

TransCanada Keystone XL Pipeline Project

Responsible Federal Agency (Lead): U.S. Department of State

Cooperating Agencies: U.S. Department of Agriculture, Rural Utilities Service; U.S. Department of the Interior, Bureau of Land Management; U.S. Army Corps of Engineers; Western Area Power Administration

Title: Financial Support for Transmission and Distribution Lines to Pump Stations 15, 16, 17, 18, and 19 in Connection with the TransCanada Keystone XL Pipeline

Location: South Dakota

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RECORD OF DECISION

Financial Support for Transmission and Distribution Lines to Pump Stations 15, 16, 17, 18, and 19 in Connection with the TransCanada Keystone XL Pipeline

Rural Development Agency
Rural Utilities Service, U.S. Department of Agriculture

Grand Electric and West Central Electric Cooperatives

November 2020

ACRONYMS

Acronym	Definition
ACSR	Aluminum conductor steel reinforced
BLM	Bureau of Land Management
BRRU	Buffalo Red River Unit
CEQ	Council on Environmental Quality
CFR	<i>Code of Federal Regulations</i>
CMRP	Construction Mitigation and Reclamation Plan
Con/Rec	Construction/Reclamation
Department	U.S. Department of State
DOE	U.S. Department of Energy
EA	Environmental Assessment
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FR	<i>Federal Register</i>
HDD	horizontal directional drill
MAR	Mainline Alternative Route
MBTA	Migratory Bird Treaty Act
MP	Milepost
NDEQ	Nebraska Department of Natural Resources and Environmental Quality
NEPA	National Environmental Policy Act
NOA	Notice of Availability
NOI	Notice of Intent
NPPD	Nebraska Public Power District
NPS	National Park Service
NRHP	National Register of Historic Places
OH	Overhead
PCN	Pre-Construction Notification
PHMSA	Pipeline and Hazardous Materials Safety Administration
PSC	Public Service Commission
ROI	Region of Influence
ROW	Right-of-Way
RUS	Rural Utilities Service
SCADA	Supervisory Control and Data Acquisition
SEIS	Supplemental Environmental Impact Statement
SPCC	Spill Prevention, Control, and Countermeasure
TWA	Temporary Workspace Area
UG	Underground
U.S.	United States
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
WAPA	Western Area Power Administration
WCSB	Western Canadian Sedimentary Basin

Contents

1.0	Summary of Agency’s Decision	1
2.0	Introduction.....	4
A.	Purpose and Need	8
B.	Permits Required.....	8
3.0	Alternatives	8
4.0	Public Involvement	10
5.0	Summary of Environmental Effects.....	11
A.	Soils:	12
B.	Water Resources:	12
C.	Floodplains:.....	12
D.	Wetlands:	13
E.	Terrestrial Vegetation:	13
F.	Wildlife:	14
G.	Threatened and Endangered Species:	14
H.	Land Use and Recreation:.....	21
I.	Noise:	22
J.	Visual Resources:.....	22
K.	Climate Impacts:	23
L.	Environmental Justice:.....	23
M.	Cultural Resources:	23
6.0	Mitigation Measures:	25
7.0	RUS Decision and Rationale for Decision.....	25
A.	Decision	25
B.	Rationale and Compliance with Legal and Policy Mandates	26
C.	NEPA	26
D.	National Historic Preservation Act	26
E.	Endangered Species Act	27
F.	Executive Order 11988, Flood Plain Management.....	27
G.	Executive Order 11990, Protection of Wetlands	27
H.	RUS Loan Review	27
I.	Right to Administrative Review (Appeal Process).....	27
J.	Approval and Certification	28

ATTACHMENTS:

- A: Biological Resources: ESA Section 7 Biological Assessments and Biological Opinions
- B: Cultural and Historic Preservation
- C: Conservation and Mitigation Measures
- D: References

Record of Decision: Financial Support for Transmission and Distribution Lines to Pump Stations 15, 16, 17, 18, and 19 in Connection with the TransCanada Keystone XL Pipeline

1.0 Summary of Agency's Decision

This Record of Decision (ROD) is prepared by the U.S. Department of Agriculture (USDA), Rural Utilities Service (RUS) to present its decision, in Section 7.0(A), on the proposed construction of transmission and distribution lines and associated facilities to service five pump stations for the TransCanada XL Keystone Pipeline in South Dakota. The transmission and distribution lines and new substations and/or modifications have been proposed by Grand Electric Cooperative, Inc. and West Central Electric Cooperative, Inc.¹ RUS has determined that no supplemental NEPA analysis is necessary per 40 C.F.R. §1502.20 because the effects of the actions authorized herein are fully discussed and analyzed in the 2011 Final Environmental Impact Statement (EIS), and the 2014 and 2019 Supplemental Environmental Impact Statements (SEIS), and that no additional supplemental NEPA or ESA analysis beyond what has previously been conducted to this point is needed to make a decision. The U.S. Department of State (DOS) was the lead federal agency as defined by 40 CFR § 1501.5. The Final Supplemental EISs issued in January 2014 and in December 2019 serve as the basis for this decision unless otherwise noted. *See* Table 1.1 in the 2019 FSEIS.

The DOS published the 2011 Final Environmental Impact Statement on August 26, 2011, a Final SEIS in January 2014, and a second Final SEIS in December 2019 pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), and in accordance with the Council on Environmental Quality's (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500-1508) and USDA Rural Development's (RD) regulations (7 CFR Part 1970). This ROD is referencing the 1978 CEQ NEPA regulations, rather than the 2020 revisions, as the environmental analysis was conducted under the 1978 regulations. Finalizing this decision under these provisions is proper according to CEQ guidance, *Memorandum for Heads of Federal Departments and Agencies on Implementation of updated [NEPA] Regulations*, July 16, 2020.

RUS, as part of its broad environmental review process, must take into account the effect of the proposal on historic properties in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. §470f) and its implementing regulation, "Protection of Historic Properties" (36 CFR Part 800). Pursuant to 36 CFR § 800.2(d)(3), RUS is using its procedures for public involvement under NEPA, in part, to meet its responsibilities to solicit and consider the views of the public during Section 106 review. Accordingly, comments submitted in the EIS process also informed RUS decision making in the Section 106 review.

¹ Rosebud Electric Cooperative was initially included in the proposal to provide distribution and transmission to Pump Stations 20 and 21. However, Rosebud withdrew its application for assistance and was subsequently removed from RUS's actions with respect to this Record of Decision.

TransCanada Keystone XL Pipeline LP (Keystone) filed its original Presidential Permit application with the Department of State in 2008. An Environmental Impact Statement for the proposed pipeline project was finalized in August 2011. The Secretary of State denied the permit in January 2012. In April 2012, Keystone proposed a new pipeline route in Nebraska to avoid the Sand Hills region of Nebraska, and in May 2012 applied for a second Presidential Permit. The Department evaluated the new proposed pipeline route as well as two alternative routes in its 2014 SEIS. The Secretary of State denied Keystone's Presidential Permit application in November 2015.

A Presidential Memorandum of January 24, 2017 directed the Secretary of State to consider the 2014 SEIS to have met the requirements of NEPA and ESA with respect to Keystone's May 2012 Presidential Permit Application. Keystone resubmitted its permit application, which included minor route modifications (referred to below as the Mainline Alternative Route) contained wholly within the preferred route of the 2014 SEIS. The Secretary of State issued the Presidential Permit in March 2017.

In March 2018, the Department of State issued a Notice of Intent (NOI) to prepare an Environmental Assessment to evaluate the Mainline Alternative Route (MAR), a section of the preferred alternative of the 2014 SEIS. The proposed MAR would reroute a portion of the preferred route located in Nebraska to avoid the Sand Hills and the Ogallala Aquifer. DOS published the NOA of the EA in July 2018. However, in August 2018, the U.S. District Court for the District of Montana ordered the Department of State to Supplement the 2014 SEIS rather than prepare an EA. In September 2018, in response to the Court Order, the Department of State issued an NOI to supplement the 2014 SEIS and an Notice of Availability (NOA) for the Keystone XL MAR Draft SEIS for public comment.

Following this in November 2018, the U.S. District Court for the District of Montana ruled that the 2014 SEIS largely complied with NEPA and rejected challenges related to the purpose and need, range of alternatives and other concerns. However, the Court required the Department of State to supplement the 2014 SEIS to consider new information relating to greenhouse gas emissions, oil spills, cultural resources and market analysis. Consequently, the Department of State reinitiated the SEIS process and, in December 2018, published an NOI to prepare a new SEIS to the final 2014 Final SEIS. In March 2019, the President issued a Presidential Permit that authorized the construction, operation, connection, and maintenance of the project. This removed the Department of State's action related to the project. In October 2019, the Department of State issued an NOA for the Draft SEIS and in December 2019 published the NOA for the Final SEIS.

