

# **Exhibit C**

## **Unanticipated Discoveries**

### **Plan**

Big Bend Wind, LLC  
Docket Nos. IP-7013/CN-19-408,  
IP 7013/WS-19-619 and  
IP 7-013/TL-19-621; and  
OAH Docket No. 60-2500-37376  
September 2021

**Quality Services, Inc.** - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

# Big Bend

## Cultural Resources

### Unanticipated Discoveries Plan

September 3, 2021

#### **Quality Services, Inc.**

Archeology, Architectural History, Biology, Geophysics, History, Paleontology, Wetlands

1621 Sheridan Lake Road, Suite A

Rapid City, SD 57702-3432

Phone 605-388-5309

Fax 605-388-5319

Email: [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

[www.qualityservices.us.com](http://www.qualityservices.us.com)



**Quality Services, Inc.** - Archeology, Architectural History, History & Paleontology  
 1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

### Emergency Contact List

Organization	Name	Position	Contact Information
To Be Determined (TBD)	TBD	Project Environmental Manager	TBD
TBD	TBD	Project Construction Manager	TBD
TBD	TBD	Project Manager	TBD
<b>Quality Services, Inc.</b>	Jana Morehouse	Consultant Archeological Firm	605-388-5309 Office 605-209-0265 Mobile <a href="mailto:jmorehouse@qualityservices.us.com">jmorehouse@qualityservices.us.com</a>
Minnesota Office of State Archeologist	Amanda Gronhovd	State Archeologist	651-201-2264 <a href="mailto:Amanda.Gronhovd@state.mn.us">Amanda.Gronhovd@state.mn.us</a>
Minnesota State Historic Preservation Office	Amy Spong	Deputy SHPO	651-259-3466 <a href="mailto:amy.spong@mnhs.org">amy.spong@mnhs.org</a>
Minnesota Indian Affairs Council	Melissa Cerda	Cultural Resources Specialist	651-539-2200 <a href="mailto:melissa.cerda@state.mn.us">melissa.cerda@state.mn.us</a>
Cottonwood County Sheriff	Jason Purrington	Sheriff	507-831-1375 <a href="mailto:jason.purrington@co.cottonwood.mn.us">jason.purrington@co.cottonwood.mn.us</a>
Wantonwan County Sheriff	Jared Bergeman	Sheriff	507 375-3121 <a href="mailto:jared.bergeman@co.watonwan.mn.us">jared.bergeman@co.watonwan.mn.us</a>
Jackson County Sheriff	Shawn Haken	Sheriff	507-847-4420 <a href="mailto:sheriff@co.jackson.mn.us">sheriff@co.jackson.mn.us</a>

### Definition of Cultural Resources

For the purpose of this plan a cultural resource is any tangible or observable evidence of human activity that is over 50 years in age, regardless of significance. Cultural resources consist of objects, sites, structures, or landscapes. Evidence of cultural activity can include artifacts (e.g. flaking debris, bone, bottle glass shards), features (e.g., charcoal stains, patterned arrangements of rock, depressions), as well as burial mounds, unregistered graves, human remains and/or funerary objects, among other things.

Human remains discovered may be the result of a recent criminal action, accident, prehistoric or historic event. Therefore, a plan is needed to make sure they are treated in an appropriate and legally compliant manner should they be discovered during construction of the Big Bend Wind and Red Rock Solar Energy Projects (Project).

In Minnesota human burials are protected by State codified law § 307.08 Private Cemeteries Act. The Field Archeology Act (MS 138.31 – 138.42) identifies the responsibilities of the State Archeologist. The Medical Examiner Law (MS 390.25, Subd. 5) identifies the responsibilities of the Coroner.

**Quality Services, Inc.** - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

### **Procedures at Time of Discovery of Unanticipated Cultural Resources**

If unanticipated cultural resources are discovered during construction of the Project, all construction activity will immediately cease within 100 feet of the discovery, which will be immediately reported to construction manager, environmental manager, and the consultant archeologist (refer to Emergency Contact List above). Ground disturbing activities will not occur within 100 feet of the cultural resource until the consulting archeologist states in writing by email that construction may resume.

