we believe that our comments and recommendations would also apply, in a general sense, in cases of sacred objects and cultural patrimony.

OHPO Policy on Treatment of Human Remains
January 1997 (revised October 2012)

During Field Operations

If human remains are found in a context which indicates the possibility of a burial or intentional interment, then the following steps are recommended.

- **First, every effort should be made to treat human remains respectfully. It is our recommendation to consider each individual burial on a case-by-case basis. And, you should contact the OHPO.**
- **Second, we believe think it is important to proceed with the excavations sufficiently to provide basic information on identity. Is it possible to determine how old the remains are? Are the remains unquestionably prehistoric? Are the remains unquestionably Native American? (Remember, for example, the remains could be historic Euro-American, or historic African American, or historic Hispanic American, or historic Asian American, or historic Native American.) Are there any artifacts associated with the remains which give evidence of association? Is it possible, based on associated artifacts, to identify the individual? (By this we mean specifically name and date of birth.) Is it possible, based on associated artifacts, to identify direct lineal descendants of the individual? Is it possible, based on associated artifacts, to identify groups who constitute direct descendants? It is important to conduct the necessary excavations in an expeditious manner but with sufficient control to provide comprehensive documentation.**
- **At this point, we are assuming that the remains have been left in place (in the ground), at least as much as possible, but protected from natural forces and from vandalism and looting. It is generally prudent to notify the local authorities (coroner and sheriff) when human remains are found. To the best of our knowledge, when remains are found in a good archaeological context, it is not required to contact the local authorities, but if there is any question of context, then the local authorities should be contacted.**
- **Third, establish coordination among field archaeologists, OHPO and lead federal agency in order to assess the situation.**
- **Fourth, initiate efforts to contact relevant persons, including federally recognized tribal authorities, if appropriate. It is the legally mandated responsibility of the lead federal agency to contact appropriate tribal authorities and interested parties if Native American human remains are encountered during an undertaking. But remember, at this time, the final decision regarding disposition has not been made. Also, we recommend contacting any interested parties, especially if they have made prior contact with you.**
- **Work in the area of the human remains should, under most circumstances, cease during a 30 day period of coordination.**

OHPO Policy on Treatment of Human Remains
January 1997 (revised October 2012)

- **Fifth, reach an agreement regarding the remains:**
 - **it is preferable to leave human remains in place, if possible;**
 - **if not possible to leave in place, OHPO recommends careful removal and scientific study, however, the extent of scientific study depends on many circumstances and should be addressed on a case-by-case basis;**
 - **if the identity can be determined with relative certainty, or it is possible to establish identity of direct lineal descendants, then, in most cases, the remains should be handled according to the wishes of the descendants, unless there are overarching scientific reasons to pursue another course of action;**
 - **if the identity cannot be established with certainty, then great care should be taken not to rush into a hasty decision. Any agreement on the disposition of human remains should, in our opinion, take into account the degree of uncertainty concerning their identity. Remember, a carefully made decision can be modified, but a hasty decision to turn remains over just to be rid of them and the interested party shows little respect for the deceased or for any descendants (lineal or cultural). Is it possible to establish a direct lineal descendant? Is it possible to establish a direct line of cultural affiliation? In our opinion, serious consideration should be given to the expressed wishes of people who can establish a claim of directly descendant or who can show a direct line of cultural affiliation.**
- **Then, as part of the closure for the field work portion of a Section 106 review, it is the responsibility of the lead federal agency to reach a decision regarding the treatment and disposition of human remains in consultation with OHPO, the field archaeologists, tribal authorities, and interested parties in accordance with established agreements.**

Subsequent to Field Operations

If human remains are found as a result of laboratory work and not from a burial, then consultation should be initiated at the end of the project and after the completion of the laboratory analysis. It is our recommendation that this consultation follow the outline presented above to work out procedures for the appropriate treatment of the human remains.

If human remains are found in a context that does not indicate burial or interment, then every effort should be made in the field to define the context and association, and the process of consultation, as outlined above, should be initiated.

**OHPO Policy on Treatment of Human Remains
January 1997 (revised October 2012)**

To assist you in the event that consultation with federally recognized tribal authorities is needed, OHPO maintains a list of federally recognized tribal authorities including listings from the Bureau of Indian's Affairs' Tribal Leaders Directory. This list is not all-inclusive; it represents a first step in developing procedures to address issues of disposition and repatriation. There are currently no federally recognized tribal authorities in Ohio since Ohio does not have any Native American Reservations or Land. However, there are many active Native American groups and organizations in Ohio. Also, in some cases, the Ohio Historic Preservation Office may be able to assist agencies and individuals contact individuals who have expressed an interest in the issues involving reburial. If the need develops we can provide assistance to get you started in compiling a list of interested parties.

In summary, our recommendations when human remains are identified are to first contact OHPO, second to make every effort to identify the individual and obtain information on cultural affiliation, third to consult with the appropriate federally-recognized tribal authority, and fourth, in coordination with OHPO, make a decision for the treatment of the remains.

Document Content(s)

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