

APPENDIX C
INADVERTENT DISCOVERY PLAN

Massachusetts Water Resources Authority



Metropolitan Water Tunnel Program

Final Design Engineering Services

MWRA Contract No. 7556

Inadvertent Discovery Technical Memo

September 2025

Revision 0 Draft

Prepared by

WSP



Revision Log

Revision Number	Description	Date
0	Initial Submission	

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1.0 Introduction

The Inadvertent Discovery Plan (IDP) is to be used in the event of an unanticipated discovery of significant archaeological resources or human remains are encountered during the design and construction phases of the Metropolitan Water Tunnel Program (MWTP) in accordance with applicable state and federal laws. An IDP is not a substitute for a formal cultural resources review. The procedures to be followed in the event that potentially significant archaeological material is discovered during construction of the project are described herein.

Once completed, the IDP shall always be kept at the project site during all activities. All staff, contractors, and subcontractors shall be familiar with its contents and know where to find it.

2.0 Training and Orientation

Massachusetts Water Resources Authority (MWRA) will, in coordination with the Project Archaeologist, provide basic training to recognize potential archaeological resources. Training will be provided by the MWRA CR Lead for resident engineers and contractor field supervisors prior to the implementation of the Project. The purpose of this training will be to:

- Review and education of federal and state laws protecting cultural resources and MWRA's responsibilities to identify and protect cultural resources and resource integrity;
- An overview of the general cultural history of the area so that personnel have a greater understanding of what cultural resources may be encountered and so that they can be more readily identified in the field;
- An orientation presentation regarding the types of finds that could be discovered (e.g., artifacts, buried shell deposits);
- An overview of common debris and refuse of modern origins that may be encountered during construction.

Note that as different construction crews and/or subcontractors join the Project, this training may need to be conducted multiple times to ensure everyone is familiar with materials presented in this Plan.

MWRA will assure that Construction Personnel are made aware of the procedures they must follow in the event of an unanticipated discovery. All construction personnel, including operators of equipment involved in grading, stripping, or trenching activities, will be advised of the need to immediately stop work if they observe any indications of the presence of an unanticipated cultural resource discovery as defined above. Construction personnel will be instructed to immediately contact the Compliance Manager upon the observation of a potential unanticipated discovery.

MWRA will stress the necessity of compliance with this Plan and special emphasis and attention will be given to potential circumstances involving human remains. MWRA will stress the importance of treating any human remains, or potential human remains, encountered during construction with the utmost dignity and respect (see Section 4 below concerning human remains).

3.0 Significant Archaeological Resources

As used in this document, the term “significant archaeological resource” denotes a resource that is an item of historical, traditional, or cultural importance or that is likely to be eligible for listing in the National Register of Historic Places (NRHP). The types of archaeological resources that may be present and could be considered significant finds requiring notification and additional evaluation include but are not limited to the following:

- A multi-species accumulation of shell (shell-midden) with associated bone, stone, antler or wood artifacts, burned rocks or charcoal;
- Bones that appear to be human or animal bones associated with a shell-midden (i.e. with associated artifacts or cooking features);
- Fire pits/hearths - reddened/burnt stone clusters with charcoal and blackened soil; these may also have bone, nuts, shell, or other artifacts in them or nearby;
- Storage or refuse pits - contrasting soil in a conical, cylindrical or basin shape, often flecked with carbonized material including charcoal;
- Dense layers of artifacts, including large numbers of stone flakes, precontact ceramics, stone projectile points, or large stone implements;
- Clusters or heaps of freshwater or marine shell;
- Glass bottles, vessels, windows, whole or fragmentary;
- Ceramic vessels, whole or fragmentary;
- Metal, including but not limited to nails, containers, industrial parts etc.;
- Building materials, including but not limited to bricks, wooded post or planks, shingles (wooded, asphalt, metallic, etc.) etc.;
- Foundations, architectural components etc.; or
- Other evidence of human settlement.

Some types of findings will always be considered significant and will result in a cessation of work, including, but not limited to:

- Ceremonial objects; and
- Human remains.

Checklist of procedures for the unanticipated discovery of archaeological resources is included in Appendix A.

3.1. Stop Activities

If significant archaeological resources are uncovered during construction activities, the construction contractor will immediately stop all construction activity in the immediate vicinity of the archaeological resources, unless immediate cessation of construction activities would create an unsafe condition or endanger the construction contractor. The construction contractor will stop all work at the location where the archaeological resource has been found and not resume construction within 100 feet (in any direction)

of the find until notification is provided to the construction contractor from the MWRA that it is clear to proceed. Until work is authorized to resume, the 100-foot avoidance area will be staked or flagged off to ensure avoidance around the resource location. This work stoppage is necessary to provide Project Archaeologists with the opportunity to communicate the nature of the find to appropriate parties.

