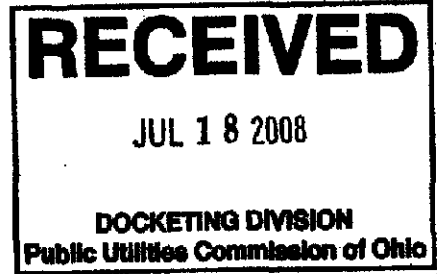


06-1142-CA-BIN



July 17, 2008

Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1A
Washington, DC 20426



RE: Docket No. CP07-208-000
Rockies Express Pipeline LLC, REX-East Project
Memorandum of Agreement – Indiana and Request for NTP for Data Recoveries

Ms. Bose:

Attached for filing with the Federal Energy Regulatory Commission ("FERC" or "Commission") is the signed Memorandum of Agreement ("MOA") for the Rockies Express Pipeline-East ("REX-East") Project in Indiana (Attachment A). The MOA is signed by the Indiana SHPO and the President of Rockies Express. This MOA represents an agreement between the Indiana State Historic Preservation Office ("SHPO"), the Commission, and Rockies Express Pipeline LLC ("Rockies Express") for the treatment of the adverse effects to historic properties identified in Indiana.

Rockies Express requests approval to commence immediately its data recoveries at the archeological sites referenced in the Indiana Treatment Plan (DHPA No. 1562). The sites are 12DE772, 12FR310, and 12FR336. Rockies Express intends to implement the treatment approaches outlined in its Indiana Treatment Plan for sites 12FR310, and 12FR336. For site 12DE772, Rockies Express has requested the use of a travel lane in a letter dated July 15, 2008, and, in consultation with the Indiana SHPO, intends to implement this approach. This plan and addenda have been reviewed by and received approval from the Indiana SHPO.

Also attached is Rockies Express' Indiana Plan for Unanticipated Discovery of Historic Properties or Human Remains during Construction (Attachment B). This plan has been approved by the Indiana SHPO. Since providing this plan previously to the FERC, Rockies Express has updated the contact personnel names and, therefore, is filing an updated version with the Commission.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business, Technician Tim Date Processed 7/21/2008

Rockies Express is filing an original and seven (7) copies of all Public Information. In addition, Rockies Express is providing complete copies of this filing directly to the FERC Project Manager. If you have any questions, please do not hesitate to contact Ryan Childs at (307) 760-5635.

Respectfully submitted,

/s/ Shippen Howe

Shippen Howe
Van Ness Feldman, P.C.
1050 Thomas Jefferson Street, NW
Washington, DC 20007

Attorney for
Rockies Express Pipeline LLC

Attachments

cc: Laura Turner, FERC
Ellen Saint Onge, FERC
All Parties

**Rockies Express Pipeline LLC
REX-East Project
CP07-208**

ATTACHMENT A



Indiana Department of Natural Resources

Mitchell E. Daniels, Jr., Governor
Robert E. Carter, Jr., Director

Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhp@dnr.IN.gov



July 16, 2008

Ellen Saint Onge
Federal Energy Regulatory Commission
888 First Street Northeast
Washington, D.C. 20426

Federal Agency: Federal Energy Regulatory Commission

Re: Revised Memorandum of Agreement (MOA) pertaining to the Rockies Express Pipeline LLC's installation of a 622 mile long natural gas pipeline through Illinois, Indiana, and Ohio (FERC Docket #PF06-30-000; DHPA#1562)

Dear Ms. Saint Onge:


Enclosed please find the memorandum of agreement ("MOA") for the above indicated project in Vermillion, Parke, Putnam, Hendricks, Morgan, Johnson, Shelby, Decatur, and Franklin counties, Indiana. As you know, the review of this project is being conducted pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and implementing regulations found at 36 C.F.R. Part 800. Ron McAhron, Deputy Director of the Department of Natural Resources, on behalf of Robert E. Carter, has signed the enclosed MOA, indicating his approval of the agreement.

We are returning the MOA to you, so that it may be transmitted with the accompanying documentation specified in 36 C.F.R. § 800.11(f) to the Advisory Council on Historic Preservation (36 C.F.R. § 800.6[b][iv]). The MOA may be transmitted to:

Don L. Klima, Director
Eastern Office of Project Review
Advisory Council on Historic Preservation
Old Post Office Building
1100 Pennsylvania Avenue, N.W. #809
Washington, D.C. 20004

If you have questions about our comments, please contact Cathy Draeger at (317) 234-3791 or cdraeger@dnr.IN.gov. In all future correspondence regarding the above indicated project, please refer to DHPA #1562.

