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UNANTICIPATED CULTURAL RESOURCES DISCOVERY PROTOCOL BLUESTONE WIND PROJECT, BROOME COUNTY, NY

August 2018

Introduction:

Bluestone Wind, LLC (the Applicant), has proposed to construct a wind generating facility (the Facility) in the Towns of Windsor and Sanford in Broome County, New York. The proposed Facility will consist of up to 33 wind turbines and associated infrastructure, including access roads, buried collection lines, a short distance of overhead transmission line, a collection substation, a point of interconnection substation (with battery storage), meteorological tower(s), staging/laydown yards, a concrete batch plant, and an operations and maintenance building.

Environmental Design & Research, Landscape Architecture, Engineering, and Environmental Services, D.P.C. (EDR), in conjunction with the Public Archaeology Facility at Binghamton University (PAF), completed a Phase IB archaeological survey of the area of potential effect (APE) of the proposed Facility on behalf of the Applicant. The purpose of the Phase IB survey was to determine whether archaeological sites are located in the areas that may be affected by the proposed Facility. The Applicant has intentionally sited the Facility to avoid impacts to all but one culturally sensitive archaeological sites identified during the Phase IB survey. This site is discussed in Section 1.4 below.

The Applicant recognizes that despite previous archaeological investigations, it is possible that unanticipated buried or aboveground archaeological features and/or artifacts may be encountered during project construction or maintenance, even in areas regarded as possessing low archaeological sensitivity. In order to provide additional safeguards against the possibility that the proposed Facility might impact archaeological resources, EDR, on behalf of the Applicant, has prepared this Unanticipated Cultural Resources Discovery Protocol (the Protocol). The Protocol outlines the steps for dealing with unanticipated discoveries of cultural resources, including human remains, during the construction of the proposed Facility.

The Protocol:

1. Presents to regulatory and review agencies the protocol the Applicant and its contractors and consultants will follow to prepare for and deal with unanticipated cultural resource discoveries; and
2. Provides guidance and instruction to Bluestone Wind, LLC personnel and its contractors and consultants as to the proper procedures to be followed in the event of an unanticipated cultural resource discovery.

The following terms are used throughout the Protocol:

- **The Facility:** As previously noted, the proposed Bluestone Wind Facility is located in the Towns of Windsor and Sanford in Broome County, New York. The proposed Facility will consist of up to 33 wind turbines and associated infrastructure, including access roads, buried collection lines, a short distance of overhead transmission line, a collection substation, a point of interconnection substation (with battery storage), meteorological tower(s), staging/laydown yards, a concrete batch plant, and an operations and maintenance building.
- **Unanticipated Discovery/Unanticipated Cultural Resource Discovery:** Any indications of the presence of archaeological materials including historic-period or pre-contact Native American artifacts, animal bone, and/or human remains. Common historic-period artifacts encountered may include bottles/glass, pottery/ceramics, stone foundations, hand-dug wells, brick, nails, miscellaneous metal fragments, or charcoal or ash-stained soils. Common pre-contact Native American artifacts encountered may include arrowheads/spearheads, stone chips or flakes, charcoal or ash-stained soils, rough gray, black, or brown pottery, and other stone tools/artifacts of obvious human origin. Stacked or piled groupings of stone (referred to in the Phase 1B report as “Stone Landscape Features”, or SLFs) located on the ground surface or on top of boulders may also be encountered, which may be of either Pre-Contact Native American or historic-period origin.
- **Area of Potential Effect (APE) for Direct Effects:** All areas of potential soil/rock disturbance associated with the construction and operation of the proposed Facility.

