

From: [Burns Yanchok, Katlyn \(LEO\)](#)
To: [Assenza, Adam](#); [Tabachnick, Alan](#); [Campbell, Coley](#); [Haag, Crista](#)
Cc: [Surface-Evans, Sarah \(LEO\)](#)
Subject: Sec. 106 Consultation Request Response ER22-802 CNAE UDP
Date: Monday, October 30, 2023 9:41:03 AM
Attachments: [image001.png](#)
[22-802 CNAE UDP.pdf](#)
[Unanticipated Discoveries Plan_template.docx](#)

Some people who received this message don't often get email from burnsyancho@michigan.gov. [Learn why this is important](#)

Hello,

Please find the attached response to the consultation request noted above. Hard copies of our response can be mailed on request.

Please let me know if you have any questions.



Katlyn Burns Yanchok

Historian

State Historic Preservation Office

300 N. Washington Square

Lansing, MI 48913

Office: 517.335.9840 Direct: 517.256.3416

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN STRATEGIC FUND
STATE HISTORIC PRESERVATION OFFICE

QUENTIN L. MESSER, JR.
PRESIDENT

October 30, 2023

ADAM ASSENZA
SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS
395 E STREET SW
WASHINGTON DC 20423

RE: ER22-802 CSX CGC Line Abandonment Project, T10N, R17W, Sec. 25, 33, 34, 35, 36, Muskegon,
Muskegon County (STB)

Dear Adam Assenza:

Under the authority of Section 106 of the National Historic Preservation Act of 1966, as amended, we have reviewed the above-referenced undertaking. Based on the information provided for our review, it is the opinion of the State Historic Preservation Officer (SHPO) that the proposed undertaking will have **no adverse effect** [36 CFR § 800.5(b)] on historic properties within the area of potential effects for the above-cited undertaking **provided the following condition is met:**

- Given the possibility for inadvertent discovery of human remains or archaeological material during the proposed construction activities, **SHPO requests development of an Unanticipated Discoveries Plan prior to construction and in consultation with SHPO.** A sample template for an Inadvertent Discovery Plan is enclosed. This document can be modified to suite your agency.

If you concur, the accompanying form must be signed by an agency official with legal authority to act on behalf of the agency [36 CFR § 800.2(a)]. Please return the signed original to us. Please note that the Section 106 review process will not be complete and STB's responsibility to comply with 36 CFR § 800.4, "Identification of historic properties," and 36 CFR § 800.5, "Assessment of adverse effects," will not be fulfilled until we have received this letter with the original signature of the agency official. **If the agency official disagrees with this condition, then consultation with this office shall be reopened per 36 CFR § 800.5(a).**

We remind you that federal agency officials or their delegated authorities are required to involve the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties per 36 CFR § 800.2(d). The National Historic Preservation Act also requires that federal agencies consult with any Indian tribe and/or Tribal Historic Preservation Officer (THPO) that attach religious and cultural significance to historic properties that may be affected by the agency's undertakings per 36 CFR § 800.2(c)(2)(ii).

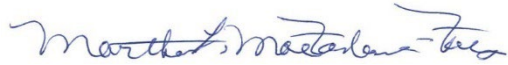
The State Historic Preservation Office is not the office of record for this undertaking. You are therefore asked to maintain a copy of this letter with your environmental review record for this undertaking. **If the scope of work changes in any way, please notify this office immediately. In the unlikely event that human remains, or archaeological material are encountered during construction activities related to the above-cited undertaking, work must be halted, and the Michigan SHPO and other appropriate authorities must be contacted immediately.**

STATE HISTORIC PRESERVATION OFFICE

300 North Washington Square | Lansing, MI 48913 | 888.522.0103

If you have any questions, please contact Katlyn Yancho, Historian, at 517-256-3416 or by email at yancho@michigan.gov. **Please reference our project number in all communication with this office regarding this undertaking.** Thank you for this opportunity to review and comment, and for your cooperation.

Sincerely,

A handwritten signature in blue ink, reading "Martha MacFarlane Faes". The signature is fluid and cursive, with the first name "Martha" being more prominent.

Martha MacFarlane Faes
Deputy State Historic Preservation Officer

MMF:SES:SSE:KMBY

Enclosure: Unanticipated Discoveries Plan Template

copy: Crista M. Haag, Arcadis US, Inc
Coley J. Campbell, CSX Transportation, Inc.



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October 30, 2023

ADAM ASSENZA
SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS
395 E STREET SW
WASHINGTON DC 20423

RE: ACCEPTANCE LETTER

ER22-802 CSX CGC Line Abandonment Project, T10N, R17W, Sec. 25, 33, 34, 35, 36, Muskegon,
Muskegon County (STB)

We have received comments from the State Historic Preservation Office (SHPO) regarding the above-cited undertaking at the location noted above. We intend to follow the conditions as specified by the SHPO.

I concur: _____ Date: _____

Printed name and title of agency official: _____



Unanticipated Discoveries Plan

Purpose

This document outlines the procedures to prepare for and address the unanticipated discovery of historic properties or human remains. It provides direction regarding the proper procedures to follow in the event that unanticipated cultural materials or human remains are encountered during construction. An unanticipated discovery can result when previously undocumented or unknown historic properties are discovered during the course of projects.

