**2021**
**(CATEGORICAL EXCLUSION)**
**MEMORANDUM OF UNDERSTANDING**
**BETWEEN KMI OPERATING COMPANIES AND**
**THE ILLINOIS STATE HISTORIC PRESERVATION OFFICE**
**FOR EXISTING PIPELINES**
**SHPO LOG# 008120412**

Modifications to Existing Pipeline Projects within Previously Disturbed Right-of-Way

**WHEREAS**, Kinder Morgan, Inc. ("KMI"), each of its subsidiaries, and each other entity that KMI or a subsidiary of KMI operates (collectively referred to as the "Company"), herein referred to as KMI operating companies, are interstate natural-gas pipeline companies regulated by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act of 1938, as amended, or refined products transmission pipeline companies; and

**WHEREAS**, all pipelines operated by KMI operating companies that require federal action or certificates of Public Convenience and Necessity from FERC prior to implementation; and

**WHEREAS**, in order to reduce regulatory burden, FERC has implemented an Interstate Pipeline Blanket Certificate and Authorization Program for certain routine pipeline activities (18 CFR Part 157, Subpart F and 18 CFR Part 2.55) that authorizes certain routine pipeline activities and transactions without prior FERC approval, provided the projects comply with specific environmental conditions; and

**WHEREAS**, compliance with the terms of the Certificate(s) and with Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108, and its implementing regulations (36 CFR Part 800) (Act), require that KMI operating companies consult with the appropriate State Historic Preservation Office to determine whether significant historic properties will be affected by the proposed undertakings; and

**WHEREAS**, KMI operating companies have determined maintenance or modification to existing pipelines may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NHRP); and

**WHEREAS**, KMI operating companies have consulted and concurred with the Illinois State Historic Preservation Office (SHPO) that certain construction activities occurring on existing, previously disturbed right-of-way (ROW) or existing appurtenant facilities where land-disturbing activities will be limited to previously disturbed areas or to areas which have previously been archaeologically surveyed, with no archaeological resources found near the project location, would have no potential to cause effects on NRHP-listed or eligible properties in accordance with the Act; and

**WHEREAS**, KMI operating companies wish to enter into a Categorical Exclusion Agreement (Agreement) with the SHPO to expedite implementation of activities included under the terms of this categorical exclusion; and

**NOW, THEREFORE**, KMI operating companies and the SHPO agree that maintenance and modifications of existing pipelines shall be implemented in accordance with the terms and stipulations set forth in this Agreement:

**STIPULATIONS**

**A. DEFINITIONS**

1. "Above-ground facilities" include meter stations and valve sites, including all of the fenced and maintained property and the structures located therein.

2. "Historic Properties" include those cultural resources that are (1) listed in the NRHP, (2) eligible or potentially eligible for listing in the NRHP, (3) areas recorded as archaeologically sensitive, historically sensitive, architecturally sensitive, or warranting further investigations, or (4) were placed under special categories of protection to enable construction.

3. "Previously disturbed" is defined as prior impacts to an area resulting in mixing or inversion of soil profiles. The location of an existing trench will be established by reviewing available historic documentation (including cultural resources reports), conducting a landowner interview, means of remote sensing or conducting field investigations of disturbance. The term "previously disturbed" does not refer to the entire width of the ROW, unless it has been documented that the entire ROW width has been severely disturbed.

    a. Determination of the extent of previous disturbance within the ROW shall be made by qualified personnel based on first-hand observations of field conditions. Documentation of the determination shall be kept on file and made available upon request.

    b. Personnel qualified to determine the extent of previous disturbance shall include archaeologists meeting the Secretary of the Interior's Standards (48 FR 44716), or individuals with a specific background and experience in assessing soil conditions (such as a background in the biological, ecological, or geological sciences) and, for the location of previously excavated trenches, personnel trained in the use of equipment to locate buried pipe.

    c. In regards to pipeline ROW, this disturbance includes prior impacts within the width of the excavated trench and strip of removed topsoil together with other portions of the ROW which have been previously modified with the removal of topsoil and/or substantial recontouring of the surface displacing the topsoil.

    d. In regards to agricultural areas, the term "previously disturbed" only applies to impacts or mixing of soil within the plow zone.

