Hiawatha National Forest
Inadvertent Discoveries Plan of Action

PURPOSE.

This document outlines the procedures to prepare for and address the unanticipated discovery of cultural materials, historic buildings or structural elements, or human remains and associated funerary objects (heretofore referred to as ancestral remains and relatives). It provides direction regarding the proper procedures to follow if unanticipated discoveries occur during Federal undertakings on public lands managed by the Hiawatha National Forest.

Cultural materials include human-made, altered, or used objects (i.e., artifacts) and features (e.g., foundation walls, hearths, middens, or other non-portable remnants of cultural activity) that form elements/components of an archaeological site or assemblage.

Historic buildings or structures can be elements of historic properties or districts. They can exist in varying degrees of preservation from fully preserved to partially dilapidated or even razed. Elements of historic buildings may also be hidden by recent additions or alterations. For example, siding may obscure the historic character of a historic home or log cabin, or carpet, tile, or linoleum could cover wooden floors.

Ancestral remains refer to the physical remains or skeletal elements of a human individual or individuals, regardless of antiquity or ethnic origin.

PROCEDURES FOR SECURING, DOCUMENTING, AND PROTECTING ARCHAEOLOGICAL DISCOVERIES, HISTORIC BUILDINGS, AND STRUCTURES.

1. STOP WORK.

If a Forest Service employee, volunteer, partner, contractor, or subcontractor believes that they have uncovered cultural materials relating to an archaeological site or historic structure or building at any point during an undertaking, **all activities occurring within a minimum distance of 100ft (30m) of the discovery must stop. No Forest Service employee, volunteer, partner, contractor, or subcontractor is permitted to take, keep, or share photographs of the discovery.** Only Law Enforcement Officers or Heritage Professionals (in consultation with SHPO/THPOs) are authorized to take photographs. Minimize movement of vehicles and equipment in area immediately surrounding the discovery and secure and protect the discovery from further damage, theft, or removal. Leave all cultural materials in place.

If necessary, notify Forest Service Law Enforcement to secure the location of discovery. Forest Service Law Enforcement will coordinate with Tribal or other Law Enforcement agencies, as needed to secure the discovery. Reasons for contacting Law Enforcement include:

a) The observation of Ancestral remains and relatives that have been exposed by human activities or natural causes.

b) There is evidence suggesting a violation of the Archaeological Resource Protection Act (ARPA, *16 U.S.C. 470 et seq.*), *36 CFR §296.*4, or *36 CFR §261.9.*

c) Concern for public health and safety.

2. CONTACT.

After stopping all work in the location of discovery, the employee, contractor, or subcontractor shall immediately notify a Forest Service line office (Forest Supervisor or District Ranger) and contact Forest Service Heritage personnel, Contracting Officer (CO) or Contracting Officer's Representative (COR), and/or Forest Service Law Enforcement Officer. The SHPO/THPOs will be contacted within 24 hours, as appropriate, based on the initial assessment of the discovery by Forest Service Heritage personnel (see attached list of Forest Service contacts).

Forest Service Law Enforcement must be contacted immediately if there is evidence suggesting a violation of the Archaeological Resource Protection Act (ARPA, *43 CFR §10*), *36 CFR §296.4*, or *36 CFR §261.9*. Forest Service Law Enforcement will contact and coordinate with Tribal Law Enforcement or other Law Enforcement agencies, as appropriate, to secure the discovery and assist with the investigation.

3. DOCUMENT AND EVALUATE DISCOVERY.

Archaeological discoveries will be identified, documented, and evaluated by Forest Service Heritage Professionals that meet the Secretary of the Interior Professional Qualification Standards (*36 CFR §*61, and *43 CFR §800.2(a)(1))*. The professional archaeologist(s) will examine the location of the discovery and assess its status as a heritage resource. The assessment process may involve further investigation of disturbed areas, the examination of artifacts and features, and the excavation of additional shovel test pits to delineate the spatial extent of cultural materials. The latter will be used to define the site area and determine the area of potential effects (APE) as it pertains to the Federal undertaking. If required, formal documentation of the discovery may take the form of a field damage assessment or similar type of report for the purposes of complying with the standards and guidelines of the Archaeological Resource Protection Act (*16 U.S.C. 470 et seq.*) and *36 CFR § 296.*

The field assessment and evaluation of the discovery will involve the following stipulations:

a) If the archaeologist determines that the discovery IS NOT A HERITAGE RESOURCE (i.e., is younger than 50 years of age and lacks integrity or context), the archaeologist will document the discovery as a non-designated resource (NDR) in their field notes and notify the Forest Service line officer, CO, COR, or other designated official that the federal undertaking may proceed as initially designed and planned.

b) If the archaeologist determines that the discovery IS A HERITAGE RESOURCE, then the archaeologist will document the discovery as an archaeological site by conducting the following:

i) Formally assign the site an official Forest Service site number.

ii) Create an inventory of the exposed/discovered cultural materials.

iii) Use systematic shovel testing, if necessary, to define the spatial extent of cultural materials and buried archaeological deposits.

iv) Create a site map documenting the spatial extent of cultural materials, features, archaeological deposits, and inadvertent discovery locations.

