

The logo for the Nebraska State Historical Society features the word "Nebraska" in a large, elegant, cursive script. To the right of the text is a stylized graphic of the state of Nebraska, colored in yellow and blue.

STATE HISTORICAL SOCIETY



March 5, 2017

Matthew J. Effken
Legal Counsel
Nebraska Public Service Commission
1200 N Street, 300 The Atrium
Lincoln, Nebraska 68508

RE: Application of TransCanada Keystone Pipeline, L.P.: Docket No. OP-0003

Dear Mr. Effken:

Per your letter dated February 17, please consider this our report on the status of activities (e.g., list of issues relating to route impact and report budgeting) under the jurisdiction of the Nebraska State Historical Society (NSHS) and the State Historic Preservation Officer (SHPO).

By way of background, per provisions of Nebraska Revised Statutes 82-118, the NSHS is designated the state agency for matters pertaining to historic preservation under the National Historic Preservation Act of 1966 (PL89-665), as amended. One function of this authority is assuming a certain role and responsibility under Section 106 of this act and implementing regulations of 36 CFR Part 800. This agency and under direction of the SHPO, an appointee of the Governor, is the first point of contact for federal agencies or their designees when a "federal undertaking" is initiated. In any Section 106 review, our role is that of consultation to identify the significance of archeological or historic resources (cultural resources) *listed* or *eligible* for listing in the National Register of Historic Places, a designation pursuant to standards and guidelines of the U.S. Secretary of the Interior. Cultural resources must be within a project's area of potential effect. The process ensures that affects on cultural resources are taken into account and to mitigate any impact to cultural resources. The Advisory Council on Historic Preservation is a federal office which mediates the process when called for in federal regulations.

Oil and gas pipelines can constitute a federal undertaking by way of either federal funding, licensing, or permitting. If the project is deemed a federal undertaking, then it becomes subject to review under the provisions of Section 106. The U.S. Department of State (DOS) has been designated as the lead federal agency on the permit, which has been determined to be a "federal undertaking." The DOS must assume to responsibilities for this review.

Cooperating agencies and assisting agencies have been involved in developing a Final Supplemental Environmental Impact Statement (EIS), dated January 2014. Section ES.4.14 has addressed preliminary efforts taken to identify cultural resources. As part of the Supplemental EIS route evaluation and consistent with the National Historic Preservation Act, a Programmatic Agreement (PA) was entered into by signatories of the U.S. Department of State, Advisory Council on Historic Preservation, Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Bureau of Reclamation, National Park Service, Western Rural Utilities Service, Natural

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Resources Conservation Service, Farm Service Agency, Bureau of Indian Affairs, and State Historic Preservation Offices of Montana, South Dakota, Nebraska, and Kansas.

Pursuant to the stipulations outlined in the PA, TransCanada is required to:

- complete cultural resources surveys on all areas that would be potentially impacted by the proposed undertaking
- make recommendations on National Register of Historic Places eligibility
- provide information on potential effects of the proposed undertaking
- provide adequate mitigation in consultation with the Department of State, state and federal agencies, and Indian tribes.

Construction will not be allowed to commence on any areas of the proposed undertaking until these stipulations are met.

To date, the process has been adequate, Section 106 has been initiated, and issues have been identified. There are no budget ramifications to our agency, since we are obligated to conduct these reviews under the delegation of such duties from the National Park Service and receipt of annual federal grants to do so.

Should you have any questions regarding this letter, please contact this office by phone (402-471-2609) or email (John.Rissetto@nebraska.gov).

Sincerely,



John Rissetto, Ph.D.
Preservation Archaeologist

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