1.0 Training and Orientation

- 1.1 The Applicant will provide a summary presentation to construction contractor personnel of the relevant results/findings of the Phase 1B archaeological survey. Instruction will also be provided as to the general cultural history of the Facility 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. The ability to identify stacked or piled groupings of stone (or Stone Landscape Features) is of particular concern.
- 1.2 The Applicant will assure that construction contractor 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 Bluestone Wind Project Manager (see Attachment A) upon the observation of a potential unanticipated discovery as defined in the introduction.
- 1.3 It should be noted that 20 archaeological sites have been avoided by the Facility by a distance of at least 100 feet (31 m). The mapped locations of all archaeological sites within approximately 200 feet (61 meters) of proposed Facility-related impacts will be identified as “Environmentally Sensitive Areas,” or similar wordage, on Facility construction drawings and marked in the field by construction fencing with signs that restrict access. These areas will be regarded as off-limits but will not be identified as archaeological sites in order to protect the resources via discretion and confidentiality.
 - 1.4 The Applicant will stress the necessity of compliance with this Protocol and special emphasis and attention will be given to potential circumstances involving human remains. The Applicant will stress the importance of treating any human remains, or potential human remains, encountered during construction of the Facility with the utmost dignity and respect (see Section 3.0 below concerning human remains and Attachments B and C).

2.0 Observed Resources

- 2.1 If any member of the construction workforce believes that potential archaeological materials/artifacts have been encountered, he or she will be required to stop work in the immediate vicinity of the find and notify the Bluestone Wind Project Manager (see Attachment A). If human remains are involved, the procedure described in Section 3.0 concerning human remains will be followed.
- 2.2 Archaeological features and/or artifacts will be left in place and not disturbed. Stacked or piled groupings of stone/Stone Landscape Features must not be moved, rearranged, walked or built upon, or disturbed in any manner. No materials will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- 2.3 If the Applicant (or its contractors/consultants) believe that an unanticipated discovery has been made, all ground-disturbing activities within the vicinity of the discovery will be stopped until such time as it is determined that construction in this area may continue. The Applicant will be responsible for taking appropriate steps to protect and secure the evidence of the discovery. Construction personnel will delineate the immediate area of the discovery with flagging tape and/or construction fencing. The area will be regarded as off-limits but will not be identified as an archaeological site in order to protect the resource via discretion and confidentiality. Vehicles and equipment may be permitted to traverse the area surrounding the delineated area if necessary; however, such movement will be minimized to the extent practical, and no vehicles or equipment will be permitted within the delineated area.

- 2.4 Upon the identification of a potential discovery, the Applicant will immediately notify the designated cultural resources consultant identified in Attachment A. Notification will be by telephone with additional notification via email, if necessary.
- 2.5 As soon as possible following the unanticipated discovery, a Registered Professional Archaeologist (RPA) will examine the discovery and determine if it is, in fact, an archaeological resource. If the archaeologist determines no archaeological resource is present, he/she will immediately advise the Bluestone Wind Project Manager that the Stop Work Order can be removed. The archaeologist will prepare and submit a letter including photographs of the (non-) discovery site to the Applicant within a reasonable timeframe.
- 2.6 If the archaeologist determines the discovery to be an archaeological resource, he/she will immediately notify the Bluestone Wind Project Manager. The U.S. Army Corps of Engineers (USACE) and the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) will be notified as soon as possible via email with follow-up via telephone if receipt of the initial notification cannot be confirmed via email. Notifications will be made within 48 hours of the determination that an archaeological resource has been discovered. USACE and NYSOPRHP contacts are in Attachment A. All ground-disturbing activities within the vicinity of the discovery will remain suspended until such time as it is determined that construction in this area may continue.
- 2.7 In many cases, it may be possible for the archaeologist to determine the nature of the unanticipated discovery remotely (i.e., through a review of photographs taken by on-site personnel and phone conversations with these personnel). If this is the case, a site visit will still be performed by the archaeologist, but initial notification of the discovery may be provided to the USACE and the NYSOPRHP prior to the visit.
- 2.8 If the archaeological resource is Native American in nature, the Applicant will request that the USACE and/or NYSOPRHP notify representatives of the appropriate Native American Tribal Nation(s) (see Attachment A). The request to notify Tribal Nation(s) will also be made if stacked or piled groupings of stone/Stone Landscape Features have been identified.
- 2.9 If the archaeologist determines that an archaeological resource has been discovered, additional information will be provided to NYSOPRHP and USACE following the archaeologist's site visit. The additional information will either: (a) explain why the archaeologist believes the resource to be non-significant with respect to the State/National Register of Historic Places (S/NRHP); or (b) explain why the archaeologist believes the resource to be significant with respect to the S/NRHP and propose a scope-of-work for evaluating the significance of the resource and evaluating Facility-related impacts to it. In the latter case, the USACE and NYSOPRHP will be advised that unless an objection is received within five business days, the archaeologist will consider the proposed scope-of-work to have been accepted by the USACE and NYSOPRHP and proceed with its implementation. Unless otherwise directed by USACE or