All unanticipated discoveries will be investigated by the consulting archeologist. The consultant archeologist will ascertain the nature of the cultural material, the extent of the cultural material, and the potential for intact deposits through an examination of the ground surface, backfill piles, and exposed construction surfaces. The consultant archeologist will also assess potential for additional impacts to the cultural resource with the construction manager.

In the event that a cultural resource specialist or other necessary persons are not immediately available, the discovery will be covered or otherwise protected until such time that the consultant archeologist can be present for inspection and evaluation.

Based on this examination, the consultant archeologist will make an initial recommended determination of the significance of the discovery as:

1. not a site (e.g., isolated find, or less than 50 years in age) requiring no further work or protection;
2. a National Register of Historic Places (NRHP) ineligible site (e.g., a sparse scatter of historic artifacts with little potential for intact deposits) requiring no further work or protection;
3. a NRHP eligible or culturally sensitive site or potential TCP for which no further impacts are likely to occur but requiring avoidance and protection;
4. a NRHP eligible or culturally sensitive site (e.g. exposed hearths, house pits) or potential TCP that is likely to be impacted by further construction and requiring protection and/or mitigation of potential effects;
5. a site or potential TCP for which additional information is required to ascertain extent and NRHP eligibility, and which will require further avoidance and protection.

If the examination results in determinations of 3, 4, or 5 above the archeologist will consult with the State Historic Preservation Office (SHPO) and Tribal Historic Preservation Offices (THPOs) as needed to determine how to proceed and implement the agreed upon measures. A report documenting all activities and determinations will be prepared by the consulting archeologist and submitted to the SHPO and local THPOs for review and concurrence.

The cultural resources will be protected until the consulting archeologist or State Historic Preservation Office notifies the environmental or construction manager in writing that no further protection is needed.

**Quality Services, Inc.** - Archeology, Architectural History, History & Paleontology  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

### **Emergency Stabilization of Cultural Resources**

Unstable earth conditions in trenches or other unforeseen natural or cultural events could endanger cultural resources discovered during construction. If cultural resources are in imminent danger of destruction, the construction manager will apply prudent methods to stabilize landforms around the unanticipated discovery. Once stabilized the resource shall be assessed as described above, subject to safety concerns.

### **Procedures at Time of Discovery of Unanticipated Human Remains**

Any human remains encountered in a discovery situation will be handled according to the provisions of appropriate Minnesota laws and procedures. Note that cairns or other stone features were occasionally used by Native Americans to mark human remains and should be treated as such.

With respect specifically to the Project, if any personnel identify possible human remains, they will immediately halt construction at that location and notify the construction manager who will notify the consultant archeologist.

The construction manager will then proceed to ensure that further construction does not occur within 100 feet in any direction from the edge of the discovery until the remains are assessed by the consultant archeologist. The manager will also secure the area of the apparent human remains and all areas of removed soils to ensure no further disturbance or removal of those remains and associated material. The manager will ensure that vehicular traffic is restricted to locations that will not affect the discovery and also ensure that potential human remains when discovered are covered without disturbance using a tarp or other appropriate materials (not soil or rocks) for temporary protection and to shield them from being photographed or disturbed by weather, animals or people.

If the consultant archeologist believes they are human remains the consultant archeologist will notify the county law enforcement, county coroner, SHPO, and THPOs as needed. The remains will be assessed by one or all of the officials contacted.

If human remains are discovered, this could be either a recent criminal action or accident with specific reporting requirements to local law enforcement, landowner and coroner in accordance with Minnesota Statute MS 390.25, Subd. 5, Coroner, Medical Examiner Law. The human remains could also be from a prehistoric or historical event protected by Minnesota Statute 307.08 Private Cemeteries Act. If the remains are human, the consultant archeologist will advise on further consultation requirements and the treatment and disposition of the remains based on state law and procedures.

If the human remains are non-archeological forensic the sheriff or county coroner will retain custody of the remains and determine the plan of action. If the remains are historic or prehistoric archeological the SHPO will evaluate the remains and determine how to proceed.

**Quality Services, Inc.** - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

The Sheriff will advise on future actions to be taken by the Project, contractor, and landowner. Work in the immediate area will not resume until directed by the Sheriff or other appropriate official.