Very truly yours,

for 
James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:CLD:old

Enclosures (1)

cc: Kimberly Bose, Federal Energy Regulatory Commission
cmc: Kari Krause, Natural Resource Group, Inc.

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL ENERGY REGULATORY COMMISSION, THE
INDIANA STATE HISTORIC PRESERVATION OFFICE, AND ROCKIES
EXPRESS PIPELINE LLC,
REGARDING THE ROCKIES EXPRESS EAST PROJECT
IN INDIANA**

Rockies Express Pipeline LLC – Rockies Express East Project
Docket No. CP07-208-000

Federal Energy Regulatory Commission

Whereas, the Federal Energy Regulatory Commission (FERC or Commission) acknowledges and accepts the guidance outlined in the Advisory Council on Historic Preservation's (Council) "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites," published in the Federal Register on May 18, 1999 (vol. 64, no. 95, p. 27085) as part of its revised regulations (36 CFR Part 800) for implementing Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA, 16 U.S.C. 470); and

Whereas, the consulting parties, which include the FERC, the Indiana State Historic Preservation Office (SHPO), and Rockies Express Pipeline LLC (Rockies Express) agree that it is in the public interest to implement this project; 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 agree that recovery of significant information from these archaeological sites shall be done in accordance with the Council's 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 shall ensure that the following terms and conditions, including the measures outlined in approved archaeological treatment plans referenced below, will be implemented in a timely manner and with adequate resources in compliance with the NHPA.

Stipulations

- A. Rockies Express shall ensure completion of all Phase I surveys, including deep testing, all temporary and permanent right-of-way, any additional re-routes, extra work spaces, access roads and other areas as needed.
- B. Rockies Express shall ensure completion of all outstanding Phase II evaluations on properties that may be identified during any additional Phase I survey as necessary.
- C. Reports of all outstanding Phase I and Phase II archaeological investigations shall be submitted to the FERC and the SHPO for review of the sites' eligibility to the National Register of Historic Places.
- D. If, after consultation, the SHPO, the FERC, Rockies Express, and any additional consulting parties, agree that avoidance is not feasible, Rockies Express shall ensure completion of Phase III mitigation of all eligible sites in accordance with the treatment plans submitted to SHPO and the FERC. The treatment plans, including the proposed plans for data recovery, shall be submitted by Rockies Express to the SHPO and to FERC for thirty (30) days review and approval prior to the commencement of any phase III mitigation investigations.
- E. Rockies Express shall ensure that the data recovery plans addressing substantive research questions are developed in consultation with the Indiana SHPO, the FERC, and any additional consulting parties, for the recovery of relevant archaeological data. The plans shall be consistent with the "Secretary of the Interior's Standards and Guidelines for Archaeological Documentation" (48FR 44734-37), the most current Guidebook for Indiana Historic Sites and Structures Inventory--Archaeological Sites, and take into account the Council's publication, Treatment of Archaeological Properties. They 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; and
 - 4. proposed methods of disseminating results of the work in the interest of the public.
- F. Rockies Express shall ensure that the data recovery plans are 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).

- G. All archaeological investigations must conform to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation" and the most current Guidebook for Indiana Historic Sites and Structures Inventory-- Archaeological Sites
- H. Management summaries of all phase III archaeological investigations must be submitted to the FERC and the SHPO for review and approval prior to the commencement of construction activities.
- I. Final reports must be submitted to the FERC and the SHPO for review within two (2) years of the completion of the fieldwork.
- J. Curation of records, artifacts, and other items resulting from identification, evaluation, and data recovery efforts shall meet the level of 36CFR79.
- K. Rockies Express shall ensure that the selected use of wooden mats to transport equipment and machinery through a travel lane across selected portions of eligible archaeological sites shall not damage these sites where this method is utilized. These locations shall be submitted to the FERC and the SHPO for review and approval.
- L. Modifications of project activities after the start of construction will be reviewed on a limited basis by the FERC and the SHPO with the following conditions:
 - 1. All areas will be archaeologically and architecturally investigated. Even if archaeological resources are not encountered during these investigations, a summary of the archaeological investigations will still be required. If any cultural resources are encountered, then a formal review will be necessary.
 - 2. The archaeological investigations must be done in accordance with the "Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation" (48 F.R. 44716) and must be directly supervised in the field by an archaeologist meeting the "Secretary of the Interior's Professional Qualifications Standards".
 - 3. If architectural resources not previously identified are present, information on those resources that may be potentially eligible for the National Register of Historic Places must be provided to our office for review.

