

APPENDIX U

Unanticipated Discoveries Plan for Cultural Resources and Human Remains

(SPOT Application, Vol IIb, Appendix G)

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Sea Port Oil Terminal Project Offshore Brazoria County, Texas

VOLUME IIb
APPENDIX G

UNANTICIPATED DISCOVERIES PLAN

November 2018

Sea Port Oil Terminal Project

HARRIS AND BRAZORIA COUNTIES, TEXAS

UNANTICIPATED DISCOVERIES PLAN



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Abbreviations and Acronyms

CI	Construction Inspector
EI	Environmental Inspector
NAGPRA	Native American Graves Protection and Repatriation Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historical Places
Project	Sea Port Oil Terminal Project
SPOT	SPOT Terminal Services LLC
THC	Texas Historical Commission
Unanticipated Discoveries Plan	Plan and Procedures for Addressing Unanticipated Discoveries of Cultural Resources and Human Remains During Construction
USACE	U.S. Army Corps of Engineers

1. Unanticipated Discoveries Plan

As part of the planning process for the Sea Port Oil Terminal Project (Project), SPOT Terminal Services LLC (SPOT) conducted a cultural resources survey of the proposed Project areas. To ensure that SPOT maintains full and complete compliance with all federal and state regulations concerning the protection of cultural resources, and to maintain a plan to address the unanticipated discovery of cultural properties or human remains during construction, this *Plan and Procedures for Addressing Unanticipated Discoveries of Cultural Resources and Human Remains During Construction* (Unanticipated Discoveries Plan) has been prepared for the Project.

1.1 Personnel Responsibilities

The Environmental Inspector (EI) will be responsible for advising the construction contractor's personnel on the procedures to follow in the event that an unanticipated discovery is made. Training will occur as part of the pre-construction on-site training program for foremen, company inspectors, and construction supervisors. The EI will advise all operators of equipment involved in grading, stripping, or trenching activities to:

- A. Stop work immediately if they observe any indications of the presence of cultural materials (artifacts or other man-made features), animal bone, or possibly human bone.
- B. Contact the EI (or the Chief Inspector if the EI is not available) as soon as possible.
- C. Comply with unanticipated discovery procedures (see below).
- D. Treat human remains with dignity and respect.

1.2 Unanticipated Discovery of Cultural Resources

All EIs have the responsibility to monitor the area of construction for potential archaeological materials or features throughout the period involving earth disturbance. If during the course of construction potential cultural resources are identified, the EI will immediately stop work in the vicinity of the potential find, ensure the find is protected, and make stop work recommendations to the Construction Inspector (CI).

Should stop work authority be deemed necessary, SPOT will notify the Texas Historical Commission (THC) and the U.S. Army Corps of Engineers (USACE), and will hire a Secretary of Interior-qualified archaeological consultant who will survey the site and provide an immediate verbal report to SPOT, THC, and USACE. SPOT will continue to consult with THC, as per the requirements of Section 106 of the National Historic Preservation Act (NHPA) and with USACE.

The THC, or an archaeologist approved by THC, will inspect the work site without unreasonable delay and determine the parameters of the cultural resource. Construction work may then continue in other areas not affected by the inadvertent discovery. Within 15 working days of first notifying THC, SPOT, in consultation with THC, will assess the National Register of Historic Places (NRHP) eligibility of the resource.

- If the resource is assessed as possessing those qualities of significance identified in the NRHP criteria, SPOT will ensure that appropriate avoidance, protection, and/or treatment measures are implemented as agreed on in consultation with THC.
- If the resource is determined to be not eligible for the NRHP, SPOT will proceed with the Project following concurrence and approval from THC.
- If the resource is determined to be potentially eligible for the NRHP, additional work, such as a Determination of Eligibility or Data Recovery, will be performed as required/approved by THC and USACE contacts.

Work at the site shall be suspended until the processes of Section 106 of the NHPA and other related federal and state regulations have been successfully completed.

