PROGRAMMATIC AGREEMENT AMONG THE U.S. DEPARTMENT OF ENERGY AND ADVISORY COUNCIL ON HISTORIC PRESERVATION AND RED LAKE BAND OF CHIPPEWA INDIANS AND MINNESOTA HISTORIC PRESERVATION OFFICE REGARDING THE GREAT NORTHERN TRANSMISSION LINE PROJECT

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1. **WHEREAS,** pursuant to the authority delegated by the President of the United States under Executive Order 10485, as amended by Executive Order 12038, the U.S. Department of Energy ("DOE") receives and considers applications for permits for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States ("Presidential permit"); and

2. **WHEREAS,** Executive Order 10485, amended by Executive Order 12038, authorizes DOE to issue a Presidential permit if, *inter alia*, the issuance of the permit is found to be consistent with the public interest; and

3. **WHEREAS,** in deciding whether issuance of a Presidential permit is in the public interest, DOE determines the proposed project's impact on electric reliability as well as its potential environmental impacts, including potential impacts to historic properties or cultural resources; and

4. **WHEREAS,** the issuance of a Presidential permit by DOE for the border crossing indicates that there is no federal objection to the proposed international border crossing and a proposed project, but does not mandate that the proposed project be undertaken; and

5. **WHEREAS,** Minnesota Power, an operating division of ALLETE, Inc., has applied to DOE's Office of Electricity Delivery and Energy Reliability for a Presidential permit for the Great Northern Transmission Line Project ("Project") in accordance with the DOE's applicable administrative procedures at 10 CFR § 205.320 *et. seq.*; and

6. **WHEREAS,** the proposed Project consists of an approximately 224-mile, overhead, single-circuit 500 kV AC transmission line between the Minnesota - Manitoba border crossing northwest of Roseau, Minnesota, and terminating at the existing Blackberry 230/115 kV Substation near Grand Rapids, Minnesota; includes associated substation facilities and new transmission system modifications at the Blackberry Substation site, and construction of a new500 kV Series Compensation Substation to be located near the midpoint of the combined Manitoba and United States transmission line, and ancillary facilities (such as temporary work areas, contractor yards, laydown areas, access roads, fly-in sites, borrow and disposal sites); and

7. **WHEREAS,** Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108) ("Section 106"), directs federal agencies to take into account the effects of their undertakings on historic properties listed in or eligible for inclusion in the National Register of Historic Places ("National Register") and to afford the Advisory Council on Historic Preservation ("ACHP") a reasonable opportunity to comment; and

8. **WHEREAS,** the procedures set forth in 36 CFR §800 - Protection of Historic Properties define how federal agencies meet their statutory responsibilities pursuant to Section 106; and

9. **WHEREAS,** in considering whether issuance of a Presidential permit to Minnesota Power would be consistent with the public interest, DOE has determined that the proposed Undertaking ("Undertaking") requires compliance with Section 106; and

10. **WHEREAS,** pursuant to 36 CFR §800.14(b)(3) DOE has elected to execute this Programmatic Agreement ("PA") due to the fact that identification of historic properties and findings of effect to historic properties cannot be fully determined prior to DOE approval of the Undertaking; and

11. **WHEREAS,** the DOE has determined that the Undertaking has the potential to adversely affect historic properties listed in or eligible for the National Register, which includes historic properties of traditional religious and cultural importance to Indian Tribes; and

12. **WHEREAS,** this PA addresses stipulations for the planning and construction phases of the proposed Undertaking and does not address further operations and maintenance stipulations beyond the preliminary planning stages for operations and maintenance project phase; and

13. **WHEREAS,** DOE is consulting with the Minnesota Historic Preservation Office ("MnHPO"). MnHPO is a Signatory to this PA pursuant to 36 CFR §800.6(c)(1)(ii); and

14. **WHEREAS,** DOE recognizes its government-to-government obligation to consult with Federally-recognized Indian Tribes that may attach traditional religious and cultural significance to historic properties, including historic properties located off Tribal lands and those Traditional Cultural Properties that are eligible for the National Register of Historic Places that may be affected by the undertaking. DOE initiated consultation for this undertaking by letters dated June 27, 2014 and January 16, 2015, sent to the Assiniboine and Sioux Tribes of the Fort Peck Reservation; Bad River Band of Lake Superior Chippewa; the Bois Forte Band of Chippewa; the Cheyenne River Sioux Tribe; the Crow Creek Sioux; the Flandreau Santee Sioux; the Fond du Lac Band of Lake Superior Chippewa; the Forest County Potawatomi Community; the Grand Portage Band of Ojibwe; the Hannahville Indian Community; the Keweenaw Bay Indian Community; the Lac Courte Orilles Band of Lake Superior Chippewa; the Lac Vieux Desert Band of Lake Superior Chippewa; the Leech Lake Band of Ojibwe; the Lower Brule Sioux; the Lower Sioux Tribe; Mille Lacs Band of Ojibwe; the Northern Arapaho Tribe; the

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Northern Cheyenne Nation; the Prairie Island Indian Community; the Shakopee Mdewakanton Sioux Community; the Sokaogon Chippewa Community; the Red Cliff Band of Lake Superior Chippewa; the Red Lake Band of Chippewa Indians; the Rosebud Sioux Tribe; the Santee Sioux Nation; Sisseton-Wahpeton Oyate of Lake Traverse Reservation; the Spirit Lake Tribe; the Standing Rock Sioux Tribe; the Three Affiliated Tribes of Fort Berthold; the Turtle Mountain Band of Chippewa; the Upper Sioux Community; the White Earth Band of Ojibwe; and the Yankton Sioux Tribe pursuant to 36 CFR §800.2(c)(2)(ii) and consistent with Executive Order 13175;[1] and

15. **WHEREAS,** DOE is consulting on a government-to-government basis pursuant to 36 CFR §800.14(f)(1) with the Red Lake Band of Chippewa Indians ("Red Lake Band") and the Red Lake Band Tribal Historic Preservation Officer (THPO) recognized by the National Park Service pursuant to 54 USC § 302702. Red Lake Band is a Signatory to this PA under 36 CFR §800.6(c)(1)(ii);

16. **WHEREAS,** DOE is consulting on a government-to-government basis pursuant to 36 CFR §800.14(f)(1) with the Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe; Mille Lacs Band of Ojibwe; and the White Earth Band of Ojibwe and the relevant THPOs recognized by the National Park Service pursuant to 54 USC § 302702. These Tribes are invited to be Invited Signatories to this PA under 36 CFR §800.6(c)(2)(ii) and as set forth under 36 CFR §800.6(c)(2)(i)-(iv), pursuant to an invitation to Bois Forte Band of Chippewa, Fond du Lac Band of Ojibwe, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, and White Earth Band of Ojibwe via letter dated December 10, 2015; and

17. **WHEREAS,** DOE is consulting on a government-to-government basis pursuant to 36 CFR §800.14(f)(1) with the Assiniboine and Sioux Tribes of the Fort Peck Reservation; Bad River Band of Lake Superior Chippewa; the Cheyenne River Sioux Tribe; the Crow Creek Sioux; the Flandreau Santee Sioux; Lac Vieux Desert Band of Lake Superior Chippewa Indians; the Lower Brule Sioux; the Lower Sioux Tribe; the Northern Arapaho Tribe; the Northern Cheyenne Nation; the Red Cliff Band of Lake Superior Chippewa; the Rosebud Sioux Tribe; the Santee Sioux Nation; Sisseton-Wahpeton Oyate of Lake Traverse Reservation; the Spirit Lake Tribe; the Standing Rock Sioux; the Turtle Mountain Band of Chippewa; and the relevant THPOs ("Consulting Tribes"). DOE extended an invitation to these Consulting Tribes to be Concurring Parties to this PA under 36 CFR §800.6(c)(3) in letters dated January 16, 2015; and

18. **WHEREAS,** DOE acknowledges that Indian Tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them. DOE is aware that frequently historic properties of religious and cultural significance are located on ancestral, aboriginal, or ceded lands of Tribes. DOE recognizes that ceded treaty rights and associated activities are of paramount concern to

[1] As a part of its initial identification and outreach efforts, DOE identified the Wahpekute Band of Dakota as a potential consulting Indian Tribe under Section 106 of the NHPA consistent with Executive Order 13175. However, it was established through consultations that this tribe is not a Federally-recognized one and DOE subsequently modified this list of tribes to those that are Federally-recognized at the request of consulting Tribes.