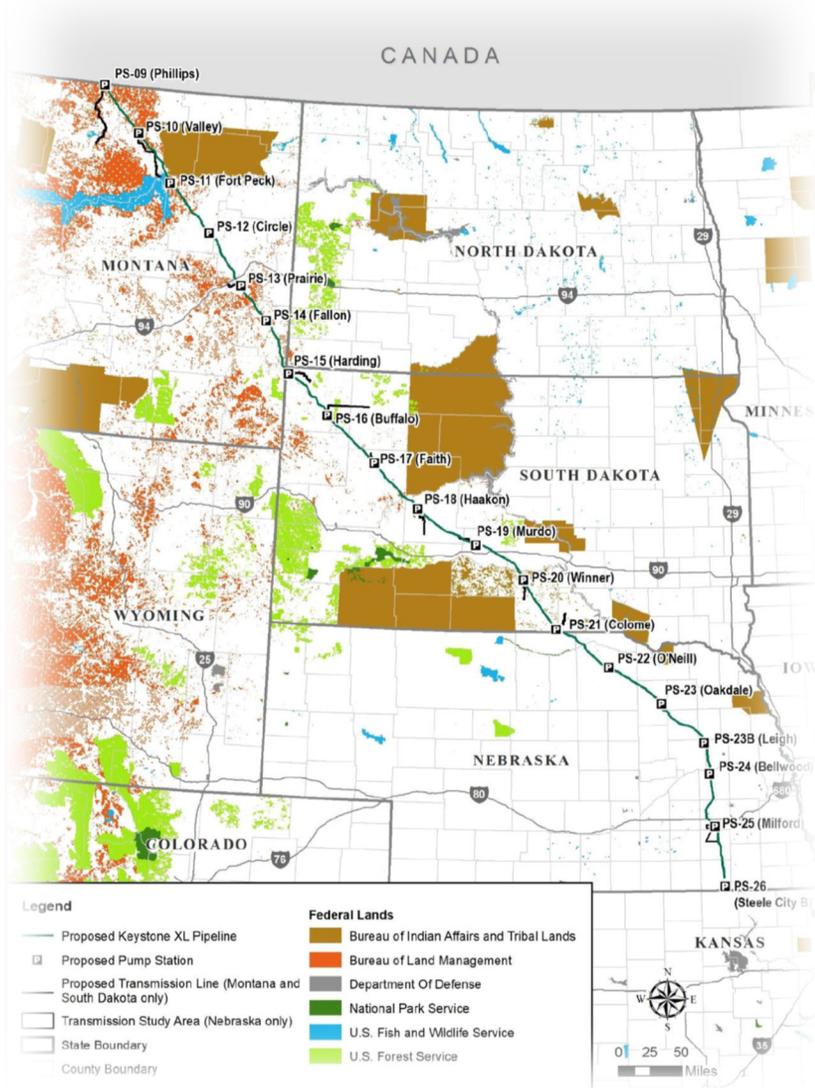
The 2019 FSEIS supplements the 2014 SEIS and, in accordance with the Court Order, evaluates the direct, indirect and cumulative impacts related to changes in the proposed Project that occurred since the 2014 publication. It analyzes the MAR to avoid the Sand Hills of Nebraska and analyzes the impacts of electric power infrastructure. It includes a revised greenhouse gas and climate change analysis, revised accidental release analysis, an update to the market analysis, and considers new information related to cultural resources.

The proposed MAR involves approximately 162 miles of construction, connection, operation, and maintenance to install new 36-inch diameter pipeline and related ancillary facilities within Nebraska that were not analyzed within the 2014 Keystone XL FSEIS. However, RUS's

action area located within the State of South Dakota was analyzed as part of the 2014 FSEIS preferred alternative route and is not part of the MAR action area which is located only in the State of Nebraska.

The Department of State served as the lead Federal agency for the environmental review of the Keystone Pipeline Project including the 2011 EIS, the 2014 SEIS, and the 2019 SEIS. The U.S. Department of the Interior, Bureau of Land Management (BLM), the U.S. Army Corps of Engineers (USACE), the Western Area Power Administration (WAPA), and RUS served as cooperating agencies in the environmental review under NEPA. RUS agreed to be a cooperating agency and intends to use both the 2014 and 2019 SEIS documents to support issuing a Record of Decision regarding the approval of financing assistance to Grand Electric Cooperative and West Central Electric Cooperative.

Figure 1. Proposed Keystone Pipeline Project²



² Keystone Pipeline XL Final Supplemental Environmental Impact Statement, Department of State, December 2019; Page S-15,

2.0 Introduction

The Keystone XL Pipeline proposal consists of a project to construct, operate, and maintain a pipeline to transport crude oil from Canada through Montana to Nebraska and then from Oklahoma to locations in Texas. Other facilities associated with the pipeline project include the construction of pumping stations, electric substations, transmission line and distribution facilities in Montana, South Dakota, Nebraska, and Kansas. The proposed Project would consist of approximately 1,209 miles of 36-inch-diameter pipeline, with approximately 327 miles of pipeline in Canada and approximately 882 miles in the United States (U.S.). The proposed Project would cross the international border between Saskatchewan, Canada, and the U.S. near Morgan, Montana, and would include a pipeline generally within a 110-foot-wide temporary construction right-of-way (ROW) and a 50-foot-wide permanent ROW in Montana, South Dakota, and Nebraska. In addition, the proposed Project would require construction of electrical transmission and distribution power lines to operate proposed pipeline pump stations. The transmission line facilities will include various types of transmission structures that include wood and steel monopoles (65 to 105 feet tall) and wood pole H-frames (65 to 105 feet tall) normally having a span length of 400 feet. Wood pole structures will be directly buried. Steel pole structures will require foundations.

Following publication of the 2011 EIS, Keystone informed the Department of State that it considered the Gulf Coast portion of the pipeline from Cushing, Oklahoma to the Gulf Coast area to have independent utility and proceeded with construction of this portion of the pipeline as a separate project. In its May 2012 Presidential Permit application, the newly proposed Project included a revised purpose and need and a new route. The new route differed from the proposed route of the 2011 EIS in that it avoided the environmentally sensitive Sand Hills area of Nebraska and it terminated at Steel City, Nebraska. The proposed Project no longer included the southern segment and, instead, runs through Montana to Steele City, Nebraska.³ The action area for RUS actions was evaluated as part of the analysis of the proposed Project as described in the 2014 SEIS. The impacts of the RUS actions themselves are evaluated as connected actions and described in the 2019 SEIS.

RUS has considered proposals from two electric cooperatives to provide distribution and transmission infrastructure to supply power to pump stations 15, 16, 17, 18 and 19, all of which are located in South Dakota and are not part of the MAR proposed for a section of the preferred alternative route located in Nebraska. The substations will be built by the cooperatives and/or Western Area Power Administration and financed by Keystone. WAPA will provide for the interconnections for the transmission facilities for Pump Stations #17, 18 and 19.

The following is a summary of the proposed transmission/distribution line and associated

³ Final Supplemental Environmental Impact Statement for the KEYSTONE XL PROJECT Applicant for Presidential Permit: TransCanada Keystone Pipeline, LP. Department of State. 2014, p.ES-3.

substation facilities:

Grand Electric Cooperative, Inc.

