

3.15 SUMMARY OF FINDINGS

The analyses of potential impacts associated with construction and normal operation of the proposed Project suggest that there would be no significant impacts to most resources along the proposed Project corridor assuming the following:

- Keystone would comply with all applicable laws and regulations;
- Keystone would, if the Presidential Permit is granted, incorporate into the proposed Project and into its manual for operations, maintenance, and emergencies that is required by 49 CFR 195.402, the set of 57 Project-specific Special Conditions developed by PHMSA;
- Keystone would incorporate the mitigation measures required in permits issued by environmental permitting agencies into the construction, operation and maintenance of the proposed Project;
- Keystone would construct, operate, and maintain the proposed Project as described in this EIS; and
- Keystone would implement the measures designed to avoid or reduce impacts described in its application for a Presidential Permit and supplemental filings with DOS, the Construction, Mitigation, and Reclamation (CMR) Plan presented in Appendix B, and the construction methods described in Appendix H.

PHMSA has the legal authority to inspect and enforce any items contained in a pipeline operator's operations, maintenance, and emergencies manual, and would therefore have the legal authority to inspect and enforce the 57 Project-specific Special Conditions if the proposed Project is approved. DOS, in consultation with PHMSA, has determined that incorporation of those conditions would result in a Project that would have a degree of safety over any other typically constructed domestic oil pipeline system under current code and a degree of safety along the entire length of the pipeline system similar to that which is required in High Consequence Areas (HCAs) as defined in 49 CFR 195.450.

Although most resources would not experience significant impacts, there would be significant adverse effects to certain cultural resources along the proposed Project corridor and mitigation measures have been developed under a Programmatic Agreement (PA) consistent with the requirements of Section 106 of the NHPA to address these adverse effects (see Appendix S).

There would also be adverse effects to the American burying beetle from the proposed Project. As a result, formal consultation with USFWS under Section 7 of the ESA was initiated and is ongoing. A Biological Opinion is being developed by USFWS. No critical habitat has been designated for the American burying beetle and therefore none would be affected. Keystone has agreed to provide monetary compensation that would be used for habitat acquisition or other conservation measures as compensatory mitigation for the American burying beetle. Funds would be used to purchase and protect lands which are known to contain sustainable populations of the American burying beetle, providing an ecologically sound option to support conservation efforts of the American burying beetle within its historic range. In addition, general conservation measures have been discussed during consultation among USFWS, DOS, state resource agencies, and Keystone to avoid and minimize potential impacts to the American burying beetle.

Trees and shrubs would not be allowed to regenerate within the maintained right-of-way except within areas with HDD crossings; therefore, removal of forested and scrub-shrub wetland habitats due to pipeline construction would be long term, and the maintained right-of-way would represent a permanent conversion of forested and scrub-shrub wetlands to herbaceous wetlands. The total acreage of affected

forested wetland during construction would be 294 acres, and the total acreage of scrub-shrub wetland affected during construction would be 36 acres. Restoration of some forested and scrub-shrub wetlands may be possible; however, long-term effects would remain. Preliminary mitigation discussions with the USACE districts have identified mitigation options for the proposed Project.

Relative to impacts resulting from crude oil spills from the proposed Project, the impacts to environmental resources would depend primarily on the location and size of the spill. Spills could result from many causes, including corrosion (external or internal), excavation equipment, defects in materials or in construction, over-pressuring the pipeline, and geologic hazards, such as ground movement, washouts, and flooding. Although the leak detection system would be in place, some leaks might not be detected by the system. Impacts from an oil spill would be affected by variables such as the weather, time of year, water level, soil, local wildlife, and human activity. The extent of impact would also depend on the response time and capabilities of the emergency response team. The greatest concern would be a spill in environmentally sensitive areas, such as wetlands, flowing streams and rivers, shallow groundwater areas, areas near water intakes for drinking water or for commercial/industrial uses, and areas with populations of sensitive wildlife or plant species.