Other Terms and Conditions

Unanticipated Discoveries

A plan for dealing with unanticipated discoveries of historic properties and human remains has been prepared for the project and will be implemented in the event of such a discovery. In the event of the discovery of unanticipated human burials, the SHPO, the FERC, and as appropriate, the Indian tribes consulted with, will be notified. If the burial is not a crime scene, as determined by the county coroner and local law enforcement officials, then the site will be treated in accordance with the provisions of the Indiana Historic Preservation Act (Indiana Code 14 Article 21) as amended by Public Law 175 (1989), the Indiana General Cemetery Act (Indiana Code 23 Article 14), and Title 312 of the Indiana Administrative Code, Article 22 (2001). If an unanticipated discovery of Native American human remains occurs on federal land, the procedures outlined in the Native American Graves Protection and Repatriation Act will be followed.

Amendments

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

Dispute Resolution

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

Termination

This agreement shall be null and void if its terms are not carried out within five (5) years from the date of its execution, unless the consulting parties agree in writing to an extension.

SIGNATORIES

Federal Energy Regulatory Commission

By: _____ Date: _____
Title: Director, Division of Gas-Environment and Engineering, Office of Energy
Projects

Indiana State Historic Preservation Office

By: Ron SM Saleon Date: 7-16-08
Title: Deputy Director IONIC

Rockies Express Pipeline LLC

By: R Douglas Walker Date: 7-17-08
R. Douglas Walker
President

**Rockies Express Pipeline LLC
REX-East Project
CP07-208**

ATTACHMENT B

ROCKIES EXPRESS PIPELINE-EAST PROJECT

**INDIANA PLAN FOR UNANTICIPATED DISCOVERY OF
HISTORIC PROPERTIES OR HUMAN REMAINS DURING
CONSTRUCTION**

Revised July 2008

INDIANA PLAN FOR UNANTICIPATED DISCOVERY OF HISTORIC PROPERTIES OR HUMAN REMAINS DURING CONSTRUCTION

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A.	DISCOVERY OF POTENTIALLY SIGNIFICANT CULTURAL MATERIALS OR FEATURES ON PRIVATE AND STATE-OWNED LAND.	3
B.	DISCOVERY OF HUMAN REMAINS	4

ROCKIES EXPRESS PIPELINE-EAST PROJECT INDIANA PLAN FOR UNANTICIPATED DISCOVERY OF HISTORIC PROPERTIES OR HUMAN REMAINS DURING CONSTRUCTION

I. INTRODUCTION

Rockies Express Pipeline LLC (Rockies Express) has established the following procedures to be used in the event that previously unreported and unanticipated historic properties or human remains are found during construction of the Rockies Express Pipeline-East (REX-East) Project facilities in Indiana. The procedures differ depending on whether unanticipated non-human cultural materials (part II, section 6A) or human remains (part II, section 6B) are encountered. The plan is intended to ensure that the project is in compliance with all applicable federal and state laws and regulations, including Section 106 of the National Historic Preservation Act of 1966 (36 CFR 800), the Federal Energy Regulatory Commission's *Guidelines for Reporting on Cultural Resources Investigations for Pipeline Projects* (2002), the Indiana Historic Preservation Act (Indiana Code 14 Article 21) as amended by Public Law 175 (1989), the Indiana General Cemetery Act (Indiana Code 23 Article 14), and Title 312 of the Indiana Administrative Code, Article 22 (2001). In case of the unanticipated discovery of human remains on federal land, Rockies Express will follow the procedures outlined by the Native American Graves and Repatriation Act, as amended (43 CFR 10, Subpart B), and pursuant to the Archaeological Resources Protection Act of 1979 (43 CFR 7).

II. UNANTICIPATED DISCOVERY OF CULTURAL MATERIALS OR FEATURES

1. The Contractor must stop work immediately to protect the integrity of the find.

The Contractor will not restart work in the area of the find until the on-site Environmental Inspector (EI) has granted clearance.