Indian Tribes participating in this consultation and must be considered in the decision-making process. Indian Tribes will continue to be provided reasonable opportunity to identify concerns about historic properties; advise on the identification and evaluation of historic properties, including those of traditional cultural and religious importance; monitoring field survey work for such historic properties; articulate views on the Undertaking's potential effects on such properties; and participate in the resolution of adverse effects pursuant to 36 CFR §800.2(c)(2)(ii); and

19. **WHEREAS,** DOE invited the ACHP to participate in consultation by letter dated January 14, 2015, in accordance with 36 CFR §800.6(a)(1)(i)(C), and the ACHP accepted DOE's invitation to participate by letter dated March 25, 2015.The ACHP is a Signatory to this PA pursuant to 36 CFR §800.6(c)(1)(ii).

20. **WHEREAS,** construction of portions of the Undertaking will also require authorization by the U.S. Army Corps of Engineers ("USACE") pursuant to Section 404 of the Clean Water Act of 1973(33U.S.C. §1344), and of the Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C § 403). The USACE is a Consulting Party for this Section 106 consultation and the development of this PA; and

21. **WHEREAS,** the U.S. Fish and Wildlife Service ("USFWS") is a bureau within the Department of the Interior and has jurisdiction by law and/or has special expertise regarding Endangered Species Act (16 USC § 1531 et. seq.), Migratory Bird Treaty Act (16 USC § 1531 et. seq.), Bald and Golden Eagle Protection Act (16 USC § 668 et seq.), Fish and Wildlife Coordination Act (16 U.S.C. 661-667e),the National Wildlife Refuge System Administrative Act (16 USC § 668dd-68ee), Executive Order 13186, and DOE and USFWS Memorandum of Understanding (dated September 12, 2013). The USFWS is a Consulting Party for this Section 106 consultation and the development of this PA; and

22. **WHEREAS,** DOE, USACE, and USFWS have agreed that the DOE is the lead federal agency for purposes of compliance with Section 106, in accordance with 36 CFR § 800.2(a)(2);and

23. **WHEREAS,** Minnesota Power, as the applicant for a Federal Presidential permit, has participated as a Consulting Party in consultations for this Undertaking will have a direct role and responsibility in carrying out provisions of this PA in continued consultation with MnHPO, participating Indian Tribes, and others pursuant to 36 CFR §800.2(c)(4). Minnesota Power is an Invited Signatory to this PA pursuant to an invitation extended by DOE under 36 CFR §800.6(c)(2); and

24. **WHEREAS,** for the purposes of this PA, Consulting Parties are parties that have consultative roles in the Section 106 consultation under 36 CFR §800.2; Signatories are parties with sole authority to execute, amend, or terminate this PA under 36 CFR §800.6(c)(1); Invited Signatories are parties that sign this PA at the invitation of DOE under §800.6(c)(2) and by signing have the same rights with regard to seeking amendment or termination of this PA as other signatories except that refusal of any party

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invited to become a signatory to this PA does not invalidate this PA, as set forth in §800.6(c)(2)(i)-(iv); Concurring Parties are parties invited to concur on the PA under 36 CFR §800.6(c)(3); and

25. **WHEREAS,** for the purposes of providing the public the opportunity to comment on the National Historic Preservation Act Section 106 Consultation process and in accordance with 36 CFR §800.3(b), DOE will make any cultural resources reports and information, including any "adverse effect" determinations publicly available on the Project EIS website (http://www.greatnortherneis.orghttp://www.greatnortherneis.org) subject to confidentiality concerns as appropriate pursuant to Section 304 of the NHPA; and

26. **WHEREAS,** the Minnesota Public Utilities Commission ("MN PUC") selects the final route alternative and proposed transmission line alignment for the Project under the State of Minnesota's Power Plant Siting Act ("PPSA") based on the proposed Project EIS and record in MN PUC Docket No. E-015/TL-14-21; and

27. **WHEREAS,** the MN PUC has issued a Route Permit ("Route Permit") for the Project under the PPSA on April 11, 2016, choosing the proposed Blue Route, in combination with the Effie and Trout Lake variations as the designated route for the Undertaking, as reflected in the attached maps of the selected Route Permit alternative; and

28. **WHEREAS,** consistent with 36 CFR §§ 800.4(a) and 800.16(d), and based upon the Route Permit, as issued by the MNPUC, for the Undertaking, DOE has determined that the area of potential effects ("APE") for this Undertaking is defined to include all areas that could be directly or indirectly affected by construction and/or operation of the Undertaking as proposed at the time of execution of this PA; and

29. **WHEREAS,** the Undertaking's APE generally includes the geographic area defined in maps in Attachment 1 which indicate the selected Route Permit alternative. The Undertaking's APE may be further refined as a result of additional consultation and/or cultural resources investigations, including the identification of historic properties, and/or engineering assessments and/or route redesign/realignment; and

30. **WHEREAS,** DOE has determined the direct APE for the Undertaking will encompass the 200-foot wide Right -of-Way (ROW) for detailed identification and evaluation efforts for the selected Route Permit alternative ("Route Permit ROW,") including ground-disturbing activities associated with installation of the transmission towers, construction of the converter station construction of a series compensation station, regeneration station(s), and ancillary facilities (such as temporary stringing areas, laydown areas, access roads, fly-in sites); and

31. **WHEREAS**, consistent with 36 CFR § 800.4(a) and 800.16(d), DOE has determined that the APE for the Undertaking includes an indirect APE that will address the potential indirect effects, including, but not limited to, visual effects of the Undertaking, which will extend for a maximum of one-half mile from Undertaking components; and,

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NOW, THEREFORE, DOE, the ACHP, Red Lake Nation, and Minnesota SHPO (the "Signatory Parties") agree that the Undertaking shall be administered and implemented in accordance with the following stipulations to satisfy the responsibilities of the DOE under Section 106 for all aspects of the Undertaking.

STIPULATIONS

DOE, in coordination with its applicant Minnesota Power, will ensure that the following measures are implemented.

I. ROLES AND RESPONSIBILITIES

DOE acknowledges that as lead Federal agency, it is responsible for the implementation of the following stipulations. DOE will ensure, in coordination with its applicant, Minnesota Power, that the stipulations that follow are implemented upon execution of this PA.

Minnesota Power will implement this PA in accordance with its terms. Minnesota Power's actions under this PA include establishing and facilitating open communication between Minnesota Power, the parties to the PA, and the Consulting Parties, as appropriate, including maintaining the points-of-contact list, and distribution of documents as directed by DOE and in accordance with the PA; preparing historic property identification documentation; preparing and implementing all related reports and plans as identified in this PA, including a Historic Properties Treatment Plan ("HPTP") providing monitoring and status reports; maintaining confidentiality and treatment of sensitive information; and developing and implementing curation and repatriation plans, where necessary.

Signatories, Invited Signatories, and Concurring Parties will participate in the implementation of this PA in accordance with the roles identified in the preamble to this PA and as identified in the stipulations to this PA.

All consulting parties to the Section 106 consultation process ("the Consulting Parties") are identified in the Consulting Parties List included in Attachment D to this PA and, will in accordance with the terms of this PA, be provided opportunities to continue engaging in consultation, including consultation on further identification work, the development of the HPTP, any supplements to identification or the HPTP, and review of status reports.

