

1.6 TRIBAL AND SHPO CONSULTATION

1.6.1 Tribal Consultation

In its Notice of Intent to prepare a Supplemental Environmental Impact Statement (Supplemental EIS) (see Section 1.8, Preparation of Publication), the U.S. Department of State (the Department) also stated its intent to conduct a parallel Section 106 consultation process consistent with the National Historic Preservation Act of 1986 (NHPA). This consultation process complemented the Section 106 process completed during the previous EIS process (as described in the 2011 Final EIS).

Following Keystone's 2008 Presidential permit application, and as part of the 2011 EIS process (see Section 1.1, Background), the Department and the Bureau of Land Management contacted potentially affected Indian tribes to determine whether the tribes were interested in reviewing the then proposed Project and whether they were interested in participating in consultation consistent with Section 106 of the NHPA. The Department initiated consultation with Indian tribes on January 30, 2009, and engaged consulting tribes by mail, phone, email, teleconferences, and in-person meetings at several locations near the proposed Project route. The Department developed a Programmatic Agreement, in consultation with Indian tribes and other stakeholders, which would guide continuing compliance with the NHPA if Keystone receives all necessary permits and implements the proposed Project. The Programmatic Agreement was executed in August 2011, and was included in the Final EIS as Appendix S.

Following Keystone's 2012 Presidential permit application, the Department began additional government-to-government consultation consistent with Section 106 of the NHPA for the current Supplemental EIS process for the proposed Project. As the lead federal agency for the proposed Project, the Department is continuing throughout the Supplemental EIS process to engage in consultation on the Supplemental EIS, the proposed Project generally, and on cultural resources consistent with Section 106 of the NHPA with identified consulting parties, including federal agencies, state agencies, State Historic Preservation Offices (SHPOs), the Advisory Council on Historic Preservation, and interested federally recognized Indian tribes (70 Federal Register 71194) in the vicinity of the proposed Project. Starting in September 2012, the Department notified Indian tribes of its intent to amend the Programmatic Agreement to reflect changes to the proposed Project route since 2011 and comments received from consulting parties. Tribal meetings were held in October 2012 in Montana, South Dakota, and Nebraska, and May 2013 in South Dakota. Discussion of the consultation efforts and a complete list, to date, are included in Section 3.11.4.3, Tribal Consultation, and the amended Programmatic Agreement (see Appendix E, Amended Programmatic Agreement and Record of Consultation).

1.6.2 SHPO Consultation

The Department initiated consultation with the SHPOs on February 2, 2009. Consultation to date has included in-person meetings in Lincoln, Nebraska; Helena, Montana; and Pierre, South Dakota; as well as on-going communication via conference calls and email. The SHPOs have provided extensive feedback to the Department throughout this process. Additional meetings were held with the Montana SHPO to address mitigation measures for potential adverse effects to historic properties in Montana.

-Page Intentionally Left Blank-