3.2. Contact Project Archaeologist

When a potential significant archaeological resource is discovered, the on-site contractor will immediately contact MWRA and WSP's archaeological consultants via the contact listed below. On site personnel will provide information on the location and any discernable characteristics of the potential cultural resource and any survey data depicting the find. Project Archaeologists will assess the nature of the archaeological resource to determine if it represents an archaeological site, and if the site appears to be eligible for inclusion in the NRHP.

3.3. Notifications

The Project Archaeologist will contact the MWRA, the Massachusetts Historical Commission (MHC), the State Historic Preservation Office (MA SHPO), and Tribal Historic Preservation Officers (THPOs) within 24 hours of the discovery with a description of the resource, and a recommendation regarding the need for further treatment. MHC and THPOs will provide a response within no more than 48 hours. If Project Archaeologist determines that the site is not potentially significant, is isolated, or completely disturbed, and MHC concurs, the MWRA and Project Archaeologist will inform construction contractors that construction may resume. The nature and potential significance of the find and the consultation decision will be documented by Project Archaeologist.

3.4. Additional Archeological Study

If the find is a potentially significant archaeological discovery and measures to avoid or minimize adverse effects must be considered, the Project Archaeologist will prepare a discovery memorandum with appropriate maps and photographs for submittal to MWRA, the MHC, and to other consulting parties (e.g., Tribal Historic Preservation Officers) for their review and comment. The discovery memorandum will be submitted within 48 hours of the Project Archaeologist's field review of the discovery and may include an assessment of significance (National Register eligibility) of the site and recommended treatment options.

Work stoppage duration will depend on the importance of archaeological finds and discussions with MHC and other relevant parties to decide how best to avoid, minimize, or mitigate site impacts. Before creating mitigation plans, options like site avoidance and protection will be evaluated in consultation. If avoiding or minimizing impacts is not feasible, mitigation steps may be suggested.

3.5. Resumption of Construction Activities

Construction in the archaeological site area will not resume until all required archaeological fieldwork and consultation are completed. Upon receipt of MHC concurrence that all required fieldwork has been

completed, and with confirmation from MWRA, the Project Archaeologist will notify the construction contractor that work at the archaeological discovery location may resume. The appropriate level of documentation of the archaeological site will be determined by Project Archaeologist in consultation with the MHC and MWRA.

4.0 Human Remains

Human remains found anywhere in the project area (including known sites that have been subjected to intensive study) are of concern and must be reported. “Human remains” may be full burials (and burials may be represented only by decomposing bones found in the ground in an area of darker soil, or they may be more recent burials with identifiable caskets or their remains) or they may be represented only by an individual bone or tooth. All skeletal material should be evaluated as potential human remains and must be reported to the MWRA and Project Archaeologist to be appropriately addressed. Checklist of procedures for the unanticipated discovery of human remains is included in Appendix B.

The treatment of any human remains encountered during construction for the project will be guided by the policy statement adopted by the Advisory Council on Historic Preservation (Advisory Council on Historic Preservation, Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects, Advisory Council on Historic Preservation 2023, Appendix C) Massachusetts Historical Commissions guidance on What to Do When Humans are Accidentally Uncovered (2021) and by the Massachusetts General Laws: Chapter 38, section 6; Chapter 9, sections 26A & 27C; Chapter 7, section 38A; Chapter 114, section 17; as amended by Chapter 659 of the Acts of 1983 and Chapter 386 of the Acts of 1989. It is imperative that all burial sites, human remains, funerary objects be treated with dignity and respect, and that all measures be taken to protect such remains from undue harm until the area is released to the construction contractor.

The procedures that will be followed in the event that potential skeletal material is discovered during construction of the project are as follows.

4.1. Immediately Stop Activities

If any personnel on the construction site identify potential skeletal remains (including teeth, single bones or bone fragments, etc.) or indicators of potential skeletal remains such as gravestones or other means of marking potential grave sites, the contractor’s on-site construction supervisor will immediately stop all construction work that could affect the integrity or harm the remains (including full exposure/digging out of the remains). The remains will be left in place and not be touched, moved, or further disturbed until assessed by the appropriate consultants. They should be carefully covered by a tarp and access to the area precluded through the use of fluorescent flagging tape or safety/barrier fencing.