II. CONDITIONS

This PA is prepared with reference to:

1. The ACHP's *Guidance on Conducting Archaeology under Section 106* (1/1/2009);

2. The ACHP's February 23, 2007,*Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects*;

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3. The ACHP's *Meeting the "Reasonable and Good Faith Effort" Identification Standard in Section 106 Review*;

4. The Native American Graves Protection and Repatriation Act of 1990(25 USC 3001 *et seq.*) (NAGPRA) and its implementing regulations at 43 CFR Part 10;[2]

5. Minnesota Statute 307.8, "Private Cemeteries Act", provisions established by the State Archaeologist and the Indian Affairs Council;

6. The Minnesota Historical Society's *SHPO Guidelines for History/Architecture Projects in Minnesota* (July 2009) and the Minnesota Historical Society's *SHPO Manual for Archaeological Projects in Minnesota* (July 2005);

7. *The Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44742, September 29, 1983), as amended and revised;

8. *The Secretary of Interior's Standards for Treatment of Historic Properties* (60 FR 35842-35844, July 12, 1995), as amended and revised; [3]

9. The DOE's *American Indian and Alaska Native Tribal Government Policy* (DOE2006); and

10. DOE Policy 141.1: *Management of Cultural Resources.*

III. PROFESSIONAL STANDARDS

A. The DOE, in cooperation with Minnesota Power, shall ensure that all activities carried out pursuant to this PA will be carried out by or under the direct supervision of historic preservation professionals who meet, at minimum, the professional qualification standards as defined in the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738–44739, September 29, 1983) in the appropriate field.

B. All historic property identification, evaluation, and survey work carried out pursuant to this PA will meet the Secretary of the Interior's Standards for Archaeology and Historic Preservation (48 FR 44716), applicable National Register of Historic Places Bulletins,

[2]Pursuant to 43 CFR Part 10, NAGPRA applies to human remains, sacred objects, and items of cultural patrimony (described as "cultural items" in the statute) located on federal or tribal lands or in the possession and control of federal agencies or certain museums. The Undertaking will not occupy tribal lands. Notwithstanding the limits of NAGPRA's applicability, the principles described in NAGPRA and its implementing regulations will serve as guidance for Minnesota Power's actions should remains or associated artifacts be identified as Native American, and to the extent such principles and procedures are consistent with any other applicable requirements.
[3]*The Standards*, revised in 1992, were codified as 36 CFR Part 68 in 1995. The revision replaces the 1978 and 1983 versions of 36 CFR 68 entitled The Secretary of the Interior's Standards for Historic Preservation Projects.

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including *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties* (1990; Revised 1992; 1998), and applicable State of Minnesota guidelines.

C. Indian Tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them.

1. Whether an Indian Tribal expert is qualified to assess the significance of a property to that Indian Tribe shall be determined by the Indian Tribe invited to participate in the identification and evaluation activities as set forth in Stipulation VI.

2. Whether an Indian Tribal monitor is qualified to perform monitoring activities under this PA shall be determined by the Indian Tribe invited to participate in monitoring activities as set forth in Stipulation VIII.

IV. CONFIDENTIALITY AND WITHHOLDING OF SENSITIVE INFORMATION

DOE, Signatories, Invited Signatories, and Concurring Parties to this PA agree to maintain the confidentiality of the locations of all archaeological and burial sites and of other information pertaining to historic properties (collectively, sensitive information) to the extent permissible under applicable law. During this Section 106 consultation and under the terms of this PA, sensitive information was and will continue to be generated, submitted, and/or included in documentation to be generated and/or submitted to Federal and State agencies that sign this PA. For sensitive information and any documentation containing sensitive information generated by a Federal agency that signs this PA, to the extent permitted by law, the permission of that agency is required before dissemination of any such information by any Signatory, Invited Signatory, or Concurring Party to this PA. For sensitive information and documentation containing sensitive information generated or held by a Federal agency that signs this PA, should a conflict arise between any Consulting Party about the releasability of the sensitive information or of the documentation containing the sensitive information, the Federal agency that signs this PA and that generated or holds the sensitive information or documentation containing the sensitive information will contact the Secretary of Interior to implement the provisions set forth in Section 304 of the NHPA (54 USC § 307103) and 36 CFR § 800.11(c). Pending implementation of the Section 304 provisions, the confidentiality of the information must be preserved by all Signatories, Invited Signatories, and Concurring Parties to the extent permissible under applicable law. Consulting Parties are encouraged to abide by this stipulation as well.

V. AREA OF POTENTIAL EFFECTS (APE)

A. Defining the Area of Potential Effect (APE)

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Pursuant with 36 CFR §§ 800.4(a) and 800.16(d), DOE has determined that the area of potential effects ("APE") for this Undertaking is defined to include all geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties listed in or determined to be eligible for listing in the NRHP, including traditional cultural properties ("TCPs"), and historic properties of traditional religious and cultural significance.

The APE for direct effects and the APE for indirect effects, which will be subject to detailed historic property identification and evaluation efforts, are defined below. The APE for direct effects and the APE for indirect effects, when referred to together, are called simply "the APE." DOE may modify the APE, as provided for in the Preamble, and in accordance with Stipulation V.B of this PA. Disputes regarding modifications to the APE will use the process described in Stipulation XIV.

1. APE for Direct Effects

   a. The APE for direct effects generally incorporates all areas involving ground-disturbing activities associated with the construction of the Undertaking. For the High Voltage Alternating Current (HVAC) transmission line system the APE for direct effects encompasses the length (approximately 224-miles long) and width of the MN PUC-approved Route Permit ROW (typically 200-feet wide), and the length and width of all MN PUC-approved Route Permit ROW(s) for other Undertaking components associated with the construction and operation of the transmission line as identified by the MN PUC. The APE for direct effects for these Undertaking features will also include temporary workspaces, such as stringing areas, laydown areas, staging areas, fly-in sites, and waste disposal areas (collectively, "temporary use areas"). The APE for direct effects for temporary workspaces associated with these project features will be the limits of the temporary use areas. [4]

   b. The APE for direct effects for new (including temporary and permanent) access roads in areas outside of the Undertaking components described in Stipulation V.A above is the full length and width of the new access road or easement. For existing access roads that are improved as a part of the Undertaking, the APE for direct effects will be within the limits of the improvements and associated temporary use areas.

[4] Minnesota Power has committed to certain Applicant Proposed Measures (APMs) as part of the GNTL Project. The implementation of the APMs, including those for impacts to historic properties, is intended to avoid and/or minimize potential construction and operation of the Undertaking. For example, Minnesota Power committed to engineering shifts in the transmission line project alignment to avoid construction over existing wells, aesthetic impacts, floodplains, wetlands, and bird concentration sites to the extent practical and avoidance of cultural resources in accordance with this PA (See Section 2.13 of Final Environmental Impact Statement for the Great Northern Transmission Line Project).

c. The APE for direct effects includes other permanent Project facilities such as converter stations, substations, and ancillary facilities, as well as the temporary use areas associated with these Project components. [5]

2. APE for Indirect Effects

a. The APE for indirect effects is the geographic area including and extending beyond the APE for direct effects (defined above) to include geographic areas where the Undertaking has the potential to indirectly cause alterations to the character or use of a historic property. Examples of indirect effects include those that may change the character of the historic property's use or physical features within its setting that contribute to its historic significance, as well as introduce visual, audible, or atmospheric elements that diminish the integrity of the historic property's characteristics that qualify a property for inclusion in the NRHP.

b. The APE for indirect effects is the area measured up to one-half mile (0.5 miles) from Undertaking components, or within the extent of the viewshed, whichever is closer. Indirect visual effects from temporary access roads occurring at ground level and temporary work areas without an above-ground profile will have minimal or no potential for indirect effects and therefore will only be considered within the APE for direct effects.