- Approximately 24.7 miles of 115 kV transmission line to serve the proposed Harding Substation and Pump Station 15 in Harding County, South Dakota:
- Construct 1.9 miles of single-phase 14.4 kV #2 Aluminum conductor steel re-enforced (ACSR) overhead distribution line;
 - Rebuild 3.0 miles of three-phase 24.9 kV #4/0 ACSR Overhead (OH) line with three-phase #4/0 distribution line underground (UG) on existing right-way;
 - Construct a 115/69 kV substation stall 115 kV bus as well as a 115/69 kV transformer to the existing BRRU switch yard; and,
 - Construct 1.25 miles of 115 kV OH line with 795 kV ACSR line.
- Approximately 41.9 miles of 115 kV transmission line to serve the proposed Buffalo Substation and Pump Station 16 in Perkins County, South Dakota:
 - Construct 5.5 miles of single-phase 14.4 kV #2 ACSR OH distribution line;
 - Rebuild 2.5 miles of three-phase 24.9 kV #1/0 ACSR OH distribution line with three-phase #4 ACSR OH distribution line;
 - Replace 0.5 miles of three-phase 24.9 kV #1/0 ACSR distribution line with three-phase UG distribution line;
 - Construct a new 115/69 kV substation;
 - Expand 230 kV bus at John Riedy Substation; and,
 - Replace 0.50 miles of three-phase 24.9 kV #1/0 ACSR distribution line with three-phase #4/0 UG distribution line.
- Approximately 10.9 miles of 115 kV transmission line to serve the proposed Maurine Substation and Pump Station 17 in Meade County, South Dakota:
 - Construct 0.2 miles of single-phase 14.4 kV #2 OH distribution line; and
 - Construct new pump station substation.
- Interconnection and minimal work within the existing Maurine Substation footprint to accommodate the interconnection for PS-17 (WAPA).

West Central Electric Cooperative, Inc.

- Approximately 26 miles of 115 kV transmission line to serve the proposed Philip Substation and Pump Station 18 in Haakon County, South Dakota;
- Interconnection and minimal work within the existing Philip Substation footprint to accommodate the WAPA interconnection for PS-18;

- Approximately 20.5 miles of 115 kV transmission line to serve the proposed Midland Substation and Pump Station 19 in Jones County, South Dakota; and,
- Expansion of existing Midland Substation and WAPA interconnection for PS-19.

Table 1. Summary of County Location, Footprint Size and Number of Structures Associated with RUS-Assisted Projects

COOP #	PS #	COUNTIES	TRANSMISSION/DISTRIBUTION LINE LENGTH	ROW WIDTH	ROW ACREAGE	TOTAL # STRUCTURES	STRUCTURE DISTURBANCE
GRAND ELECTRIC COOPERATIVE							
SD-40	15	Harding	27 mi of 115 kV/4 mi of transmission line	50 feet	149.5 acres	326	9.1 acres
SD-40	16	Harding & Perkins	41 mi of 115 kV/5.5 mi of transmission line	50 feet	253.8 acres	326	15.5 acres
SD-40	17	Meade	12.2 mi of 115 kV of transmission line	50 feet	65.8 acres	230	6.5 acres
WEST CENTRAL ELECTRIC COOPERATIVE							
SD-42	18	Haaken & Jones	26.5 mi of 115 kV of transmission line	50 feet	65.8 acres	350	9.8 acres
SD-42	19	Haaken & Jones	20.5 mi of 115 kV of transmission line	50 feet	124.2 acres	271	7.6 acres

A. Purpose and Need

The primary purpose of the proposed Keystone XL pipeline is to provide the infrastructure to transport up to 830,000 barrels per day (bpd) of crude oil from the WCSB in Canada and the Bakken Shale Formation in the U.S. to existing pipeline facilities near Steele City, Nebraska for onward delivery to Cushing, Oklahoma and the U.S. Gulf Coast area.

Most forecasting scenarios predict a continued growing global demand for crude oil through 2040. Since the 2014 Keystone XL Final SEIS, the trend of global crude oil demand has shown a steady increase with daily oil demand up from 94 million barrels a day in 2014 to over 99 million bpd at the end of 2018. Gulf Coast area refiners rely primarily on imports of crude oil. They are seeking to secure reliable sources of crude oil.⁴ Since 2018, the potential for disruptions to crude oil supply from Mexico have increased and supplies from Venezuela have become less reliable due to sanctions imposed on that country.

RUS is a cooperating agency in the 2011 EIS and the 2014 and 2019 SEIS reviews, which enables it to use these documents as the basis for this Record of Decision. RUS's action area as described in this ROD was covered in all three review documents and its actions were evaluated as connected actions to the overall pipeline project. RUS's actions contribute to the purpose and need for the overall project as described above through its decision to provide financial assistance for transmission and distribution to five pumping stations for a portion of the greater pipeline project which traverses South Dakota. Financial assistance would be granted to the Grand Electric Cooperative and the West Central Electric Cooperative through loans and loan guarantees for the construction, operation and improvement of electric transmission and generation facilities in rural areas.

B. Permits Required

The applicants are required to obtain the following permits to comply with the provisions of the 2014 and 2019 SEIS and this Record of Decision prior to construction: 1) CWA Section 404 Nationwide Permit 12; and, 2) Required State and Local Permits.

3.0 Alternatives

In accordance with the Council on Environmental Quality (CEQ) implementing regulations for NEPA (40 CFR Parts 1500-1508), a reasonable range of alternatives were evaluated, and some were eliminated from detailed study, the reasons for these having been removed from further study were discussed, and those alternatives carried further for additional analysis are fully described.

In response to the 2008 application of the TransCanada Keystone XL Pipeline, the Department of State prepared its 2011 EIS which evaluated the proposed action, the no action alternative, system alternatives, and major route alternatives. The EIS analysis evaluated the 1) No Action Alternative evaluated scenarios that would occur if the pipeline was not constructed or

⁴ 2019 FSEIS Keystone XL Pipeline. DOS, p. 1-12.

operated; 2) System Alternatives evaluated use of other transport options such as rail/pipeline, rail/tanker and rail direct to the Gulf Coast as alternate means of crude oil transport; and, 3) Major Route Alternatives. The No Action Alternative and the System Alternatives evaluated did not meet the project's purpose and need.

The system alternatives evaluated included use of existing pipeline systems, non-pipeline systems such as tanks, trucks, railroad tank cars, barges, and marine tankers, crude oil from Canada to the U.S. Gulf Coast region. Existing pipelines were found to be unable to transport the volume of crude oil that is necessary. The impacts of systems alternatives to existing transportation systems would have had substantially higher greenhouse gas emissions than the proposed Project.⁵ The no action alternative did not meet the purpose and need of the Proposal.

The 2011 EIS proposed Project involved a pipeline that originated in Hardisty, Alberta Canada, crossed the U.S. border at Morgan, Montana, crossed from Montana into South Dakota, crossed into Nebraska to Steel City, Nebraska, crossed Kansas to the proposed tank farm in Cushing, Oklahoma, and terminated in two locations at Houston and Port Arthur, Texas. The EIS evaluated proposed Project route which originated in Hardisty, crossed through Morgan Montana, through South Dakota through Nebraska to Steel City. It also considered several alternative routes including Express Platt Alternatives 1 and 2 which traversed the Northern High Plains Aquifer system, the Western Alternative, the Baker Alternative (a small route alternative to the proposed Project), Alternative SCS A1A, Alternative SCS-A, I-90 Corridor A and B, and Keystone Corridor Alternative 1 and 2. The I-90 Corridor, Corridors A and B, Keystone Corridor Alternatives 1 and 2 and the Western Alternative were identified as routes to avoid the Ogallala Aquifer of the Northern High Plains Aquifer System and the Sand Hills region.

The Western Alternative was eliminated from consideration because it was not financially feasible. The I-90 Corridor and Keystone Alternatives would avoid the Sand Hills but shifted impacts to other shallow groundwater of the Northern High Plains Aquifer system. These alternatives were longer than the proposed actions and would disturb more land and water bodies. The I-90 and Corridors A and B were found to be technically challenging. Keystone Corridor Alternatives 1 and 2 would compromise the ability to transport crude oil from the Bakken formation to markets in the Gulf Coast and would cost twenty-five percent more than the proposed Project. Consequently, these alternatives were eliminated from further consideration.

All the above alternatives connected to the existing Keystone Cushing Extension from Steel City, Nebraska to Cushing, Oklahoma. The proposed Gulf Coast segment extended from Cushing to Houston and Port Arthur.⁶ In April 2012, after publication of the EIS, Keystone determined that the portion of the project below Steel City had independent utility and these activities were removed from the proposal in their May 2012 permit application.

The 2014 SEIS updated the analysis of the No Action and System Alternatives. It also evaluated the proposed Project and two route alternatives from Morgan Montana to Steel City, Nebraska. It evaluated and compared the Keystone XL Steel City Alternative as proposed in the

⁵ Final Environmental Impact Statement for the Proposed Keystone XL Project. Department of State, August 26, 2011. P ES-11.

⁶ Final Environmental Impact Statement for the Proposed Keystone XL Project, DOS, August 26, 2011, p. ES-13.