4.2. Confidentiality & Communications

Cover the remains to prevent damage or exposure, limit access, and keep them in place until further instructions are provided. Photographs for personal use or social media should not be taken; information about the location should only be shared with the project team or authorities. The remains and associated

funerary objects will remain secured and protected from weather, runoff, and view. Work in the area must not resume until a plan is developed and implemented, and permission to proceed is given. MWRA will ensure its personnel and contractors maintain confidentiality regarding the discovery. Media or public inquiries should be referred to MWRA Communications, and no contact or disclosure should take place with third parties or media representatives.

4.3. Notifications

On-site contractors will contact MWRA and Project Archaeologist via the contacts listed in Appendix D.

4.4. Consultation

The Project Archaeologist will inspect the skeletal remains and determine if the remains may be human; this may require consultation with a physical anthropologist. If the Project Archaeologist, in consultation with a physical anthropologist (if necessary), determines the skeletal remains to be clearly non-human and no other archaeological features that require evaluation are present, the Project Archaeologist will notify the construction contractor that construction may resume. If the Project Archaeologist, or a physical anthropologist consultant, determines the remains to be human or if such determination is unclear, Project Archaeologist and/or MWRA will contact the local Police Department or Massachusetts State Police and the regional medical examiner. The Medical Examiner will investigate the discovery to determine whether the bones are human, and whether they are recent or more than 100 years old. If the bones are less than 100 years old, a criminal investigation may be warranted. If the bones are more than 100 years old, the Medical Examiner then notifies the State Archaeologist, who immediately conducts an archaeological investigation of the site.

4.5. Treatment

The State Archaeologist will investigate the site to determine the age, cultural association, and identity of the burial. If the State Archaeologist determines that the burial is that of a Native American, the Commission on Indian Affairs will be notified. The State Archaeologist will consult with the MWRA to determine whether the burial can remain undisturbed. In the case of development projects, the MWRA and State Archaeologist will discuss whether there are prudent and feasible steps that the owner can take to protect the burial. If it is impossible to avoid future harm to the burial, the State Archaeologist will remove the remains. The archaeological investigation of Indian (Native American) burials is monitored by the Commission on Indian Affairs to ensure that the remains are treated respectfully. MWRA and Project Archaeologist will consult with the State Archaeologist and Commission on Indian Affairs as to the next steps that will be required in the event the remains are determined to be archaeological and Native American.

4.6. Reporting

All decisions and any action taken to address archaeological human remains will be documented appropriately by the Project Archaeologist. The method of documentation will be determined at the time, and, depending on the circumstances, in consultation with MHC and MWRA. An “Unanticipated Discovery

of Human Remains and/or Archaeological Resources” Document Form is provided in Appendix E and can be completed by either a contractor appointed individual and/or the Project Archaeologist.

4.7. Restarting Construction Activities

Construction in the area where the remains were discovered will not resume until all required archaeological fieldwork and consultation are completed. Upon receipt of MHC concurrence that all required fieldwork has been completed, and with confirmation from MWRA, the Project Archaeologist will notify the construction contractor that work at the discovery location may resume. The appropriate level of documentation for the discovery will be determined by Project Archaeologist in consultation with the MHC and MWRA. If all parties involved agree that avoidance will allow the remains to stay undisturbed then appropriate agreed upon measures will be taken to protect the area and may include fencing, monitoring, new limits, and crew briefings among others.

5.0 Personnel

5.1. Roles and Responsibilities

Listed are the roles and responsibilities of individuals upon the discovery of an archaeological resource or human remains:

1. Site Worker: Initiates stop work, leaves discovery in place, notifies Contractor Superintendent (CS).
2. CS: affirms stop-work, secures scene, establishes 100-ft buffer and restricts construction and vehicle and foot traffic within that buffer, installs a physical barrier, notifies Construction Manager (CM).
3. CM: Verifies the buffer, verifies and adjusts controlled access, initiates internal MWRA notifications.
4. MWRA Cultural Resources (CR) Lead: Contacts WSP Project Archaeologist, leads external agency coordination.
5. Project Archaeologist: Conducts initial field assessments and determinations; consults with MWRA, MHC, and THPOs/Commission on Indian Affairs on avoidance and mitigation measures, additional studies, and treatment of artifacts and/or remains.
6. MWRA CR Lead and CM: Set up agreed upon procedures if avoidance measures are agreed upon, gives restart directive once written concurrence is given from MHC.

5.2. Notification List

Through the many moving parts of this Project, efficient and immediate contact and consultation will be vital. The Project contacts are listed in Appendix D.

6.0 References

Advisory Council on Historic Preservation (ACHP). 2023. Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects. ACHP, Washington, DC.