If the remains are archeological **QSI** will consult with the OSA who in turn will contact the Minnesota Indian Affairs Council (MIAC) if appropriate, to perform any necessary tribal consultation.

**QSI** will develop a reburial plan in consultation with participating tribes, the OSA, SHPO, prior to ground-disturbing work being allowed to proceed in the area of discovery. The Project owner will ensure that the terms of any reburial plan are fully implemented.

### **Disposition of Cultural Materials**

All cultural materials other than human remains recovered from privately owned lands are the property of the landowner. After necessary laboratory analysis is completed landowners will be provided a copy of photographs and descriptions of cultural materials from their property and be encouraged to contribute the materials for curation. Cultural materials will be returned to those landowners who do not wish to contribute the materials. Contributed materials will be curated at an appropriate repository.

### **Minnesota Statutes**

#### **307.08 Private Cemeteries Act (MS 307.08)**

Subdivision 1. Legislative intent; scope. It is a declaration and statement of legislative intent that all human burials, human remains, and human burial grounds shall be accorded equal treatment and respect for human dignity without reference to their ethnic origins, cultural backgrounds, or religious affiliations. The provisions of this section shall apply to all human burials, human remains, or human burial grounds found on or in all public or private lands or waters in Minnesota.

Subd. 2. Felony; gross misdemeanor.

(a) A person who intentionally, willfully, and knowingly does any of the following is guilty of a felony:

- (1) destroys, mutilates, or injures human burials or human burial grounds; or
- (2) without the consent of the appropriate authority, disturbs human burial grounds or removes human remains.

(b) A person who, without the consent of the appropriate authority and the landowner, intentionally, willfully, and knowingly does any of the following is guilty of a gross misdemeanor:

- (1) removes any tombstone, monument, or structure placed in any public or private cemetery

**Quality Services, Inc.** - Archeology, Architectural History, History & Paleontology  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

or authenticated human burial ground; or

(2) removes any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of a public or private cemetery or authenticated human burial ground; or

(3) discharges any firearms upon or over the grounds of any public or private cemetery or authenticated burial ground.

#### Subd. 3. Protective posting.

Upon the agreement of the appropriate authority and the landowner, an authenticated or recorded human burial ground may be posted for protective purposes every 75 feet around its perimeter with signs listing the activities prohibited by subdivision 2 and the penalty for violation of it. Posting is at the discretion of the Indian affairs council in the case of Indian burials or at the discretion of the state archaeologist in the case of non-Indian burials. This subdivision does not require posting of a burial ground. The size, description, location, and information on the signs used for protective posting must be approved by the appropriate authority and the landowner.

#### Subd. 3a. Authentication.

The state archaeologist shall authenticate all burial grounds for purposes of this section. The state archaeologist may retain the services of a qualified professional archaeologist, a qualified physical anthropologist, or other appropriate experts for the purpose of gathering information that the state archaeologist can use to authenticate or identify burial grounds. If probable Indian burial grounds are to be disturbed or probable Indian remains analyzed, the Indian Affairs Council must approve the professional archaeologist, qualified anthropologist, or other appropriate expert. Authentication is at the discretion of the state archaeologist based on the needs identified in this section or upon request by an agency, a landowner, or other appropriate authority.

#### Subd. 4. [Repealed by amendment, [2007 c 115 s 1](#)]

#### Subd. 5. Cost; use of data.

The cost of authentication, recording, surveying, and marking burial grounds and the cost of identification, analysis, rescue, and reburial of human remains on public lands or waters shall be the responsibility of the state or political subdivision controlling the lands or waters. On private lands or waters these costs shall be borne by the state, but may be borne by the landowner upon mutual agreement with the state. The state archaeologist must make the data collected for this activity available using standards adopted by the Office of MN.IT Services and geospatial technology standards and guidelines published by the Minnesota Geospatial Information Office. Costs associated with this data delivery must be borne by the state.

#### Subd. 6. [Repealed by amendment, [2007 c 115 s 1](#)]

*Quality Services, Inc.* - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

Subd. 7. Remains found outside of recorded cemeteries.

