

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION
THE NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
and
FORT PECK ASSINIBOINE & SIOUX TRIBES; TURTLE MOUNTAIN BAND OF
CHIPPEWA INDIANS; MANDAN, HIDATSA, AND ARIKARA NATION; SPIRIT
LAKE DAKOTAH NATION; SISSETON-WAHPETON OYATE; STANDING ROCK
SIOUX TRIBE; NORTHERN CHEYENNE TRIBE;
AND CROW TRIBE
REGARDING IMPLEMENTATION
OF TRIBAL CONSULTATION REQUIREMENTS
OF THE NATIONAL HISTORIC PRESERVATION ACT
FOR THE FEDERAL TRANSPORTATION PROGRAM
IN NORTH DAKOTA**

PREFACE

This document is the result of discussions during consultation between the North Dakota Department of Transportation (NDDOT), the Federal Highway Administration (FHWA) and the Tribes identified above. This document is intended to define consultation, for compliance with the National Historic Preservation Act (NHPA) (16 U.S.C. 470), between the Federal Highway Administration (FHWA), the NDDOT, and the Fort Peck Assiniboine & Sioux Tribes; Turtle Mountain Band Of Chippewa Indians; Mandan, Hidatsa, and Arikara Nation; Spirit Lake Dakotah Nation; Sisseton-Wahpeton Oyate; Standing Rock Sioux Tribe; Northern Cheyenne Tribe; and Crow Tribe (the Tribes). As required under the terms of the NHPA (16 U.S.C. 470) and resulting regulations (36 CFR 800), consultation has revealed that many Tribes have aboriginal ties to what is now North Dakota. The Tribes identified above expressed concern and requested to be consulted on future transportation projects in North Dakota.

The FHWA and NDDOT understand that Tribes have concerns regarding cultural resources, preservation of sacred places, continuing destruction of places and things of cultural value, and the effects of this destruction on their cultural identity. Cultural resources are revered by the Tribes. These cultural resources are a connection to their past, and important to their cultural identity, sense of self, and future well-being. Cultural resources are tied to people's ancestors, some are related to important religious activities, and many have ongoing spiritual connections. The FHWA and NDDOT recognize the importance of these remnants from the past to aboriginal people living today.

Modern development, including transportation construction, has destroyed valuable cultural resources and adversely impacted others. This agreement is intended to ensure all parties understand which cultural resources are important to the Tribes and work together to protect and preserve them. The FHWA and NDDOT are committed to providing a transportation system that will benefit all people of North Dakota. The FHWA and NDDOT are also committed to learning

Tribal perspectives about cultural resources important to the Tribes. The Tribes are committed to understanding transportation issues and the perspectives of the FHWA and the NDDOT. Jointly we are committed to establishing a relationship of mutual trust and respect.

The FHWA and NDDOT recognize that transportation projects have the potential to adversely affect cultural resources: sacred sites, archaeological sites, traditional natural resources, and traditional landscapes of value to the Tribes. FHWA and the NDDOT do not wish further destruction of these culturally valued places and recognize the inherent rights of Tribes to retain and preserve those places that they value.

It is the intention of the FHWA and NDDOT to work with the Tribes to find appropriate ways to avoid effect to important cultural resources. The NDDOT pledges to always look for ways to avoid effect to these resources as the first option. When avoidance of effect is impossible or impractical given other concerns of equal importance, the NDDOT will work with the Tribes for appropriate and respectful resolution of any unavoidable effects.

The NDDOT will follow the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001) when there is a discovery situation within the exterior boundary of Tribal reservations or on Federal lands. Where this situation occurs in other areas, the terms of the North Dakota State Burial Law (North Dakota Century Code 23-06-27) will be followed.

WHEREAS, the FHWA is the federal agency with statutory responsibilities for administering the federal-aid- highway program under Title 23 U.S.C. 101 *et seq*, and the NDDOT is the applicant for federal funds for highway construction projects in North Dakota. The NDDOT, on behalf of the FHWA, agrees to coordinate under a government to government relationship with federally recognized tribal government officials or appointees with regard to federal responsibilities under Section 106 of the NHPA through the terms of this PA. This does not replace the requirement for FHWA to consult under Executive Order 13175. Consultation under Section 106 of the NHPA by the NDDOT does not replace FHWA's responsibilities with regard to government to government consultation. The NDDOT will consult with Tribal Historic Preservation Officers or those designated by the Tribal Government to manage or advise on matters pertaining to cultural resources.