4. "Undertaking", as defined in 36 CFR 800.3(a) and 36 CFR 800.16(y), encompasses the area (Area of Potential Effects [36 CFR 800.16(d]) and work necessary for the completion of the project. Specifically, it is not permitted to segment a project so that any or each of the smaller parts would be covered under this agreement if the undertaking is not covered.

## B. ACTIVITIES COVERED UNDER THIS AGREEMENT

The following five activities are included under the terms of this categorical exclusion and may be undertaken without prior review by the SHPO:

1. Activities conducted above ground and/or require no ground disturbance within areas of KMI operating companies' existing easements or at established facilities.

    a. Compressor Station: modification or installation of equipment within existing buildings as well as fenced and maintained yards.

    b. Above-ground Facilities: Installation of equipment or appurtenances, including conversion or modification of existing valves, monitoring, measuring, communications, cleaning or regulatory devices.

    c. In-place Abandonments: discontinuation of service and/or retirement of a pipeline segment or facility which will not require ground disturbing activities (i.e. pipe and/or appurtenances will be left in-place).

    d. Changes in service points or storage capacity.

e. Minor above-ground pipe replacement – modifications within an existing compressor station or facility for valves, monitoring, cleaning, regulating or measurement.

2. Activities requiring ground disturbance within KMI operating companies' permanent ROW.

   a. Taps: Installation of pipe connections that are generally 1" to 6" in diameter and occasionally 8" to a maximum of 18" in diameter and are installed on an existing pipeline.

   b. Above-ground facilities: Installation of equipment or appurtenances, including conversion or modification of existing valves, monitoring, measuring, communications, cleaning or regulatory devices.

   c. Inspections: Regular and routine maintenance and investigation of the condition of KMI operating companies' existing pipeline and subsurface appurtenances at specific locations requiring excavation to expose a short length of existing pipeline and assess the integrity of the pipeline.

   d. Pipe Replacements: Replacement of existing lengths of pipeline in sections less than 1,500 feet in length, provided that the location of the existing pipeline is determined by an established means of remote sensing. Replacement is defined as one of the following: the removal of an existing pipeline and construction of a new pipeline within the same trench; or abandoning the extant line and installing a replacement line at an off-set (adjacent to the abandoned line) within the permanent ROW. However, replacement does not include construction of parallel lines for system expansion.

   e. Pipe Rearrangements, Crossovers, and Interconnects: minor modifications of existing lengths of pipeline, provided that the location of the existing pipeline is determined by an established means of remote sensing. Excavation activities may require the removal of an existing pipeline and/or installation of new pipe.

   f. Abandonments: discontinuation of service and/or retirement of a pipeline segment or facility that requires ground-disturbing activities to remove piping or modify appurtenances, provided that the location of the existing pipeline is determined by an established means of remote sensing.

   g. Pipe Casing Modifications: At locations where existing pipelines cross roads or highways, modification, addition to, or replacement of an existing casing within the road. Pipelines may be contained within a sleeve, also called a casing, at road crossings.

   h. Pipeline Lowerings: Relocating an existing line to a lower depth to establish greater cover over the line while maintaining the same horizontal position of the line within the permanent ROW.

   i. Appurtenance Modifications: Regular service and maintenance within existing compressor stations and/or above-ground facilities provided that the new work does not extend beyond or deeper than the previously disturbed portion of the facility.