2011 EIS and the I-90 Corridor Alternative. The 2014 SEIS also evaluated a No Action Rail/Pipeline Scenario, No Action Rail Tanker Scenario, and a No Action Rail Direct to the Gulf Coast Scenario. The I-90 Corridor and Steel City alternatives were found to have impacts to environmentally sensitive areas, and, therefore, the proposed Project was considered the environmentally preferred alternative.

The 2014 Final SEIS identified power infrastructure requirements for the proposed action and each of the alternatives. It considered these as connected actions and assumed that impacts associated with these facilities would be essentially the same for each resource area. Consequently, these were not evaluated as part of the 2014 SEIS.⁷ Though the impacts of power infrastructure were not evaluated in the 2014 SEIS, the analysis does cover RUS's action areas of this preferred route in South Dakota.

The 2019 SEIS evaluated the MAR and incorporated by reference, Chapter 2, the alternatives analysis, of the 2014 SEIS which included the 2014 preferred alternative, the I 90 Corridor and the Steel City route alternatives. The 2014 preferred alternative covers RUS's action area and impacts were evaluated and compared to the other two route alternatives. The MAR involves changes only to the Nebraska section of the preferred alternative route to avoid the Sand Hills area. It does not involve the RUS action area which is located solely within the South Dakota. Therefore, the alternatives analysis pertaining to the RUS action contained within Chapter 2 of the 2014 SEIS still applies.

40 CFR 1505.2(b) requires that a federal agency identify alternatives that are considered environmentally preferable in its decision-making. The proposed alternative is the alternative that on balance has the lowest overall impact to the natural, human and cultural environment. The proposed Project of the 2014 SEIS evaluated the routes and determined that the preferred route was also the environmentally preferred alternatives. RUS's action area is wholly contained within this environmentally preferred alternative and this has not changed since 2014. RUS has determined that all practicable means to avoid or minimize environmental effects of the Proposed Project have been analyzed in the 2011 EIS, 2014 and 2019 SEISs and adopted into this Final ROD.

4.0 Public Involvement

There has been extensive public involvement in the Keystone XL Pipeline EIS process. The Department of State published a Notice of Intent (NOI) in the *Federal Register* (FR) on December 3, 2018 to announce the intent for preparation of a new SEIS for the Keystone XL Project (83 FR 62398). 56 comment submissions were received in response to the overall project. Comments included 10 campaigns with a total of 212,604 signatures.

Public comments included concerns about the scope of the analysis, whether the project need remains given the prices of the current energy market, the potential for additional cumulative actions, and the need to further evaluate connected actions. Commenters indicated concerns

⁷ Final Supplemental Environmental Impact Statement Chapter 5 Keystone XL Project, DOS, January 2014, p. 5.2-1.

regarding spills and potential for future spills and their impacts on water resources and health and safety. Commenters also raised concerns about potential impacts on environmental and human resources, specifically including soil erosion, soil productivity, water resources (e.g., the Ogallala aquifer), biological resources (e.g., whooping cranes), Indian treaties, cultural and tribal resources, socioeconomic conditions, environmental justice, damage to property, and landowner access. Commenters additionally expressed concerns about the potential for cumulative impacts associated with the Project that may adversely affect U.S. energy use and dependence on nonrenewable resources, and the contribution to greenhouse gases and global climate change. Many comments also requested a full SEIS be prepared because the Project could cause significant impacts and stated that this NEPA review should encompass the whole Keystone XL pipeline. Many expressed comments opposing the Project.⁸

The Department of State published a NOA in the Federal Register (84 FR 53215) on October 4, 2019 to announce availability of the Draft SEIS and to solicit public comments over a 45-day period and to announce a public meeting in Billings, Montana which was held on October 29, 2019. The Department received 2,722 comments which included 165,249 signatures. 2,294 of the comments were in opposition to the project, 100 comments were in support of the project, and 328 of the comments were neutral.

The 2019 Draft SEIS presented for the first time, impacts related to power infrastructure, including RUS actions to provide transmission and distribution to pumping stations 15-19. Several tribes expressed concerns that power infrastructure would cross tribal lands. However, the updated geographical information system analysis presented in the 2019 FSEIS showed that none of the transmission or distribution lines would cross tribal lands and tribal trust boundaries. Other commenters raised concerns regarding the impacts of avian species collisions with power lines and indicated that these impacts were not adequately evaluated in the 2019 SEIS. However, RUS believes that the USFWS's December 19, 2019 Biological Opinion and the conservation measures outlined in the 2019 SEIS will mitigate significant impacts resulting from avian collisions with transmission and distribution infrastructure.

5.0 Summary of Environmental Effects

The following resources and issues were identified in the 2019 SEIS as potentially being affected by the alternatives carried forward for detailed analysis: Geology, fisheries, and air quality are not covered since impacts associated with these resources in relation to transmission/distribution line construction will be minor.

- Soils
- Floodplains and Surface Waters
- Wetlands
- Wildlife, including Special Status Species
- Water Resources and Quality
- Cultural and Historic Resources

⁸ 2019 FSEIS. Appendix D, Comment Response Document.

- Land Use
- Visual Quality
- Environmental Justice

A. Soils:

Impacts to soils by transmission/distribution line construction will generally be minor. Some soils may be vulnerable to rutting and compacting. Most construction impacts will take place in rights-of-way areas and existing substations.

Overall, the impacts on soils resulting from construction of power lines and associated infrastructure would be negligible to minor and the impacts resulting from operations and maintenance would be negligible. In general, the power lines would be constructed in the vicinity of the proposed pipeline route or in similar landscapes. In some areas along power line routes, soils may be sensitive to impacts. For example, soils rich in clay, as well as certain hydric soils, are vulnerable to rutting and compaction. Highly erodible soils and prime farmland soils are significant features in this region. Examples of mitigation measures designed to minimize the impact of the proposed activities on soils and other resources would be restricted during wet conditions to minimize rutting; compaction would be relieved by disking, chiseling, or ripping; stones would be removed; topsoil or soil amendments may be added; and industry standard soil erosion and sedimentation controls would be used. Additional measures could also be included as a result of any necessary consultation or permitting with local, county, or state agencies.

B. Water Resources:

Construction impacts to surface waters should be negligible. Standard erosion and sedimentation control measures will be used during construction. Surface water types include perennial and intermittent streams, artificial paths, canals/ditches and lakes/ponds. Approximately 155 bodies of water will be crossed by Grand Electric and 103 bodies of water by West Central. These bodies of water will be spanned by the transmission lines.

C. Floodplains:

Overall impacts on floodplains would be minor and short-term during construction and negligible in the long term from operations. The proposed power lines would not affect overall floodplain function. During construction, staging areas and the storage of equipment and construction vehicles would be located outside of the floodplain to the extent possible. Temporary access roads within the ROW and pulling and tensioning sites could result in short-term minor impacts through floodplain soil compaction, but the ROW would be restored when construction is completed. Pole placement could be required in some wide floodplains that are not able to be spanned. The installation of caissons and transmission poles would be done in a manner to limit impacts and area affected. Although the placement of transmission poles would result in long-term minor impacts, they would not alter floodplain function or flood risk. Floodplains associated with the Little Missouri River (PS-15) and the Bad River (PS-19) will be crossed by transmission lines. Longer spans and/or taller structures could be used to span the larger floodplains. However, it may be necessary to place a structure in a floodplain if it cannot be spanned.

D. Wetlands:

Proposed electrical power lines would cross 61.4 acres of freshwater wetlands, including approximately 29.9 acres of emergent wetlands, 0.4 acre of forested wetlands, 26.7 acres of riverine wetlands, and 4.5 acres of open water based on National Wetlands Inventory data. Based on construction techniques described in Section 6.3 of the 2019 FSEIS, it is unlikely that all wetlands would be affected, and impacts are anticipated to be less than 61.4 acres.

A total of 10.3 acres of wetlands are located within the powerline rights-of-way for Grand Electric and West Central. Temporary and permanent impacts could occur during construction activities depending on the type of wetlands, the landscape, level of impact and restoration efforts. It appears that the majority of the wetlands can be spanned or avoided. In cases where it is not feasible to span or avoid wetlands, Keystone has developed a Conservation Resource Management Plan (CRMP) plan to minimize potential impacts to wetlands associated with construction and maintenance activities.

Keystone and the local power providers have committed to implementing several measures to avoid and minimize potential construction- and operations-related impacts at wetland crossings. As much as practicable, power pole structures would be installed outside of wetlands. Construction in wetland areas would utilize protective matting or be restricted to frozen conditions to help minimize rutting. To minimize sedimentation, industry-standard soil erosion and sedimentation controls would be used during construction.