Massachusetts Historical Commission (MHC). 2025. What to Do When Human Remains are Accidentally Uncovered. Accessed June 2025,
<https://www.sec.state.ma.us/divisions/mhc/knowhow/knowhow4-remains.htm>.

Appendix A: Procedure for the Unanticipated Discovery of Archaeological Resources

Procedures for the unanticipated discovery of Archaeological Resources

Notifications	Actions
Discovery:	
Immediately: Notify person in charge (Contractor Superintendent).	Immediately: STOP WORK
Protect Area:	
Immediately: Notify Construction Manager.	Immediately: - Leave all finds in place. - Restrict construction within 100 feet. - Prohibit vehicles & foot traffic. - Install physical barrier.
Contact Project Archaeologist:	
Immediately: - Construction Manager contacts MWRA. - MWRA Cultural Resource Lead contacts WSP's on-call archaeological consultants.	If Project Archaeologist determines the find does not represent an archaeological site, then they will inform construction contractors that construction may resume.
Notifications:	
Within 24 hours Project Archaeologist will contact: - Massachusetts Water Resource Authority (MWRA). - Massachusetts Historical Commission (MHC). - State Historic Preservation Office (MA SHPO). - Tribal Historic Preservation Officers (THPOs). Within 48 hours: - MHC will provide a response. - THPOs will provide a response.	If Project Archaeologist determines that the site is not potentially significant, is isolated, or completely disturbed, and MHC concurs, the MWRA and Project Archaeologist will inform construction contractors that construction may resume.
Additional Study:	
- Submit for MHC review/concurrence. - Submit for THPOs review/concurrence.	- If Project Archaeologist, MHC, and THPOs determines that the site is not potentially significant, is isolated, or completely disturbed, the MWRA and Project Archaeologist will inform construction contractors that construction may resume. Project Archaeologist will: - Prepare a recommended plan for additional archaeological investigations and/or mitigation.
Resume Construction Activities:	
- Submit final findings to MHC for concurrence. - Notify construction contractors that work in the location may resume.	- Complete all required fieldwork and consultation. - Confirm with MWRA

Appendix B: Procedure for the Unanticipated Discovery of Human Remains

Procedure for the Unanticipated Discovery of Human Remains

Notifications	Actions
Discovery:	
Immediately: Notify person in charge (Contractor Superintendent).	Immediately: STOP WORK
Protect Area:	
Immediately: Notify Construction Manager.	Immediately: - Leave all finds in place. - Restrict construction within 100 feet. - Prohibit vehicles & foot traffic. - Carefully cover with tarp. - Install physical/safety barrier.
Contact Project Archaeologist:	
Immediately: - Construction Manager contacts MWRA - MWRA Cultural Resource Lead contacts WSP's on-call archaeological consultants.	Project Archaeologist, with possible aid of physical anthropologist, will determine if skeletal remains are clearly human or non-human with no associated archaeological features. - If clearly non-human, then they will inform construction contractor that construction may resume. - If they are determined to be human or of undecipherable origin, then proceed to step 13.
Consultation:	
Immediately: - Contact Local or State Police (LE). - Contact Medical Examiner (ME).	ME will determine whether the bones are human, and whether they are recent or more than 100 years old. - If remains are less than 100 years old the LE and ME will complete their report and may conduct a criminal investigation. - If remains are more than 100 years old the ME notifies the State Archaeologist.
Treatment:	
If burial is determined Native American by State Archaeologist, they contact Commission on Indian Affairs.	- State Archaeologist consults with MWRA if burial can remain undisturbed. - State Archaeologist will remove the remains if it is determined impossible to avoid. - Commission on Indian Affairs will monitor burials deemed Native American.
Reporting:	
	All decisions and actions taken to address archaeological human remains will be documented appropriately by the Project Archaeologist.

Appendix C: ACHP Policy Statement on Burial Sites, Human Remains, and Funerary Objects



ADVISORY COUNCIL ON HISTORIC PRESERVATION POLICY STATEMENT ON BURIAL SITES, HUMAN REMAINS, AND FUNERARY OBJECTS

March 1, 2023

Preamble. The Advisory Council on Historic Preservation (ACHP) developed this policy statement to establish a set of principles and rules that the ACHP will encourage federal agencies to adopt as they carry out their day-to-day responsibilities under Section 106 of the National Historic Preservation Act (NHPA). This statement also establishes a set of standards and guidelines that federal and state agencies, local entities, Indian Tribes, industry applicants, and other relevant entities should, at a minimum, seek to implement in order to provide burial sites, human remains, and funerary objects the consideration and protection they deserve.