WHEREAS, the FHWA has determined that its undertakings may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places that may be of interest to the Tribes, and through this agreement has consulted with the Tribes and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR 800.14 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

WHEREAS, 36 CFR 800 encourages Federal Agencies to efficiently fulfill their obligations under Section 106 through the development and implementation of cooperative programmatic agreements;

WHEREAS, the NDDOT is committed to the design and construction of a transportation system that: 1) safely moves people and goods; 2) avoids, minimizes and mitigates adverse

effects on cultural resources; 3) recognizes that consideration of tribal interest in preservation of significant cultural resources is important to Tribal well-being, growth and prosperity; and 4) responds to the needs of North Dakota communities and the Tribes; and

WHEREAS, FHWA, the NDDOT, and the Signatory Tribes aspire to engage in meaningful, long-term planning for the appropriate consideration of cultural resources important to the Tribes, and to include the following:

- develop a comprehensive and efficient tribal consultation process for all Section 106 undertakings,
- streamline the process and procedural requirements,
- recognize the role of the Tribes to facilitate effective consultation,
- develop a consultation process based upon education and understanding,
- involve the Tribes' cultural resource personnel to a greater extent and at an earlier point in the planning process,
- devote a percentage of time, energy, and funding to identify relevant problems threatening cultural resources important to the Tribes,
- any additional goals identified through consultation.

BE IT RESOLVED , the FHWA, the NDDOT, and the Tribes hereby agree that the implementation of tribal consultation on highway projects shall be administered in accordance with the following stipulations in order to satisfy FHWA tribal consultation responsibilities under the National Historic Preservation Act.

Stipulations

1. Applicability

This Programmatic Agreement (PA) sets forth the process by which FHWA will meet its responsibilities with regard to consultation with the Tribes under Section 106 of the NHPA for highway projects within the state of North Dakota of the Federal Aid Highway Program. This PA establishes a protocol for consultation with the Tribes on individual highway projects.

2. Tribal Consultation Committee

In order to expedite the tribal project review and consultation process for Section 106 of the NHPA, a Tribal Consultation Committee (Committee) will be formed and comprised of selected members from each consulting Indian Reservation and NDDOT Representative(s). Consultation with these Tribes has revealed that a structured process is preferred and most are willing to be members of the Committee. The Tribes not signatory to the PA will be consulted on an individual basis. Those Tribes not signing this PA will still be notified of Committee meetings and are welcome to attend.

Consultation can be generalized as a process of learning through education and interaction. In this case it is a process whereby Agencies and these Tribes work together to take into consideration the effects FHWA undertakings may have on cultural resources important to the

Tribes. Working through this Committee will allow a clearer understanding of relevant issues and concerns which will result in more effective cultural resource management, and may streamline the process.

A. Mission Statement and Goals

Avoidance of effect to significant cultural resources is important to the FHWA, the NDDOT, and the Tribes. However, avoidance is not always preservation. As practical and possible, the FHWA and the NDDOT will assist the Tribes in their further goal of preservation of resources of value to them. Avoidance will always be the first option studied. When a resource cannot be avoided every attempt will be made to minimize the impacts and to mitigate the loss of information and value identified by all parties. To carry out this mission, mutual education regarding what might be acceptable, respectful, and feasible is necessary. The FHWA, the NDDOT and the consulting Tribes will invest time, provide opportunities, provide personnel, and seek funding for cross-cultural education pursuant to tribal and transportation cultural resource issues.

Opportunities will be sought to provide cross-training to FHWA, NDDOT, and Tribal personnel. The NDDOT will include their cultural resource contractors in this training, when necessary and practical. These training opportunities will focus on cultural awareness, language and communication skills, North Dakota transportation issues, and cultural resource laws and regulations. This training and education will have as its goal the improvement of relationships, a greater understanding of cultures and perspectives, and the building of trust.