c. Where the APE for indirect effects include historic properties that are of traditional religious and cultural significance to Tribes, including TCPs, traditional cultural landscapes ("TCLs"), National Historic Landmarks, or National Historic Trails for which setting, feeling, and/or association contribute to eligibility and significance, additional analyses may be required and the APE for indirect effects may be modified accordingly following the process at Stipulation V.B below.

d. Notwithstanding the previous subsection, potential impacts from indirect effects from the Undertaking will be considered when use of ceremonial grounds or traditional cultural properties may be affected by construction activities. Minnesota Power will provide DOE and consulting Tribes with the estimated construction schedule for the Undertaking one month (30-days) prior to, and a detailed construction schedule one week (7-days) prior to, beginning ground disturbing activities for each segment of the Undertaking being constructed. A consulting Tribe concerned that such construction could potentially impact use of ceremonial grounds or traditional cultural properties, including the exercise of existing treaty rights, within one mile (1-mile) for

[5]The approximate footprint for permanent Undertaking facilities (such as converter stations, substations, and ancillary facilities, access roads, as well as the temporary use areas associated with these Project components) as approved by the MN PUC Route Permit (April 11, 2016) can be found in the table included as Attachment B to this PA.

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such construction activities shall as soon as practicable notify DOE and Minnesota Power of such potential impact.

3. Cumulative Effects

Under 36 CFR §800.5(a)(1), adverse effects may include reasonable foreseeable effects that may occur later in time, be farther removed in distance, or be cumulative. For the purposes of this PA, the potential cumulative adverse effects to historic properties that are archeological resources will be analyzed using the total of the geographic areas defined for the APE above. For historic properties that are not archaeological resources, the APE includes the 200-feet ROW width of the MN PUC-approved Route Permit ROW and footprint of ancillary facilities and temporary work areas plus the distance of a one-mile radius. The additional one-mile for historic properties that are not archaeological resources serves to address the potential cumulative adverse effects the undertaking may have on the context and setting of any identified historic properties including those of traditional religious and cultural significance to tribes.

B. Modifying the APE

The APE, as currently defined in Stipulation V.A above, encompasses areas sufficient to accommodate all is based upon the components of the Undertaking under consideration as of the date of the execution of the PA and is shown in the maps of the MN PUC Route Permit alternative in Attachment A.

1. If, following execution of the PA, DOE, in cooperation with Minnesota Power, and in consultation with Consulting Parties, determines that, as a result of completion of Undertaking design there are substantial changes to the nature and extent of the Undertaking necessitating a reconsideration of the APE determination made at the time of execution of the PA then DOE may use the process set forth herein to determine whether to modify the APE.

2. Any Consulting Party to this PA may propose that the APE be modified by providing a written request to DOE, including justification for and description of the proposed modification. This written request may also include any relevant information regarding historic properties, as appropriate. The written request to DOE will include copies of such request to all other Consulting Parties. DOE shall consult with the Consulting Parties within thirty (30) calendar days of receipt of such a written request in an effort to reach consensus on the proposed APE modification. If the Consulting Parties agree to modify the APE consistent with the proposal, or agree upon a subsequent modification to the original written request, DOE will render a decision consistent with that agreement and will notify all Consulting Parties of the decision in writing. If the parties cannot reach agreement, the matter will be resolved in accordance with Stipulation XIV.

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3. DOE's decision to modify the APE will not require an amendment to the PA. Regardless of whether there is agreement among the Consulting Parties as to the scope of the modified APE, the modified APE will be attached to the PA as a new appendix and become effective upon distribution by DOE to all Consulting Parties.

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

As explained in Whereas Clause 21, DOE, in cooperation with Minnesota Power, and in consultation with MnHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties will perform a phased identification and evaluation of historic properties within the APE.

Because the Undertaking may also be designed and constructed in phases, generally based on geographic segments, the survey(s) and report(s) contemplated by this Stipulation may also be undertaken, prepared, and issued for review in phases, but prior to commencement of all Undertaking-related ground-disturbing construction activities within an identified geographic area and a defined segment, as appropriate and according to Minnesota Power's preliminary construction schedule at the time of execution of this PA (Attachment B to this PA). Any updates to Minnesota Power's preliminary construction schedule would be based upon quarterly reports as described in Stipulation XII of this PA.[6]

In implementing this Stipulation, DOE acknowledges the special expertise of Indian Tribes in assessing the National Register eligibility of historic properties that may possess religious and cultural significance to them.

A. Level of Effort for Identification of Historic Properties

1. DOE shall consult with MnHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, Minnesota Power, and other Consulting Parties to ensure that the level of effort for the identification of historic properties meets the reasonable and good faith effort per 36 CFR§ 800.4(b)(1)and that identification will be completed in accordance with the *Secretary of the Interior's Standards and Guidelines for Identification and Evaluation.*

2. For those portions of the APE lying within the exterior boundaries of Red Lake Reservation, DOE shall consult with Red Lake Nation in lieu of the MnHPO in accordance with 36 CFR §800.3(c)(1).

[6]Adjustments to the proposed construction schedule may occur as development of the Project proceeds, if needed, and would be not require an amendment to this PA. Any updated schedules will be attached to this PA

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3. In determining level of effort within the APE, DOE will consult with MnHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, Minnesota Power, and the other Consulting Parties to ascertain that:

    a. the proposed survey scope, methods, and procedures for identification and evaluation of historic properties meeting a reasonable and good faith effort, including specifics regarding scope of effort for identification and evaluation of historic properties which may only partially fall within the APE;

    b. survey results of identification activities are integrated into the preservation planning process for design, engineering, and construction of the proposed Undertaking; and

    c. identification activities include explicit procedures for record keeping and information distribution that takes into account the need to restrict certain information that may be sensitive to tribal culture or history in accordance with Stipulation IV above.

4. DOE and Minnesota Power shall consider applicable guidance prepared by the MnHPO, the ACHP, and the National Park Service, as discussed in Stipulation II, and be guided by the findings and recommendations of the *Great Northern Transmission Line Phase IA Cultural Resources Report,*.[7] Minnesota Power shall prepare the document(s) specifying the scope, methods, and procedures for identification and evaluation of historic properties once determined as set forth in this Stipulation.

5. DOE will submit determinations set forth in this Stipulation to the MnHPO, or Red Lake Nation for portions of the APE lying within the exterior boundaries of Red Lake Reservation, who provide comments and recommendations to the DOE within thirty (30) days of receipt of the document(s) specifying the scope, methods, and procedures for identification activities as prepared by Minnesota Power and determined by the DOE. The provisions of this Stipulation will be completed before identification of historic properties in the APE may be undertaken.

6. Minnesota Power shall implement the level of effort for the

[7] 10,000 Lakes Archaeology, Inc., *Phase IA Cultural Resources Investigations for the Proposed Great Northern Transmission Line, Roseau, Lake of the Woods, Beltrami, Koochiching, and Itasca Counties, Minnesota* (South St. Paul, Minnesota; March 26, 2015). This report is included in Appendix P to the Final EIS at: http://www.greatnortherneis.org/.

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identification survey(s) once the scope, methods and procedures have been agreed upon by DOE, the MnHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, and the other Consulting Parties, as appropriate. If the parties cannot reach agreement, the matter will be resolved in accordance with Stipulation XIV.