E. Terrestrial Vegetation:

Impacts to terrestrial vegetation would be minor to moderate. Most of the routes would be located along existing roadways, fields, and other previously disturbed areas. Most impacts would be temporary in nature except for tree clearing activities.

Construction activities which would be temporary in nature will be limited to the land area and air space occupied by poles and power lines and the areas used for permanent substations and similar facilities. Temporary impacts on terrestrial vegetation from construction activities would occur at pole excavations, pulling and tensioning areas, and temporary workspaces. These would include removing crops, mowing areas, cutting or limbing tall growing vegetation, and crushing vegetation when laying down equipment or creating temporary access roads. Temporary impacts could occur across the entire proposed ROW where ground disturbance is required. The exact size and locations of these areas not yet known, but nearly all the areas would be contained within existing ROWs and footprints of associated facilities.

Permanent impacts are expected to be minor and would result from the removal of vegetation for pole/structure installation and substation construction or expansion. Vehicles or personnel traveling to or within sites during construction or operations could introduce or spread invasive species.

Impacts to terrestrial vegetation by PS-15 and PS-16 pump stations and associated transmission and distribution facilities would be moderate due to permanent tree clearing and possible disturbance to sagebrush communities, while impacts of transmission/distribution associated with PS-17 would be minor because grasslands could be restored after construction. Impacts due to construction activities associated with transmission/distribution related to PS-18 and PS-19 would be minor due to the small amount of permanent forest clearing.

F. Wildlife:

Permanent and short-term effects will be caused mainly due to construction impacts. Long-term impacts could extend for several years before restoration efforts are complete. Other impacts include moving pattern disruptions, loss of feeding, foraging, nesting, roosting habitats until after construction. Wildlife will move out of the area until construction has been completed. Some wildlife species will return to area wildlife; however, it may depend on the type of vegetation removed. Other impacts could include habitat fragmentation. Revegetation may help to minimize impacts but may take a longer period to revegetate an area. Construction may stress certain species and minimize breeding seasons. Overall impacts to cultivated landscapes would be minor.

G. Threatened and Endangered Species:

On September 30, 2019, BLM, in coordination with WAPA, RUS, and USACE requested the initiation of formal consultation with USFWS under Section 7 of the Endangered Species Act for the effects of the proposed Keystone XL pipeline. On November 26, 2019, BLM, for itself and on behalf of the Lead and Cooperating Agencies submitted a final Biological Assessment (BA) for the Keystone XL Pipeline. On December 23, 2019, the U.S. Fish and Wildlife Service (USFWS) issued a letter concurring with the agencies' determinations that the overall project was likely to adversely affect the American Burying Beetle, and was not likely to adversely affect the Black-footed ferret, interior least tern, whooping crane, pallid sturgeon, Topeka shiner, Rufa red knot, piping plover, Western prairie fringed orchid, and the Northern long-eared bat. Also, on December 23, 2019, USFWS issued a Biological Opinion for the American Burying Beetle and determined that the overall project would not likely pose jeopardy to the continued existence of the species and issued an Incidental Take Statement. The Biological Assessment and Biological Opinions are provided in Attachment A.

Areas along proposed power line routes have not yet been field surveyed for the presence of protected species or their habitat. Therefore, the potential for each species to occur along power line routes was evaluated based on a review of aerial imagery and on reviews of species occurrence records. Areas were considered as having the potential for presence of a listed species where one or more land cover type could serve as potentially suitable habitat.

Table 2. Summary of ESA Section 7 Determinations for Species Potentially Affected by the Proposal		
SPECIES	DETERMINATION	PS #15, 16,17,18,19 Impacts
American burying beetle	May affect, likely to adversely affect	Species or suitable habitat not likely to occur in action area
Black-footed ferret	May affect, not likely to adversely affect	Species or suitable habitat not likely to occur in action area
Interior least tern	May affect, not likely to adversely affect	Low or no impact due to standard conservation measure (BFDs) and surveys prior to construction to ensure no nesting near power lines
Northern long-eared bat	May affect, not likely to adversely affect	Tree clearing activities will comply with Final 4(d) rule.
Pallid sturgeon	May affect, not likely to adversely affect	Low or no impact due standard conservation measures (BFDs)
Piping plover	May affect, not likely to adversely affect	Low or no impact due standard conservation measures (BFDs)
Rufa red knot	May affect, not likely to adversely affect	Low or no impact due to standard conservation measures (BFDs)
Topeka shiner	May affect, not likely to adversely affect	Species or suitable habitat not likely to occur in action area
Western prairie fringed orchid	May affect, not likely to adversely affect	Species or suitable habitat not likely to occur in action area
Whooping crane	May affect, not likely to adversely affect	Low or no impact due to standard conservation measures (BFDs)

American Burying Beetle-Endangered Proposed for Reclassification to “Threatened”

The November 26, 2019 BA made a May Affect Likely to Adversely Affect Determination for this species. USFWS concurred on this determination on December 23, 2019 and issued a Biological Opinion (BO) that included an incidental take statement on that date. The BO concluded that the overall Keystone project is not likely to jeopardize the continued existence of the American Burying Beetle (ABB). In its Incidental Take Statement⁹ (ITS), the Services anticipated that the Project (pipeline construction, operations, emergency repairs, and power infrastructure) is anticipated to result in incidental take of 552 ABBs in South Dakota and Nebraska over the 50-year duration of the Project. Activities associated with power infrastructure construction will account for an estimated one-time take of one ABB. The ABB is found in Tripp, Todd, Bennett, and Gregory counties in South Dakota.¹⁰ The RUS action areas include Harding, Perkins, Meade, Haaken, and Jones Counties of South Dakota, outside of the ITS statement for the ABB.

The USFWS proposed to downgrade the status of the ABB from endangered to threatened on October 15, 2020 which goes into effect on [date].¹¹ Previously, the USFWS published a Habitat Assessment Plan and Draft Environmental Assessment on August 15, 2020.¹² However, RUS’s current action areas are not located in counties where the ABB or its suitable or critical habitat are present.

Black-footed Ferret-Endangered

On December 23, 2019, the USFWS concurred with a May Affect Not Likely to Adversely Affect determination and associated conservation measures for the overall project for this species. The Services letter states, “No presence of black-footed ferrets (BFF) within the action area; little or no suitable habitat (prairie dog towns) which BFF depend upon would be affected, the Service determined effects on prairie dogs do not effect BFF where its known to occur; BFF is not known to exist outside of known reintroduced locations and surveys are no longer required. The closest known reintroduction site is 19 miles from the action area, where a protected reintroduced population exists; there is little to no possibility of the species presence within the action area. Black-tailed prairie dog towns in all of South Dakota have been block-cleared by the Service's Pierre Ecological Services Field Office, meaning the towns no longer contain any wild, free-ranging black-footed ferrets, and activities within these areas that result in the removal of the black-tailed prairie dogs and/or their habitat would no longer be required to meet the Service survey guidelines for black-footed ferrets or undergo consultations under section 7 of the ESA.”

Though power lines associated with the proposed Project are likely to attract raptors,

⁹ IBID, USFWS, December 23, 2019, p. 38 and 39.

¹⁰ Biological Opinion on the Effects of the Proposed Keystone XL Pipeline to the Federally Endangered American Burying Beetle, *Nicrophorus americanus*. USFWS, December 23, 2019.

¹¹ Federal Register, 65241, Volume 85, No. 200, October 15, 2020. Endangered and Threatened Wildlife and Plants; Reclassification of the American Burying Beetle from Endangered to Threatened with a Section 4(d) Rule, October 15, 2020.

¹² Federal Register, 500043, Volume 85, No. 159, August 17, 2020. Habitat Conservation Plan and Draft Environmental Assessment, Keystone XL Pipeline; Incidental Take Permit Application for American Burying Beetle; Tripp County, South Dakota, and Antelope, Boyd, Brown, Cherry, Holt, and Keya Paha Counties, Nebraska.

which are known to be predators of the black-footed ferret and its primary prey, prairie dogs, no effects on the black footed ferret would be expected from the construction and operation of power lines and associated infrastructure because none of the proposed power lines would approach a known population of black-footed ferrets. However, there are no habitat surveys available to confirm this; therefore, conservation measures would be implemented by electrical service providers to minimize raptor perching, as appropriate, in accordance with the APLIC, Suggested Practices for Avian Protection on Power Lines (APLIC 1996, 2012).

