

**U.S. Fish and Wildlife Service Requirements under  
the National Historic Preservation Act for  
Endangered Species Act Incidental Take Permit ESPER7357373-0**

Nebraska Public Power District (NPPD) applied to the U.S. Fish and Wildlife Service (FWS) for an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act for the federally listed threatened American burying beetle (*Nicrophorus americanus*) associated with construction and emergency repairs on the R-Project transmission line (R-Project). The R-Project involves the construction of a 226-mile long 345 kV transmission line in Nebraska. Under Section 106 of the National Historic Preservation Act (NHPA), federal agencies must consider the effects of their undertakings that have the potential to impact historic properties including any district, site, building, structure, or object that is listed on or eligible for listing on the National Register of Historic Places (NRHP) and provide the State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (ACHP), affected Tribal Nations, and other Consulting Parties an opportunity to comment.

On August 22, 2025, NPPD submitted a request to the FWS to use Alternative Procedures for Compliance with Section 106 of the NHPA during the National Energy Emergency<sup>1</sup> (Alternative Procedures) for the R-Project transmission line, affirming it will implement, to the extent prudent and feasible, measures that avoid or minimize harm to historic properties. On January 13, 2026, the Department of the Interior approved NPPD's use of alternative procedures for compliance with Section 106 of the NHPA for the R-Project in response to the national energy emergency. Per 36 CFR 800.12(b)(2), the FWS provided the ACHP, Nebraska SHPO, and Tribal Nations the opportunity to comment on the proposed emergency undertaking within seven days of notification.

Based on the comments received, and additional responses/commitments from NPPD, the FWS has determined that NPPD will be required to implement the measures described in this document to address adverse effects on historic properties. This includes avoidance and minimization measures; mitigation measures; a construction monitoring program; a post-review discovery process; reporting requirements; professional qualifications and standards; curation methods and standards; and

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<sup>1</sup> On January 20, 2025, the President issued Executive Order 14156 (EO14156) Declaring a National Energy Emergency, which directed the heads of executive departments and agencies to identify and exercise lawful authorities to “. . . facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources . . . on Federal lands.” Secretarial Orders No. 3417 and 3418 implemented provisions of EO14156 and directed Bureaus and Offices under the Department of the Interior (Department) to identify any emergency authorities to facilitate “energy projects” as defined by EO14156.

confidentiality of sensitive information. This document is hereby incorporated as a term and condition in ITP PER7357373. No further NHPA identification efforts are required for the R-Project, including the 7% of the R-Project that has not been surveyed to date, under 36 CFR 800.4 due to use of Alternative Procedures and use of the ad hoc process per 36 CFR 800.12(b)(2). The Service has determined that the construction monitoring program appropriately avoids and minimizes harm to historic properties to the extent prudent and feasible as required under the Alternative Procedures.

The area of potential effects (APE) for the R-Project is defined as the area of direct and indirect effects, consisting of physical, audible, and visual effects. The APE for direct physical effects consists of 150 feet on each side of the R-Project transmission line centerline and 50 feet on each side of access routes and work areas. Tubular steel monopole and lattice tower structure foundations could range from 20 to 45 feet in depth depending on structure type and soil and load conditions. The APE for direct audible effects consists of a 0.5 mile on each side of the R-Project transmission line centerline and 0.5 mile on each side of access routes and work areas. The APE for direct visual effects consists of 10 miles on each side of the R-Project transmission line centerline. Atmospheric effects include direct effects such as those resulting from fugitive dust that could affect the visual setting. Such effects will be temporary and will not be permanent or adverse; therefore, an APE for atmospheric effects is not defined with a standardized buffer distance from the R-Project.

Indirect effects are defined as physical, audible visual, and atmospheric effects caused by the undertaking that are later in time or farther removed in distance but are still reasonably foreseeable (36 CFR 800.5(a)(1) and *National Parks Conservation Association v. Semonite*, No. 18-5179, 916 F. 3d 1075 [D.C. Cir. 2019]). The development of future renewable energy projects that are either expected to connect directly to the R-Project or are identified as a contingent facility.<sup>2</sup> It is reasonable to assume the future renewable energy projects could result in effects on historic properties; however, the degree and extent of effects are currently unknown.<sup>3</sup> Based on FWS's and NPPD's limited degree of involvement in these future renewable energy projects, the limitations of currently available information, and the use of alternative procedures, FWS is unable to determine APEs that are caused by the undertaking, identify historic properties that would be affected, identify specific indirect effects on historic properties, or specify avoidance, minimization, or mitigation measures for these future projects.