v) Photograph the site area, the location of artifacts and features (if appropriate), and areas of disturbance.

vi) Establish a site protection zone that extends up to 30m (100ft) beyond the archaeologically defined boundary of the site wherein no earth disturbing activities, the parking of vehicles, or the staging of logs, materials, or equipment, will be permitted once the Federal undertaking has been authorized to proceed. Heritage personnel may extend the protection boundary depending on the nature of the undertaking, the significance, integrity, and cultural sensitivity of the heritage resource, and the type and extent of adverse effects.

c) If the discovery constitutes a HERITAGE RESOURCE and there is evidence suggesting a **violation of the Archaeological Resource Protection Act** (*16 U.S.C. 470 et seq.*) with its implementing regulations (*36 CFR § 296*), then the Heritage Professional will work with Law Enforcement to secure the discovery and collect the data necessary to write a formal Resource Damage Report pursuant to *36 CFR § 296.*

1) **d)** In accordance with *36 CFR § 63,* Heritage Professionals shall evaluate the heritage resource for its eligibility to the National Register of Historic Places (NRHP). Archaeological testing (if necessary) will be limited to a sufficient level required to provide a recommendation of NRHP eligibility. **Forest Service Heritage Professionals will conduct formal determinations of eligibility in consultation with the SHPO/THPOs as part of the Agency's determination of eligibility process outlined in 36 CFR § 60.9. The consultation process for each determination of eligibility will follow the same consultation protocols the Hiawatha National Forests follows as outlined in 36CFR800 for compliance with Section 106 of the NHPA.**

i) If the heritage resource is determined to be **eligible** for the NRHP, then Heritage personnel will develop a site protection or mitigation plan in consultation and

collaboration with the SHPO/THPOs. **Site avoidance is the preferred method for site protection** (see Section 3(b)(vi) for site avoidance measures).

ii) If the heritage resource is determined to be **not eligible** for the NRHP, then no further site protections are required. Project work may resume with appropriate archaeological monitoring for further heritage resource disturbances.

iii) Heritage Professionals will treat heritage resources as an NRHP eligible site (see section 3(d)(i)) if site conditions, the nature of the discovery, funding levels, or project timelines do not permit the Forest Service to conduct a formal NRHP evaluation.

Historic buildings and structures

Forest Service Architectural Historians and Heritage Professionals that meet the Secretary of the Interior Professional Qualification Standards (*36 CFR* §61) will identify, document, and evaluate historic buildings and structures.

a) If the Architectural Historian determines that the discovery IS NOT A HERITAGE RESOURCE (i.e., is younger than 50 years of age and lacks integrity or context), the Architectural Historian/Heritage Professional will document the discovery in their field notes and notify the Forest Service line officer, CO, COR, or other designated official that the federal undertaking may proceed as initially designed and planned.

b) If the Architectural Historian determines that the discovery IS A HERITAGE RESOURCE, they will document the discovery as a historic architectural property and complete the appropriate identification forms and assign a Forest Service site number to the discovery. A formal determination of eligibility will be conducted by the Architectural Historian in consultation with the SHPO/THPOs.

i) If the resource is not eligible for the NRHP, the Architectural Historian will document the discovery in a report, including photographs of the discovery site, completed identification forms, and an explanation of why they believe the resource is not eligible. Project work may resume once the Forest Service receives SHPO/THPO concurrence and a Forest Service line officer, delegated official, or CO grants permission.

ii) If the resource is believed to be eligible for the NRHP, the architectural historian will document the discovery in a report that includes photographs of the discovery site, completed identification forms, an explanation of why they believe the resource is eligible, and a proposal for avoiding the historic architectural property or mitigating adverse effects. The Forest Service, SHPO/THPOs, and interested consulting parties must agree (in writing) to site avoidance or mitigation measures before project work can resume.

4. RESOLUTION/MITIGATION OF ADVERSE EFFECTS.

In accordance with *36 CFR § 800.6*, the Forest Service will consult and collaborate with the SHPO/THPOs to develop a mitigation plan to reduce adverse effects for heritage resources that are deemed NRHP eligible or whose NRHP status remains unevaluated. A mitigation plan is required if site avoidance measures cannot be implemented, or the undertaking cannot be altered, relocated, or redesigned in such a way as to avoid adverse effects. Alternative mitigations to site avoidance may include archaeological data recovery; the preparation of Michigan SHPO State Level Documentation of historic properties, prepared in accordance with the Secretary of the Interior's Standards and Guidelines for Historical Documentation (48 FR 44728-30); or the preservation and protection of similar heritage resource types in other locations.

PROCEDURES FOR THE DISCOVERY OF HUMAN REMAINS AND ASSOCIATED OBJECTS.

This section provides direction for the treatment of inadvertently discovered human remains and associated objects, (heretofore referred to as **ancestral remains and relatives**). The Forest Service shall implement the following stipulations when such discoveries occur.

