

Appendix Q

Unanticipated Discoveries of Cultural Resources, Submerged Cultural Resources, and Human Remains

APPENDIX Q
UNANTICIPATED DISCOVERIES OF CULTURAL RESOURCES,
SUBMERGED CULTURAL RESOURCES, AND HUMAN REMAINS

U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT
ENVIRONMENTAL IMPACT STATEMENT
FOR THE
PROPOSED PORT OF GULFPORT EXPANSION PROJECT
GULFPORT, HARRISON COUNTY, MISSISSIPPI

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Acronyms and Abbreviations

MDAH-SHPO	Mississippi Department of Archives and History-State Historic Preservation Officer
NAGPRA	Native American Graves Protection and Repatriation Act of 1990
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
USACE	U.S. Army Corps of Engineers

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SUBMERGED CULTURAL RESOURCES, AND HUMAN REMAINS

While there is a relatively low probability for cultural resources (submerged, terrestrial or otherwise) being within the Port of Gulfport Expansion Project area, as discussed in Section 3.20 of the EIS, it is impossible to ensure that all cultural resources have or will be discovered. Even at sites that have been previously identified and assessed, there is a potential for the discovery of previously unidentified archaeological components, features, or human remains that will require future investigation and assessment.

Therefore, the following procedures have been developed for the treatment of any unexpected discoveries that may occur during Project construction and operation, as well as maintenance activities.

UNEXPECTED CULTURAL RESOURCES

In accordance with the Mississippi Antiquities Law of 1972, as well as the National Historic Preservation Act of 1966 as amended (NHPA) and/or the National Environmental Policy Act of 1969 (NEPA), in the event that unexpected cultural resources are discovered, the following steps should be taken:

- A. All work in the immediate area of the discovery should cease and reasonable efforts should be made to avoid or minimize impacts to the cultural resource.
- B. The United States Army Corps of Engineers (USACE) Mobile District Archaeologist/Tribal Liaison would be notified immediately.
- C. At the direction of the USACE Mobile District Archaeologist/Tribal Liaison:
 1. The Mississippi Department of Archives and History-State Historic Preservation Officer (MDAH-SHPO) and/or other applicable agencies and parties would be notified.
 2. If necessary, a professional archaeologist meeting the Secretary of the Interior's standards would be retained to undertake any necessary investigation to provide as much information as possible concerning the cultural resource, such as resource type, location, and size, as well as any information on its significance.
 3. Any investigation undertaken would be done in consultation with the USACE Mobile District Archaeologist/Tribal Liaison, the MDAH-SHPO, Federally recognized tribes with an interest in the area, and/or other applicable agencies in order to obtain technical advice and guidance for the evaluation of the discovered cultural resource.
 4. Any investigation undertaken would follow all appropriate procedures for investigations and reporting requirements under applicable State and Federal requirements, including determinations of eligibility and the curation of recovered materials.
 5. The investigation would be undertaken in such a manner as to try and determine whether the resource is eligible for inclusion in the National Register of Historic Places (NRHP).
 6. The results of the investigation would be formally submitted to the USACE Mobile District Archaeologist, the MDAH-SHPO and other appropriate review agencies and parties for review and comment.

7. If it is determined that the cultural resource does not represent a potentially significant resource, and the USACE Mobile District Archaeologist/Tribal Liaison is in receipt of a written comment from the review agency(s), work may resume in that area.
 8. If eligibility for inclusion in the NRHP cannot be made in accordance with Steps 4 and 5, the USACE Mobile District Archaeologist/Tribal Liaison or MDAH-SHPO may require additional research to satisfy Steps 4 and 5 or exercise avoidance.
 9. If agency review concurs or concludes that the site may be important and is potentially eligible for inclusion in the NRHP, the USACE would develop avoidance measures to eliminate the site from the Project area. Any proposed avoidance measures would be made available to the appropriate review agencies for review and comment.
 10. If avoidance measures cannot be developed and executed, the resource may be excavated and/or removed only under a memorandum of agreement with all interested parties including the State Archaeologist, MDAH-SHPO, USACE, Federally recognized tribes with an interest in the area, and, if applicable, the Advisory Council subject to appropriate State permits and appropriate Federal jurisdictions. This memorandum would outline an adequate data recovery plan that specifies a qualified research team and an appropriate research design.
 11. Any cultural materials collected as a result of investigations would be curated in a facility that meets or exceeds standards set forth in 36 CFR 79 following scientific analysis.
- D. Any tribal consultation would be undertaken by the USACE Mobile District Archaeologist/Tribal Liaison.
- E. Work in the immediate area of the discovery would resume when all State and Federal requirements have been fulfilled or when otherwise notified in written form by the USACE Mobile District Archaeologist/Tribal Liaison.

UNEXPECTED SUBMERGED CULTURAL RESOURCES

Mississippi possesses a diverse range of submerged cultural resources, ranging from canoes and pirogues to steamboats, schooners, and ocean-going vessels, as well as prehistoric sites inundated through coastal subsidence. These archaeological sites receive the same level of protection as do terrestrial sites. In addition to NEPA and the terrestrial site protection and mitigation afforded under the NHPA, additional legislation, such as the Abandoned Shipwreck Act of 1987, serve to further protect these important resources.

In the event that unrecorded shipwreck sites and/or other underwater archaeological resources are discovered (*adapted from The Commonwealth of Massachusetts, Board of Underwater Archaeological Resources, Office of Coastal Zone Management*), the following steps should be taken:

- A. The activity would immediately be halted in the area of the find until it could be determined whether the object is a shipwreck or other underwater archaeological resource and whether it represents a potentially significant feature or site.
- B. The USACE Mobile District Maritime Archaeologist would be notified immediately. The notification would include the specific location in which the potential feature or site is located.