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<sup>2</sup> Refer to Final Supplemental Environmental Impact Statement (SEIS) Section 3.1.3, Related Renewable Energy Projects, for the list of renewable energy projects that were known as of the drafting of the SEIS and which are considered as indirect effects of the R-Project under the National Environmental Policy Act.

<sup>3</sup> While the degree and extent of effects are currently unknown, Final SEIS 3.10.2.2, Related Renewable Energy Projects, describes potential effects on cultural resources that could occur from related renewable energy projects.

36 CFR 800.1(c) requires the agency to ensure that the section 106 process is initiated early in the undertaking's planning, so that a broad range of alternatives may be considered during the planning process for the undertaking. While the implementation of 36 CFR 800.12(b)(2) and Alternative Procedures condenses the planning process, the Service has ensured a broad range of alternatives to avoid and minimize effects on known historic properties was considered in the Service's 2026 final Supplemental Environmental Impact Statement Chapter 2, specifically Section 2.7.2.1, *Alternatives Evaluated to Minimize/Avoid Effects on Historic Properties*.

## **I. Required Avoidance and Minimization Measures**

A. Avoidance of adverse effects is the preferred strategy for resolving effects on historic properties. Minimization of adverse effects can reduce the severity of effects but would still result in an adverse effect. Specific measures that NPPD is required to implement include:

1. Avoiding ground-disturbing activities or placement of structures within 100 feet of Oregon, California, Pony Express, and the Mormon Pioneer National Historic Trail remnants (RPKB-2, RPKB-3, and RPKB-13).<sup>4</sup>
2. Avoiding placement of construction staging areas and pulling-and-tensioning sites on or within 100 feet of historic properties (including RPKB-2 O'Fallon's Bluff,<sup>5</sup> RPKB-3, Sand Hill Ruts, and RPKB-13 Segment of Oregon-California National Historic Trail) or other known archaeological resources, with the exception of Old Highway 83 (RPKB-1) and RPKB-15 Segment of Oregon-California National Historic Trail, where engineering constraints require pulling-and-tensioning sites to be located closer to, but not on, these resources.<sup>6</sup>
3. Using steel monopoles within 0.5 mile of any National Historic Trail, the historic ranch in Logan County (LO00-001), and St. John's Lutheran Church (BL00-008), rather than lattice towers.

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<sup>4</sup>RPKB-2 refers to the site at O'Fallon's Bluff that is listed on the NRHP. This historic property has two recorded boundaries, including a boundary recorded in the NRHP (RPKB-2) and a larger boundary recorded by the SHPO in NCRGIS (LN00-028). The NCRGIS boundary is less accurate and depicts LN00-028 as directly adjacent to the ROW, with boundaries some distance from the actual resource. The NRHP boundary is more accurate and locates the site 750 feet north of the proposed R-Project transmission line. Note, however, that no structures, construction staging areas, or pulling-and-tensioning sites will be located on or adjacent to any of the contributing features of the O'Fallon's Bluff site.

<sup>5</sup> See footnote 4 above for the distinction between RPKB-2 and LN00-028. This commitment applies to the NRHP boundary RPKB-2.

<sup>6</sup> NPPD is in discussions with the landowner to make micrositing adjustments in the area of RPKB-15 to minimize impacts to this resource. Depending on the outcome of those discussions, avoidance by 100 feet may be possible. But such avoidance is not a condition of the ITP.