This policy statement is not bound by geography, ethnicity, political or socioeconomic status, or a system of belief and recognizes that the respectful consideration for burial sites, human remains, and funerary objects is a human rights concern shared by all. However, the burial sites, human remains, and funerary objects of certain groups of people, including but not limited to Indian Tribes, Native Hawaiians, enslaved Africans and their descendants, and other Indigenous Peoples, have a higher probability of being unmarked and undocumented and thus more likely to be affected by development projects. As such, this policy statement emphasizes the need for consultation and coordination with those communities, including seeking consensus in decision making and providing deference to their practices, protocols, and preferences, where feasible.

Section 106 requires agencies to consult and seek agreement with consulting parties on measures to avoid, minimize, or mitigate adverse effects to historic properties. Accordingly, and consistent with Section 106, this policy does not recommend a specific outcome from the consultation process. Rather, it focuses on issues and perspectives that federal agencies should consider while carrying out their consultation and decision-making responsibilities. The ACHP will incorporate these principles in its work and encourages federal agencies and other entities to apply the principles in this policy any time there is potential to encounter burial sites, human remains, or funerary objects.

In many cases, burial sites, human remains, and funerary objects are subject to other applicable federal, Tribal, state, or local laws or protocols that may prescribe a specific outcome, such as the Native American Graves Protection and Repatriation Act (NAGPRA). In those scenarios, the federal agency should identify and follow all applicable laws or protocols and implement any prescribed outcomes. NHPA and NAGPRA are separate and distinct laws, with separate and distinct implementing regulations and categories of parties that must be consulted.¹ Compliance with one of these laws does not equate to or fulfill the compliance requirements of the other. Implementation of this policy and its principles does not, in any way, change, modify, or detract from NAGPRA or other applicable laws.

Authority: The authority for this policy stems from the ACHP's statutory responsibility to advise on matters relating to historic preservation (which includes the role of Indian Tribes, Tribal Historic

¹ The ACHP's publication [Consultation with Indian Tribes in the Section 106 Process: The Handbook](#) (2021) and the National Association of Tribal Historic Preservation Officers' publication [Tribal Consultation: Best Practices in Historic Preservation](#) (2005) provide additional guidance.

Preservation Officers [THPOs], and Native Hawaiian organizations [NHOs] in that process), to advise the President and Congress regarding historic preservation matters, and to recommend methods to federal agencies to improve the effectiveness, coordination, and consistency of their historic preservation policies. While the ACHP recognizes that not all burial sites, human remains, and funerary objects may constitute or be associated with historic properties eligible for or listed in the National Register of Historic Places, the consideration and treatment of such places fall within the concerns of the historic preservation community.²

This policy statement recognizes the unique legal and political relationship between the federal government and federally recognized Indian Tribes as set forth in the Constitution of the United States, treaties, statutes, and court decisions, and acknowledges that the federal Indian trust responsibility is a legal obligation under which the United States “has charged itself with moral obligations of the highest responsibility and trust” toward Indian Tribes.³ Part of the ACHP’s trust responsibility is to ensure that the regulations implementing Section 106 incorporate the procedural requirement that federal agencies consult with Indian Tribes and NHOs that attach religious and cultural significance to historic properties that may be affected by undertakings the federal agency proposes to carry out, license, permit, or assist.⁴ In general, the trust responsibility establishes fiduciary obligations on the part of federal agencies to Tribes, including a duty to protect Tribal lands and cultural and natural resources for the benefit of Tribes and individual Tribal members.

The ACHP views its trust responsibility as encompassing all aspects of historic resources including intangible values.⁵ As part of that trust responsibility, the ACHP offers this policy statement to inform how the Section 106 consultation process should consider burial sites, human remains, and funerary objects.

Principles. The care for and consideration of burial sites, human remains, and funerary objects is of significant social and moral consequence in the United States and U.S. territories. When burial sites, human remains, or funerary objects are or have the potential to be encountered during the planning or implementation of a proposed federal undertaking, the following principles should be adhered to:

Principle 1: Burial sites, human remains, and funerary objects should be treated with dignity and respect in all circumstances regardless of National Register eligibility or the circumstances of the action. This includes, but is not limited to, all times prior to and during consultation, during field surveys, when handling must occur, in documenting and/or reporting, if treatment actions occur, and in all other forms of interaction.

Principle 2: Disturbing or disinterring burial sites, human remains, or funerary objects, when not requested by descendants, associated Indian Tribes or NHOs, or required by applicable law or regulation, should not be pursued unless there are no other alternatives available and only after consultation with descendants or associated communities and fully considered avoidance of impact and preservation in place.

Principle 3: Only through consultation, which includes the early and meaningful exchange of information and a concerted effort to reach consensus, can informed decisions be made about the identification, documentation, National Register eligibility, and treatment of burial sites, human remains, and funerary objects.