C. At the direction of the USACE Mobile District Maritime Archaeologist:

1. The MDAH-SHPO would be notified.
2. If necessary, a professional archaeologist meeting the Secretary of the Interior's standards and specializing in maritime archaeology would be retained to undertake any necessary maritime investigations.
3. Information on the location and any discernible characteristics of the potential cultural resource (the target), and any survey data depicting the find would be forwarded by the professional Maritime Archaeologist to the USACE Mobile District Maritime Archaeologist for review.
4. If the professional Maritime Archaeologist determines that the site, feature, or target is not potentially cultural, work may resume upon notification by the USACE Mobile District Maritime Archaeologist.
5. If, based upon both previously acquired and current remote sensing survey data, or other indications (e.g., timbers), it is determined that the new target is possibly a shipwreck or other potential submerged cultural resource, the professional Maritime Archaeologist would inform the USACE Mobile District Maritime Archaeologist. Work would not resume at the given location until notified in writing by the USACE Mobile District Maritime Archaeologist. The appropriate review agencies, MDAH-SHPO, and the Advisory Council (if applicable) would be notified of this determination within 2 working days.
6. A visual inspection by archaeological divers or remotely operated vehicles would be conducted to determine whether the site is potentially eligible for listing in the NRHP. The results of the survey would be formally submitted in the form of a professional cultural resources report to appropriate review agencies, MDAH-SHPO, and the Advisory Council (if applicable) for final review and comment.
7. If it is determined that the target, feature, or site does not represent a potentially significant resource, and the USACE Mobile District Maritime Archaeologist is in receipt of written comment from the review agency(s), work may resume in that area.
8. If a National Register determination cannot be made in accordance with Step 6, the USACE Mobile District Maritime Archaeologist may require additional research to satisfy Step 6 or exercise avoidance.
9. If agency review concurs or concludes that the site may be important and is potentially eligible for inclusion in the NRHP, the USACE would develop avoidance measures to eliminate the site from the Project area. Any proposed avoidance measures would be made available to the appropriate review agencies for review and comment.
10. If avoidance measures cannot be developed and executed, the resource may be excavated and/or removed only under a memorandum of agreement with all interested parties including the State Archaeologist, MDAH-SHPO, USACE, Federally recognized tribes with an interest in the area, and, if applicable, the Advisory Council subject to appropriate State permits and appropriate Federal jurisdictions. This memorandum would outline an adequate data recovery plan that specifies a qualified research team and an appropriate research design.
11. Any cultural materials collected as a result of investigations would be curated in a facility that meets or exceeds standards set forth in 36 CFR 79 following scientific analysis.

- D. Any tribal consultation (if applicable) would be undertaken by the USACE Mobile District Archaeologist/Tribal Liaison.
- E. Work in the immediate area of the discovery would resume when all State and Federal requirements have been fulfilled or when otherwise notified in writing by the USACE Mobile District Maritime Archaeologist.

UNEXPECTED HUMAN REMAINS AND/OR ASSOCIATED BURIAL ITEMS

Additionally, the Mississippi Antiquities Law of 1972 as amended as well as the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) applies if human remains are discovered. In the event Human Remains or associated burial items are encountered, the following steps should be taken:

- A. All work in the immediate area of the discovery should cease and reasonable efforts made to avoid or minimize impacts to the remains or burial items.
- B. The USACE Mobile District Archaeologist/Tribal Liaison would be notified immediately.
- C. At the direction of the USACE Mobile District Archaeologist/Tribal Liaison:
 - 1. If necessary, a professional archaeologist meeting the Secretary of the Interior's standards would be retained to undertake any necessary investigation. Use of a professional physical anthropologist may also be required.
 - 2. If it is determined that the remains are found to be other than human and not part of an archaeological site/feature, work in the area of the discovery may resume.
 - 3. If it is determined that the remains are human, the county coroner, sheriff, and/or board of supervisors should be notified.
 - 4. If the remains and burial items are not associated with any crime, are historic in nature, and it is determined the burial would be excavated/removed, a burial excavation permit from the MDAH-SHPO would be obtained after appropriate consultation and as notified by the USACE Mobile District Archaeologist/Tribal Liaison. Tribal coordination must take place prior to any removal or excavation of human remains.
 - 5. Appropriate archaeological investigations may continue in the area once a burial excavation permit has been granted by the MDAH-SHPO and upon notification by the USACE Mobile District Archaeologist/Tribal Liaison.
 - 6. Encountered burials shall be recorded, handled, and protected according to the stipulations stated in the permit.
 - 7. A report of the findings would be formally submitted to the USACE Mobile District Archaeologist/Tribal Liaison and other appropriate agencies and parties for review and comment. This report would be submitted to the MDAH-SHPO within 1 year of completion of the excavation.
 - 8. If the remains are found to be Native American, all NAGPRA rules apply. The remains and burial items would be curated in a facility that meets or exceeds standards set forth in 36 CFR 79 or reburied following scientific analysis.

- D. Any tribal consultation would be undertaken by the USACE Mobile District Archaeologist/Tribal Liaison. Any comments from a tribe, if obtained, would be submitted in written form to the MDAH-SHPO when application is made for a permit.
- E. Work in the immediate area of the discovery would resume when all state and Federal requirements have been fulfilled or when otherwise notified in writing by the USACE Mobile District Archaeologist/Tribal Liaison.

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