3. Activities that involve ground disturbance in areas previously disturbed by other entities (i.e., modified by clearing or grading activities due to residential, industrial, pipeline construction or commercial development). These activities would allow KMI operating companies to use access roads, workspace, contractor/staging yards or construction corridors within areas adjacent to their permanent ROW. Commercial or industrial areas are areas of obvious development (i.e., concrete surfaces, graded and graveled surfaces) and/or areas with a documented history of previous commercial or industrial use(s). In

cultivated agricultural land, activities within the plow zone would be covered by this category; however, impacts outside the plow zone in cultivated land would not be included in this category.

a. Taps: Installation of taps that are generally 1” to 6” in diameter and occasionally 8” to a maximum of 18” in diameter and are installed on an existing pipeline.

b. Above-ground Facilities: Installation of equipment or appurtenances, including conversion or modification of existing valves, monitoring, measuring, communications, cleaning or regulatory devices.

c. Pipe Replacements: Replacement of existing lengths of pipeline in sections less than 1,500 feet in length, provided that the location of the existing pipeline is determined by an established means of remote sensing. Replacement is defined as one of the following: the removal of an existing pipeline and construction of a new pipeline within the same trench; or abandoning the extant line and installing a replacement line at an off-set (adjacent to the abandoned line) within the permanent ROW. However, replacement does not include construction of parallel lines for system expansion.

d. Pipe Rearrangements, Crossovers, and Interconnects: minor modifications of existing lengths of pipeline, provided that the location of the existing pipeline is determined by an established means of remote sensing. Excavation activities may require the removal of an existing pipeline and/or installation of new pipe within the existing permanent ROW.

e. Extra Workspaces and Contractor Yards: Areas used for staging construction activities, including parking and pipe and equipment storage, including use of areas subjected to similar past use as staging areas or storage yards.

4. Activities within areas that have been subjected to archaeological survey (including corridors previously surveyed by KMI operating companies, other utility companies, or the Illinois Department of Transportation) that meet state and federal guidelines and were not found to contain historic properties:

a. Compressor Stations and Above-ground Facilities: Modification, replacement or addition involving new construction within existing Compressor Station property and/or above-ground facilities, including valves and monitoring, measuring, communications, cleaning or regulating devices.

b. Pipe Replacement: Replacement of existing lengths of pipeline in sections of unlimited lengths provided that the location of the existing pipeline is determined by an established means of remote sensing. Replacement is defined as removal of an existing pipeline and construction of a new pipeline within the same trench and, construction of parallel lines for system expansion or line abandonment.

c. Pipe Rearrangements, Crossovers, and Interconnects: Minor modifications of existing lengths of pipeline up to 1,500 feet in length, provided that the location of the existing pipeline is determined by an established means of remote sensing. Excavation activities may require the removal of an existing pipeline and installation of new pipe within the existing permanent ROW or new ROW.

d. Extra Workspaces: Areas used for staging construction activities, including parking and pipe and equipment storage.

5. For areas that have not been surveyed, given the small scale of the activities:

a. New Points of Service (POS): Installation of taps, meters and pipe for POS to pipeline customers including excavation of the trench for pipe 12" diameter or smaller, provided that no more than 150 feet of trench is required and provided that no more than ten (10) installations are to be made for a single undertaking.

b. Points of Service Modifications: Replacement or modification to an existing POS, provided that no more than 150 feet of trench excavation is required.

c. Minor Pipe Additions: Construction of up to 150 feet of new pipeline.

d. Access Roads: Use of existing roads to the pipeline ROW, staging areas or storage yards. Access roads will not be widened, although occasionally they may need to be maintained (grading) or improved by adding gravel or reinforced bridges.

e. Extra Workspaces or Contractor Yards: Use of existing paved or graveled areas for staging construction activities, including pipe storage, parking, and equipment storage or areas subjected to similar past use as staging areas or storage yards.

## C. ACTIVITIES NOT COVERED UNDER THIS AGREEMENT

All other activities not exempted from SHPO review under this Agreement will be coordinated with the SHPO in accordance with the Act.