Interior Least Tern-Endangered

The USFWS concurred with a Not Likely to Adversely Affect determination and associated conservation measures for the overall project for this species on December 23, 2019. According to USFWS's December 19, 2019 letter, "This determination is based on Keystone's plan to use horizontal directional drill (HDD) when crossing the Missouri, Platte, Elkhorn, Niobrara, Cheyenne, and Yellowstone rivers and Keystone's and electric power providers' commitment to follow conservation measures identified by the Service. Specifically, pre-construction surveys to identify nesting least terns within 0.25 miles of the proposed river crossings and the commitment to halt construction should nesting individuals be identified, would avoid effects on nesting interior least terns." The USFWS identified the Cheyenne River in South Dakota in Meade and Haakan counties as a potentially suitable nesting habitat for interior least terns that would be crossed by the proposed Project. Construction of proposed power infrastructure in potentially suitable habitat during the nesting season would potentially disturb nesting and brood-rearing birds. However, none of the transmission and distribution infrastructure proposed for RUS assistance is within one mile of potentially suitable habitat, and, therefore, the species is not likely present in the RUS action areas.

Northern Long-eared Bat-Threatened

The USFWS concurred with a Not Likely to Adversely Affect determination for the overall project for this species on December 23, 2019. There are no records of known occupied northern long-eared bat maternity roost trees or hibernacula within one mile of the proposed power line infrastructure in Montana, South Dakota, or Nebraska. Based on Keystone's analysis and aerial imagery review, approximately 18 acres of potentially suitable forested habitat would overlap the proposed power line work that would serve PS-10, PS-12, PS-13, PS-16, PS-18, PS-19, PS-20, PS-21, PS-22, PS-23, PS-23b, and PS-25. Given the lack of known occurrences within one mile of the proposed power infrastructure and the very small amount of potentially suitable habitat that could conservatively support the northern long-eared bat proximal to the proposed power infrastructure, the potential for northern long-eared bat occurrence near the action area is extremely low. Further, tree removal activities will be conducted in accordance with required conservation measures provided in the final 4(d) Rule.

Pallid Sturgeon-Endangered

The USFWS concurred with a Not Likely to Adversely Affect determination and associated conservation measures for the overall project for this species on December 23, 2019. The Services' letter states, "Adverse effects to pallid sturgeon are unlikely based on Keystone's

plan to use the HDD crossing method for large rivers and Keystone's commitment to follow conservation measures, including restrictions on water withdrawals.” The potential for this species to occur within the proposed Project area exists at the pipeline crossing of the Milk River, at the pipeline crossing of the Missouri River below Fort Peck Dam, at the pipeline crossing of the Yellowstone River downstream of Fallon, Montana, and the pipeline crossing of the Platte River southeast of Columbus, Nebraska. The Platte River proposed-Project crossing is in the Central Lowlands Management Unit, while the other proposed river crossings are in the Great Plains Management Unit. The RUS action areas do not intersect with these areas. In addition, Power lines for the proposed Project will avoid pallid sturgeon because power lines will span all river and stream crossing and no instream work will take place.

Piping Plover-Threatened

The USFWS concurred with a Not Likely to Adversely Affect determination for the overall project and associated conservation measures for this species on December 23, 2019. The Services’ letter states, “This determination is based on Keystone's plan to use HDD when crossing the Missouri, Platte, Elkhorn, Niobrara, Cheyenne, and Yellowstone rivers and Keystone's and electric power providers' commitment to follow conservation measures identified by the Service. Specifically, pre-construction surveys to identify nesting piping plovers within 0.25 miles of the proposed river crossings and the commitment to halt construction should nesting individuals be identified, would avoid effects on nesting piping plovers.” The proposed Project would cross the Cheyenne River in South Dakota. Potential nesting habitat within the action area for the piping plover is restricted to sandy beaches and sandbars along the Platte and Niobrara rivers in Nebraska and alkali wetlands and the Fort Peck Reservoir in Montana. If construction of power lines occurs during the piping plover nesting season, conducting surveys of potential piping plover nesting areas within 0.25 mile of new power lines and within two weeks of construction to determine presence of nesting piping plovers. If nesting piping plovers are present, construction would cease until all chicks fledge from the site.

Rufa Red Knot-Threatened

The USFWS concurred with a Not Likely to Adversely Affect determination for the overall project for this species and associated conservation measures on December 23, 2019. The Services’ letter states, “Adverse effects on rufa red knot are not likely (1) the proposed pipeline would not affect stopover habitat; (2) there is very little potentially suitable stopover habitat proximal to the proposed power lines; 3) rufa red knot are extremely uncommon in the Central Flyway; and, (4) the increase in power lines associated with pump stations is 0.1 percent of existing large power line. Therefore, no measurable effects are anticipated for the rufa red knot as a result of the Project.”

The only potentially suitable habitat occurs at small ephemeral lakes proximal to or crossed by proposed power lines. One lake occurs along the power line to PS-16, and two lakes occur along the power line to PS-18. These power lines would affect approximately 1.4 acres of potential red knot stopover habitat. All of these lakes are more than 100 miles away from the two red knot records near Blunt, South Dakota. Given the general lack of habitat to support migrating red knot proximal to the proposed Project, and the very limited observations within South Dakota, the

potential for red knot occurrence near the proposed Project is very low. Given that Rufa red knots typically make non-stop, direct migratory flights and very little potentially suitable habitat exists within the proposed-Project area, Rufa red knots would not be expected to encounter the proposed power lines associated with the proposed Project.

Topeka Shiner-Endangered

The USFWS concurred with a Not Likely to Adversely Affect determination for the overall project for this species on December 23, 2019. The Services' letter states, "Keystone has committed to implementing conservation measures, conducting pre-construction surveys, and avoiding effects on individuals within occupied streams." There are no pump stations requiring power lines within the range of the Topeka shiner.

Western Prairie Fringed Orchid—Threatened

The USFWS concurred with a Not Likely to Adversely Affect determination and associated conservation measures for the overall project for this species on December 23, 2019. The Services' letter states, "Surveys in 2019 and previous years have demonstrated the probable absence of this species from the pipeline construction corridor. Desktop studies have indicated that it is unlikely that individuals or high-quality habitat would occur in power line corridors. Given that pre-construction surveys will occur and Keystone has committed to implement avoidance and conservation measures, adverse effects are unlikely." The western prairie fringed orchid is known to occur in Nebraska and Kansas and is likely to occur in South Dakota, given the availability of suitable habitat, especially south of Highway 18 in Tripp County, South Dakota. However, the RUS action area is located outside of Tripp County.

Whooping Crane—Endangered

The USFWS concurred with a Not Likely to Adversely Affect determination for the overall project and associated conservation measures for this species on December 23, 2019. The Services' letter states, "No documented whooping crane historical or telemetry observations have been identified within 1.5 miles of the action area (for the overall project) and only one record is within 3.5 miles. Given (1) the limited number of individuals, (2) the lack of historical or recent telemetry records in the action area despite the long-term nature of the historical data and the fact that the telemetry data are not dependent on human observation, (3) the low probability of a collision during migration, and (4) the proposed conservation measures developed in conjunction with the Service, adverse effects are unlikely."

Whooping cranes use shallow, sparsely vegetated streams and wetlands in which they feed and roost during migration. Migration periods for the whooping crane can vary widely with weather patterns. In general, spring migration extends from March 1 through May 31, and fall migration extends from September 1 through November 30. Potentially suitable migration habitat was identified for four of the five pump stations associated with the RUS action area are within the 95 percent whooping crane migration corridors as shown below.

Table 3, Whooping Crane Occurrence Relative to Proposed New Power Lines¹³

Pump Station	Migration Corridor ^a	Power Line Length (miles) ^b	Distance to Historical Occurrence (miles) ^d	Distance to Telemetry Occurrence (miles) ^e
PS-15	—	24.7	14.9	61.1
PS-16	95%	41.9 ^f	4.3	10.5
PS-17	95%	10.9	11.8	23.4
PS-18	95%	26.0	3.6	4.6
PS-19	95%	20.5	1.8	8.5

^a 95 and 75 percent migration corridors represent a polygon that encompasses 95 and 75 percent, respectively of confirmed whooping crane migration observations (Pearse et al. 2018). A dash (-) indicates the pump station is located outside the corridors.

^b Power line lengths for PS-16 through PS-21 were provided by the applicant; lengths for PS-22 through PS-26 are estimated by the NPPD.

^d Shortest straight-line distance from the nearest historical record location to the nearest point of the power line.

^e Shortest straight-line distance from the nearest telemetry record to the nearest point of the power line.

