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Mailing Address:
P.O. Box 5601
Bismarck, ND 58506-5601
(701) 530-1600

August 08, 2024

Debbie-Anne Reese, Acting Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, D.C. 20426

Re: WBI Energy Transmission, Inc.
Wahpeton Expansion Project
Docket No. CP22-466-000
Variance Request for Project Mitigation Measure Modification

Dear Acting Secretary Reese:

On October 23, 2023, the Federal Energy Regulatory Commission (FERC or Commission) issued an Order Issuing Certificate (Order) in the above referenced docket authorizing WBI Energy Transmission, Inc. (WBI Energy) to construct, modify, operate, and maintain its Wahpeton Expansion Project (Project) in Cass and Richland Counties, North Dakota. On February 13, 2024, the Commission authorized WBI Energy to proceed with construction of all Project facilities.

Pursuant to Environmental Condition No. 1 of the Order, WBI Energy is hereby submitting a variance request to modify the procedures outlined in WBI Energy's application, Appendix 4G – Plan for Unanticipated Discovery of Historic Properties or Human Remains During Construction (Unanticipated Discovery Plan)¹ as they relate to a historic artifact scatter site (Site 32RI907) in the Project area. On July 9 and 11, 2024, four distinct unanticipated discoveries (UD001 – UD004) associated with Site 32RI907 occurred within the Project construction right-of-way², resulting in the expansion of the site boundary across the temporary and permanent Project right-of-way. In an email dated July 26, 2024, the State Historical Society of North Dakota (ND SHPO) agreed that UD001 did not significantly contribute to the overall research potential of Site 32RI907 and that the other unanticipated discoveries were ineligible for listing on the National Register of Historic Places. The FERC granted approval to proceed through these areas in an email dated July 26, 2024³.

Due to the likelihood that additional finds scattered from Site 32RI907 occur within the Project right-of-way, WBI Energy is requesting to modify the procedures in Section 4.0 – Discovery of

¹ Unanticipated Discovery Plan for Cultural Resources and Human Remains (see eLibrary accession number 20220527-5343 appendix 4G).

² Reported in Weekly Status Report No. 33 (see eLibrary accession number 20240719-5058).

³ Reported in Weekly Status Report No. 35 (see eLibrary accession number 20240801-5247).

Cultural Materials of the Unanticipated Discovery Plan for Site 32RI907⁴ to avoid future Project construction delays resulting from further finds associated with the site. The modified approach, as outlined and approved by the ND SHPO on August 7, 2024, is described below. Attachment A contains the correspondence with ND SHPO.

- Future finds of any cultural material will be analyzed on a case-by-case basis.
- Future finds of surface artifacts, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities.
- Future finds of subsurface artifacts, in aggregations no greater than 10 in number within a 50-square-meter area, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities.
- Future finds of any subsurface features will result in the immediate stoppage of work activities, pending notification of the ND SHPO, and analysis of the find.

WBI Energy will continue to implement the procedures in the Unanticipated Discovery Plan should additional unanticipated discoveries not associated with Site 32RI907 occur.

WBI Energy respectfully requests written authorization from the Director of the Office of Energy Projects to utilize the requested Unanticipated Discoveries Plan modification, by Wednesday, August 14, 2024.

Pursuant to 18 CFR § 385.2010 of the Commission's regulations, copies of this filing are being served to each person whose name appears on the official service list for this proceeding.

Any questions regarding this filing should be addressed to the undersigned at (701) 530-1563.

Sincerely,

/s/ Lori Myerchin

Lori Myerchin
Vice President, Regulatory Affairs
and Transportation Services

Attachment

cc: via email

David Hanobic, FERC Environmental Project Manager
Dawn Ramsey, FERC Deputy Environmental Project Manager
Laurie Boros, FERC OEP - Archeologist
Official Service List

⁴ As identified in a prepared report emailed to ND SHPO on July 23, 2024.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 8th day of August, 2024.

By /s/ Lori Myerchin

Lori Myerchin

Vice President, Regulatory Affairs and
Transportation Services

WBI Energy Transmission, Inc.

1250 West Century Avenue

Bismarck, ND 58503

Telephone: (701) 530-1563

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

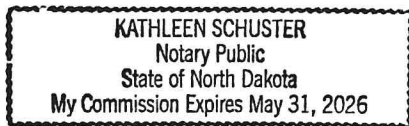
I, Lori Myerchin, being first duly sworn, do hereby depose and say that I am the Vice President, Regulatory Affairs and Transportation Services for WBI Energy Transmission, Inc.; that I have read the foregoing document; that I know the contents thereof; that I am authorized to execute such document; and that all such statements and matters set forth therein are true and correct to the best of my knowledge, information and belief.

Dated this 8th day of August, 2024.

By *Lori Myerchin*
Lori Myerchin
Vice President, Regulatory Affairs and
Transportation Services

Subscribed and sworn to before me this 8th day of August, 2024.