7. Historic property identification and evaluation efforts will include, but not be limited to, at a minimum:

   a. Archaeology

      i. completion of Phase I reconnaissance survey with recommendations for Phase II intensive survey of any identified properties requiring evaluation for NRHP-eligibility, if necessary; and

      ii. completion of Phase II intensive survey for any properties identified within the APE which may be affected (directly or indirectly) by the Undertaking.

   b. History/Architecture

      i. Completion of Phase I reconnaissance survey and recommendations for Phase II intensive survey of any identified properties requiring evaluation for NRHP-eligibility, if necessary; and
      ii. Completion of Phase II intensive survey for any properties identified within the APE which may be affected (directly or indirectly) by the Undertaking.

   c. Completion of ethnographic, ethnohistoric, or traditional cultural properties studies, to include traditional cultural landscape inventory, prepared in coordination with Red Lake Nation.

   d. Minnesota Power shall describe the implementation of the survey(s) in reports to be prepared pursuant to Stipulation VI.C.

B. Identification and Evaluation of Historic Properties within the APE

1. Identification and evaluation of historic properties within the APE, DOE, and Minnesota Power will proceed pursuant to 36 CFR 800.4 (c) and in accordance with the identified level of effort and scope as determined under Stipulation VI (A).

2. When applying the National Register criteria to historic properties located *off tribal lands,* DOE and Minnesota Power shall evaluate the historic properties and consult with the MnHPO, Red Lake Nation, Bois Forte Band of Chippewa;

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the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and the other Consulting Parties. If the parties can agree on National Register eligibility, then the resource will be considered in accordance with this determination. If the parties fail to reach agreement on National Register eligibility, DOE will resolve National Register eligibility in accordance with 36 CFR § 800.4(c)(2).

3. When applying the National Register criteria to identified historic properties located *on tribal lands,* DOE and Minnesota Power shall consult with Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes and relevant THPOs, as appropriate If DOE, Minnesota Power, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, and relevant THPOs can agree on National Register eligibility, then the resource will be considered in accordance with this determination. If the parties fail to reach agreement, DOE shall seek resolution in accordance with 36 CFR § 800.4(c)(2).

4. At the direction of DOE, Minnesota Power shall prepare documentation in accordance with Stipulation VI.C below. Review of the documentation shall be conducted in accordance with provisions of Stipulation VI.C. At the direction of DOE, Minnesota Power shall prepare revised documentation incorporating DOE's National Register-eligibility determinations, or the Keeper's determination, if necessary (36 CFR §800.4(c)(2)).

C. Review of Historic Property Identification and Evaluation Documentation on Identification and Evaluation

1. Required documentation (hereinafter referred to as "survey reports" or "TCP and TCL report") may be prepared and reviewed in phases by construction segment based on geography in accordance with this Stipulation.

2. Minnesota Power shall draft survey report(s) documenting the results of identification and evaluation efforts in accordance with Stipulations VI.A and B. The report(s) shall include a map or maps showing the APE (as determined in Stipulation IV), including any modifications to the APE, the MN PUC Route Permit ROW, and the location(s) of all identified historic properties, including the results of literature searches that identify any historic properties that are National Register-listed, as well as those that have been previously determined eligible or ineligible for listing in the National Register through a previous Federal review.

   a. The draft survey report(s) shall also include recommendations regarding the National Register eligibility of identified properties; specify those properties

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for which either no additional evaluation is required and properties for which additional study is needed in order to fully evaluate for National Register eligibility; and make recommendations regarding potential effects on historic properties which may be caused by the Undertaking, and measures for the treatment of historic properties that might avoid, minimize, or mitigate adverse effects.

b. Minnesota Power shall submit the draft survey report(s) to Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, Red Lake Nation. the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties for review. The parties shall have thirty (30) days from receipt to provide written comments to DOE and Minnesota Power on the findings and recommendations presented in the draft survey report(s). DOE and Minnesota Power shall take into account all comments timely provided.

c. Upon determining that Minnesota Power has considered all comments from Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties and revised the draft survey reports as appropriate, DOE will direct Minnesota Power to prepare final survey reports. DOE will submit the final survey reports with the agency's determinations in regards to identification and evaluation of historic properties within the Undertaking's APE to the MnHPO for review and comment. The MnHPO will have thirty (30) days to provide written comments to the DOE. Concurrent with the MnHPO review report, findings, and recommendations as appropriate, DOE will direct Minnesota Power to provide all Consulting Parties with one (1) bound hardcopy of the final survey report(s) with unbound individual historic property inventory forms. All parties shall have thirty (30) days from receipt of the final report(s) to provide written comments to DOE on the adequacy of the documentation and determinations of the National Register-eligibility of properties identified within the APE.

2. Red Lake Nation, in coordination with Minnesota Power, and in cooperation with Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, and Consulting Tribes, and relevant THPOs, shall draft a TCP and TCL report documenting, as applicable, the results of TCP and TCL survey efforts carried out in accordance with the *Traditional Cultural Property and Traditional Cultural Landscape Inventory Proposal: Great Northern Transmission Line* (2016) included as Attachment E to this PA.

a. The TCP and TCL report shall include findings that consolidate the information derived from ethnographic questionnaire(s) and TCP/TCL validation and evaluation procedures; a listing of affiliated and interested

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Indian Tribes that participated in the inventory (hereinafter referred to as "participating Tribes"); the ethnohistoric context and tribal histories as provided by the participating Tribes; a list of TCPs and TCLs identified as a result of the proposed survey questionnaire(s),informant interview(s), archaeological survey, and field visits to the TCPs/TCLs of interest to participating Tribes.

b. The TCP and TCL report shall include a complete list of identified TCPs and TCLs; recommendations regarding TCP/TCL eligibility and the National Register criteria under which they are recommended eligible; identification of the potential effects of the Undertaking on eligible TCPs and TCLs; and potential treatments, including measures to avoid, minimize, or mitigate effects of the Undertaking, that may be acceptable to the participating Tribes that value each of the TCPs and TCLs.

c. Red Lake Nation, in coordination with Minnesota Power, shall provide DOE, USACE, USFWS, ACHP, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, and relevant THPOs of participating Tribes with a draft of the TCP and TCL report for all parties above for review. All parties shall have thirty (30) days from receipt to provide written comments to DOE, Red Lake Nation, and Minnesota Power on the findings and recommendations presented in the draft TCP and TCL report(s).

d. DOE, Red Lake Nation, and Minnesota Power shall ensure that written comments on the draft reports which are submitted in a timely manner are taken into account in the preparation of the TCP and TCL final report(s) and in the implementation of the terms of the PA. DOE may request a second fifteen (15) day review from USACE, USFWS, ACHP, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, and relevant THPOs of participating Tribes to confirm that comments have been sufficiently addressed.

e. Upon determining that Red Lake Nation has considered all comments from reviewers of the TCP and TCL draft report(s), and revised the TCP and TCL draft report (s), as appropriate, DOE will advise Red Lake Nation, in coordination with Minnesota Power, that one (1) unbound hard copy of the TCP and TCL final report(s) shall be provided to DOE, ACHP, USACE, USFWS. DOE will submit the final survey reports with the agency's determinations in regards to identification and evaluation of TCPs and TCLs within the Undertaking's APE and *off-tribal lands* to the MnHPO for review and comment. The MnHPO will have thirty (30) days to provide written comments to the DOE. Once DOE has considered all comments from MnHPO in regards to these agency's determinations, as appropriate. Within fifteen (15)

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days of resolving MnHPO written comments to such determinations, DOE shall make one (1) unbound hard copy of the final TCP and TCL report available to all Consulting Tribes, and relevant THPOs.

3. Reviewers of any reports may request extensions from DOE in writing by indicating justification for the extension. At DOE's discretion, the review period may be extended.

4. If the review period passes with no request for extension and no reviewers submit written comments on any report, DOE shall document this and proceed with the documentation and, where appropriate, the recommendations of National Register eligibility.

5. DOE will consider the process for reviewing identification and evaluation documentation or any reports complete when DOE, in consultation with MnHPO, determines that Minnesota Power and/or Red Lake Nation have considered all comments, and revised all reports as appropriate, and when MnHPO provides to DOE written concurrence with the agency's findings and determinations in regards to the identification of historic properties.

