

**PART III**  
**CHAPTER 4**  
**Accidental Discovery**

**August 2018**

## **REVISIONS**

**August 2018**

**Section 2.0**

**Revised to be consistent with INDOT  
Construction Memo 13-14 and to  
incorporate Tribal consultation.**

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## 4-1.0 Overview

As discussed in Part II, Chapter 10, INDOT and FHWA meets its obligations concerning accidental discoveries by simultaneously following both federal and state guidelines. When a project is 100% state funded then the procedures specified in Chapter 2.0 will be followed exclusively.

## 4-2.0 State Law Regarding Accidental Discoveries (IC 14-21-1-27 and IC 14-21-1-29)

Per state laws (IC 14-21-1-27 and IC 14-21-1-29) and federal regulation (36 CFR 800.13), INDOT and FHWA must examine and evaluate all accidental (post-review) discoveries. These are unanticipated finds of prehistoric or historic artifacts or features that are encountered during construction after Section 106 review of the project has been completed, which is why they are termed “post-review” or accidental discoveries. Some examples of accidental discoveries include (but are not limited to):

- dark stains containing prehistoric artifacts (such as arrowheads, stones, bone, charcoal) or historic artifacts (such as bricks, nails, bottles, broken glass, whole or broken dishes and crocks, metal, bone, charcoal, etc.)
- concentrations of these types of artifacts with no dark stain visible
- buried foundations or footers (coursed bricks, mortared stones, limestone piers, etc.)
- wells and cisterns (may be lined with bricks)
- buried wooden posts, planks, and boxes
- human remains - or potentially human remains

If it appears that an accidental discovery is found during construction, it is important that the following steps are taken:

- INDOT Standard Specification 107.10 states that work within 100 feet must stop in the area of the discovery but may continue in other areas.
- INDOT- Cultural Resource Office (CRO) should be contacted immediately. The contractor should notify the Project Engineer or Area Supervisor, who will inform CRO of the discovery. The sooner CRO is contacted, the sooner work may be cleared to resume around the discovery.
- A description of the discovery should be provided, along with digital photographs if possible, to CRO at the time of the discovery (or photographs may be forwarded to CRO by email after notification by phone). In many cases, a set of scaled photographs will allow CRO staff to evaluate the discovery and determine whether work may resume or whether additional documentation will be necessary without the time required for a site visit.

- Through photographs and description of the discovery, CRO may determine that there are no cultural resource concerns and CRO will provide written authorization to the Project Engineer and Area Supervisor notifying that construction may commence.
- If the discovery is of a nature that requires additional action under state or federal law then the following steps will be followed. INDOT-CRO will inform DNR's Division of Historic Preservation and Archeology (DHPA), FHWA, the Advisory Council on Historic Preservation (ACHP), and applicable Native American Tribes of the discovery within two (2) business days. CRO will consult with DHPA, FHWA, the ACHP, and Tribes to determine the level of documentation required and develop a treatment plan as appropriate. In many cases, however, the issue may be resolved by CRO staff visiting the site to document the discovery and providing that documentation to DHPA and Tribes.
- INDOT-CRO shall follow the Consultation Procedures established in Part III.C of FHWA/INDOT's Tribal MOU regarding *Unanticipated Discoveries During Construction*.
- If human remains, or potential human remains, are encountered, INDOT-CRO will contact the necessary authorities. The area must be considered a potential crime scene until clearance is received from the county coroner and law enforcement. The consultation steps outlined above will be adhered to.

Please note that INDOT Standard Specification 107.10 prohibits the removal or sale of archaeological materials from construction sites. The objectives of the INDOT Cultural Resources Office (CRO) are to be sure that INDOT complies with the applicable laws and that projects stay on schedule and are not delayed. When accidental discoveries occur, they are INDOT-CRO's top priority.

In the event of an accidental discovery, please contact:

CRO Manager 317-233-2061

Archaeology Team Lead 317-233-6795

# **Appendix-Construction Memo Concerning Accidental Discovery**



# INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

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Michael R. Pence, Governor  
Karl B. Browning, Commissioner

December 11, 2013

## CONSTRUCTION MEMORANDUM 13-14

TO: District Deputy Commissioners  
District Construction Directors  
District Technical Services Directors  
District Testing Engineers  
District Area Engineers  
District LPA Coordinators  
Field Engineers  
Project Engineers/Supervisors  
Office of Materials Management

FROM: Mark A. Miller, Director *Ma Miller*  
Division of Construction Management

SUBJECT: Guidance for Post-Review (Accidental) Discoveries

Per state laws (IC 14-21-1-27 and IC 14-21-1-29) and federal regulation (36 CFR 800.13), INDOT and FHWA must examine and evaluate all post-review discoveries. These are unanticipated finds of prehistoric or historic artifacts or features that are encountered during construction after Section 106 review of the project has been completed, which is why they are termed "post-review" or accidental discoveries. Some examples of post-review discoveries include (but are not limited to):

- dark stains containing prehistoric artifacts (such as arrowheads, stones, bone, charcoal) or historic artifacts (such as bricks, nails, bottles, broken glass, whole or broken dishes and crocks, metal, bone, charcoal, etc.)





- concentrations of these types of artifacts with no dark stain visible
- buried foundations or footers (coursed bricks, mortared stones, limestone piers, etc.)



- wells and cisterns (may be lined with bricks)



- buried wooden posts, planks, and boxes



- human remains - or *potentially* human remains (human remains and graves are legally protected, and purposely disturbing them is a felony)



If it appears that an accidental discovery is found during construction, it is important that the following steps are taken:

- INDOT Standard Specification 107.10 states that work within 100 feet must stop – work may continue in other areas.
- INDOT- Cultural Resource Office (CRO) should be contacted immediately. The contractor should notify the Project Engineer/Supervisors, who will inform CRO of the discovery. **The sooner CRO is contacted, the sooner work may be cleared to resume around the discovery.**
- A description of the discovery should be provided, along with digital photographs if possible, to CRO at the time of the discovery (or photographs may be forwarded to CRO by email after notification by phone). In many cases, a set of scaled photographs will allow CRO staff to evaluate the discovery and determine whether work may resume or whether additional documentation will be necessary without the time required for a site visit.
- Through photographs and description of the discovery, CRO may determine that there are no cultural resource concerns and CRO will provide written authorization to the Project Engineer/Supervisor notifying that construction may commence.
- If the discovery is a concern, then the following steps will be followed. INDOT-CRO will inform DNR's Division of Historic Preservation and Archeology (DHPA), FHWA and the Advisory Council on Historic Preservation (ACHP) of the discovery within two (2) business days. CRO will consult with DHPA, FHWA, and the ACHP to determine the level of documentation required and develop a treatment plan as appropriate. In many cases, however, the issue may be resolved by CRO staff visiting the site to document the discovery and providing that documentation to DHPA.
- If human remains, or potential human remains, are encountered, INDOT-CRO will contact the necessary authorities. The area must be considered a potential crime scene until clearance is received from the county coroner and law enforcement.

Please note that INDOT Standard Specification 107.10 prohibits the removal or sale of archaeological materials from construction sites.

The objectives of the INDOT Cultural Resources Office (CRO) are to be sure that INDOT complies with the applicable laws and that projects stay on schedule and are not delayed. When accidental discoveries occur, they are INDOT-CRO's top priority. In the event of an accidental discovery, please contact:

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