The FHWA, NDDOT and the Committee believe there is value for all concerned parties in completion of Traditional Cultural Site inventories. The NDDOT will work through the Committee, as funding and opportunity allows, to complete Traditional Cultural Site inventories, similar to that already completed for the NDDOT by the Turtle Mountain Band of Chippewa Indians.

The NDDOT intends to complete a Cultural Resource Preservation Plan. The NDDOT will consider the goals and viewpoints of the Committee in this pursuit.

B. Committee Composition

The Committee will be made up of two individuals designated from each reservation and at least one individual from the NDDOT. FHWA personnel will have a standing invitation to each meeting and can participate as a full Committee member. State Historic Preservation Office personnel can be invited to attend the meetings at the discretion of the Committee, but will not serve as official members.

Each Committee member may bring additional people to Committee meetings as they deem necessary. These additional people will not function as Committee members, but may be present to advise the Committee or observe the meeting.

C. Responsibilities of the Committee

1. The Committee will meet at least twice a year to discuss projects and policy with regard to NHPA compliance. The Committee's views in regard to National Environmental Policy Act (NEPA) project compliance issues will also be welcomed.
2. In addition to discussing projects at Committee meetings, specific projects, sites, or issues may require Committee members to participate in on-site consultation. These on-site visits may be done by the whole Committee, or interested members, or those appointed by the Committee for the specific task. This on-site consultation can be used to help identify possible impacts or to obtain first hand knowledge of issues relating to cultural concerns. Tribal elders, or other individuals identified by the Committee, who have specific knowledge of the area, project, or resource will be welcome to attend on-site meetings.
3. The Tribal Committee members will respond to NDDOT project review and consultation in a manner considerate of NDDOT project timing needs. Lack of response within necessary stated time parameters will be considered lack of need to respond on the part of these members. The process for addressing last minute or emergency projects will be defined for action by the Committee, as needed.
4. The Committee will work collaboratively to set meeting agendas.
5. The Committee may select high school delegates or student interns to be a part of the Committee, and these delegates or interns shall be able to participate in the activities of the Committee.
6. The Committee will seek funding to supplement and support the duties of the Committee and their advisors.

D. Responsibilities of the North Dakota Department of Transportation

1. Through regularly scheduled meetings, last-minute and emergency notification procedures defined by the Committee, or individual contact, Tribes will be notified of FHWA Undertakings (as defined in this PA) in North Dakota, as required under 36CFR part 800.2.
2. The NDDOT will document the meetings and make minutes available upon request.
3. The current Statewide Transportation Improvement Program or "STIP" will be provided to the Committee at meetings and can serve as a means of forecasting, to the Tribes' cultural resource personnel, what projects are planned in advance and where they are located. Providing this information will give the Committee the opportunity to review projects well in advance of project development.

4. The NDDOT will provide a packet of information summarizing upcoming projects prior to a scheduled meeting. The packet may include maps, aerial coverage, or other pertinent illustrations, as available. This will be sent to each Committee member through the mail or Email, as specified by each committee member.
5. The NDDOT will continue to consult with the Tribes and/or committee members who are identified at the meetings as contacts for further consultation in regard to a specific project, resource, or issue. The Committee may decide that a specific tribe or member may be best suited to carry out its wishes and address its concerns on a specific project, in relation to a specific resource, or to resolve a specific issue.
6. Results of cultural resource work and SHPO consultation completed for NDDOT projects will be forwarded to the Committee or specifically identified members of the Committee, for review, as devised through initial project consultation. Review will be time sensitive, with limits expressed in the accompanying cover letter or email.
7. The NDDOT will provide the Committee an explanation of decisions reached in regard to project effects on cultural resources of concern to the Committee.
8. The NDDOT will continue to meet with the Tribes at each Committee member's individual office at least once per year. The NDDOT will inform the Tribes of any changes in staff who might be involved in this agreement including the NDDOT consultation representative.
9. The NDDOT will continue consultation with any Tribe which does not become a party to this agreement. Consultation will continue as defined through individual discussions or formal agreements.

