

**National Fuel Gas Supply Corporation  
And Empire Pipeline, Inc.  
Northern Access 2016 Project  
Unanticipated Discovery Plan**

**Introduction**

The purpose of archaeological surveys during the planning of natural gas projects is to determine the presence and disposition of historic and prehistoric cultural resources within the project area. These archaeological studies are conducted under Federal Energy Regulatory Commission (FERC) guidelines (2002) pursuant to 18 CFR 157.206 and Appendix II of Subpart F, which require actions taken under sections 3 and 7 of the Natural Gas Act (Part 380, Appendix A) to comply with the National Environmental Policy Act of 1969 and Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f), as amended, implementing regulations of the Advisory Council on Historic Preservation (36 CFR 800). All work is undertaken pursuant to the *Secretary of the Interior Standards for Archaeology and Historic Preservation* (48 Federal Regulations 44716-42 [1983]), the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation (SHPO) *Guidelines for Archaeological Investigations in Pennsylvania* (2008), the Environmental Rights Amendment, Article 1, Section 27 of the Pennsylvania History Code (37 Pa. Cons. Stat. Section 507 *et. seq.*), Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law of 1980, and the New York Archaeological Council's (NYAC) Standards for Cultural Resource Investigations and Curation of Collections (1994).

National Fuel Gas Supply Corporation (Supply) and Empire Pipeline, Inc. (Empire), both subsidiaries of National Fuel Gas Company and collectively known as National Fuel, recognizes that it is possible for unanticipated cultural resources or human remains to be discovered during construction. Strict compliance with state and federal regulations is required regarding any unanticipated discoveries.

Unanticipated discoveries that trigger the following procedures include:

- Building foundations or other historic structures with subsurface remains,
- Concentrations of artifacts or evidence of human occupation, and
- Human remains.

Part of the National Fuel's environmental inspectors' routine duties will involve examination of trenches, building excavations, and/or spoil piles for evidence of artifacts, structures, or human remains.

**Identification/Training**

The identification of archaeological resources requires basic training in order to recognize potential sites. National Fuel requires that its employees and contractors have a basic understanding of the nature of cultural resources. As a result, all National Fuel inspectors and construction contractor personnel will be given basic training in cultural resource site recognition.

The purpose of this training will be to inform these personnel of National Fuel's commitments regarding cultural resource compliance and to provide an overview of the general cultural history of each project area, so that both National Fuel and construction personnel will be aware of the kinds of archaeological resources that may be encountered in the field. In addition, the training program will emphasize the exact procedures to be followed, as outlined in this plan, regarding actions to be taken and notification required in the event of a significant site discovery, such as a discovery of human remains, during construction.

### **Notification Procedures**

The following procedures will be required by National Fuel to be initiated in the event of a potential discovery of cultural resources during construction.

1. In the event that suspected artifacts are uncovered during a construction activity, that activity will immediately be halted until it can be determined whether those materials are cultural and, if so, whether they represent a potentially significant site. If contractor construction personnel identify artifacts, activities that could affect the integrity of the cultural materials will be suspended immediately, and the contractor's construction foreman will be notified immediately. The foreman, in turn, will notify National Fuel's Project Supervisor. Notification will include the specific construction area (*e.g.*, trench wall, spoil pile, foundation excavation) in which the potential site is located. If National Fuel personnel identify artifacts, they will direct the contractor to stop work on activities that could affect the integrity of the resource, and will inform National Fuel's Environmental Department.
2. Upon notification or discovery of a possible site, National Fuel will contact its cultural resource consultants. An archaeologist then will be called to review the material. Onsite National Fuel personnel will discuss with the archaeologist the location and type of artifacts. If the archaeologist is not in the immediate site vicinity and further work in the excavation area is not imminent, photographs or drawings of the artifacts may be faxed to the archaeologist for review. Based on the information provided, the archaeologist will determine if a visit to the area is required and, if so, he or she will be expected to have crews onsite within 24 hours after notification. If on-site archaeological investigations are required, the National Fuel chief inspector will inform the construction contractor. No construction work at the site that could affect the artifacts will be performed until the archaeologists review the site. The site will be flagged as being off-limits for work by the National Fuel chief inspector until a determination of cultural significance is reached, but will not be identified as an archaeological site *per se* in order to protect the resources.
3. The archaeologists will conduct a review of the site and will test the site as necessary. Since the area will have already been partially disturbed by construction activities, the objective of any cultural resource investigations will be to recover data quickly so that construction at the site can continue in a timely manner.
4. The archaeologists will determine, based on the artifacts found and on the cultural sensitivity of the area in general, whether the site is potentially significant and whether the SHPO and

FERC Staff will require immediate notification by National Fuel via telephone or email. If not, data regarding the site will be faxed or sent by express mail to the SHPO and FERC Staff by National Fuel in order to ensure a quick site clearance. The FERC will consult with the appropriate SHPO and make determinations of NRHP eligibility and effect. If the discovery is deemed NRHP-eligible, National Fuel would produce a Treatment Plan for review and approval of the FERC staff and appropriate SHPO.

5. If the discovery is determined not NRHP-eligible, National Fuel and its archaeologists will work with the SHPO and FERC Staff to ensure that the site is cleared without affecting the construction schedule, if possible.

### **Plan for Unanticipated Discovery of Human Remains**

In the event that human remains are encountered during construction or archaeological investigations, the following protocol, following the OPRHP Human Remains Discovery Protocol (2008) and PHMC guidelines, will be implemented:

- At all times human remains must be treated with the utmost dignity and respect. Should human remains be encountered, work in the general area of the discovery will stop immediately and the location will be immediately secured by National Fuel's Environmental Department inspector in the immediate area 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.
- National Fuel will immediately contact county coroner and local law enforcement as well as the FERC and appropriate SHPO. The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archeological. If the remains are archeological in nature, a bioarchaeologist will confirm the identification as human. If the remains are not modern or the result of a crime, National Fuel will produce a Treatment Plan, in consultation with the FERC staff, appropriate SHPO, interested Native American tribes, or likely descendants, that details appropriate measures to be implemented, which may include, but are not limited to avoidance, excavation, study, reburial, or repatriation. In no situation would human remains be permanently curated.
- 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 protection or removal can be generated. National Fuel will contact interested Native American tribes and, if in Pennsylvania, the Pennsylvania Advisory Committee on Human Remains. The involved agency will consult SHPO and appropriate Native American groups to determine a plan of action. National Fuel may have to make arrangements for interested Native Americans to visit the site prior to the production of a Treatment Plan.

- If human remains are determined to be Euro-American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. National Fuel will make an effort to identify and contact the nearest relations or likely descendants, ethnic group, or community affiliated with remains. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action. In New York State, McKinney's Consolidated Laws of New York, Book 25 Section 12a, Book 16 Section 233.3 and 234, and Book 37B Section 11.03, 12a, and 19.01, requiring permission from the NY SHPO prior to excavations, will govern. Any excavations on state land will require a NY SHPO permit. In Pennsylvania, a permit will be obtained from the State archaeologist prior to excavations. National Fuel may have to make arrangements for likely descendants to visit the site prior to the production of a Treatment Plan.
- National Fuel will be responsible for all cultural resources costs including evaluation, data recovery, and curation.