- NYSOPRHP, all work to evaluate the discovered archaeological resources will be restricted to the proposed Facility's APE for Direct Effects.
- 2.10 USACE or NYSOPRHP may invite interested Native American tribal representatives to observe the conduct of any proposed work.
- 2.11 The Applicant will be responsible for notifying the USACE and NYSOPRHP by telephone or email when the evaluation of the archaeological discovery is complete, and if the resource is significant with respect to the S/NRHP in the opinion of the archaeologist. The archaeologist will provide the Applicant with a brief written memorandum assessing the significance of the resource with respect to the S/NRHP and make a recommendation for or against additional data recovery. The archaeologist will provide this report to the Applicant no later than five business days after the conclusion of the evaluation. If the archaeologist recommends additional data recovery in the memorandum, he/she will also submit a proposal for the additional data recovery work.
- 2.12 At this time, the Applicant may choose to prepare an analysis of alternative mitigation strategies in place of data recovery, if warranted.
- 2.13 The Applicant will submit the archaeologist's memorandum, data recovery proposal and/or mitigation alternatives analysis (if appropriate) to NYSOPRHP via email and the online Cultural Resources Information System (CRIS) and to the USACE and representatives of designated Native American Tribal Nations. If the proposed mitigation measures can reasonably be conducted concurrently with ongoing Facility construction, the submittal to the USACE and NYSOPRHP will be accompanied by a request to resume construction in the area of the discovery. If the Applicant does not receive a response to the request to resume construction from the USACE and/or NYSOPRHP within five business days, the Applicant will assume the agencies concur with the request and resume construction.
- 2.14 Proposed mitigation measures will not proceed until the Applicant receives written authorization from USACE, following consultation with NYSOPRHP. The Applicant will notify the USACE and NYSOPRHP at the completion of all mitigation measures. If construction has been halted during mitigation, the Applicant will also request authorization from USACE and NYSOPRHP to resume construction at the conclusion of mitigation.
- 2.15 The Applicant will make a reasonable good-faith effort to accommodate any requests from Native American tribal representatives that they be present during the implementation of mitigation measures pertaining to Native American cultural resources.
- 2.16 The Applicant will submit a summary report describing the results of mitigation to the USACE and NYSOPRHP (and the designated Native American Tribal Nations if Native American cultural resources are involved) within a reasonable timeframe from the completion of mitigation fieldwork.

- 2.17 If archaeological data recovery is conducted, a full Phase III report will be submitted to USACE and NYSOPRHP (and to designated Native American Tribal Nations, if appropriate) based on a schedule to be established through consultation with USACE and NYSOPRHP.