² 54 U.S.C. §§ 304102 and 304108

³ *Seminole Nation v. United States*, 316 U.S. 286 (1942)

⁴ “[The Advisory Council on Historic Preservation’s Statement on Its Trust Responsibility](#)” (Advisory Council on Historic Preservation, 2004)

⁵ “[Policy Statement Regarding the Council’s Relationship with Indian Tribes](#)” (Advisory Council on Historic Preservation, 2000)

Principle 4: To the maximum extent possible, decision making should give deference to the treatment requests of descendants or associated communities. Where known, and in accordance with applicable law, cultural practices of the descendants or associated communities should be followed if burial sites, human remains, or funerary objects may be encountered, are inadvertently identified, impacted, or must be disinterred.

Principle 5: The Indigenous Knowledge held by an Indian Tribe, NHO, or other Indigenous Peoples is a valid and self-supporting source of information. To the fullest extent possible, deference should be provided to the Indigenous Knowledge and expertise of Indian Tribes, NHOs, and Indigenous Peoples in the identification, documentation, evaluation, assessment, and treatment of their burial sites, human remains, and funerary objects.

Principle 6: Burial sites, human remains, and funerary objects are important in and of their own right. They may also constitute or be part of a sacred site and may include or incorporate several possible elements of historic significance including religious and cultural significance. The integrity of burial sites, human remains, and funerary objects is best informed by those who ascribe significance to them.

Principle 7: Burial sites, human remains, and funerary objects are frequently associated with cultural practices, sacred sites, Indigenous Knowledge, and other forms of culturally sensitive actions and/or information unique to a people. Maximum effort should be taken to limit the disclosure of confidential or sensitive information through all available mechanisms including, but not limited to, the proper handling and labeling of records, limiting documentation to necessary information, and through the application of existing law.

Principle 8: The federal Indian boarding school system directly targeted American Indian, Alaska Native, and Native Hawaiian children in the pursuit of a policy of cultural assimilation that coincided with territorial dispossession. In partnership with the historic preservation community, federal agencies should seek to implement the recommendations identified in the Department of the Interior's *Federal Indian Boarding School Investigative Report* by supporting community-driven identification, documentation, interpretation, protection, preservation, reclamation, and co-management of burial sites, human remains, and funerary objects across that system, including marked and unmarked burial areas, and supporting repatriation where appropriate.

Principle 9: The legacies of colonization, including cultural assimilation, forced relocation, and slavery, have led to an uneven awareness of where and why practitioners are likely to encounter burial sites, human remains, and funerary objects across the United States and its territories. The historic preservation community has a key role in expanding public education to support greater awareness of and consideration for the histories and lifeways of Indian Tribes, Native Hawaiians, enslaved Africans and their descendants, and Indigenous Peoples including recognizing and respecting the historical trauma that these groups and individuals may experience.

Principle 10: Access to and/or repatriation of burial sites, human remains, and funerary objects should be enabled through fair, transparent, and effective mechanisms developed in conjunction with descendant communities to the fullest extent of the law.

Principle 11: Human remains and funerary objects may be relocated or removed from a location by or at the request of descendant communities for a variety of reasons. The continued presence of human remains or funerary objects may not be essential to the ongoing significance and integrity of a site or its relevance to a broad theme in history. The historic significance and integrity of such sites are best determined in consultation with lineal descendants and/or associated communities.

Principle 12: Climate change can impact the burial sites, sacred sites, cemeteries, and associated cultural practices significant to Indian Tribes, NHOs, and other groups of people. Climate plans should be developed in consultation and should include mechanisms to support the advanced identification and protection or treatment of these locations.

Principle 13: Respectful consideration of burial sites, human remains or funerary objects may require additional assistance from consulting parties to properly identify, document, evaluate for National Register eligibility, and/or conduct treatment actions. If a federal agency requests or relies on an Indian Tribe, NHO, or other party to carry out activities that are the federal agency's responsibility under the NHPA, the Indian Tribe, NHO, or other consulting party should be reimbursed or compensated.⁶

Implementation of the Policy. Implementation of this policy statement is the responsibility of the ACHP's leadership and staff; however, the ACHP recognizes that appropriate expertise and experience to ensure effective implementation may also reside in other parties. Accordingly, the ACHP commits to advancing consideration of burial sites, human remains, and funerary objects in the Section 106 process with its preservation partners through the following:

- A. Train ACHP staff regarding the implementation of this policy statement.
- B. Development of informational resources that address the NHPA, Section 106, and the following:
 - i. The Federal Indian Boarding School Initiative
 - ii. The intersection of NAGPRA
 - iii. Acquiring and managing sensitive information
 - iv. Climate change and burial sites, human remains, and funerary objects
 - v. Best practices in the treatment of marked and unmarked burial sites, human remains, and funerary objects.
- C. ACHP staff will seek opportunities to implement the policy principles into Section 106 agreement documents and program alternatives to advance consideration of burial sites, human remains, and funerary objects.
- D. The ACHP will advise federal agencies, Indian Tribes, Tribal and State Historic Preservation Officers, and NHOs in their development of historic preservation protocols for appropriate consideration of burial sites, human remains, and funerary objects.
- E. Encourage federal agencies and other relevant parties to give full and meaningful consideration to burial sites, human remains, and funerary objects consistent with this policy statement.

Policy Review Period. The ACHP commits to reviewing this policy statement approximately every five years from the date of its adoption to ensure its continued applicability. The ACHP executive director will seek input regarding the need to update this policy statement through appropriate ACHP committees, including Federal Agency Programs and Native American Affairs. Amendments shall be pursued when the executive director or ACHP members determine that such action is required and/or would significantly improve the policy statement. This policy statement shall be in effect until rescinded by ACHP members.

Definitions. The definitions provided below are meant to inform the application of this policy statement. However, terms such as burial site, intact, disturbance, and human remains, among others, often require the input of associated parties to more fully understand how to interpret or apply each term. The

⁶ Consistent with ACHP's [Guidance on Assistance to Consulting Parties in the Section 106 Review Process](#), when the federal agency (or in some cases the applicant) seeks the views and advice of any consulting party in fulfilling its legal obligation to consult with them, the agency or applicant is not required to pay that party for providing its views.

definitions provided below are intended to be inclusive and to advance the preservation and protection of burial sites, human remains, and funerary items, as appropriate.

- **Burial Site:** Any location, whether originally below, on, or above the surface of the earth, where human remains are or have been located.
- **Confidential:** Information that is protected by law, regulation, or federal policy. Preserving authorized restrictions on information access and disclosure, including means for protecting personal privacy and proprietary information
- **Consultation:** The process of seeking, discussing, and considering the views of other participants and, where feasible, seeking agreement with them. A foundational activity in the Section 106 review process.
- **Consulting parties:** Persons or groups the federal agency consults with during the Section 106 process. They may include the State Historic Preservation Officer; Tribal Historic Preservation Officer; Indian Tribes and Native Hawaiian organizations; representatives of local governments; applicants for federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties.⁷ Additional consulting parties may include individuals and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.⁸
- **Culturally sensitive:** Tangible and intangible property and knowledge which pertains to the distinct values, beliefs, and ways of living for a culture. It often includes property and knowledge that is not intended to be shared outside the community of origin or outside of specific groups within a community.⁹
- **Disturbance:** Disturbance of burial sites that are listed in or eligible for listing in the National Register of Historic Places likely would constitute an adverse effect under Section 106. An adverse effect occurs when "an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, setting, materials, workmanship, feeling, or association".¹⁰ Determination of what constitutes a "disturbance" should be defined in consultation with proper deference provided to the views and opinions of descendant individuals and/or communities.
- **Funerary objects:** Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to be associated with human remains.
- **Historic property:** Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. It includes artifacts, records, and remains that are related to and located within such properties, and it includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register of Historic Places criteria.¹¹
- **Human remains:** The physical remains of a human body including cremains, fragmented human remains, hair, and fluid, among other components. When human remains are believed to be comingled with other material (such as soil or faunal), the entire admixture should be treated as human remains.
- **Indian Tribe:** An Indian Tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act¹², which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.¹³
- **Indigenous Knowledge (IK):** Information provided by an Indian Tribe, Tribal member, Native Hawaiian, or other Indigenous person uniquely reflective of their knowledge, experience, understanding, or observation relating to cultural resources, practices, or actions. Indigenous Knowledge often constitutes sensitive information.