4. Protecting historic trail remnants with temporary fencing and monitoring use of heavy equipment in the vicinity of the trail remnants (RPKB-3 and RPKB-15) during construction.<sup>7</sup>
5. Using a setback distance of structures from historic trail remnants as allowed by engineering constraints (RPKB-2, RPKB-3, and RPKB-13).
6. Using existing roads, to include two-track roads, for access during construction based on availability and landowner approval.
7. Locating construction staging areas and pulling-and-tensioning sites adjacent to existing roads and in previously disturbed areas, where practicable, based on availability and landowner approval.
8. Utilizing ground matting or low-ground-pressure equipment to avoid or minimize ground disturbance on or within 100 feet to historic properties, with the exception of Old Highway 83 (RPKB-1).
9. Using helicopters during construction, including for erection of lattice towers, to minimize ground disturbance.
10. Restricting all construction vehicle movement outside the R-Project transmission line right-of-way to designated access routes and established roads other than for emergency situations.
11. Requiring fugitive dust control plans to identify possible avoidance and minimization measures as part of construction contract specifications.
12. Locating new transmission line access parallel to landform contours to minimize ground disturbance and/or reduce land scarring.
13. Implementing the Restoration Management Plan that includes erosion monitoring provisions to ensure successful restoration is achieved.
14. Minimizing the risk of fire ignitions during construction by implementing fire prevention and control measures.
15. Minimizing the removal of shelterbelts and trees.
16. Siting structures located in the Sandhills segments of the R-Project to avoid obvious visual intrusion, such as hilltops or narrow drainages, where practicable.
17. Predetermining the area limits of construction activities and restricting and confining activity within those limits. Permanent paint or discoloring agents to

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<sup>7</sup> Due to the route adjustment NPPD made to minimize impacts to O'Fallon's Bluff, RPKB-2 and RPKB-13 are not near the project area and are located in areas to which NPPD does not have access.

- vegetation or rocks to indicate survey or construction activity limits will not be used.
18. Avoiding the use of permanent lighting of transmission support structures, unless required by Federal Aviation Administration regulations and using down-shield sodium vapor lighting at substations to reduce night glare and light pollution.
  19. Hiring and paying for a canine forensic team that will survey R-Project disturbance areas, including structure work areas, pulling-and-tensioning sites, and access requiring improvement, within a specific area in the R-Project right-of-way where the Cherokee Nation has raised concerns regarding potential burial sites in the vicinity of the R-Project.<sup>8</sup> If the canine forensic team finds evidence that remains might be present, NPPD will hire a ground-penetrating radar (GPR) team to examine the identified location or locations. If micro siting is advisable due to positive reports by the canine forensic team and GPR team, then NPPD will evaluate the micro siting of disturbance areas, potentially including shifting transmission poles, rerouting access routes, or shifting/reducing pulling-and-tensioning sites to avoid adverse effects. NPPD agrees to coordinate with the Cherokee Nation in potential resolution of adverse effects, recognizing that construction can continue once micro siting options have been evaluated.
  20. Shifting a segment of the transmission line approximately 0.5 mile east from its original location, which eliminated the overhead crossing of the trail ruts on or immediately west of the O'Fallon's Bluff site (LN00-028 [RPKB-2]) located adjacent to Interstate 80 (I-80) and created additional physical separation between the proposed transmission line and this historic property. No structures will be placed within the boundaries of this site.
  21. Minimizing effects on the Sand Hill Ruts of the Mormon Trail (RPKB-3) by routing parallel to an existing county road, which runs perpendicular to the trail and has already disturbed the trail in this area, as opposed to placement directly over the existing trail remnants.
  22. Shifting the transmission line structure (Structure 99) near the prehistoric open camp (25LN94/25LN113) to the location as agreed to with the SHPO in 2019 to avoid direct impacts to the site. Fencing the site during construction. Monitoring potential erosion at Structure 99 following construction as part of routine inspections for a duration of five years from issuance of the Incidental

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<sup>8</sup> Note that the first round of canine forensic surveys was completed in November 2025 with no detections. NPPD provided the Service with a report of this survey effort. The second round of canine forensic surveys is planned for spring 2026.

Take Permit and submitting photographs to SHPO annually to demonstrate whether erosion is occurring at this structure location.

23. Shifting the transmission line structure to be located outside the 100-foot buffer of the Ballagh Schoolhouse (RPKB-12) site boundary. Conducting subsurface testing at the relocated transmission line structure east of the RPKB-12 site prior to construction. Submitting to the SHPO and the FWS an addendum to the 2018 Cultural Resources Survey Report, which originally identified RPKB-12, within six months of the fieldwork. If the fieldwork identifies buried cultural resources, NPPD will engage in additional coordination with the FWS and SHPO.