All unidentified human remains or burials found outside of recorded cemeteries or unplatted graves or burials found within recorded cemeteries and in contexts which indicate antiquity greater than 50 years shall be dealt with according to the provisions of this section. If such burials are not Indian or their ethnic identity cannot be ascertained, as determined by the state archaeologist, they shall be dealt with in accordance with provisions established by the state archaeologist and other appropriate authority. If such burials are Indian, as determined by the state archaeologist, efforts shall be made by the state archaeologist and the Indian Affairs Council to ascertain their tribal identity. If their probable tribal identity can be determined and the remains have been removed from their original context, such remains shall be turned over to contemporary tribal leaders for disposition. If tribal identity cannot be determined, the Indian remains must be dealt with in accordance with provisions established by the state archaeologist and the Indian Affairs Council if they are from public land. If removed Indian remains are from private land they shall be dealt with in accordance with provisions established by the Indian Affairs Council. If it is deemed desirable by the state archaeologist or the Indian Affairs Council, removed remains shall be studied in a timely and respectful manner by a qualified professional archaeologist or a qualified physical anthropologist before being delivered to tribal leaders or before being reburied. Application by a landowner for permission to develop or disturb nonburial areas within authenticated or recorded burial grounds shall be made to the state archaeologist and other appropriate authority in the case of non-Indian burials and to the Indian Affairs Council and other appropriate authority in the case of Indian burials. Landowners with authenticated or suspected human burial grounds on their property are obligated to inform prospective buyers of the burial ground.

Subd. 8. Burial ground relocation.

No non-Indian burial ground may be relocated without the consent of the appropriate authority. No Indian burial ground may be relocated unless the request to relocate is approved by the Indian Affairs Council. When a burial ground is located on public lands or waters, any burial relocations must be duly licensed under section [138.36](#) and the cost of removal is the responsibility of and shall be paid by the state or political subdivision controlling the lands or waters. If burial grounds are authenticated on private lands, efforts may be made by the state to purchase and protect them instead of removing them to another location.

Subd. 9. Interagency cooperation.

The Department of Natural Resources, the Department of Transportation, and all other state agencies and local governmental units whose activities may be affected, shall cooperate with the state archaeologist and the Indian Affairs Council to carry out the provisions of this section.

Subd. 10. Construction and development plan review.

When human burials are known or suspected to exist, on public lands or waters, the state or political subdivision controlling the lands or waters or, in the case of private lands, the landowner or developer, shall submit construction and development plans to the state archaeologist for review prior to the time bids are advertised and prior to any disturbance within the burial area. If the known



***Quality Services, Inc.*** - Archeology, Architectural History, History & Paleontology  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

or suspected burials are thought to be Indian, plans shall also be submitted to the Indian Affairs Council. The state archaeologist and the Indian Affairs Council shall review the plans within 30 days of receipt and make recommendations for the preservation in place or removal of the human burials or remains, which may be endangered by construction or development activities.

Subd. 11. Burial sites data.

Burial sites locational and related data maintained by the Office of the State Archaeologist and accessible through the office's "Unplatted Burial Sites and Earthworks in Minnesota" Web site are security information for purposes of section [13.37](#). Persons who gain access to the data maintained on the site are subject to liability under section [13.08](#) and the penalty established by section [13.09](#) if they improperly use or further disseminate the data.

Subd. 12. Right of entry.

The state archaeologist may enter on property for the purpose of authenticating burial sites. Only after obtaining permission from the property owner or lessee, descendants of persons buried in burial grounds covered by this section may enter the burial grounds for the purpose of conducting religious or commemorative ceremonies. This right of entry must not unreasonably burden property owners or unnecessarily restrict their use of the property.

---

*Quality Services, Inc.* - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

Subd. 13. Definitions.

As used in this section, the following terms have the meanings given.