⁷ Based on 36 CFR § 800.2(c)

⁸ 36 CFR § 800.2(c)(6)

⁹ "[Native American Archival Materials](#)," (First Archivist Circle, 2007)

¹⁰ 36 CFR § 800.5(a)(1)

¹¹ 36 CFR § 800.16(1)

¹² 43 U.S.C. § 1602

¹³ 36 CFR § 800.16(m)

- **Native Hawaiian:** Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the state of Hawaii.¹⁴
- **Native Hawaiian organization (NHO):** Any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians.¹⁵
- **Preservation in place:** Taking active steps to avoid disturbing a burial site, human remains, or funerary objects including, to the maximum extent practical, any access, viewsheds, setting, and/or ongoing cultural activity that may be associated with the location.
- **Section 106:** That part of the NHPA which establishes a federal responsibility to take into account the effects of undertakings on historic properties and to provide the ACHP a reasonable opportunity to comment with regard to such action.
- **Sensitive:** Information that may be protected by law, regulation, or federal policy; information that may be identified as sensitive by the sponsoring entity/original source.
- **State Historic Preservation Officer (SHPO):** The official appointed to administer a state's historic preservation program.¹⁶
- **Tribal Historic Preservation Officer (THPO):** The official appointed or designated to administer the Tribe's historic preservation program.¹⁷
- **Treatment:** Measures developed and implemented to avoid, minimize, or mitigate adverse effects to historic properties.

¹⁴ 36 CFR § 800.16(s)(2)

¹⁵ 36 CFR § 800.16(s)(1)

¹⁶ 54 U.S.C. § 302301

¹⁷ 54 U.S.C. § 302702

Appendix D: Project Contacts

Project Contacts

Massachusetts State Historic & Preservation Office Brona Simon, State Archaeologist Massachusetts Historical Commission 220 Morrissey Blvd Boston, MA 02125 617-727-8470 mhc@state.ma.us	Mashpee Wampanoag Tribe David Weeden, THPO 483 Great Neck Road South Mashpee, MA 02649 508-477-0208 Fax: 508-477-1218 106review@mwtribe-nsn.gov
Mohegan Tribe of Indians of Connecticut James Quinn, THPO 13 Crow Hill Rd. Uncasville, CT 06382 860-862-6893 Fax : 860-862-6395 iquinn@moheganmail.com	Narragansett Indian Tribe John Brown, THPO 4425 S. County Trail Charlestown, RI 02813 860-862-6893 Fax: 401-539-4217 tashtesook@aol.com
Stockbridge Munsee Community, Wisconsin Jeffery C. Bendremer, THPO 86 Spring Street Williamstown, MA 01267 413-884-6029 thpo@mohican-nsn.gov	Wampanoag Tribe of Gay Head (Aquinnah) Bettina Washington, THPO 20 Black Brook Road Aquinnah, MA 02535 508-645-9265, ext. 175 thpo@wampanoagtribe-nsn.gov
Commission on Indian Affairs John "Jim" Peters, Jr, Executive Director 100 Cambridge St., Suite 300 Boston, MA 02114 617-573-1292 john.peters@mass.gov	Project Archaeologist - WSP Nathan Scholl, RPA 1223 Mineral Spring Ave North Providence, RI 02904 717-515-5349 nathan.scholl@wsp.com
Project Archaeologist - WSP Nicholas Smith, RPA 1223 Mineral Spring Ave North Providence, RI 02904 847-924-0087 nicholas.smith1@wsp.com	Massachusetts Water Resources Authority
Law Enforcement and Medical Examiner Contact Information	
Massachusetts State Police General Headquarters 470 Worcester Road Framingham, MA 01702 508-820-2300	Boston Police Department Main Headquarters One Schroeder Plaza Boston, MA 02120 617-343-4425
Boston Police Department Jamaica Plain District 3347 Washington Street Jamaica Plain, MA 02130 617-343-5630	Brookline Police Department 350 Washington Street Brookline, MA 02445 617-730-2222
Needham Police Department 88 Chestnut Street Needham, MA 02492 781-445-7570	Newton Police Department 1321 Washington Street Newton, MA 02465 617-796-2100

Waltham Police Department 610 Main Street Waltham, MA 02452 781-314-3000	Wellesley Police Department 485 Washington Street Wellesley, MA 02482 781-235-1212
Weston Police Department 180 Boston Post Road By-Pass Weston, MA 02493 781-786-6200	Office of the Chief Medical Examiner 720 Albany St. Boston, MA 02118 617-267-6767 Toll Free: 800-962-7877 Fax: 617-266-6763

Appendix E: Documentation Form

Unanticipated Discovery of Human Remains and/or Archaeological Resources Documentation Form

Documenter:	Date:
Title:	
Discovery:	
Date and time of Discovery:	
Reported by:	
Title:	Organization:
Description:	
Archaeologist Called?	
Archaeologist/PI Name:	Date and time reported to site:
Organization:	
Within 24 hours of discovery:	
Law Enforcement Called?	
Officer Name:	Date and time reported to site:
Organization:	
Medical Examiner (ME) Called?	
ME Name:	Date and time reported to site:
Organization:	
Species Determination:	
Forensic Determination:	
List of those present for Forensic Determination:	
Comments:	

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