## D. EMERGENCIES

In cases of imminent threat to the public health or safety as the result of a disaster, KMI operating companies and the SHPO agree to follow the regular process of review for emergencies [36 CFR 800.12] for actions and undertakings necessary to mitigate the emergency, provided that the SHPO is notified as soon as feasible of the emergency and the actions taken, and provided that the regular Section 106 review process [36 CFR 800.4] is restored as soon as practical after the emergency. In completing the regular Section 106 review process following an emergency undertaking, documentation including descriptions of the emergency, completed work, work remaining, and maps, and photographs as appropriate will be submitted to the SHPO for review in a timely manner.

## E. UNANTICIPATED DISCOVERIES

In the event of the discovery of a property during implementation of this Agreement (including any finding which may be a property), KMI operating companies shall follow the included Unanticipated Discoveries Plan (Exhibit A), report the finding to the SHPO as soon as is feasible, and work with the SHPO to determine the eligibility of the resource under the NRHP, under provisions at 36 CFR 800.13.

## F. DURATION AND TERMINATION

This Agreement shall be in effect for two years from the date it is signed by the SHPO. At the request of either party, this agreement may be reviewed for possible modification at any time. The MOU will be renewed at the end of the period if mutually agreed to in writing by the SHPO and KMI operating companies. Any signatory to this Agreement may propose to amend the Agreement, and the SHPO and KMI operating companies shall consult to consider such an amendment.

## G. AGREEMENT EXECUTION

Execution of this agreement evidences that KMI operating companies agree to follow the review procedure and that the SHPO finds the procedure complies with Section 106 of the Act.

[Signature Pages to follow]

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**SIGNATORY**

Illinois State Historic Preservation Officer

By: _____ Date: December 31, 2020
Bob Appleman, Deputy State Historic Preservation Officer
Illinois Department of Natural Resources

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**SIGNATORY**

Kinder Morgan, Inc.

By: Gina B. Dorsey Date: 11/24/2020
Gina B. Dorsey
Director, EHS – Project Permitting

# Exhibit A

## I. UNANTICIPATED DISCOVERIES

1. In the event that previously unidentified archaeological resources are discovered during ground disturbing activities within the area of potential affect, Kinder Morgan, Inc. ("KMI"), each of its subsidiaries, and each other entity that KMI or a subsidiary of KMI operates (collectively referred to as the "Company"), herein referred to as the KMI operating company, shall halt all construction work involving subsurface disturbance in the areas of the resources and in the surrounding area where further subsurface remains can reasonably be expected to occur.

2. The Illinois State Historic Preservation Office (SHPO), or an archaeologist retained by the KMI operating company that meets the Secretary of the Interior's Standards for archaeology, will immediately inspect the work site and determine the extent of the affected archaeological resource as defined by the SHPO or by the SHPO in consultation with the KMI operating company's retained archaeologist.

3. Within 14 days of the original notification of discovery, the KMI operating company, in consultation with the SHPO, will determine the National Register of Historic Places (NRHP) eligibility of the resource. The SHPO or KMI operating company may extend this 14-day calendar period one time by an additional 7 days providing written notice to the SHPO prior to the expiration date of the said 14-day calendar period.

4. If the resource is determined eligible for the NHRP, the KMI operating company shall submit to the SHPO and the Federal Energy Regulatory Commission (FERC), if applicable, a plan for its avoidance, protection, recovery of information, or destruction without data recovery. Such plan shall be approved by the SHPO and the FERC prior to implementation.

5. Work in the affected area may resume pending either:

   a. development and implementation of an appropriate date recovery or other recommend mitigation procedures, or

   b. determination that the located remains are not eligible for inclusion on the NRHP.

6. Any disputes concerning the evaluation or treatment of previously unidentified resources will be resolved.

## II. ACCIDENTAL DISCOVERY OF HUMAN REMAINS

All human burials in the State of Illinois are protected by law. In the event that human remains or burials are encountered during additional archaeological investigations or construction activities, the KMI operating company or its designated representative shall cease work in the area and take appropriate actions to secure the site. The KMI operating company will promptly notify the local county coroner in accordance with 20 ILCS 3440/3. If human skeletal remains appear to be from an unregistered grave, the coroner shall promptly notify the SHPO.