## **II. Required Mitigation Measures**

### **A. Ethnographic and Historic Context Study of the Nebraska Sandhills**

- 1) NPPD will finance, not to exceed \$400,000, development of an ethnographic and historic context study of the Nebraska Sandhills region within the APE as a mitigation measure to resolve adverse effects on historic properties. This study will encompass all associated historic trails within the APE, including the Oregon-California Trail, Pony Express, and Mormon Trail; O'Fallon's Bluff; Birdwood Creek Site; Ballagh Schoolhouse Site; St. John's Lutheran Church; Old Highway 83/US Route 183 Segment; LO00-001 (Brosius Homestead [Neal Ranch]); and currently known unevaluated cultural resources or any historic properties identified during construction monitoring within the APE, as appropriate.
  - a) NPPD will work with the FWS to ensure that an appropriate entity is retained to develop a work plan and conduct the ethnographic and historic context study. NPPD will ensure that a contract with the appropriate party, approved by FWS as having a qualified ethnographer or cultural anthropologist and qualified historian, is executed within one year of ITP issuance. The FWS will be the decision maker on the work plan content and final study developed by the contracted party.
  - b) The study will be completed within 5 years of the issuance of the ITP. All documentation shall meet the Secretary of the Interior's Standards and be archived by FWS and other appropriate repositories.
  - c) Construction of the R-Project can begin immediately after the issuance of the ITP and prior to completion of this study.

### **B. Interpretative Signs**

1. NPPD will contribute \$20,000 to recast and remount and repair the bases of the two existing interpretative signs for the California-Oregon and Overland trails at the I-80 eastbound rest area near Sutherland, Nebraska. This effort will be undertaken in collaboration with the Nebraska State Historical Society

- (NSHS), SHPO, National Park Service, and Nebraska Department of Transportation (NDOT), to the extent each party is agreeable, and will be informed by the ethnographic and historic context study identified in Mitigation Measure A.
2. NPPD will contribute \$3,800 to replace the existing “attractions” map currently located in the eastbound I-80 rest area near Sutherland, Nebraska with a new map that includes O’Fallon’s Bluff and the various historic trails in Nebraska. This effort will be undertaken in coordination with the appropriate agencies and will be informed by the ethnographic and historic context study identified in Mitigation Measure A.
  3. NPPD will contribute \$1,300 to replace the existing interpretative sign at the Sand Hill Ruts of the Mormon Pioneer National Historic Trail (RPKB-3) located approximately 4 miles north of Sutherland, Nebraska. This effort will be undertaken in coordination with the Lincoln County Historical Museum, if that party is agreeable, and will be informed by the ethnographic and historic context study identified in Mitigation Measure A.
- C. NRHP Nomination and Maintenance of LO00-001
1. NPPD will contribute \$45,000 to the owner of LO00-001, a historic ranch in Logan County, to be used for a consulting fee for nominating the ranch to be listed on the National Register of Historic Places and any needed maintenance for the historic property. If the historic ranch does not agree to accept any funds, NPPD agrees to add the \$45,000 to the \$400,000 maximum commitment for the ethnographic and context study identified in Mitigation Measure A, which would also be expanded to include the NRHP nomination form for the historic ranch.
- D. Building Maintenance Fund for St. John’s Lutheran Church
1. NPPD will contribute \$19,000 to establish a building maintenance fund within six months of issuance of the Incidental Take Permit to resolve impacts to LN00-032, St. John’s Lutheran Church located in Blaine County, Nebraska, if the Church agrees to accept such funds. If the Church does not agree to accept any funds, NPPD agrees to add the \$19,000 to the \$400,000 maximum commitment for the ethnographic and context study identified in Mitigation Measure A.
- E. Old Highway 83 (RPKB-1) Public Outreach Materials
1. NPPD agrees to contribute \$5,000 for the creation of public outreach materials for regional museums regarding RPKB-1 Old Highway 83 that will be informed by the ethnographic and historic context study identified in Stipulation V. The

creation of these materials will be an add-on task to the ethnographic and historic context study effort.

### **III. Construction Monitoring Program**

NPPD will implement, to the extent prudent and feasible, a construction monitoring program during R-Project construction to avoid or minimize adverse effects on historic properties. This program is designed to provide an opportunity for Tribal monitors to monitor construction activities in areas that have the potential for properties of traditional religious and cultural importance. NPPD will also have an archaeological monitor present during the construction consistent with the terms of this program. The construction monitoring program, which occurs entirely on private property, will proceed according to the following parameters.