^f of the 41.9 miles of power line, only approximately 14.8 miles are located within the 95 percent whooping crane migration corridor.

According to the Biological assessment, (1) new power lines do not equate to increased collision risk to migrating whooping cranes; (2) calculated collision risk based upon reasonably certain knowledge is very low; and, (3) USFWS-approved conservation measures would be applied, and effects, if any, to migrating whooping cranes resulting from the construction and operation of the proposed Project would be insignificant and discountable. This conclusion for effects on federal lands is additionally supported by the lack of recent mortality documentation on BLM lands within five miles of the action area. Similarly, effects from the decisions and/or actions of WAPA or RUS would be insignificant and discountable, based on the overall potential for collision risk and the fraction of that risk that would be attributed to each federal agency. Power lines with the corridor will be marked with bird flight diverters in accordance with the Avian Power line Interaction Committee Guidelines. In addition, surveys will be conducted during the spring and fall migration seasons.

¹³ BLM, November 26, 2019 Biological Assessment, page 79.

Figure 2. Map of Project Locations Vis-à-vis Whooping Crane Central Flyway¹⁴



Bald and Golden Eagle Protection Act

Minor to moderate temporary impacts on bald and golden eagles, if present within the power line ROW, could occur as a result of disturbance during construction of the proposed power lines. As discussed above for other bird species, the proposed power lines have the potential to pose an ongoing collision hazard to individual bald and golden eagles, which could result in effects on these individuals. However, such effects, if they occur, would not be likely to result in population-level impacts to these species.

H. Land Use and Recreation:

Most of the lines cross private lands; PS-15 crosses 1.6 miles of the Custer Gallatin National Forest. PS 15 and 16 cross state-managed lands (4.6 and 5.3 acres respectively). The transmission line for PS-6 crosses 1.6 miles (9.7 acres) of the Custer Gallatin National Forest. The U.S. Forest Service (USFS) issued a right-of-way permit on January 27, 2012. Overall impacts to land use would be minor.

The ROW associated with PS-15 would cross lands managed by South Dakota School and Public Lands, and the proposed Harding substation expansion would also be located on state trust

¹⁴ BLM, November 26, 2019 Biological Assessment, page 53.

lands. No developed recreation sites would be crossed or located within the ROW. ROW within state lands may be temporarily closed to dispersed recreation during construction, but may resume after construction is completed. Hunting opportunities on state lands crossed by the ROW may also be temporarily impacted if game species avoid the area due to construction activity.

The transmission line and ROW associated with PS-16 would cross lands managed by the USFS Custer Gallatin National Forest and South Dakota School and Public Lands. The potential expansion of the Buffalo Substation would also be located on state trust lands. No developed recreation sites would be crossed or located within the ROW. The areas crossed within the Custer Gallatin National Forest/Castles Natural Area are located adjacent to State Route 20 approximately 0.5 mile north of the Reva Gap Campground and trailheads associated with the Castles. The entrance to the campground and trailheads may be temporarily closed during transmission line stringing, but no other impacts on recreational uses are anticipated. ROW within state lands may be temporarily closed to dispersed recreation during construction but may resume after construction is completed. Hunting opportunities on state lands crossed by the ROW may also be temporarily impacted if game species avoid the area due to construction activity.

I. Noise:

The construction and operation will result in noise. Most noise will be temporary in nature and occur in the immediate construction area. Noise levels will depend on the activity and type of equipment used. Construction will normally occur during daylight hours and comply with local noise restrictions. Audible noise from usually occurs during humid or rainy conditions. Impacts from noise is anticipated to be minor once the construction is complete and due to rural locations of most of the facilities.

J. Visual Resources:

Overall, impacts to visual resources are expected to be minor. Visual impacts associated with the PS-15 infrastructure are anticipated to be minor. The proposed 24.7-mile transmission line would cross lands managed by South Dakota School and Public Lands for 4.6 miles. The expansion of the Harding substation would also be located on state trust lands.

Visual impacts associated with the PS-16 infrastructure are anticipated to be minor. The proposed 41.9-mile transmission line would cross lands managed by the USFS associated with the Custer National Forest (1.6 miles) and the Castles Natural Area (1.1 mile), as well as the South Dakota State Land Board (5.3 miles).

Visual impacts associated with the PS-17 infrastructure are anticipated to be minor. The approximately 10.9-mile transmission line would not cross any special interest lands, and its ROW would be located on undeveloped private land. The transmission line would be located adjacent to local roads for approximately 6.8 miles. The area is sparsely developed, although at least two farms are located within a mile of the transmission line. One farm is located within one mile of the proposed substation, which is proposed to be located on undeveloped private land.

Visual impacts associated with the PS-18 infrastructure are anticipated to be minor. The approximately 26.0-mile transmission line associated with PS-18 would be located adjacent to existing power lines and local roads for most of the route, which traverses a very sparsely populated area. The route would not cross any special interest lands.

Visual impacts associated with the PS-19 infrastructure are anticipated to be minor. The approximately 20.5-mile transmission line would be located adjacent to local roads for most of the route, located mostly on undeveloped and agricultural lands in a very sparsely populated area. No developed recreation sites were identified along the ROW. Existing power lines are located along mostly local roads followed by the proposed route.

K. Climate Impacts:

Greenhouse gas emissions from the proposed Project would contribute incrementally to global climate change in combination with all other global sources of greenhouse gas emissions as well as those discussed in the 2014 Keystone XL Final SEIS cumulative impacts discussion. Greenhouse gas emission impacts are additive as these gases accumulate in the atmosphere; impacts would likely be long-term because of the long atmospheric lifetimes of most greenhouse gases (typically decades to centuries). Cumulative greenhouse gas emissions from the proposed Project, in conjunction with other actions, would likely represent a significant environmental impact.

L. Environmental Justice:

Electric transmission lines would cross or be within one mile of 34 block groups; five of these 34 block groups met criteria as environmental justice communities which intersect with transmission and distribution to be provided to pump stations 17 and 18. None of the block groups with environmental justice communities had more than 1,250 residents, and all were in counties with population densities less than eight people per square mile. Minority and low-income populations would not experience disproportionately high and adverse impacts from construction, operation and maintenance of the proposed substations, transmission and distribution lines, and associated improvements due to the extremely low and sparse populations of these areas.

M. Cultural Resources:

Section 106 of the National Historic Preservation Act (NHPA), and its implementing regulations found at 36 CFR part 800, require Federal agencies to consider the effects of their actions on historic properties (sites, districts, buildings, structures, and objects) that are listed in, or are considered eligible for listing in, the National Register of Historic Places (NRHP). In so doing, federal agencies must consult with Tribal Historic Preservation Officers (THPOs), the Advisory Council on Historic Preservation (ACHP), interested members of the public, and appropriate State Historic Preservation Offices (SHPOs). The goal of consultation is to identify and resolve any adverse effects of an undertaking on historic properties. Pursuant to 36 CFR § 800.8, RUS has streamlined Section 106 with NEPA's requirement to consider the effects to cultural resources.

The regulations at 36 CFR § 800.2(a)(2) allow for the designation of a lead federal agency to coordinate Section 106 efforts for projects that involve more than one federal agency. DOS was designated the lead Federal agency for Section 106 for the Keystone Pipeline project. Lead agency status for Section 106 as well as roles and responsibilities of cooperating agencies are established in the Final Programmatic Agreement (PA) for the Keystone Pipeline Project (Attachment B) developed under 36 CFR § 800.14(b). The PA establishes that the Department of State coordinates Section 106 and provides guidance and support for the cooperating agencies; however, each agency is responsible for initiating and moving through the process and providing completed documentation to the DOS. The PA also establishes a phased approach for identifying and evaluating cultural resources in the alternatives in accordance with 36 CFR § 800.4(b)(2).

RUS initiated the Section 106 process with the establishment of the undertaking pursuant to 36 CFR § 800.3. Initiation letters were sent to all consulting parties after the DOS published the Notice of Intent in the Federal Register. RUS has used the NEPA process to satisfy the public involvement requirement for Section 106 as provided for in 36 CFR § 800.2(d)(3) and during the public scoping period, potential consulting parties were identified and notified of the project. For RUS funded actions, the parties identified include the list of tribes (Attachment B) and the South Dakota State Historic Preservation Office. A Cultural Resource Coordination Plan for the entire project, including those actions funded by RUS located in South Dakota, has been developed by the DOS (Attachment B).