Kathleen Schuster
Kathleen Schuster, Notary Public
Burleigh County, North Dakota
My Commission Expires: 5/31/2026



Attachment A

SHPO Correspondence

From: [Robinson, Andrew J.](#)
To: [Price Laird](#)
Cc: [Chris Schmidt](#); [Jill Linn \(Jill.Linn@wbienergy.com\)](mailto:Jill.Linn@wbienergy.com); Robbyn.Reukauf@wbienergy.com
Subject: RE: 32RI907
Date: Monday, August 5, 2024 11:28:18 AM
Attachments: [image001.png](#)
[image002.jpg](#)

EXTERNAL MESSAGE

Price,

Yes, the proposal to address any further finds is acceptable.

Best,

Andrew

From: Price Laird <Price.Laird@erm.com>
Sent: Monday, August 5, 2024 11:26 AM
To: Robinson, Andrew J. <andrewrobinson@nd.gov>
Cc: Chris Schmidt <chris.schmidt@erm.com>; Jill Linn (Jill.Linn@wbienergy.com) <Jill.Linn@wbienergy.com>; Robbyn.Reukauf@wbienergy.com
Subject: RE: 32RI907

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Hi, Andrew

Just a follow-up to confirm that our proposal to address any further finds with respect to 32RI907, as revised below concerning features, was suitable.

Thank you



Price Laird
Managing Technical Consultant, Senior Archaeologist
He/Him/His

Duluth, GA
678-781-1368
678-781-1370
770-601-0357

erm.com

From: Price Laird <Price.Laird@erm.com>
Sent: Thursday, August 1, 2024 11:28 AM
To: Robinson, Andrew J. <andrewrobinson@nd.gov>
Cc: Chris Schmidt <chris.schmidt@erm.com>; Jill Linn (Jill.Linn@wbienergy.com) <Jill.Linn@wbienergy.com>; Robbyn.Reukauf@wbienergy.com
Subject: RE: 32RI907

Hi, Andrew

Thanks for your quick response. Just to get verification for our client's interactions with the FERC, please acknowledge that our proposal to address any further finds with respect to 32RI907 be amended as follows:

- Future finds of any cultural material will be analyzed on a case-by-case basis
- Future finds of surface artifacts, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities
- Future finds of subsurface artifacts, in aggregations no greater than 10 in number within a 50-square-meter area, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities
- *Future finds of any subsurface features will result in the immediate stoppage of work activities, pending notification of the SHSND, and analysis of the find.*

Thank you



Price Laird
Managing Technical Consultant, Senior Archaeologist
He/Him/His

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From: Robinson, Andrew J. <andrewrobinson@nd.gov>
Sent: Thursday, August 1, 2024 9:05 AM
To: Price Laird <Price.Laird@erm.com>
Cc: Chris Schmidt <chris.schmidt@erm.com>; Jill Linn (Jill.Linn@wbienergy.com) <Jill.Linn@wbienergy.com>; Robbyn.Reukauf@wbienergy.com

Subject: RE: 32RI907

EXTERNAL MESSAGE

Hi Price,

Thank you for following up and the included list of procedures. I would agree with all of them except, for the feature part. Due to the proximity, limited testing, and overall Eligibility of the site, we would like to be notified if a subsurface feature is identified.

Best,

Andrew

From: Price Laird <Price.Laird@erm.com>
Sent: Wednesday, July 31, 2024 2:03 PM
To: Robinson, Andrew J. <andrewrobinson@nd.gov>
Cc: Chris Schmidt <chris.schmidt@erm.com>; Jill Linn (Jill.Linn@wbienergy.com) <Jill.Linn@wbienergy.com>; Robbyn.Reukauf@wbienergy.com
Subject: 32RI907

******* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *********

Hi, Andrew

In your email of Friday, July 26, 2024, to Robbyn Reukauf of WBI Energy, you indicated that you concurred that the portions of 32RI907 crossed by their project were not significant to the site, and that construction could proceed. You further stipulated that if additional materials or features were observed, further work may be requested. In order to be able to advise our client appropriately so that they will be able to move forward with their project in the most efficient manner possible, we would like to get clarification concerning the nature of any future finds that would require further investigation.

In our previous experience with various state and Federal agencies involving cultural resources, typically once a site or portion thereof has been declared not significant, and therefore ineligible for listing in the National Register of Historic Places, no further regard is given to any additional finds. We understand, however, that there is the potential for previously-unknown significant finds to be discovered during the construction phase of any project. We proposed to address any further finds with respect to 32RI907 as follows:

- Future finds of any cultural material will be analyzed on a case-by-case basis

- Future finds of surface artifacts, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities
- Future finds of subsurface artifacts, in aggregations no greater than 10 in number within a 50-square-meter area, barring any of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities
- Future finds of any subsurface features will be analyzed for content and nature, and, barring any attributes of an unusual or unique nature, will be considered to be not significant, and will have no effect on project activities

ERM will ensure that an SOI-qualified archaeologist views images of the find before providing authorization to proceed per outlined above, but not anticipate creating a new report for review.

We look forward to your response, so that we may communicate our plan to the FERC for approval should any additional finds occur within the specified portion of the site area.

Thank you

ERM



Price Laird

Principal Technical Consultant, Senior Archaeologist
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