

APPENDIX Q UNANTICIPATED DISCOVERIES PLAN

UNANTICIPATED DISCOVERIES PLAN FOR THE BLUEWATER SPM PROJECT—INSHORE AND OFFSHORE

Prepared for
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INTRODUCTION

The following procedures will be used by the Secretary of Transportation, as delegated to the Maritime Administrations (MARAD) and the United States Coast Guard (USCG), Bluewater Texas Terminal LLC (BWTT, “the applicant”), and other interested parties (to be determined) in the event that previously unreported and unanticipated cultural resources or unanticipated effects to historic properties are found during the Bluewater Single Point Mooring Project (Project) construction or restoration activities within the Area of Potential Effects. These procedures are intended to ensure that the undertaking is in compliance with all applicable Federal and State laws and regulations, including Section 106 of the NHPA (54 U.S. Code [USC] 306108; see also 36 Code of Federal Regulations [CFR] Part 800).

If previously unidentified cultural resources or historic properties are discovered during Project construction or restoration activities, any Project personnel that identify the discovery must:

- immediately stop Project construction or restoration activities at the site of discovery and Project ground-disturbing activity within a 50-meter (m) radius of the discovery (this area is herein referred to as the exclusion zone); and
- immediately limit access to the exclusion zone;
- The construction contractor will then notify a designated representative of MARAD/USCG of the discovery. Following notification of the discovery, the designated representative of MARAD/USCG will immediately inspect the work site and determine the extent of the affected archaeological resource;
- implement notification procedures to all interested parties regarding unanticipated discovery; including the lead federal agency and the THC; and
- implement interim treatment measures to protect the discovery from weather, looting and vandalism, or other exposure to damages.

As soon as practicable after receiving notification of an unanticipated discovery, MARAD/USCG will:

1. inspect the work site (“field review”) to determine the extent of the discovery and ensure that work activities have halted within the exclusion zone;
2. ensure that the exclusion zone is clearly and adequately marked and secured;
3. implement interim treatment measures, as appropriate, to protect the discovery from weather, looting and vandalism, or other exposure to damages; and,
4. within 24 hours, notify the lead federal agency and interested parties, as appropriate, of the results of the field review.

The MARAD/USCG, in consultation with the interested parties, will have 7 working days following notification under subsection 4 above to determine the National Register of Historic Places (NRHP) eligibility of the discovery. MARAD/USCG may assume the discovery to be eligible for listing on the NRHP for the purposes of Section 106 pursuant to 36 CFR §800.13(c).

If the resource is determined eligible for the NRHP, BWTT shall submit a plan for its avoidance, protection, recovery of information, or destruction without data recovery to the THC and MARAD/USCG, if consistent with 36 CFR §800.6. Said plan will be submitted to the THC and MARAD/USCG within 14 calendar days of a determination of eligibility and shall be approved by the THC and MARAD/USCG prior to implementation.

Work in the affected area may resume per THC and MARAD/USCG authorization pending either:

1. development and implementation of an appropriate data recovery plan or other recommended mitigation procedures, or
2. determination that the located remains are not eligible for inclusion on the NRHP.

Any disputes concerning the evaluation or treatment of previously unidentified resources will be resolved through consultation among the THC, a designated representative of the MARAD/USCG, and the archaeologist retained by the applicant.

If shipwreck remains, or other potentially historical or archaeological materials, are discovered anywhere in the Offshore Area of Potential Effects during construction:

- work should be halted immediately, and steps taken to ensure that the site is not disturbed; and,
- In state waters less than 3 nautical miles offshore, work must be halted within 50 m (164 feet [ft]) of the find; or,
- In state waters greater than 3 nautical miles offshore, work must be halted within 150 m (492 ft) of the find. BWTT will notify the State Marine Archaeologist at the THC immediately for further direction concerning the discovery; or,
- In federal waters, work must cease within 305 m (1,000 ft) of the find. BWTT will contact Bureau of Ocean Energy Management's Regional Supervisor of Leasing and Environment within 48 hours of the discovery for further instructions concerning the find.

INADVERTENT DISCOVERY OF HUMAN REMAINS, GRAVES, OR ASSOCIATED FUNERARY OBJECTS

Consulting Parties will follow the Advisory Council on Historic Preservation’s Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects¹ when addressing issues arising under this Stipulation and related to human remains, graves, or associated funerary objects.

For cultural resource identification, and during Project construction and restoration activities on non-Federal lands in Texas, MARAD/USCG will ensure BWTT and their contractors involved in the discovery will implement the procedures described below.

When an unmarked human burial or unregistered grave is encountered, the applicant and their contractors will comply with Texas Administrative Code (Title 13, Chapter 22).

If an unmarked human burial or unregistered grave is discovered during construction, any Project personnel that detect the discovery must:

1. immediately stop Project work at the site of the discovery and all Project work within the exclusion zone;
2. immediately limit access to the exclusion zone;
3. implement notification procedures to all interested parties regarding unanticipated discovery; including the lead federal agency and the Texas Historical Commission; and
4. implement interim treatment measures to protect the discovery from weather, looting and vandalism, or other exposure to damages.

In no case will procedures at this stage include removal or other further avoidable disturbance of any human remains or other cultural items in the immediate vicinity of the discovery.

As soon as practicable following receipt of such notification, the lead federal agency will:

1. inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the exclusion zone;
2. ensure that the exclusion zone is clearly and adequately marked and secured;
3. implement interim treatment measures, as appropriate, to protect the discovery from weather, looting and vandalism, or other exposure to damages until the requirements of State law have been completed; and
4. notify the appropriate county sheriff’s office, the Chief Medical Examiner, lead federal agency, and Consulting Parties, as appropriate, within 24 hours of the discovery.

It is anticipated that the county coroner will determine jurisdiction. If the county coroner refers the matter to the THC, the THC has 72 hours to determine, in consultation with the Consulting Parties, as appropriate, the treatment of the discovery. If the human remains are determined to be Native American, they will be handled in accordance with the Native American Graves Protection and Repatriation Act. Work in the affected area may resume per THC/MARAD/USCG and other interested parties’ authorization.

¹ This policy statement is available at: <http://www.achp.gov/docs/hrpolicy0207.pdf>.

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