Historic structures or buildings can be districts, sites, buildings, structures, or objects significant in American history, architecture, engineering, archaeology, or culture at the national, State, or local level. Sometimes elements of historic buildings or structures may be hidden by recent additions or alterations. For example, siding may obscure the historic character of a historic home or log cabin.

Cultural materials include human-made objects (both pre-contact and historic period) and features (e.g., foundation walls, hearths, middens, or other remnants of cultural activity) that are part of an archaeological site. Examples of cultural materials include:

- An accumulation of shell, burned rocks, or other food related materials,
- Bones or small pieces of bone,
- An area of charcoal or very dark stained soil with artifacts,
- Stone tools or waste flakes (i.e., an arrowhead, or stone chips),
- Clusters of tin cans or bottles,
- Logging or agricultural equipment that appears to be older than 50 years,
- Buried railroad tracks, decking, or other industrial materials.

Human remains are physical remains of a human body or bodies, including, but not limited to, bones, teeth, hair, ashes, and preserved soft tissues (mummified or otherwise preserved) of an individual. Remains may be articulated or disarticulated bones or teeth. Any human skeletal remains, regardless of antiquity or ethnic origin, will at all times be treated with dignity and respect.

Procedures for Historic Structures & Buildings or Archaeological Discoveries

- 1) **STOP WORK.** If any employee, contractor, or subcontractor believes that he or she has uncovered cultural materials relating to an archaeological site or historic structure or building at any point in the project, all work at and adjacent to the discovery must stop. The discovery location should be secured at all times. Minimize movement of vehicles and equipment in area immediately surrounding the discovery.
- 2) **CONTACT.** If the discovery does not appear to be human remains, the applicant will contact AGENCY and AGENCY will notify the SHPO/THPO of the discovery and the possible actions within two business days of discovery if the discovery occurs Monday through Friday. If the discovery occurs during a weekend or Federal holiday, AGENCY will notify the SHPO/THPO on the first working day after the weekend and/or holiday. The SHPO/THPO will respond within 48 hours of the notification or on the first working day if preceded by a weekend or holiday. AGENCY will take into account the SHPO's/THPO's recommendations and advise the Applicant to carry out appropriate and specific actions.
- 3) **EVALUATE.**
Historic buildings and structures will be identified and evaluated by qualified professional who shall meet, at a minimum, the Secretary of Interior's Professional Qualification Standards (44 FR 44738-9) in History or Architectural History.

- a) If the historian determines that the discovery is not a cultural resource, they will immediately advise AGENCY in writing and will notify the SHPO/THPO of their findings.
- b) If the historian determines that the discovery is a cultural resource, they will immediately advise AGENCY and AGENCY will notify the SHPO/THPO. and complete Architectural Properties Identification Forms for each newly identified cultural resource.
 - i) If the resource is not significant, the historian will document the discovery in a report (including photographs of the discovery site). The report must also include the completed identification forms and an explanation of why they believe the resource is not significant. The historian will formally request permission from AGENCY and SHPO/THPO for construction to recommence.
 - ii) SHPO and identified tribal representatives will be invited to observe the implementation of any proposed work.
 - iii) If the resource is believed to be significant, the historian will document the discovery in a report (including photographs of the discovery site). The report must also include the completed identification forms and an explanation of why they believe the resource is significant and a proposal for mitigation or data recovery. Then based on this information, AGENCY and SHPO/THPO will consider mitigation efforts.

Archaeological discoveries will be identified and evaluated by a qualified professional who shall meet, at a minimum, the Secretary of Interior's Professional Qualification Standards (44 FR 44738-9) for archeologists. The professional archaeologist will examine the location of the discovery. All work to evaluate significance and Project effects will be confined to the Project's potential area of impact. The costs of such professional services will generally be the responsibility of the Applicant.

- a) If the archaeologist determines that the discovery is not a cultural resource, the archaeologist will immediately advise AGENCY in writing and will notify the SHPO/THPO of their findings.
 - b) If the archaeologist determines that the discovery is a cultural resource, the archaeologist will immediately advise AGENCY and AGENCY will notify the SHPO/THPO. The SHPO will assign an Archaeological Site Number to the discovery.
 - iv) If the resource is not significant, the archaeologist will document the discovery in a report (including photographs of the discovery site). The report must also include a completed site form for the discovery and an explanation of why they believe the resource is not significant. The archaeologist will formally request permission from AGENCY and SHPO/THPO for construction to recommence.
 - v) SHPO and identified tribal representatives will be invited to observe the implementation of any proposed work.
 - vi) If the resource is believed to be significant, the archaeologist will document the discovery in a report (including photographs of the discovery site). The report must also include a completed site form for the discovery and an explanation of why they believe the resource is significant and a proposal for mitigation or data recovery. Then based on this information, AGENCY and SHPO/THPO will consider mitigation efforts.
- 4) MITIGATE. For resources that are deemed significant, AGENCY and its Applicant will consult with the SHPO/THPO on measures to avoid further impacts to the discovery. If the SHPO/THPO does not object to AGENCY's recommendations, AGENCY will require the Applicant to modify the project design plans to implement any recommendations. If the SHPO/THPO objects to the recommendations, AGENCY and the SHPO/THPO will consult further to resolve the objection through actions including, but not limited to, identifying project alternatives that may result in the undertaking having no adverse effect on historic properties. The costs of such recovery and recordation will generally be the responsibility of the Applicant.
- a) When an Applicant's project cannot be modified and will have adverse effects on an archaeological property, AGENCY may treat the adverse effect by providing for the recovery of significant information through archaeological data recovery or other scientific means. To accomplish this objective, AGENCY will follow the Council's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" published in the Federal Register (64 FR 27085, May 18, 1999); and consult with the other consulting parties to prepare a data recovery plan,