- (a) "Abandoned cemetery" means a cemetery where the cemetery association has disbanded or the cemetery is neglected and contains marked graves older than 50 years.
- (b) "Appropriate authority" means:
  - (1) the trustees when the trustees have been legally defined to administer burial grounds;
  - (2) the Indian Affairs Council in the case of Indian burial grounds lacking trustees;
  - (3) the county board in the case of abandoned cemeteries under section [306.243](#); and
  - (4) the state archaeologist in the case of non-Indian burial grounds lacking trustees or not officially defined as abandoned.
- (c) "Artifacts" means natural or artificial articles, objects, implements, or other items of archaeological interest.
- (d) "Authenticate" means to establish the presence of or high potential of human burials or human skeletal remains being located in a discrete area, delimit the boundaries of human burial grounds or graves, and attempt to determine the ethnic, cultural, or religious affiliation of individuals interred.
- (e) "Burial" means the organic remnants of the human body that were intentionally interred as part of a mortuary process.
- (f) "Burial ground" means a discrete location that is known to contain or has high potential to contain human remains based on physical evidence, historical records, or reliable informant accounts.
- (g) "Cemetery" means a discrete location that is known to contain or intended to be used for the interment of human remains.
- (h) "Disturb" means any activity that significantly harms the physical integrity or setting of a human burial or human burial ground.
- (i) "Grave goods" means objects or artifacts directly associated with human burials or human burial grounds that were placed as part of a mortuary ritual at the time of interment.
- (j) "Human remains" means the calcified portion of the human body, not including isolated teeth, or cremated remains deposited in a container or discrete feature.
- (k) "Identification" means to analyze organic materials to attempt to determine if they represent

***Quality Services, Inc.*** - Archeology, Architectural History, History & Paleontology  
1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

human remains and to attempt to establish the ethnic, cultural, or religious affiliations of such remains.

(l) "Marked" means a burial that has a recognizable tombstone or obvious grave marker in place or a legible sign identifying an area as a burial ground or cemetery.

(m) "Qualified physical anthropologist" means a specialist in identifying human remains who holds an advanced degree in anthropology or a closely related field.

(n) "Qualified professional archaeologist" means an archaeologist who meets the United States Secretary of the Interior's professional qualification standards in Code of Federal Regulations, title 36, part 61, appendix A, or subsequent revisions.

(o) "Recorded cemetery" means a cemetery that has a surveyed plat filed in a county recorder's office.

(p) "State" or "the state" means the state of Minnesota or an agency or official of the state acting in an official capacity.

(q) "Trustees" means the recognized representatives of the original incorporators, board of directors, or cemetery association.

**Quality Services, Inc.** - Archeology, Architectural History, Biology, History, NEPA, Wetlands  
 1621 Sheridan Lake Road, Rapid City, SD 57702-3432 - Phone 605-388-5309 – [info@qualityservices.us.com](mailto:info@qualityservices.us.com)

### **Field Archeology Act (MS 138.31 – 138.42)**

While the Field Archaeology Act has been revised 10 times since 1963, the duties of the State Archaeologist specified in that law have not changed. The Act dictates that the State Archaeologist:

- Acts as the agent of the state to administer and enforce the act.
- Sponsors, engages in, and directs fundamental archaeological research.
- Cooperates with agencies to preserve and interpret archaeological sites.
- Encourages protection of archaeological sites on private property.
- Retrieves and protects artifacts and data discovered on public property.
- Retrieves and protects archaeological remains disturbed by agency construction.
- Helps preserve artifacts and data recovered by archaeological work.
- Disseminates archaeological information through report publication.
- Approves archaeologist's qualifications for licensing to work on public property.
- Formulates licensing provisions for archaeological work on public property.
- Issues emergency licenses for archaeological work on public property.
- Revokes or suspends archaeological licenses due to good cause.
- Approves curation arrangements of artifacts and data from state sites.
- Repossesses artifacts from state sites that are not being properly curated.
- Consults with the Minnesota Historical Society and Minnesota Indian Affairs Council regarding significant field archaeology.
- Completes annual reports about the Office of the State Archaeologist's and licensees' activities.
- Reviews and comments on agency development plans that may affect state sites.

### **Coroner, Medical Examiner Law (MS 390.25, Subd. 5)**

#### **390.25 UNIDENTIFIED DECEASED PERSONS**

##### Subd. 5. Notice to state archaeologist.

After the coroner or medical examiner has completed the investigation, the coroner or medical examiner shall notify the state archaeologist, according to section [307.08](#), of all unidentified human remains found outside of platted, recorded, or identified cemeteries and in contexts which indicate antiquity of greater than 50 years.