3.0 Observed Skeletal Remains

- 3.1 The following protocol for dealing with skeletal remains will be followed during any circumstances in which any possible human skeletal remains are identified during construction activities ("skeletal remains" is defined as any articulated or disarticulated bones or teeth). If obviously non-human (i.e., animal) skeletal remains are discovered, the procedures outlined in Section 2.0 of this Protocol will be followed.
- 3.2 It is crucial that all human remains (or possible human remains) be treated with the utmost respect and dignity.
- 3.3 Any member of the construction team who believes an unanticipated discovery involving possible human skeletal remains has occurred is required to stop work in the immediate vicinity of the discovery and notify the Bluestone Wind Project Manager.
- 3.4 Human remains and associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- 3.5 If the Applicant believes that possible human skeletal remains have been discovered, they will immediately stop all work within 100 feet (31 meters) of the discovery location until it is confirmed that construction may resume. The area of the discovery will immediately be protected and secured by (at a minimum) the installation of flagging tape and/or construction fencing delineating the discovery location. The area will be regarded as off-limits but will not be identified as an archaeological site or the location of skeletal remains in order to protect the resource via discretion and confidentiality. Vehicles and equipment may be allowed to pass through the area surrounding the discovery, if necessary; however, such movement will be minimized, and no vehicles or equipment will be permitted within the delineated area around the discovery.
- 3.6 Upon the discovery of possible human remains, the Applicant will immediately notify the designated cultural resources consultants as well as the NYSOPRHP, the appropriate Tribal Nations, the involved State and federal agencies, the coroner, and local law enforcement listed in Attachment A via telephone and email. The cultural resources consultant will indicate that an RPA will examine the remains as soon as possible, make a preliminary assessment of their nature (i.e., if they are human or non-human), and immediately notify the parties listed above of the results of the preliminary assessment.
- 3.7 As soon as possible following the discovery, an RPA will examine the skeletal remains at the site and determine if they are human. If the archaeologist is unable to determine if the skeletal remains are human, the Applicant will retain the services of a forensic anthropologist.

- 3.8 If the remains are determined to be animal (i.e., non-human), the archaeologist will assess whether they occur in an archaeological context. Additionally, if the remains are determined to be animal, the Applicant will immediately notify the parties listed in Section 3.6 that no human remains were identified.
- 3.9 If the remains are non-human and are determined to occur in an archaeological context, the procedures outlined in Section 2.0 of this Protocol will be followed.
- 3.10 If the remains are non-human and the archaeologist determines no archaeological resource is present, he/she will immediately advise the Bluestone Wind Project Manager that the Stop Work Order can be removed. The archaeologist will prepare and submit a letter including photographs of the (non-) discovery site to the Applicant within a reasonable timeframe.
- 3.11 If the archaeologist (or forensic anthropologist) determines the remains are human, the county coroner, local law enforcement, the USACE, NYSOPRHP, and appropriate Native American Tribal Nations will be notified immediately. No additional work or examination will occur until the county coroner and local law enforcement have arrived on the scene and made an official ruling on the nature of the remains (i.e., if they are forensic or archaeological in nature).
- 3.12 If the human remains are determined to be archaeological and if the archaeologist/forensic anthropologist identifies them as Native American in origin, the remains will be left in place and protected from further removal or disturbance until a plan is developed for their removal in consultation with appropriate Tribal Nations, the USACE, and NYSOPRHP. Note that avoidance is the preferred choice of the NYSOPRHP and the Tribal Nations (see Attachments B and C). The removal plan will be consistent with the applicable provisions of the Native American Graves Protection and Repatriation Act. Photographs of Native American human remains and associated funerary objects should not be taken without consulting with the involved Tribal Nations.
- 3.13 If human remains are determined to be archaeological but non-Native American, they will be left in place and protected until a plan for avoidance or removal is developed through consultation with the USACE and NYSOPRHP. Note that avoidance is the preferred choice of the NYSOPRHP.
- 3.14 Proposals for site evaluation and/or mitigation will give special consideration to the presence of human remains. Proposals will also include provisions for evaluating the area for the presence of additional graves.
- 3.15 In cases involving Native American human skeletal remains, proposals, to the extent feasible, will incorporate any desires made known to the Applicant by Native American Tribal Nations regarding the treatment of human remains.

- 3.16 If the USACE and NYSOPRHP determine that the archaeological site associated with the human skeletal remains is not significant with respect to the NRHP, the Applicant will resume construction once human remains have been removed to the satisfaction of the USACE, NYSOPRHP, and interested Native American Tribal Nations.
- 3.17 Any proposals for mitigation or human skeletal remains removal will identify steps to attempt to identify lineal descendants of the deceased, to the extent feasible.
- 3.18 If the unanticipated discovery of human skeletal remains is made after trenching (or other excavation) in the vicinity has already taken place, construction may proceed except within 100 feet (31 meters) of the identified human skeletal remains.

