

**MEMORANDUM OF AGREEMENT  
AMONG  
THE FEDERAL ENERGY REGULATORY COMMISSION,  
ROCKIES EXPRESS PIPELINE LLC,  
AND  
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER  
CONCERNING THE ROCKIES EXPRESS EAST PIPELINE  
THROUGH PIKE, SCOTT, MORGAN, SANGAMON, CHRISTIAN,  
MACON, MOULTRIE, DOUGLAS, AND EDGAR COUNTIES IN  
ILLINOIS**

WHEREAS, the Federal Energy Regulatory Commission (FERC) has issued a certificate to Rockies Express Pipeline LLC (Rockies Express) for the construction of a natural gas pipeline through the counties of Pike, Scott, Morgan, Sangamon, Christian, Macon, Moultrie, Douglas, and Edgar in Illinois (the project); and

WHEREAS, the FERC has consulted with the Illinois State Historic Preservation Officer (SHPO) concerning effects of the project on historic properties in accordance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f) and its implementing regulations, 36 CFR part 800; and

WHEREAS, the FERC has determined that several archaeological sites considered eligible for the National Register of Historic Places may be adversely affected by the project; and

WHEREAS, the consulting parties, which include the FERC, the Illinois SHPO, and Rockies Express agree that recovery of significant information from the archaeological site noted above shall be done in accordance with the Advisory Council on Historic Preservation's (Council) guidance to satisfy Part 800.6; and

WHEREAS, Rockies Express documented consultations with Indian tribes that may attach religious or cultural importance to properties in the project area, and no objections have been raised to the work proposed; and

NOW, THEREFORE, the FERC and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the project on historic properties.

## STIPULATIONS

The FERC shall ensure that the following measures are carried out:

### I. TREATMENT OF ARCHAEOLOGICAL PROPERTIES

- A. The Rockies Express shall complete the deep testing surveys at the Mississippi River and Bay Creek in Pike County, at Sand Creek and Finley Creek in Macon County, at Lake Fork, the Kaskaskia River, and the Embarras River in Douglas County, and at Crab Apple Creek and Salt Fork in Edgar County.
- B. Rockies Express shall complete additional Phase I reconnaissance surveys for re-routes, extra work spaces, and other areas as needed.
- C. Rockies Express shall complete all outstanding Phase II testing (determinations of eligibility) currently underway, and on properties that may be identified during the deep testing and additional Phase I reconnaissance surveys as necessary.
- D. Rockies Express shall consult with the SHPO and FERC regarding development of a plan for avoidance of historic properties and it shall be carried out in accordance with a plan submitted to the SHPO and approved by the SHPO in writing prior to its implementation.
- E. If, after consultation, SHPO, the FERC, and Rockies Express agree that avoidance is not feasible, Rockies Express shall complete Phase III mitigation in accordance with a Data Recovery Plan submitted to SHPO and the FERC. The data recovery plan shall be submitted by Rockies Express to the SHPO and to FERC for thirty (30) days review and comment.
- F. Rockies Express shall ensure that the data recovery plan addressing substantive research questions is developed in consultation with the Illinois SHPO and the FERC for the recovery of relevant archaeological data. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48FR 44734-37) and take into account the Council's publication, Treatment of Archaeological Properties. It shall specify, at a minimum, the following:
  1. The property or portion thereof where data recovery is to be carried out;
  2. the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
  3. the methods to be used, with an explanation of their relevance to the research questions;

4. proposed methods of disseminating results of the work in the interest of the public; and
  5. a proposed schedule for the submission of reports to the SHPO and the FERC.
- G. Rockies Express shall ensure that the data recovery plan is implemented. The SHPO shall monitor this implementation.
- H. ROCKIES EXPRESS shall ensure that the data recovery plan is carried out by or under the direct supervision of an archaeologist who meets, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (48FR 44738-9).
- I. In the event of the discovery of unanticipated prehistoric human burials, the SHPO, the FERC, and as appropriate the Indian tribes consulted will be notified. To fully satisfy coordination under 17 IAC 4170.300(d)(3) concerning the encounter of burials, the notification of the discovery will be made to the county coroner and to the Illinois Historic Preservation Agency. If the burial is not a crime scene as determined by the coroner, then it and any associated burial artifacts will be removed following procedures for recordation and reporting in accordance with the provisions of the Human Skeletal Remains Protection Act (20 ILCS 3440, 17 IAC 4170).
- J. ROCKIES EXPRESS shall ensure that adequate laboratory time and space are available for analysis of archaeological materials recovered from the excavations.
- K. ROCKIES EXPRESS shall ensure that an adequate program of site security from vandalism during data recovery is developed in consultation with the Illinois SHPO, and implemented.

## II. Curation and Dissemination of Information

- A. In consultation with the SHPO and the FERC, Rockies Express shall ensure that all materials and records resulting from archaeology survey and data recovery conducted for the project shall meet the requirements of 36 CFR Part 79. Materials and records shall be curated at the Illinois State Museum unless requested for return by the property owner. If the property owner so requests, these requests shall be individually considered by the SHPO and the FERC. No artifacts will be returned to the property owner until final reports are reviewed and approved in writing by the SHPO.
- B. Rockies Express shall ensure that all final archaeological reports resulting from actions pursuant to this agreement will be provided in a format acceptable to the. Rockies Express shall ensure that all such reports are

responsive to contemporary standards, and to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42FR 5377-79). Precise locational data may be provided only in a separate appendix if it appears that its release could jeopardize archaeological data.

### III. DISPUTE RESOLUTION

Disputes regarding the completion of the terms of this MOA shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the Council to assist in resolving the dispute.

### IV. MODIFICATION OR TERMINATION


Modification, amendment, or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.

Execution of this MOA by the FERC and the Illinois SHPO and implementation of its terms shall constitute evidence that the FERC has taken into account the effects of the undertaking on historic properties as required by Section 106 of the National Historic Preservation Act of 1966, as amended.

### FEDERAL ENERGY REGULATORY COMMISSION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Lauren O'Donnell  
 Director, Division of Gas Environment and Engineering

### ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By:  Date: 6/27/08  
 Anne E. Haaker  
 Deputy, State Historic Preservation Officer

### ROCKIES EXPRESS PIPELINE, LLC

By: \_\_\_\_\_ Date: \_\_\_\_\_