2. The Contractor will immediately notify Rockies Express' on-site EI of the find.

For Construction Spread D
Contact, Environmental Inspector:
Cell Phone Number:
Email:

Jackie Padgett
409-828-2366
jackiemp0128@yahoo.com

For Construction Spread E ¹

Contact, Environmental Inspector: ---
Cell Phone Number: ---
Email: ---

For Construction Spread F

Contact, Environmental Inspector: Richard Shelton
Cell Phone Number: 216-704-4336
Email: RichardEShelton@yahoo.com

3. The EI will immediately notify Rockies Express' Environmental Coordinator of the find and will immediately demarcate the find with a 20-foot buffer of protective fencing.

For Construction Spread D

Contact, Environmental Coordinator: Bob Anderson
Telephone: (714) 306-4332 (cell)
E-mail: babalooy@earthlink.net
Address: Rockies Express East Indianapolis Field Office
1811 Executive Dr Suite O
Indianapolis, IN 46241

For Construction Spreads E and F

Contact, Environmental Coordinator: Phil Sanders
Telephone: (817) 360-6203 (cell)
E-mail: ptsand0703@aol.com
Address: Rockies Express East Indianapolis Field Office
1811 Executive Dr Suite O
Indianapolis, IN 46241

For Construction Spread F

Contact, Environmental Coordinator: Ted James
Telephone: (406) 570-7486 (cell)
E-mail: TedJames2@aol.com
Address: Rockies Express East Indianapolis Field Office
1811 Executive Dr Suite O
Indianapolis, IN 46241

4. The Environmental Coordinator will promptly notify the archaeological consultant who will travel to the location and evaluate the find.
5. The archeological consultant will immediately notify Rockies Express' Environmental Project Manager by telephone regarding the potential significance of the find.

¹ An updated plan will be filed prior to construction when a Lead EI has been identified.

Contact, Environmental Project Manager: Ryan Child
Telephone: (307) 760-5635 (cell)
E-mail: ryan_childs@kindermorgan.com

6. If the materials found are skeletal and potential human remains, refer to the procedures in section B. Otherwise, refer to the procedures in section A below.

A. Discovery of potentially significant cultural materials or features on private and state-owned land.

- 1) The Environmental Project Manager will direct the archaeological consultant to begin a more detailed assessment of the find's significance and the potential effect of construction.
- 2) The Environmental Project Manager will promptly notify by telephone the Federal Energy Regulatory Commission (FERC) of the find.

Contact: Ellen Saint Onge
Telephone: (202) 502-6726

- 3) The Environmental Project Manager will promptly notify by telephone the Indiana State Historic Preservation Officer (SHPO) of the find.

Contact: Mr. Jim Glass
State Historic Preservation Officer
Telephone: 317- 232-1646
Address: Indiana Department of Natural Resources
Division of Historic Preservation & Archaeology
402 West Washington Street, Room W274
Indianapolis, IN 46204

- 4) The Environmental Project Manager will notify other parties as directed by the Indiana SHPO or FERC.
- 5) The Environmental Project Manager will then contact the Indiana SHPO, FERC, and other parties (as directed above) regarding the archaeological consultant's preliminary assessment of the find.

- 6a) If the find is determined to be potentially significant, and continuing construction may damage more of the site, the Environmental Project Manager will consult with the Indiana SHPO, FERC, and other interested parties regarding appropriate measures for site treatment. These measures may include:

- i) formal archaeological evaluation of the site;
- ii) visits to the site by the Indiana SHPO, FERC, and other parties;
- iii) exploration of potential alternatives to avoid the find;

- iv) preparation of a mitigation plan by Rockies Express for approval by the Indiana SHPO and FERC;
 - v) implementation of a mitigation plan; and
 - vi) approval to resume construction following completion of the fieldwork component of the mitigation plan.
- 6b) If the find is determined to be isolated or completely disturbed by construction activities, then the Environmental Project Manager will consult with the Indiana SHPO, FERC, and other parties, and will request approval to resume construction.
- 7) The Environmental Project Manager will notify the on-site EI, who will grant clearance to the Contractor to start work.

B. Discovery of Human Remains

- 1) The Environmental Project Manager will direct the archaeological consultant to determine if the skeletal remains are human, the degree to which they were disturbed, and, if possible, assess their potential age and cultural affiliation without any further disturbance. The remains will not be removed from the original location
- 2) The Environmental Project Manager will promptly notify by telephone the FERC of the find.

Contact: Ellen Saint Onge

Telephone: (202) 502-6726
- 3) The Environmental Project Manager will promptly notify by telephone the county coroner's office and local law enforcement officials of the find (see list of county coroner's and sheriffs offices).