including material and record curation provisions. A report of data recovery efforts must be completed and submitted to the SHPO/THPO for review.

- b) For sites where AGENCY determines other treatment measures are appropriate, AGENCY will consult further with the other consulting parties to develop an appropriate approach to resolving the adverse effects.

Procedures for the discovery of human skeletal materials and associated funerary items

1. STOP WORK. If any employee, contractor, or subcontractor believes that he or she has uncovered skeletal remains at any point in the project, all work adjacent to the discovery must stop. The discovery location should be secured at all times. Minimize movement of vehicles and equipment in area immediately surrounding the discovery.
2. CONTACT. Notify the appropriate local law enforcement agency and AGENCY immediately. Law enforcement will then determine if the remains are human, and whether the discovery constitutes a crime scene.
 - a. If the police determine that human remains represent evidence of a crime or missing person, they will complete their investigation.
 - b. If skeletal remains are determined to be non-human and there is no archaeological association, then AGENCY will notify SHPO/THPO and work can proceed.
 - c. If the police determine that human remains do not represent evidence of a crime or missing person, but an archaeological burial site, then AGENCY will notify SHPO/THPO and in consultation with the SHPO/THPO a recovery plan will be developed. In most cases, it is preferred that burial sites be preserved, adequately documented, and maintained in place. If this is not possible, the remains and any associated materials would need to be moved for their protection. The following sequence of steps will be employed if it is not possible to preserve and maintain an inadvertently discovered burial in place:
3. DOCUMENT. A qualified archaeologist experienced in human remains recovery shall document and recover the remains and any related materials that may be present. Archaeological expertise is important in documenting the discovery context and evaluating whether the remains are isolated or if additional remains may be immediately present. Archaeological recovery may be done under the auspices of law enforcement. If law enforcement chooses not to be involved, a permit for disinterment must be obtained from the local Department of Public Health, or through a court order.
 - a. Documentation and recovery shall be respectful and conducted out of public view, to the extent possible.
 - b. As soon as possible, the remains shall be examined by a physical anthropologist using standard non-invasive methods and procedures to create a basic biological profile and estimate ethnicity. Known or suspected Native American Ancestors or other materials subject to NAGPRA will not be moved, touched, or further disturbed after discovery until completion of Tribal consultation or emergent circumstances arise.
 - c. If it can be determined immediately that a discovery is, or has the potential to be, a Native American Ancestor and/or other materials subject to NAGPRA (i.e., associated or unassociated funerary objects, sacred objects, and objects of cultural patrimony), the THPOs will be notified within 48 hours of discovery and potential identification. Tribal notification and consultation will be coordinated by AGENCY and SHPO.
 - d. After notification and initial consultation, consulting Tribes may request that all federally recognized Tribes likely to be culturally affiliated with the discovery be notified in writing by mail or email and further consultation initiated regarding the cultural affiliation, care, handling, excavation (if necessary), and/or disposition per NAGPRA.
 - e. Accommodations will be made for traditional or ceremonial practices in association with discoveries. Consulting Tribes will be afforded opportunities to employ proper traditional cultural practices and treatments during periods of non-Tribal holding of discoveries.

- f. Photographs shall not be taken, except when necessary for identification and documentation. Tribes may request that any photographs of Native American Ancestors or other materials subject to NAGPRA be destroyed or repatriated at the end of the project.
 - g. Pending consultations, documentation of the discovery will include a written description, mapping and sketching, and precise GPS coordinates. This documentation will be curated with other project records and not be published or made publicly available in any way.
 - h. To ensure the protection, preservation, and proper respectful treatment of any discovered materials, pursuant to applicable law, the nature and location of any discovery shall remain confidential as best as reasonably possible given the circumstances and location. Only those persons and entities identified in this plan shall be notified of the discovery or given information about the discovery. AGENCY and related contractors will ensure all staff and consulting personnel are appropriately trained for their respective roles in implementing this plan.
 - i. The permanent care of Native American Ancestors and materials subject to NAGPRA will be determined by the appropriate Tribe or Tribes in consultation with the SHPO.
4. REPORTING. Draft and final archaeological reports, with related physical anthropological reports and law enforcement case documentation appended, will be submitted to AGENCY, SHPO, and consulting THPOs.

Contact Information

STATE HISTORIC PRESERVATION OFFICE
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