#### **A. Construction Monitoring Location Criteria**

1. Portions of the Undertaking that are within 0.5 mile of named waterways in the National Hydrology Database.
2. Areas within 100 feet of LN00-028 (O'Fallon's Bluff) and RPKB-15.
3. Areas within 0.5 mile of the following archaeological resources: 25BL4, 25LN20, 25LN72, and WH3.
4. The area that has been and will be the subject of canine forensic surveys at the request of the Cherokee Nation, which is in the vicinity of I-80 and the South Platte River.
5. Maps depicting these monitoring locations will be finalized with approval by FWS within 60 days of permit issuance.

B. The construction activities subject to the monitoring program within the areas described in Construction Monitoring Location Criteria include grading of soils and excavation of foundations within structure work areas, as well as grading of soils in pulling-and-tensioning locations, fly yards and assembly areas, and construction staging areas.

C. Up to three Tribal monitors (as designated by Tribal Nations) will be compensated by NPPD. Compensation and other logistical concerns will be handled in accordance with the terms of Tribal Monitoring Agreements to be negotiated by NPPD in good faith with the participating Tribal Nations within four months following the issuance of the ITP, with FWS final review and participation as appropriate.

D. If an agreement with a given Tribe or Tribes cannot be reached within four months of issuance of the ITP, construction monitoring shall proceed with the participation of only those Tribal Nations for which an agreement has been reached, if any.

Reports prepared by Tribal monitors, however, will be made available to all Tribal Nations that have participated in the Section 106 consultation for the R-Project. In no case will construction of any R-Project segment be delayed due to the lack of availability or attendance of Tribal monitors during construction activities previously scheduled for construction monitoring.

- E. Construction may proceed in all areas outside of those designated for the construction monitoring program pursuant to the conditions of the ITP.

#### **IV. Post-Review Discoveries**

- A. For unanticipated discoveries (not including human remains), NPPD will implement the following protocol.
  1. If any member of the workforce believes that they have found a cultural resource, they shall stop all activity within 200-foot-radius of the discovery, unless safety concerns are an issue, and immediately contact the construction supervisor.
  2. The construction supervisor will notify the Compliance Manager, who will immediately notify the Cultural Resource Specialist (CRS), the Construction Manager, and NPPD Project Manager.
  3. No work shall occur at the location of the find or within a 200-foot buffer around the find until further notice.
  4. The person in charge of the work area will take appropriate steps to protect the area of discovery by installing a physical barrier such as exclusionary fencing, flagging tape, or other method of bounding the discovery within the safety buffer zone. This will prohibit vehicles, equipment, and unauthorized persons from traversing the area of discovery and will be adequate to provide for the security, protection, and integrity of the resource.
  5. The movement of construction vehicles will only be allowed in the area if such movement would not disturb the discovery.
- B. The remaining process will follow the steps outlined in the regulations at 36 CFR 800.13(b).
- C. For unanticipated discoveries of potential human remains, NPPD will implement the following protocol.
  1. If any member of the workforce believes that they may have found human remains and/or grave goods, they will stop all activity within the 200-foot vicinity of the discovery and immediately contact the construction supervisor.

2. The construction supervisor will immediately notify the Compliance Manager, who will immediately notify the CRS, Construction Manager, and NPPD Project Manager.
3. No work shall occur at the location of the find or within a 200-foot radius around the find until further notice.
4. The person in charge of the work area will take appropriate steps to protect the area of discovery by installing a physical barrier such as exclusionary fencing, flagging tape, or other method of bounding the discovery within the safety buffer zone.
5. The discovery will not be left unattended until an assessment is made by the CRS, who will have experience with or training in human osteology. It is possible that, post-assessment, extended security measures will be necessary depending on the location and nature of the discovery.
6. All personnel will refrain from taking photographs unless said personnel either (a) meet Secretary of Interior's Professional Qualification Standards, or (b) are a TCS.
7. All personnel will:
  - Leave the site undisturbed
  - Refrain from moving, touching, or reburying anything
  - Refrain from posting any information on social media.
8. The remaining process will follow the steps outlined in the Unmarked Human Burial Sites and Skeletal Remains Protection Act, Neb. Rev. Stat. §§ 12-1201 to 12-1212.

## **V. Required Reporting**

NPPD will submit an annual report on NHPA requirements by March 31 annually. Such reports shall include, as applicable:

- A description of the prior year's efforts and anticipated upcoming efforts concerning mitigation measures;
- A description of any post-review discoveries and responses thereto.