E. Inclusion of Interested Parties

1. Other Tribes may be added to this agreement as identified through the course of consultation, and agreed upon by all parties signatory to this agreement.
2. 36CFR part 800 allows for the possibility that other individuals or entities may have a demonstrated special interest in an undertaking, and that Federal agencies, in consultation with SHPO and THPO, should consider the involvement of such individual or entities as Consulting Parties. If any identified Consulting Parties, or other individuals or groups, wish to take part in a Committee meeting, these requests will be presented in writing to the Committee. If the request is deemed appropriate, the consulting party will be invited to take part in the next meeting.
3. The Committee can also issue an invitation to groups to attend specific meetings for the exchange of ideas or to gather specific information regarding an undertaking.

F. Other Points of Mutual Agreement

1. Execution and Implementation. The successful implementation of this process shall constitute adequate consultation between the FHWA and the Signatory Tribes to fulfill tribal consultation requirements of Section 106 of the NHPA.
2. Confidentiality. The FHWA and NDDOT acknowledge the need for confidentiality of certain tribal spiritual and cultural information that may be provided to the NDDOT by the Tribes during the course of Committee meetings and other aspects of tribal consultation conducted on cultural resource issues. Information provided by consulted tribal members, identified as sensitive, and requested to remain confidential will remain confidential to the extent permitted by State and Federal law. The mechanism used for confidentiality may change through time or with circumstance, but the result will be the same: information provided by the Tribes and requested to remain confidential will be protected from public disclosure to the extent permitted by State and Federal law.
3. Dispute Resolution. Should any signatory object at a later date to the implementation of this agreement in whole or in part, the objecting party will consult with the Committee to resolve the objection. If the Committee is unable to satisfactorily resolve the issue, and the issue involves resolution of the Adverse Effect of an NDDOT project on a site eligible for inclusion on the National Register of Historic Places, the administrative process defined in 36 CFR Part 800.6 will be followed.
4. Termination. Any party to this PA may terminate their participation by providing thirty (30) days written notice to the other parties, provided that the parties will consult during the period before termination to seek agreement on amendments or other action that would avoid termination. In the event of termination by a Tribe, the FHWA and the NDDOT shall comply with 36 CFR 800 and continue with individual tribal consultation with that Tribe. As long as the FHWA, NDDOT, and at least one Tribe continues to participate, the PA will remain in effect, but the Tribes who have terminated will no longer be held to the bounds of this agreement.
5. Amendment. The signatories to this PA may amend it.
6. Funding. At least twice a year, the Committee will meet to address issues defined above. The NDDOT will host the meeting and will pay a fee and travel/per diem expenses at ND State rates for up to two representatives from each participating reservation to attend the meeting.
7. Participation in Similar Activities. This instrument in no way restricts the FHWA, NDDOT or the signatory Tribes from participating in similar activities with other public or private agencies, organizations, and individuals.
8. Commencement/Termination Date. This instrument is executed as of the date of last signature between the FHWA, NDDOT, and at least one tribe with Reservation boundaries within the State of North Dakota. Other Tribes may become signatory to this

agreement after that date. This PA is effective through December 31, 2012 at which time it will expire unless specifically extended by Committee resolution.

3. Projects Exempted from Consultation

Projects limited to the following activities (provided the projects are not part of a larger undertaking), by their nature and definition are either **1)** types of projects that have no potential to affect historic properties (and do not require consultation) [36 CFR 800.3(a)(1)], or **2)** types that have no or limited potential to result in any effects to historic properties of concern to the Tribes, and are, therefore, exempted from further consultative review by the Tribes in compliance with Section 106. The Committee, through resolution, can modify the following list.

A. Types of NDDOT Projects with No Potential to Affect Historic Properties

1. Pavement Related
 - Resurfacing or sealing the existing roadways without other geometric changes.
 - Sidewalk replacement including no additional excavation outside existing disturbed area. Disturbance is less than 2 feet below existing surface.
2. Maintenance Related
 - Pavement repairs including joint repairs, patching, and crack sealing of roads where the contract does not disturb original ground.
 - All pavement making on roads where they previously existed and new striping when necessary to conform to the Design Manual.
 - Bridge painting of all types of bridges where the contract does not disturb original ground.
 - Bridge and other structure repairs or shoring where the contract does not disturb original ground.
3. Signing Related
 - Installation and replacement of signs - replacement of existing signs in-kind. Installation of driven foundation posts 6" or less in diameter for signs. Drilled shaft foundations generally to a maximum diameter of 36". Or any other kind of sign that does not disturb original ground.
4. Roadside Safety Related
 - Repair, replace or upgrade existing guardrail on highways where construction does not disturb the original ground.
 - Install or replace impact attenuators on highways where construction does not disturb original ground surface.
 - Replace median barriers on highways where construction does not disturb original ground surface.
5. Traffic Monitoring Related
 - Install and upgrade traffic signal and lighting poles.
 - Install highway monitoring systems including loop detectors (or other types of

sensors), cameras, radio systems variable message signs (with the exception of towers) where construction does not disturb original ground surface.

