

National Park Service Proposed, Precautionary Conditions for No Adverse Effect Determination for Construction of Solar-Array (Project Review No. 67093), Sept. 2016: Unanticipated Discoveries

Although the 2012 archeological assessment abstracted in the project summary—and included in full as "Section 106 Advisor's Archeological Assessment 2012" in the attached Documents Section—indicates scant likelihood of encountering human remains or archeological resources during construction of the proposed solar-array, the NPS proposes that the following precautionary conditions accompany this Determination of No Adverse Effect, and thus also NPS approval of the array proposal:

- The property owner shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated funerary artifacts. The property owner shall treat all human remains, if encountered, in a manner consistent with the Advisory Council on Historic Preservation "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; <http://www.achp.gov/docs/hrpolicy0207.pdf>).
- The property owner shall ensure that any human skeletal remains and associated funerary objects encountered during the course of actions taken as a result of this project shall be treated in accordance with the Regulations Governing Permits for the Archaeological Removal of Human Remains (Virginia Register 390-01-02) found in the Code of Virginia (10.1-2305, et seq., Virginia Antiquities Act). If removal is proposed, the property owner shall apply for a permit from the Va. Dept. of Historic Resources (VDHR) for the removal of human remains in accordance with the regulations stated above.
- The property owner shall make a good faith effort to ensure that the general public is excluded from viewing any American Indian burial site or associated funerary artifacts, if those are encountered. The NPS, the property owner, the VDHR, and other consulting parties shall release no photographs of any American Indian burial site or associated funerary artifacts to the press or general public. The NPS shall notify the Pamunkey Indian Tribe, and the Catawba Indian Nation if burials, human skeletal remains, or funerary artifacts are encountered on the project, prior to any analysis or recovery.
- The NPS shall deliver any American Indian human skeletal remains and associated funerary artifacts recovered pursuant to this agreement to the appropriate tribe to be reinterred. The disposition of any other human skeletal remains and associated funerary artifacts shall be governed as specified in any permit issued by the VDHR or any order of the local court authorizing their removal.
- If previously unidentified archeological resources or historic properties are discovered during construction, the construction contractor shall halt activity, notify the property owner of the discovery, and implement interim measures to protect the discovery from looting and vandalism. Immediately upon receipt of the notification, the property owner shall (a) inspect the construction site to determine the extent of the discovery and ensure that construction

activities have halted; (b) clearly mark the area of the discovery; (c) implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and (d) notify the NPS. The NPS in turn will notify the VDHR, and the NPS will arrange for a professional archaeologist to inspect the construction site to determine the extent of the discovery and provide recommendations regarding its eligibility for listing in the National Register of Historic Places (NRHP) and treatment.

- Within five (5) business days of receipt of the notification of the discovery, the NPS shall provide the property owner and the VDHR with its assessment of the NRHP eligibility of the discovery and the measures it proposes to take to resolve adverse effects. In making its official evaluation, the NPS, in consultation with the VDHR, may assume the discovery to be NRHP eligible for the purposes of Section 106 pursuant to 36 CFR 800.13 (c). The property owner, the VDHR (and the other consulting parties) shall respond within forty-eight (48) hours of receipt.
- The NPS, which shall take into account the VDHR's and the other consulting parties' recommendations on eligibility and treatment of the discovery, will ensure that the property owner carries out appropriate actions, and provides the NPS and consulting parties with a report on these actions when they have been implemented.
- Construction activities may proceed in the area of the discovery, when the NPS has determined that implementation of the above actions undertaken to address the discovery are complete.