Rockies Express Pipeline-East Project Unanticipated Discovery of Human Remains During Construction Indiana - County Coroner Contact List				
County	Coroner	Telephone	Fax	Address
Vermillion	Darrin Tucker	(765) 828-0402		
Parke	Daniel Dwyer	(765) 569-5101		
	Thomas Miller or	(765) 653-5115		
Putnam	On-call deputy	(County dispatch)	(765) 653-5117	N/A
Hendricks	Jason Matthews	(317) 852-4296		690 East 56 th St., Brownsburg, IN 46112
Morgan	Dan J. Downing	(765) 352-9968		180 S. Main St., Martinsville, IN 46151
Johnson	David L. Lutz	(317) 534-8344	(812) 526-6044	511 N. Grant St., Edinburgh, IN 46124
Shelby	Tom Laughlin	Paged by sheriff (see below)	none	none

Rockies Express Pipeline-East Project Unanticipated Discovery of Human Remains During Construction Indiana - County Coroner Contact List				
County	Coroner	Telephone	Fax	Address
Decatur	Doug Banks	(812) 527-2765		20 SW Santee Drive, Greensburg, IN 47240
Franklin	Rick Gill	(765) 647-2626	(765) 647-0535	1010 Franklin Ave., Brookville, IN 47012

Rockies Express Pipeline-East Project Unanticipated Discovery of Human Remains During Construction Indiana - County Sheriff Contact List				
County	Sheriff	Telephone	Fax	Address
Vermillion	Robert Spence	(765) 492-3737	(765) 492-5011	1888 S. State Road 63, Newport, IN 47968
Parke	D. Michael Eslinger	(765) 569-5151	(769) 569-6869	458 W. Strawberry Rd., Rockville, IN 47872
Putnam	Mark Frisbie	(765) 853-3211	(765) 655-2131	13 Keightly Rd., Greencastle, IN 46135
Hendricks	Dave Galloway	(317) 745-6269		925 E. Main St., Danville, IN 46122
Morgan	Robert W. Gardner	(765) 342-4303		180 N. Park Ave., Martinsville, IN 46151
Johnson	Terry McLaughlin	(217) 424-1321	(217) 424-6010	333 S Franklin St, Decatur, IL 62523
Shelby	Michael Bowlby	(317) 398-6661	(317) 392-6403	107 West Taylor, Shelbyville, IN 46176
Decatur	Daryl G. Templeton	(812) 663-8125	(812) 663-8887	315 S. Ireland St., Greensburg, IN 47240
Franklin	Dale Maxie	(765) 647-4138		371 Main St., Brookville, IN 47012

- 4) The Environmental Project Manager also will notify by telephone the Indiana SHPO of the find.

Contact: Mr. Jim Glass
 State Historic Preservation Officer
 Telephone: 317- 232-1646
 Address: Indiana Department of Natural Resources
 Division of Historic Preservation & Archaeology
 402 West Washington Street, Room W274
 Indianapolis, IN 46204

- 5) If the county coroner determines that the remains are not human, or they continue to remain under investigation by the coroner, the Environmental Project Manager will update the Indiana SHPO and other consulting parties of the coroner's investigation.

- 6a) If it is determined that intact interments that pre-date 1940 are present and may be disturbed by continuing construction, then the Environmental Project Manager will consult with the Indiana SHPO, FERC, law enforcement officials, and other interested parties regarding additional measures to avoid and protect or mitigate the adverse effect of the project on the resource. These measures may include:
- i) formal archaeological evaluation of the site;
 - ii) if the remains are determined to be EuroAmerican, a physical anthropologist may be required to assist the archaeological consultant with the identification of any next of kin;
 - iii) if the remains are determined to be Native American, consultation with all interested tribal members will be required;
 - iv) visits to the site by the Indiana SHPO, FERC, and other interested parties;
 - v) exploration of potential alternatives to avoid the find;
 - vi) preparation of a mitigation plan by Rockies Express, including procedures for disinterment and re-interment, for approval by the Indiana SHPO, FERC, next of kin or tribal representatives;
 - vii) implementation of the mitigation plan; and
 - viii) approval to resume construction following completion of the fieldwork component of the mitigation plan.
- 6b) If the find is determined to be isolated or completely disturbed by construction activities, then the Environmental Project Manager will consult with the Indiana SHPO, FERC, and other interested parties as appropriate, and will request approval to resume construction.
- 7) The Environmental Project Manager will notify the on-site EI who will grant clearance to the Contractor to restart work.

Document Content(s)

REX East SHPO MOA Approval Indiana_071708.PDF.....1-17