1. STOP WORK. All project work must cease and desist if a Forest Service employee, volunteer, partner, contractor, or subcontractor discovers ancestral remains at any point during a federal undertaking. **The Forest Service shall treat all ancestral remains and associated relatives with respect and dignity.** The Forest Service will secure and protect the discovery with a protective boundary. **No Forest Service employee, volunteer, partner, contractor, or subcontractor is permitted to take, keep, or share photographs of the discovery.** Only Law Enforcement Officers and Heritage Professionals are authorized to take photographs of ancestral remains and relatives for the purposes of the investigation.

2. CONTACT, ASSESS, AND PROTECT. Immediately notify Forest Service Law Enforcement. Be prepared to provide detailed directions to the site of discovery. Next, notify the Forest Service Heritage Program Manager or Heritage personnel of the discovery. Law Enforcement Officers will be responsible for officially securing the discovery location and communicating and cooperating with Forest Service line officers and Heritage personnel. Law Enforcement Officers and Heritage Professionals will assess the nature of the discovery and determine if it constitutes a crime scene.

    a. Law Enforcement will contact and cooperate with Tribal, State, and Federal Law Enforcement agencies, as well as the County Medical Examiner if they determine that the discovery constitutes evidence for a violent crime or missing person case.

    b. The Hiawatha National Forest will implement the Forest ARPA/NAGPRA Plan of Action if Law Enforcement and Heritage professionals determine that the inadvertent discovery does not constitute evidence for a violent crime or missing person case, but meets the following conditions: (1) the ancestral remains and associated relatives are believed to be of Native American ancestry and origin; (2) the ancestral remains and relatives are associated with an archaeological resource; and/or (3) there exists

sufficient evidence to suspect a violation of the Archaeological Resource Protection Act (*16 U.S.C. 470 et seq.*). **The Forest's ARPA/NAGPRA Plan of Action is the primary direction for the treatment, transfer, and disposition of ancestral remains and relatives.**

c. Pursuant to *43 CFR § 10.5(a)(3)*, if the conditions of points 2(a) and 2(b) do not apply, then Law Enforcement and Heritage professionals will notify the SHPO/THPOs within 24 hours about the discovery. Heritage professionals will consult and collaborate with SHPO/THPOs to develop a plan of action for the short-term and long-term preservation, protection, and respectful treatment of ancestral remains and associated relatives. The Hiawatha National Forest, in consultation with the above stated consulting parties, shall make a concerted effort to document the discovery, protect the ancestral remains and associated relatives, and **preserve them in place**. Tribal representatives will have the opportunity to conduct ceremonies for the ancestral remains and associated relatives at the site of discovery.

d. If the Forest Service, in consultation with the SHPO/THPOs, determines that excavation or removal is necessary to protect and maintain the continuity of ancestral remains and associated relatives, then the Forest Service shall abide by the following stipulations:

i) The Forest Service shall treat all ancestral remains and associated relatives (regardless of ancestry) with respect and dignity and maintain them together.

ii) Tribal representatives will have the opportunity to be present and/or participate in the excavation and removal of ancestral remains and associated relatives.

iii) The Forest Service shall coordinate with Law Enforcement and THPOs to secure and protect ancestral remains and associated relatives until excavated and transferred to an agreed-upon housing facility.

iv) The Forest Service shall consult and cooperate with THPOs to inventory, document, or analyze ancestral remains and relatives.

v) No destructive analyses of ancestral remains or associated relatives will be permitted without prior consultation and consent by the Tribes which have signed this Plan. Analyses will be limited to the determination of age and sex to further data requirements pursuant to *43 CFR §10.3* and *36 CFR §296.*

vi) No photographs of ancestral remains and relatives will be permitted without prior consultation and consent by Tribal communities. Only Law Enforcement and Heritage personnel are permitted to take photographs. The Forest Service will not incorporate ancestral remains or relatives into public displays. Drawings of ancestral remains and relatives may be used in the scientific report documenting the excavation per the consent of SHPO/THPOs. The Forest Service will dispose

of all photographs of ancestral remains and relatives in consultation with SHPO/THPOs after the case/project is complete.

vii) The Forest Service will only use natural materials to secure and house ancestral remains and relatives. In the case of Native American ancestral remains and relatives, the Forest Service will follow the stipulations of the ARPA/NAGPRA Plan of Action for the Hiawatha National Forest.

viii) The Forest Service will consult with the SHPO/THPO, and other interested parties to determine the plan of action for the transfer of ancestral remains and relatives that are not descendant from Native Americans.

REPORTING AND CONFIDENTIALITY

The Forest Service will provide copies of all documentary reports, field damage assessments, and ARPA Resource Damage Assessments (RDA) to the SHPO/THPOs and Tribal consultants. The Forest Service will not publish or make available to the public photographs, artifact drawings, site forms, site maps, reports, or other forms of discovery documentation.

Hiawatha National Forest
Inadvertent Discoveries Plan of Action

SIGNATURE PAGE

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Shannon Rische, Forest Supervisor
Hiawatha National Forest

X _____ Date 2/13/25
Whitney Gravelle, President
Bay Mills Indian Community

X _____ Date 2/5/2025
Emma Donmyer, Repatriation and Historic Preservation Specialist
Sault Ste. Marie Tribe of Chippewa Indians

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