VII. ASSESSMENT OF EFFECTS AND TREATMENT OF HISTORIC PROPERTIES

The assessment of effects to historic properties will be considered in terms of whether the Undertaking will have no effect, no adverse effect, or an adverse effect to historic properties. Resolution of adverse effects to historic properties caused by the Undertaking will be considered in the preferred order of avoidance, minimization, and mitigation and will result in an agreed-upon treatment of historic properties.

Similar to provisions in Stipulation VI above, because the Undertaking may also be designed and constructed in phases, generally based on geographic segments, the assessment of effect and resolution of adverse effects contemplated by this Stipulation may also be undertaken, prepared, and issued for review for defined segments based on geography in phases, but prior to commencement of all Project ground-disturbing construction activities within an identified geographic area and a defined segment, as appropriate and according to Minnesota Power's preliminary construction schedule at the time of execution of this PA (Attachment B to this PA). Any updates to Minnesota Power's preliminary construction schedule would be based upon quarterly reports as described in Stipulation XII. [8]

A. Should the Undertaking be modified prior to initiation of construction of the Undertaking such that the potential for adverse effects to historic properties are avoided or minimized, such modifications will be taken into account in the assessment of effects to these properties and in historic property treatment before construction is initiated.

[8]Adjustments to the proposed construction schedule may occur as development of the Project proceeds, if needed, and would be not require an amendment to this PA. Any updated schedules will be attached to this PA.

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B. If, through implementation of Stipulation VI, historic properties are identified in the APE, DOE shall consult with MnHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties to assess the effects of the Undertaking in accordance with 36 CFR §800.4(d)(1) and 36 CFR §800.4(d)(2) to determine whether or not the Undertaking will affect historic properties, and if affected, will apply the criteria of adverse effect in accordance with 36 CFR §800.5(a).

C. If the Undertaking will have "no effect" or "no adverse effect" on historic properties, DOE, in coordination with Minnesota Power shall prepare a summary of its finding(s) of "no effect" or "no adverse effect" in accordance with the documentation requirements in Stipulation VI.C of this PA and 36 CFR §800.11(d-e). DOE shall notify all Consulting Parties of its proposed finding(s). MnHPO, Consulting Tribes, and relevant THPOs shall have thirty (30) days from receipt of such findings of effect to review and submit written comments to DOE in accordance with 36 CFR §800.5(c).

D. If the review period passes and no reviewers submit comments, DOE shall document this result. DOE shall maintain a record of the summary of its "no effect" or "no adverse effect" finding and provide this documentation to Consulting Parties and public on request, consistent with the documentation and confidentiality provisions of 36 CFR §800.11(c) and found in Stipulation IV of this PA.

E. If historic properties will be adversely affected by the proposed Undertaking, DOE shall prepare a summary of the finding of "adverse effect" in accordance with the documentation requirements with 36 CFR 800.11(e) and consult with the MnHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant SHPOs, and other Consulting Parties in an effort to resolve adverse effects, in accordance with 36 CFR§800.6(a), by identifying appropriate measures that are in the public interest to avoid, minimize, or mitigate adverse effects to historic properties. This consultation will take place following public notification of an "adverse effect" determination.

F. If National Register eligible historic properties identified in the APE lying within the exterior boundaries of Red Lake Reservation will be adversely affected, DOE shall consult with Red Lake Nation instead of MnHPO in accordance with 36 CFR §800.3(c)(1).

G. When agreement between DOE, the MnHPO, SHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties can be reached on how to resolve the adverse effect(s), Minnesota Power shall prepare an Historic Properties Treatment Plan ("HPTP") for resolving adverse effect(s) for each of the Undertaking's geographic-defined construction segments. The HPTP be prepared for

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and will describe the treatment measures to avoid, minimize, and mitigate the adverse effect(s) of the Undertaking on historic properties for each geographic-defined construction segment. The HPTP(s) will clearly outline the treatment measures to be carried out, the manner in which they will be carried out, and a schedule for their implementation.

1. In resolving adverse effects to National Register listed or eligible archeological sites, the federal agencies and Consulting Parties shall not be limited to the consideration of data recovery as the only form of mitigation.

2. When treatment measures include archeological data recovery, the HPTP(s) will identify the specific research questions to be addressed with an explanation of the relevance, the archeological methods to be used, and provisions for public interpretation and education subject to restrictions established by 36 CFR §800.6(a)(5).

3. In resolving adverse effects to National Register eligible traditional cultural properties or those contributing to the traditional landscape(s) identified in Stipulation VI, DOE shall take into account the recommendations of the TCP and TCL report prepared by Red Lake Nation.

H. The HPTP for each of the Undertaking's geographic-defined construction segment will identify report(s) that Minnesota Power will prepare in documenting the results of the implementation of that HPTP.

I. The HPTP for each of the Undertaking's geographic-defined construction segment shall include a Monitoring Plan developed for that segment and in accordance with Stipulation XVI, as an appendix.

J. Minnesota Power shall prepare and submit the HPTP for each of the Undertaking's geographic-defined construction segments to DOE and DOE will submit the HPTP(s) with its determinations to the MnHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties for review and comment. These parties shall have thirty (30) days from receipt to review and provide written comments on the measures and terms of each HPTP. The DOE shall ensure that all timely comments and recommendations are taken into consideration when finalizing the HPTP(s). Based on its own determination, DOE may request a subsequent fifteen (15) day review from Consulting Parties above to confirm that comments have been appropriately addressed in the final HPTP for each of the Undertaking's geographic-defined construction segment. If the parties to this PA cannot agree on measures to resolve adverse effects, the dispute shall be resolved in accordance with Stipulation XIV.

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K. Concurrent with the Consulting Parties' review described above, DOE will post a copy of the HPTP for an Undertaking's geographic-defined construction segment to the GNTL project website available to the public for public review, affording the public an opportunity to provide comments to DOE. DOE will notify the public of the HPTP's availability and provide instructions for submitting comments. DOE will ensure comments from the public are considered in conjunction with comments from the Consulting Parties, as appropriate.

L. Signatory, Invited Signatory, Concurring Party, or Consulting Party reviewers of each HPTP may request extensions from DOE in writing by providing justification for the need for extension. At DOE's discretion, the review period may be extended.

M. If the review period passes with no request for extension and no reviewer has submitted comments, DOE shall document this and proceed with finalization and approval of the HPTP(s).

N. DOE will consider the process for reviewing the HPTP prepared for each of the Undertaking's geographic-defined construction segments complete when DOE, in consultation with MnHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties, determines that Minnesota Power has considered all comments, and revised and finalized each HPTP, as appropriate, and when MnHPO provides to DOE written concurrence with the HPTP prepared for each of the Undertaking's geographic-defined construction segments in regards to the treatment of effects, including those to non-archaeological historic properties within the APE.

O. At the conclusion of consultation on each HPTP for the Undertaking's geographic-defined construction segments, DOE will direct Minnesota Power to provide one (1) bound hard copy of the HPTP to DOE, MnHPO, Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, relevant THPOs, and other Consulting Parties. An electronic copy of the approved, final HPTP(s) will be posted by DOE to the GNTL Project website available to the public.

P. Following DOE and parties' approval of the HPTP for the Undertaking's geographic-defined construction segments, DOE shall, in coordination with Minnesota Power, ensure that the appropriate HPTP is implemented before construction of the Undertaking's geographic-defined construction segments commences.

VIII. TIMING

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A. DOE shall ensure that the requirements of Stipulations VI and VII are implemented prior to the start of each phase of the Undertaking's construction. Because the Undertaking may be designed and constructed in phases, generally based on geographic segments, the findings and determinations made by the DOE may also be completed and submitted for review and comment in phases, but prior to all Undertaking ground-disturbing construction activities within an identified geographic segment for the Undertaking, as appropriate.