List of Attachments:

- Attachment A: Notification List
- Attachment B: New York State Office of Parks, Recreation, and Historic Preservation Human Remains Discovery Protocol.
- Attachment C: Haudenosaunee Protocol for Handling Discovery of Human Remains

Bluestone Wind Project – Unanticipated Archaeological Discovery Protocol
Attachment A – Anticipated Notification List

Bluestone Construction Project Manager (on-site) TO BE DETERMINED	Alternate TO BE DETERMINED
Cultural Resources Consultant/Archaeologist Patrick Heaton, RPA Environmental Design and Research 217 Montgomery Street, Suite 1000 Syracuse, NY 13202 Phone: 315-471-0688 Email: pheaton@edrdpc.com	Alternate Matthew Victor Weiss Environmental Design and Research 217 Montgomery Street, Suite 1000 Syracuse, NY 13202 Phone: 315-471-0688 Email: mweiss@edrdpc.com
U.S. Army Corps of Engineers (USACE) Margaret Crawford U.S. Army Corps of Engineers Buffalo District – Regulatory Branch 7413 County House Road Auburn, NY 13021 Phone: (315) 704-0256 Email: margaret.a.crawford@usace.army.mil	Alternate TO BE DETERMINED
New York State Office of Parks, Recreation and Historic Preservation Phillip A. Perazio Historic Preservation Program Analyst- Archaeology Unit PO Box 189 Waterford, NY 12188-0189 Phone: 518-268-2175 Email: philip.perazio@parks.ny.gov	Alternate Nancy Herter Coordinator and Native American Liaison PO Box 189 Waterford, NY 12188-0189 Phone: 518-268-2179 Email: nancy.herter@parks.ny.gov
Native American Representatives <ul style="list-style-type: none"> Jesse Bergevin Oneida Indian Nation, Historian 1256 Union Street P.O. Box 662 Oneida, NY 13421 Phone: (315) 829-8463 jbergevin@oneida-nation.org Corina Williams Oneida Nation of Wisconsin Tribal Historic Preservation Officer P.O. Box 365 Oneida, WI 54155 Phone: (920) 496-5386 cwilliam@oneidanation.org Bryan Printup Tuscarora Nation GIS Manager and Cultural Resources 5226 Walmore Road 	Alternate <ul style="list-style-type: none"> Raymond Halbritter Oneida Indian Nation Nation Representative 5218 Patrick Road Verona, NY 13478 Phone: (315) 829-8900 info@oneida-nation.org Tehassi Hill Oneida Nation of Wisconsin Chairman P.O. Box 365 Oneida, WI 54155 Phone: (800) 236-2214 rhill7@oneidanation.org Leo Henry Tuscarora Nation Chief, Government-to-Government Consultation 2006 Mt. Hope Road

Baron Wind Facility – Unanticipated Archaeological Discovery Protocol
Attachment A – Anticipated Notification List
June 27, 2017

<p>Lewiston, NY 14092 Phone: (716) 264-6011 bprintup@hetf.org</p> <ul style="list-style-type: none"> Bonney Hartley Stockbridge-Munsee Band of the Mohican Nation of Wisconsin Tribal Historic Preservation Officer New York Office 65 1st Street Troy, NY 12180 Phone: (518) 244-3164 bonney.hartley@mohican-nsn.gov Kim Penrod Delaware Nation Director of Cultural Resources 31064 State Highway 281 P.O. Box 825 Anadarko, OK 73005 Phone: (405) 247-2448, Ext. 1403 kpenrod@delawarenation.com Susan Bachor Delaware Tribe of Indians Historic Preservation Representative Delaware Tribe Historic Preservation, PA Office P.O. Box 64 Pocono Lake, PA 18347 Phone: (610) 761-7452 sbachor@delawatribes.org 	<p>Via Lewiston, NY 14092 Phone: (716) 297-1148 No email</p> <ul style="list-style-type: none"> Shannon Holsey Stockbridge-Munsee Band of the Mohican Nation of Wisconsin Tribal President Route 1 P.O. Box 70 Bowler, WI 54416 Phone: (715) 793-4111 shannon.holsey@mohican-nsn.gov Nekole Alligood Delaware Nation NAGPRA 31064 State Highway 281 P.O. Box 825 Anadarko, OK 73005 Phone: (405) 247-2448, Ext. 1403 nalligood@delawarenation.com Dr. Brice Obermeyer Delaware Tribe of Indians Tribal Historic Preservation Officer 1200 Commercial Street Roosevelt Hall, RM 212 Emporia State University Emporia, KS 66801 Phone: (918) 335-7026 bobermeyer@delawatribes.org
<p>Law Enforcement Agency Broome County—Office of the Sheriff Sheriff David E. Harder 155 Lt. VanWinkle Drive, Binghamton, NY 13905 607-778-1911</p>	
<p>County Coroner Broome County Coroners</p> <ul style="list-style-type: none"> Dr. John C. Prindle 60 Hawley Street, Binghamton, NY 13901 607-778-1911 Dr. Teresa Sacco 60 Hawley Street, Binghamton, NY 13901 607-778-1911 Stacey Pendell 60 Hawley Street, Binghamton, NY 13901 607-778-1911 	