6. Other Project Types

- Any project, not specifically mentioned above, where all proposed work will take place on existing roadways within the in-slopes (as illustrated on the attached sheet).

B. Types of NDDOT Projects with No or Limited Potential to Affect Cultural Resources of Concern to the Tribes

1. Roadside Safety Related

- Replacement of railing on bridges to meet modern safety standards.

2. Traffic Monitoring Related

- Installation of highway monitoring systems including loop detectors (or other types of sensors), cameras, radio systems variable message signs (with the exception of towers).

3. Transportation Enhancement Related

- Streetscape improvement outside a historic district. This includes, but may not be limited to, benches, decorative lighting, textured crosswalks, transit shelters, and containerized plantings where the construction does not disturb original ground.
- Rehabilitation of historic structures where construction does not disturb original ground.
- Rehabilitation of historic transportation equipment such as railroad locomotives, rail cars, and canal boats.
- Purchase of scenic easements or abandoned rail corridors where no construction activity is planned. Resale of scenic easements is not part of this agreement.
- Establishment of transportation museums and visitors centers that do not contain any information relative to the Tribes where construction does not disturb original ground.

4. Projects to be Reviewed

Projects that the NDDOT will consult on will be projects with potential to affect historic properties that may be of interest to Tribes.

A. Any NDDOT project that is considered to be a Federal Undertaking subject to Section 106 as described in 36 CFR Part 800.3(a)(1) and Part 800.16(y) not specifically exempted in Stipulation 3B above will be included in the information presented to the Committee. Review will consider the special timing needs of Local Government projects and shall include a time stipulation for response.

B. The NDDOT will consult with the Tribes for all material sources that fall near or within

areas of traditional concern that the Tribes have identified along project routes considered through review of the Statewide Transportation Improvement Program (STIP). The Committee will work with the NDDOT to devise methods for material source consultation that take into consideration the extremely short response time needed on individual material sources.

5. Definitions

Cultural Resources: Prehistoric and historic districts, sites, buildings, structures, or objects that may or may not be eligible for the National Register of Historic Places. The term includes resources of traditional religious and cultural importance to an Indian Tribe.

Effect: Alteration of the characteristics of a cultural resource that qualifies it for inclusion in or eligibility for the National Register of Historic Places [36 CFR 800.16(i)].

Historic Property: Any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization and that meet the National Register criteria [36 CFR 800.16(l)(1)].

Mitigation: To act in such a way as to cause an offense to seem less serious; to moderate a quality or condition in force or intensity; alleviate; to become milder [Dictionary.com].

National Historic Preservation Act: An act to establish a Program for the Preservation of Additional Historic Properties throughout the Nation and for Other Purposes. The Congress finds and declares that 1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage; 2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people; 3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency; 4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans; 5) in the face of ever-increasing extensions of urban centers, highways, residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; 6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and 7) although the major burdens of historic preservation have been borne and major effects initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local

governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities [16 U.S.C. 470(b)].

National Register criteria: The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location design, setting, materials, workmanship, feeling, and association, and: a) that are associated with events that have made a significant contribution to the broad patterns of our history; or b) that are associated with the lives of significant persons in our past; or c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or d) that have yielded or may be likely to yield information important in history or prehistory [National Park Service; National Register Bulletin: How to Apply the National Register Criteria for Evaluation].

NEPA: National Environmental Policy Act. An act to establish a national policy for the environment. The purposes of the act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality [42 U.S.C. 4321].

SHPO: State Historic Preservation Officer. The official appointed or designated pursuant to section 101 (b) (1) of the National Historic Preservation Act to administer the State historic preservation program [36 CFR 800.16(v)].