B. Any period of time prescribed or allowed by this PA shall be done in calendar days. In computing any period of time prescribed or allowed by this PA in calendar days, the day of the act, event or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or federal legal holiday in which event the period runs until the end of the next day that is neither Saturday, Sunday or a federal legal holiday. For purposes of this PA, including Stipulation XIV, calendar quarters January-March (Q1), April-June (Q2), July-September (Q3), and October-December (Q4),) apply, unless otherwise directed by DOE.

IX. CURATION

A. Curation will be carried out by Minnesota Power with oversight by DOE in accordance with Federal curation standards, which can be found at 36 CFR Part 79, and any relevant State standards.

B. Minnesota Power shall return all artifacts and materials recovered on private lands through implementation of the terms of this PA to the respective landowner. Prior to the return, Minnesota Power shall afford the landowner an opportunity to donate the artifacts and materials to Red Lake Nation, Bois Forte Band of Chippewa, the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, or appropriate Consulting Tribe(s)), and relevant THPO(s) for curation in tribal archives.

C. Any artifacts, materials, or records removed from federal land that are not subject to the Native American Graves Protection and Repatriation Act ("NAGPRA") will be curated in accordance with 36 CFR Part 79, *"Curation of Federally-Owned and Administered Archaeological Collections."*

D. Artifacts and materials retrieved from *tribal lands and tribal ancestral lands* will be curated in accordance with appropriate THPO standards and policy.

X. CONSTRUCTION MONITORING

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A. If determined as a treatment measure in the HPTP(s) (Stipulation VII), Minnesota Power will develop a Monitoring Plan for the monitoring of construction activities in close proximity to historic properties for each geographic-defined construction segment. Construction monitors (archaeological consultants or tribal) will be under the direct supervision of a professional who meets the SOI Professional Qualifications Standards for archaeology. Any unanticipated discoveries or effects will be treated in accordance with Stipulation XI.

B. Minnesota Power will develop the Monitoring Plan measures for tribal construction monitors in coordination with Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, and other Consulting Tribes, and relevant THPOS, as appropriate, to inspect construction in a manner that is both safe and unimpeded.

C. All construction monitors (archaeological consultants and tribal representatives) shall be required to complete Minnesota Power's Health and Safety requirements training before entering any Undertaking construction sites.

D. Reasonable costs associated with construction monitoring by archaeological consultants and tribal representatives will be the responsibility of Minnesota Power.

XI. POST-REVIEW UNANTICIPATED DISCOVERIES

A. If previously unidentified historic properties, or unanticipated effects to identified historic properties, are discovered during the Undertaking's construction, the construction contractor shall immediately halt all activity within a one hundred (100) foot radius of the discovery, notify Minnesota Power of the discovery and implement interim measures to protect the discovery from looting and vandalism.

B. Immediately upon receipt of the notification required in Stipulation XI.A, Minnesota Power shall ensure that construction activities have halted, inspect the construction site to determine the extent of the discovery, clearly mark the area of the discovery, implement additional measures, as appropriate, to protect the discovery from looting and vandalism, and notify DOE, SHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, and relevant THPOs.

C. Upon receipt of notification, DOE, as appropriate, shall treat the discovery in accordance with 36 CFR §800.13(b)(3) and (c).

D. Treatment of Human Remains

1. When the unanticipated discovery contains human remains or funerary objects and is located on federal or tribal lands, DOE shall comply with NAGPRA [25 U.S.C. 3001

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et. seq.] and its implementing regulations (43 CFR Part 10). Minnesota Power will implement the procedures in the HPTP for each geographic-defined construction segment for inadvertent discoveries of NAGPRA human remains and cultural items on non-tribal federal lands.

2. Immediately following the discovery of human remains on federal lands, Minnesota Power will notify DOE, SHPO, and the responsible federal agency. Following discovery of human remains on tribal lands, Minnesota Power will immediately notify DOE, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, and relevant THPOs.

3. If a discovery contains human remains and the discovery is not located on federal or tribal lands, the construction contractor shall comply with Stipulation XI.A. Immediately upon receipt of such notification, Minnesota Power shall comply with the procedures required by Minnesota Statute 307.08.

   a. Minnesota Power shall notify the local law enforcement, and the Office of the State Archaeologist (OSA), in compliance with Section 307-08 of the Minnesota Private Cemeteries Act. Under the terms of this PA, Minnesota Power will also notify DOE, SHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe, Consulting Tribes, and relevant THPOs of the discovery.

   b. Suspected human remains shall not be further disturbed or removed until disposition has been determined by the OSA and the Minnesota Indian Affairs Council consistent with the guidance titled *State Archaeologist's Procedures for Implementing Minnesota's Private Cemeteries Act.* (Anfinson, 2008).

E. At all times human remains must be treated with the utmost dignity and respect, and in a manner consistent with the ACHP's *Policy Statement on the Treatment of Human Remains, Burial Sites and Funerary Objects* (February 23, 2007).

F. Minnesota Power shall ensure that the requirements of Stipulation XI are incorporated into all construction contracts.

XII. REPORTING

On a quarterly basis, following the execution of this PA and until construction of the Undertaking is complete, Minnesota Power shall submit a written report to DOE, MnHPO, Red Lake Nation, Bois Forte Band of Chippewa; the Fond du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, the White Earth Band of Ojibwe,

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Consulting Tribes, relevant THPO(s), and other Consulting Parties describing progress on implementation of the terms of this PA.

A. At a minimum the report shall contain a summary of construction completed and underway during the period covered by the report and describe the location of this work, and any updates or revisions to proposed construction schedules. It will also provide an update and summary of cultural resources survey work completed to date and proposed for the subsequent quarter.

B. If treatment measures are implemented during the quarter as part of the HPTP, Minnesota Power will also describe these treatment measures that have been implemented, the schedule for completion of treatment measures, and the treatment of any post-review discoveries pursuant to Stipulation XI, if any, as well as any scheduling changes proposed, any problems encountered, and any disputes addressed pursuant to Stipulation XIV in the report.

C. Minnesota Power may submit the report electronically to DOE, USACE, Red Lake Nation, other THPO(s), participating Indian tribes, and consulting parties, and one (1) hard copy will be submitted to the MnHPO.

XIII. COMMUNICATION PLAN

Efficient, timely, and appropriate communication among all Consulting Parties is essential to maintain smooth and on-schedule analysis and implementation under this PA. A variety of tools will be used throughout the duration of this PA. These tools include email, telephone calls, memoranda, letters, and meeting minutes. It is also important to use these tools consistently to track the Undertaking's progress and status.

DOE will gather designated points-of-contact (POCs) for all Consulting Parties as a part of this Section 106 consultation to support implementation of this PA. Consulting Parties must provide email addresses as part of the contact information that they provide to DOE. The designated POCs that have been provided to DOE are included in Attachment D to this PA. Minnesota Power will update the contact list throughout implementation of the PA. It is the responsibility of each Consulting Party to update their POC information should it change during the course of PA implementation by notifying Minnesota Power. Minnesota Power, in coordination with DOE, will distribute any updated information to all Consulting Parties and append new information to the PA as it is received; this will not require amendment of the PA under Stipulation XXI.

All Consulting Parties are strongly encouraged to communicate by email to facilitate efficiency, and, except for instances when submittal of official correspondence and other documentation in hard copy is required by the MnHPO as indicated in this PA, communication by email will satisfy the requirements for implementation of this PA.