Baron Wind Facility – Unanticipated Archaeological Discovery Protocol
Attachment A – Anticipated Notification List
June 27, 2017

<ul style="list-style-type: none">• Kelly Storrs 60 Hawley Street, Binghamton, NY 13901 607-778-1911	
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**State Historic Preservation Office/
New York State Office of Parks, Recreation and Historic Preservation
Human Remains Discovery Protocol
(June 2015)**

In the event that human remains are encountered during construction or archaeological investigations, the New York State Historic Preservation Office (SHPO) recommends that the following protocol is implemented:

- Human remains must be treated with the utmost dignity and respect at all times. Should human remains or suspected human remains be encountered, work in the general area of the discovery will stop immediately and the location will be immediately secured and protected from damage and disturbance.
- Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- The SHPO, the appropriate Indian Nations, the involved state and federal agencies, the coroner, and local law enforcement will be notified immediately. Requirements of the coroner and local law enforcement will be met. A qualified forensic anthropologist, bioarchaeologist or physical anthropologist will assess the remains *in situ* to help determine if the remains are Native American or non-Native American.
- If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO and the Indian Nations. The involved agency will consult SHPO and appropriate Indian Nations to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance. Photographs of Native American human remains and associated funerary objects should not be taken without consulting with the involved Indian Nations.
- If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.

4.7 Protocol for Handling Discovery of Human Remains

	<u>Known Burials</u>	<u>Unidentified Burials</u>
When to contact?	Intentional excavation At the earliest time in decision-making process.	Inadvertent Discovery Upon discovery.
Which Nation to contact?	If find is within existing Nation boundary, contact that Nation's Cultural Resource representatives. If the find is within the traditional land use area (fifty mile radius from the current nation territory, contact the closest Nation's Cultural Resource Representative. If the find is within the aboriginal territory of each nation, as shown on the attached map, contact the Nation within that territory. For finds located within fifty miles on either side of the boundary lines shown on the map, contact the Cultural Resource Representatives of both Nations.	
Who to contact?	Haudenosaunee Cultural Resource Representatives HSCBRR	Haudenosaunee Cultural Resource Representatives HSCBRR
How to contact?	Contact list is provided.	
Information Required	Brief description of the find or potential find; site map and any information on the known cultural history of the area and summary of nearby archaeological findings. Nation will send a representative to review the site.	
		Company must hire a Native American on-site observer.
Next steps	<i>Non-disturbance of burials is preferred.</i> If after proper consultation, the remains must be removed, we prefer to have them reburied close to their original location as possible, provided the future sanctity of the grave can be assured. <i>No remains should be removed without proper cultural protocols.</i> If no safe local burial ground can be offered, the Haudenosaunee will reclaim the remains for reburial at an undisclosed location. The local government /state agency/developer must pay all of the costs for such reburial. All objects associated with the original burial must be reburied as well. All of the soil in the immediate area of the burial should also be placed in the new grave.	
Time Frame	30 to 45 days	As soon as possible