Tribal Consultation Committee: A group of members designated by each consulted Tribe, FHWA, and NDDOT who gather for the purposes of conducting Tribal Consultation on projects undertaken by the NDDOT as an applicant for Federal funding through the FHWA.

THPO: Tribal Historic Preservation Officer means the tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of section 106 compliance on tribal lands in accordance with section 101(d)(2) of the act.

Undertaking: A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval; and that is a type of activity that has potential to cause effects to an historic property [36 CFR 800.3(a) and 800.16(y)].

By: Allen R Radliff
Allen R. Radliff, Division Administrator
Federal Highway Administration

Date: 11/28/06

By: Francis G Ziegler
Francis G. Ziegler, PE, Director
North Dakota Department of Transportation


Date: 11/28/06

By: Ron His Horse Is Thunder For
Ron His Horse Is Thunder, Chairman
Standing Rock Sioux Tribe

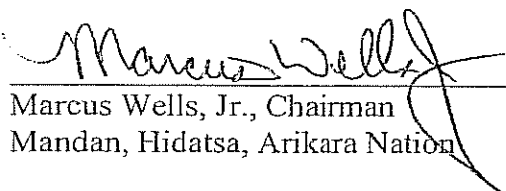
Date: 11/28/06

By: Myra Pearson
Myra Pearson, Chairwoman
Spirit Lake Dakotah Nation

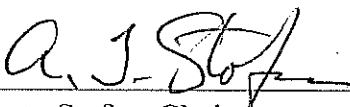
Date: 2/26/07

By: 
Jerry Flute, Chairman
Sisseton-Wahpeton Oyate


Date: 28 Nov 06

By: 
Marcus Wells, Jr., Chairman
Mandan, Hidatsa, Arikara Nation

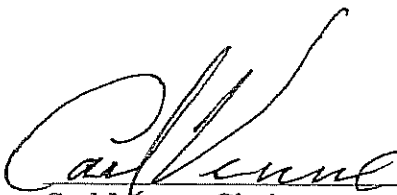
Date: 23 Feb 07

By: 
Rusty Stafne, Chairman
Fort Peck Assiniboine and Sioux Tribes

Date: 5-8-08

By: 
Mr. Rick Wolfname, Interim President
Northern Cheyenne Tribe

Date: 030808

By: 
Carl Venne, Chairman
Crow Tribe


Date: 6/25/07

By: David R. Brien
David Brien, Chairman
Turtle Mountain Band of Chippewa Indians

Date: 3/23/07

TRIBES WHO WISH TO PARTICIPATE AFTER INITIAL DEVELOPMENT OF THE PROGRAMMATIC AGREEMENT:

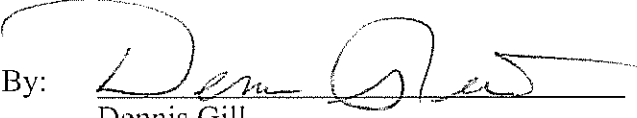
WE WELCOME THE LOWER SIOUX INDIAN COMMUNITY TO THIS AGREEMENT

By: 
Shannon Blue, President
Lower Sioux Indian Community

Date: 11.28.06

TRIBES WHO WISH TO PARTICIPATE AFTER INITIAL DEVELOPMENT OF THE PROGRAMMATIC AGREEMENT:

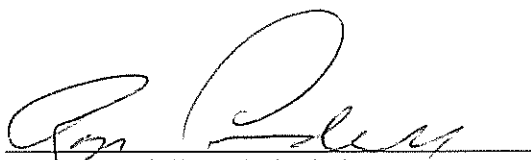
WE WELCOME THE WAHPEKUTE BAND OF DAKOTA TO THIS AGREEMENT

By: 
Dennis Gill
Wahpekute Band Representative

Date: 4/7/10

TRIBES WHO WISH TO PARTICIPATE AFTER INITIAL DEVELOPMENT OF THE PROGRAMMATIC AGREEMENT:

WE WELCOME THE SANTEE SIOUX TRIBE TO THIS AGREEMENT

By: 
Roger Trudell, Tribal Chairman
Santee Sioux Tribe

Date: Sept 21, 2009