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XIV. DISPUTE RESOLUTION

For all disputes regarding this PA, the following will apply:

A. Objections

If any Signatory, Invited Signatory, or Concurring Party to this PA objects in writing to DOE regarding the implementation of this PA, DOE will consult with the objecting Signatory, Invited Signatory, or Concurring Party, with notification to the other Signatories, Invited Signatories, and Concurring Parties, to resolve the objection. Within 30 days of receiving notice of the objection from DOE, any other Signatory, Invited Signatory, or Concurring Party may respond in writing to the objection, with a copy to all Signatories, Invited Signatories, and Concurring Parties.

B. Objection Resolution

After initiating such consultation and reviewing any responses to the objection, DOE shall determine within thirty (30) days whether the objection can be resolved through consultation. If DOE determines that the objection cannot be resolved through consultation, it shall take the following steps:

1. DOE shall forward all documentation relevant to the dispute, including DOE's proposed resolution, to the ACHP. The ACHP will have the opportunity to provide DOE with its advice on the resolution of the objection within 30 days of receiving the documentation. DOE shall make a decision on the dispute within 30 days after receiving advice from ACHP. If the ACHP does not provide its advice regarding the dispute within 30 days, DOE may make a final decision on the dispute and proceed accordingly.

2. DOE's final decision on the dispute will be in writing and will include a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Signatories, Invited Signatories, and Concurring Parties. DOE shall provide a copy of this written response to Signatories, Invited Signatories, and Concurring Parties, including the ACHP.

3. Implementation of this PA will then proceed according to DOE's final decision.

C. Public Objections

If an objection pertaining to the implementation of this PA is raised by a member of the public at any time during implementation of the stipulations contained in this PA, DOE shall notify the Signatories, Invited Signatories, and Concurring Parties and take the objection into account, and consult with the Signatories, Invited Signatories, and

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Concurring Parties to resolve the objection if DOE decides that such consultation is appropriate. DOE shall resolve the objection in accordance with Stipulation XIV.B.

D. Responsibilities

The responsibilities of each Signatory, Invited Signatory, or Concurring Party to carry out all other actions according to the terms of this PA that are not the subject of the dispute remain unchanged.

E. Objection Resolution Requiring Amendment

Any resolution of an objection requiring changes to this PA will follow the amendment procedure at Stipulation XXI.

F. Objections Concerning Eligibility for the National Register

Notwithstanding the above, any objections or disputes concerning eligibility of properties for the National Register will be resolved by the Keeper of the National Register in accordance with 36 CFR Part 63.

XX. DURATION

A. This PA shall take effect on the date it has been fully executed by the Signatories to this PA and will remain in effect for a period of five (5) years.

B. At any time before the three-month period prior to the expiration of the PA, any Consulting Party to this PA may request in writing that the other Consulting Parties consult to consider an extension of this PA. Any extension will be considered an amendment to the PA and will be made effective according to Stipulation XXI.

C. This PA will expire if construction on the proposed Undertaking has not been initiated within five (5) years of the date of the execution of this PA.

D. Upon determination by DOE, in consultation with SHPO, USACE, USFWS, and ACHP, that all terms of this PA have been fulfilled in a satisfactory manner, DOE will notify Signatories, Invited Signatories, Concurring Parties, and other Consulting Parties in writing of DOE's determination.

XXI. AMENDMENTS

A. Any Signatory or Invited Signatory to this PA may propose that the PA be amended, whereupon those parties shall consult to consider such an amendment. This PA is amended when such an amendment is agreed to in writing by all of signatory parties

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who signed the PA. The DOE shall provide a copy of the amended PA to the ACHP within thirty (30) days of execution.

B. Six (6) months prior to the date on which the PA will expire; the DOE shall notify the Signatories, Invited Signatories, Concurring Parties, and Consulting Parties of the impending expiration in writing. DOE, as appropriate, may consult with the parties to reconsider the terms of the PA to amend it and shall notify the parties as to the course to be pursued.

XXII. TERMINATION

A. Any Signatory or Invited Signatory who signs this PA and determines that the terms of this PA will not or cannot be carried out, may terminate this agreement by providing thirty (30) days written notice to the other Signatories and Invited Signatories, provided that the other Signatories and Invited Signatories signatory parties are consulted during the thirty (30) day notice period in order to seek agreement on amendments or other actions that would avoid termination.

B. In the event that this PA is terminated, and to the extent feasible prior to work continuing on the Undertaking, DOE must execute a new agreement pursuant to 36 CFR §800.14(b)(3), or seek ACHP comment pursuant to 36 CFR Section 800.7(a).

XXIII. ANTI-DEFICIENCY ACT

DOE's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. DOE shall implement the stipulations set forth in this PA through a separate funding agreement as appropriate. DOE shall make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs DOE's ability to implement the stipulations of this PA, DOE shall consult in accordance with the amendment and termination procedures found at Stipulations XXI and XXII.B. of this PA.

XXIV. EXECUTION OF AGREEMENT

This PA shall be effective on the date of the signature of the last Signatory ("Effective Date"). All other parties listed below as Invited Signatories shall only become parties to this Agreement upon their execution thereof. Any Invited Signatory listed below who does not sign this PA shall have no further rights or obligations pursuant to this Agreement but shall be considered as a Consulting Party. DOE will ensure that each Consulting Party is provided with one (1) hard copy of the fully executed PA.

Execution of this PA by the Signatories and Invited Signatories and subsequent implementation of the stipulations provided herein evidences that DOE and other federal agencies, where

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applicable, have taken into account the effects of the proposed Undertaking on historic properties and afforded the ACHP an opportunity to comment on those effects in compliance with Section 106 of the NHPA.

Each of the undersigned certifies that he or she has full authority to bind the party that he or she represents for purpose of entering into this PA.

XXV. ATTACHMENTS

Attachment A – Area of Potential Effects Map(s) Minnesota PUC Route Permit Alternative
Attachment B – Preliminary GNTL Construction Schedule
Attachment C –Approximate Impact Areas of Ancillary Facilities and Temporary Workspaces
Attachment D – List of Consulting Parties
Attachment E - *Traditional Cultural Property and Traditional Cultural Landscape Inventory Proposal: Great Northern Transmission Line* (2016)

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PROGRAMMATIC AGREEMENT
AMONG THE
U.S. DEPARTMENT OF ENERGY
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND
RED LAKE BAND OF CHIPPEWA INDIANS
AND
MINNESOTA HISTORIC PRESERVATION OFFICE
REGARDING THE
GREAT NORTHERN TRANSMISSION LINE PROJECT

UNITED STATE DEPARTMENT OF ENERGY

By: Date:

10/13/16

Meghan Conklin/ Deputy Assistant Secretary of DOE Office of Electricity Delivery and Energy Reliability (agency official)

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AMONG THE
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AND
MINNESOTA HISTORIC PRESERVATION OFFICE
REGARDING THE
GREAT NORTHERN TRANSMISSION LINE PROJECT

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Date:

John M. Fowler 12/2/16

Mr. John M. Fowler, Executive Director, Advisory Council on Historic Preservation

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AMONG THE
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AND
MINNESOTA HISTORIC PRESERVATION OFFICE
REGARDING THE
GREAT NORTHERN TRANSMISSION LINE PROJECT

RED LAKE BAND OF CHIPPEWA INDIANS

By: Date:

10-25-16

Mr. Darrell G. Seki, Sr., Chairman of Red Lake Band of Chippewa Indians

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AMONG THE
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AND
MINNESOTA HISTORIC PRESERVATION OFFICE
REGARDING THE
GREAT NORTHERN TRANSMISSION LINE PROJECT

MINNESOTA HISTORIC PRESERVATION OFFICE

By: Date:

Andrea H. Kajer 10-26-16

Andrea H. Kajer, Deputy State Historic Preservation Officer

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REGARDING THE
GREAT NORTHERN TRANSMISSION LINE PROJECT

MINNESOTA POWER

By: _____ Date: October 17, 2016

Alan R. Hodnik, President and Chief Executive Officer for Minnesota Power (Applicant)