## **VI. Professional Qualifications and Standards**

### **A. Qualifications of Personnel**

1. NPPD will ensure that all actions for which NPPD is responsible the identification, evaluation, analysis, recordation, treatment, monitoring, and disposition of historic properties and the reporting and documentation of such

- actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons meeting, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (PQS) for the appropriate discipline (48 FR 44739 dated September 29, 1983; 36 CFR 800.4(c)(1)). This requirement may not be interpreted to preclude any party qualified under these terms from using the services of persons who do not meet the PQS, so long as the work of such persons is supervised by someone who meets the PQS.
2. Tribal Monitors are not required to meet the PQS noted in I.A.1, and FWS shall equally consider and incorporate their special expertise into decisions regarding the implementation of these NHPA requirements, consistent with 36 CFR 800.2(c)(2). The assignment and approval of Tribal monitors will be the responsibility of the Tribal Nations that have entered into agreements with NPPD for construction monitoring. The FWS recognizes that Tribal Nations possess special expertise in identifying and assessing the eligibility of properties of traditional religious and cultural importance.

#### B. Standards, Guidelines, and Statutes

All cultural resources work conducted pursuant to these NHPA requirements, to the extent applicable and as may be amended in the future, shall be consistent with the NHPA and carried out in accordance with all applicable standards, guidelines, and statutes, including but not limited to the following:

1. Protection of Historic Properties (36 CFR Part 800)
2. NRHP Bulletins
3. Nebraska SHPO Section 106 Guidelines for Archaeology
4. Unmarked Human Burial Sites and Skeletal Remains Protection Act (Nebraska Revised Statutes 12-1201 through 12-1212)
5. ACHP Policy Statement on Tribal Treaty Rights in the Section 106 Process (2018)
6. ACHP Policy Statement on Indigenous Knowledge and Historic Preservation (2024)
7. All applicable Department of the Interior and FWS manuals, policies, and guidelines (e.g., Secretary of the Interior Standards and Guidelines for Archeology and Historic Preservation)

### VII. Curation Methods and Standards

- A. It is the preference of FWS that archaeological material discovered during the implementation of these NHPA requirements is not collected but analyzed in the

field. Furthermore, if landowners do not wish to allow analysis offsite, such analysis will occur in the field.

- B. Any archaeological materials that are collected during the implementation of these NHPA requirements are the property of the respective landowner. NPPD will provide the collected materials to the landowner and inform them that they have the option of keeping the collected materials or donating those materials to a curation facility or appropriate Tribal Nation. If the collected materials are donated, FWS will ensure that transfer occurs within 60 days of resolution of adverse effects after the post-review discovery. NPPD will cover the transfer and curation costs and provide documentation to FWS of the disposition of private collections.
- C. Any archaeological materials collected pursuant to the implementation of these NHPA requirements shall be maintained in accordance with 36 CFR Part 79 until all analysis is complete.

#### **VIII. Confidentiality of Sensitive Information**

- A. Sensitive information may include locations, descriptions, or other information about historic properties. Consistent with Section 304 of the NHPA (54 USC § 300310), and its implementing regulations 36 CFR 800.11(c), and Section 9a of the Archaeological Resources Protection Act (16 USC § 470hh(a)), and its implementing regulation 43 CFR 7.18, sensitive information has not been and will not be shared with the local governments, organizations, or individuals unless agreed to by FWS.
- B. Confidentiality concerns for properties of traditional religious and cultural importance to Tribal Nations will be respected and will remain confidential to the fullest extent permitted by law. This includes specifically protecting information on properties of traditional religious and cultural importance to Tribal Nations to which NPPD may become privy through implementation of these NHPA requirements or other coordination, including protecting locations, descriptions, or other information provided by Tribal Nations.
- C. Sensitive information provided to federal agencies may be disclosed under the Freedom of Information Act, unless a specific exemption applies. Freedom of Information Act exemptions that may apply to sensitive information submitted by Tribal Nations include Exemption 3 (Information Exempted from Disclosure by Statute); Exemption 4 (Trade Secrets and Confidential Business Information); Exemption 5 (Internal Memoranda Privileges); Exemption 6 (Personal Privacy); Exemption 8 (Records of Financial Institutions); and Exemption 9 (Geological and Geophysical information).