RUS funded actions that define RUS's undertaking under Section 106 include Grand Electric's transmission and distribution to Pump Stations 15 and 16 and West Central's transmission and distribution to Pump Stations 18 and 19 (PS 15-19), all located in South Dakota. RUS was initially approached by the Rosebud Electric Cooperative to fund transmission and distribution to Pump Stations 20 and 21 (PS 20-21); however, it later withdrew from financing consideration. Section 106 initiation letters were sent and archaeological surveys were completed, but Section 106 was never concluded for PS's 20 and 21. However, in early 2020, the Rosebud Electric Cooperative withdrew its request for assistance from the RUS for transmission and distribution to provide power to PS-19 and 20.

The 2019 SEIS identified potential construction and operations related actions that could result in adverse effects to historic properties including: 1) Possible direct damage to sites within the construction footprint; 2) Possible indirect damage to sites through vibrations caused by earthmoving, heavy equipment, blasting, drilling, boring, etc.; 3) Potential indirect damage to sites from an unintended release of drilling fluids (i.e., a frac-out releasing benthic drilling mud onto nearby cultural resources) from use of HDD during construction operations; 4) Temporary loss of community access to a site, such as Traditional Cultural Properties, during construction; 5) Potential visual impacts to sites during construction while heavy equipment and numerous personnel are present; 6) Increased dust and noise, potentially impacting sites near the construction area; and, 7) Unanticipated discovery of previously unknown historic properties within the construction footprint. However, site survey forms, cultural resources surveys and consultation, including finding letters to consulting parties, conducted on PS's 15-19 in 2010, 2018, and 2019, have found that there will be no adverse effects to historic properties from any RUS funded actions. RUS provided final cultural resource documentation to the DOS for PS 15 in March of 2019 and for PS's 16-19 in September 2020.

6.0 Mitigation Measures:

In adopting the conservation and mitigation measures as outlined in the 2019 Final SEIS, RUS has ensured all practicable means to avoid or minimize environmental harm. The conservation measures included in the December 23, 2019 USFWS Biological Opinions are incorporated by references and included in Attachment A. The measures included in the 2013 Section 106 Programmatic Agreement and the attached Unanticipated Discovery Plan (Attachment B), are incorporated by reference. Mitigation measures of Chapter 8 of the 2019 Final SEIS are incorporated by reference and are provided in Appendix C. RUS will ensure that these requirements are made legally binding upon the borrowers for financial assistance pursuant to this Record of Decision, and borrowers must further convey these requirements in plan, specifications and contracts related to project implementation.

7.0 RUS Decision and Rationale for Decision

RUS decisions must comply with NEPA, ESA, NHPA, and all relevant federal, state and federal environmental regulations.

A. Decision

This Record of Decision documents findings specific to the proposed action and RUS has made the following decisions:

- Based on an evaluation of the information and impact analyses presented in the 2014 and 2019 SEISs and including the evaluation of all alternatives of the 2014 SEIS and in consideration of Rural Development's environmental policies and procedures (7 CFR part 1970), RUS finds that the overall impact analysis and evaluation of reasonable alternatives is consistent with NEPA.
- In the 2014 and 2019 SEIS, the Department of State, in cooperation with BLM, WAPA, USACE, and RUS, identified the Proposal as described in the FSEIS with proposed measures to minimize impacts as its preferred alternative. In this ROD, RUS identifies the 2014 and 2019 Final SEISs preferred alternative as its selected alternative and environmentally preferred alternative. This ROD concludes the RUS environmental review process in accordance with 7 CFR part 1970 (Environmental Policies and Procedures).
- RUS has received, or expects to receive, applications for a direct Federal Financing Bank (FFB) loan in support of 2014 and 2019 preferred alternative of the project proposal, which was approved by Presidential Permit on March 29, 2019.
- A review and analysis of the selected alternative's justification, associated engineering studies, and preliminary financial information has led to RUS'

concurrence with the selected alternative.

- RUS hereby decides that RUS financing, in the manner set forth in this decision, is environmentally appropriate in the action area analyzed, and should Grand Electric Cooperative and West Central Electric Cooperative apply to RUS for financing assistance for the Proposal, the consideration of Grand Electric Cooperative's and West Central Electric Cooperative's loan applications may proceed.

The following conditions apply:

- (1) Grand Electric Cooperative and West Central Electric Cooperative will implement the selected alternative as described in this ROD, with further details as described for the preferred alternative in the 2014 and 2019 SEISs.
- (2) Grand Electric Cooperative and West Central Electric Cooperative will obtain and comply with all applicable local, state and federal permits required for the construction and operation of the selected alternative.

B. Rationale and Compliance with Legal and Policy Mandates

The selected alternative, as described in the 2019 EIS and in this ROD, satisfies RUS's statutory, regulatory, and policy mandates.

C. NEPA

In the Final 2014 and 2019 SEISs, the Department of State and Cooperating Agencies have fully considered alternatives to the proposed action and concluded that the proposed action of the 2014 and 2019 SEISs which encompasses RUS's action to finance transmission/distribution to supply power to five pump stations in South Dakota best meets the purpose and need of the proposed Project. The agency has met the requirements of NEPA and agency policies and procedures for public involvement. The impacts, actions, and mitigation to reduce them are provided in Chapter Eight of the 2019 Final SEIS. Grand Electric Cooperative and West Central Electric Cooperative will be responsible for implementation of these measures. No significant adverse effects will result from RUS supported actions. However, significant adverse cumulative impacts on climate could be anticipated as a result of the overall project.

D. National Historic Preservation Act

Consultation with the Tribal Historic Preservation officers, State Historic Preservation officers, the Advisory Council on Historic Preservation, and the public and consulting parties is documented in Appendix A of the 2019 SEIS and Appendix E of the 2014 Final SEIS and through the fully executed PA. RUS applicants will follow the amended Programmatic Agreement of 2013 and the Inadvertent Discovery Plan provided of the PA if cultural and/or human remains are uncovered during construction (Attachment B).

E. Endangered Species Act

The USFWS issued a Biological Opinion December 23, 2019 covering ten protected species potentially affected by the Keystone XL Pipeline project after a Biological Assessment was prepared and submitted to the agency. USFWS concurred with the determination of the BA. The impacts to protected species resulting from RUS-supported activities to provide transmission/distribution to Pumping Stations 15-19 May Affect but are Not Likely to Adversely Affect listed threatened or endangered species. RUS believes that conservation measures required in the 2019 SEIS are effective mitigations.

F. Executive Order 11988, Flood Plain Management

Impacts to floodplains were avoided to the extent practicable. Implementation of storm water pollution prevention plans and associated best management practices will minimize impacts. Less than one acre of permanent impacts to floodplains is expected.

G. Executive Order 11990, Protection of Wetlands

Impacts to wetlands will be avoided to the extent practicable. Under the preferred alternative for the proposal, RUS's actions pose temporary impacts to 10.3 acres of wetlands.

H. RUS Loan Review

This ROD is not a decision on Grand Electric Cooperative's and West Central Electric Cooperative's loan application and, therefore, is not an approval of the expenditure of federal funds. This ROD authorizes that RUS funding is environmentally appropriate in the action area analyzed. Final approval and implementation of the loan decision may be made in a subsequent contract. The ROD concludes the agency's environmental review process in accordance with NEPA and agency policies and procedures (7 CFR part 1970). The ultimate decision as to loan approval depends upon the conclusion of the environmental review process as well as financial and engineering analysis. Issuance of the ROD will allow these reviews to proceed in the event that Grand Electric Cooperative and West Central Electric Cooperative apply to RUS for financial assistance.

I. Right to Administrative Review (Appeal Process)

This ROD concludes the agency's environmental review process pursuant to the National Environmental Policy Act and the agency's environmental policies and procedures (7 CFR 1970). There are no provisions to appeal this decision. Challenges to the ROD may be filed in federal district court under the Administrative Procedures Act.

J. Approval and Certification

This Record of Decision is effective upon signature. As the decision maker, I certify that RUS has considered all the alternatives, information, analyses, and objections submitted by State, Tribal, and local governments and public commenters for consideration by the lead and cooperating agencies in developing the environmental impact statement. I hereby approve the decision set forth above in Section 7.0(A) of this Record of Decision.

Chad Rupe
Administrator
Rural Utilities Service

Date

Contact Person: For additional information on this ROD, please contact Dennis Rankin, Rural Utilities Service, 1400 Independence Ave., SW, Mail Stop 1570, Room 4010, Washington, DC 20250-1570; telephone 202-720-1953; or email Dennis.Rankin@usda.gov.