1.3 Unanticipated Discovery of Human Remains

The following procedures will be initiated in the event unanticipated human remains are discovered. Should human remains be encountered during construction of the Project, all work will be immediately halted at the general location of the discovery.

- The construction personnel and/or monitors involved in the discovery will immediately notify the CI and EI, who will notify SPOT. State burial laws will be followed and notifications will be made to local law enforcement, the county coroner, THC, and USACE as soon as possible, but at least within 24 hours of the discovery.
 - The location will be immediately secured, including a buffer zone of at least a 100-foot-radius from the discovery. Any human remains will be carefully covered with a tarp. Construction personnel and vehicles will promptly vacate the buffer zone. Vehicle traffic within the buffer zone will be limited to that necessary to remove vehicles and equipment from the buffer zone.
 - Care will be taken to prevent any disturbance of the potential human remains during removal of vehicles and equipment. Until appropriate consultation has occurred, the discovery shall remain protected from any disturbance, such that no human remains or associated artifacts are touched, moved, or collected.
- The coroner and local law enforcement will make the official ruling on the nature of the human remains, being either forensic (generally describing human remains requiring law enforcement/coroner custody; i.e., a potential crime scene) or archaeological (generally describing historic or prehistoric human remains not requiring law enforcement investigation/custody). The subsequent treatment of the discovery, including custody of the remains, will comply with regulations in the Texas statutes governing cemeteries (Chapters 711–715 of the Texas Health and Safety Code; Title 13, Part 2, Chapter 22 of the Texas Administrative Code and sections of the Penal Code) and the Native American Graves Protection and Repatriation Act (NAGPRA), as appropriate.
 - If the remains are determined forensic, the county coroner will retain custody of the human remains and determine the plan of action.

- If the human remains are determined to be archaeological (historic or prehistoric), THC and USACE will determine the subsequent plan of action, depending upon the cultural affiliation of the burial, after consultation with appropriate parties.
 - If the human remains are determined to be non-Native American, the human remains will be left in place and protected from any form of disturbance until a plan for their protection or removal can be developed following consultation with THC.
 - If the human remains are determined to be Native American or of unknown cultural affiliation, the remains will be left in place and protected from any form of disturbance until a plan for their protection or removal can be developed. In accordance with state burial laws and to ensure adherence to the government-to-government consultation relationship, THC and USACE will contact and consult with the appropriate Tribe(s) to determine the subsequent plan of action.
- Until consultation is complete and a removal strategy is defined, the human remains will remain in place (in the ground), protected from natural forces and from vandalism and looting. Construction in the area of discovery may resume ONLY upon approval from the appropriate point of contact (e.g. THC or county coroner).

1.4 Agency Contacts

The following table provides information for the appropriate agencies to be contacted in the event of unanticipated discoveries.

THC Contact – Brazoria County Jeff Durst Texas Historical Commission 1511 Colorado St. Austin, Texas 78701 Phone: (512) 463-8884 jeff.durst@thc.state.tx.us	THC Contact – Harris County Bill Martin Texas Historical Commission 1511 Colorado St. Austin, Texas 78701 Phone: (512) 463-5867 bill.martin@thc.state.tx.us
Brazoria County Sheriff 3602 County Road 45 Angleton, Texas 77515 Phone: (979) 265-9310 Fax: (979) 864-2254	Harris County Sheriff 1200 Baker Street Houston, Texas 77002 Phone: (713) 221-6000 Fax: (713) 755-2696

Brazoria County – nearest Coroner

Galveston County Medical Examiner's Office
6607 FM 1764
Texas City, Texas 77591
Phone: (409) 935-9274
Fax: (409) 935-8305

Harris County – covered by

Harris County Institute of Forensic Sciences
1861 Old Spanish Trail
Houston, Texas 77030
Phone: (832) 927-5000
Fax: (832) 927-2869

USACE Contact

Jerry Androy
USACE – Galveston District
2000 Fort Point Road
Galveston, Texas 77550
Phone: (409) 766-3899
Fax: (409) 766-3049
