

Exhibit A

PERMIT CONDITIONS

I. Compliance with Laws, Regulations, Permits, Standards and Commitments

1. Dakota Access shall comply with all applicable laws and regulations in its construction and operation of the Project. These laws and regulations include, but are not necessarily limited to: the federal Hazardous Liquid Pipeline Safety Act of 1979 and Pipeline Safety Improvement Act of 2002, as amended by the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006, and the various other pipeline safety statutes codified at 49 U.S.C. § 601 01 et seq. (collectively, the "PSA"); the regulations of the United States Department of Transportation implementing the PSA, particularly 49 C.F.R Parts 194 and 195; temporary permits for use of public water for construction, testing or drilling purposes, SDCL 46-5-40.1 and ARSD 74:02:01:32 through 74:02:01 :34.02 and temporary discharges to waters of the state, SDCL 34A-2-36 and ARSD Chapters 74:52:01 through 74:52:11, specifically, ARSD § 74:52:02:46 and the General Permit issued thereunder covering temporary discharges of water from construction dewatering and hydrostatic testing.
2. Dakota Access shall obtain and shall thereafter comply with all applicable federal, state and local permits, including but not limited to: Clean Water Act §404 and Rivers and Harbors Act Section 10 Permits; General Permit for Temporary Discharges and federal, state and local highway and road encroachment permits. Any of such permits not previously filed with the Commission shall be filed with the Commission upon their issuance. To the extent that any condition, requirement or standard imposed by any federal agency differs from the requirements of these Conditions, the more stringent shall apply.
3. The permit granted by this Order shall not be transferable without the approval of the Commission pursuant to SDCL 49-41B-29.
4. Dakota Access shall undertake and complete all of the actions that it and its affiliated entities committed to undertake and complete in its Application as amended, in its testimony and exhibits received in evidence at the hearing, and in its responses to data requests received in evidence at the hearing.

II. Reporting and Relationships

5. The most recent and accurate depiction of the Project route and facility locations is found on the maps in Exhibit DAPL-2. The Application filed by Dakota Access with the Commission indicates Dakota Access will continue to develop route adjustments throughout the pre-construction design phase. These route adjustments will accommodate environmental features identified during surveys, property-specific issues, and civil survey information. Dakota Access shall do the following as it pertains to routing:
 - a) File new aerial route maps that incorporate any route adjustments prior to construction.

- b) Notify the Commission and all affected landowners, utilities and local governmental units as soon as practicable if material deviations are proposed to the route and afford the Commission the opportunity to review and approve such modifications.
- c) Notify affected landowners of any change in the route on their land.
- d) Upon completion of the pre-construction route, Dakota Access shall file maps with the Commission depicting the final preconstruction route.
- e) At the conclusion of construction, Dakota Access shall file detail maps with the Commission depicting the final as-built location of the Project facilities.

6. Dakota Access shall provide a public liaison officer, approved by the Commission, to facilitate the exchange of information between Dakota Access, including its contractors, and landowners, local communities and residents and to facilitate prompt resolution of complaints and problems that may develop for landowners, local communities and residents as a result of the Project. Dakota Access shall file with the Commission its proposed public liaison officer's credentials for approval by the Commission prior to the commencement of construction. After the public liaison officer has been approved by the Commission, the public liaison officer may not be removed by Dakota Access without the approval of the Commission. The public liaison officer shall be afforded immediate access to Dakota Access's on-site project manager, its executive project manager and to contractors' on-site managers and shall be available at all times to the Staff via mobile phone to respond to complaints and concerns communicated to the Staff by concerned landowners and others. Dakota Access shall also implement and keep an updated web site covering the planning and implementation of construction and commencement of operations in this state as an informational medium for the public. As soon as the Dakota Access's public liaison officer has been appointed and approved, Dakota Access shall provide contact information for him/her to all landowners crossed by the Project and to law enforcement agencies and local governments in the vicinity of the Project. The public liaison officer's contact information shall be provided to landowners in each subsequent written communication with them. If the Commission determines that the public liaison officer has not been adequately performing the duties set forth for the position in this Order, the Commission may, upon notice to Dakota Access and the public liaison officer, take action to remove the public liaison officer.

7. Dakota Access shall submit quarterly progress reports to the Commission that summarize the status of land acquisition and route finalization, the status of construction (including when construction is expected to commence), the status of environmental control activities, including permitting status and Emergency Response Plan and Integrity Management Plan development, and any other plan required pursuant to PHMSA regulations, the implementation of the other measures required by these conditions, and the overall percent of physical completion of the project and design changes of a substantive nature. Each report shall include a summary of consultations with the South Dakota Department of Environment and Natural Resources and other agencies concerning the issuance of permits. The reports shall list dates, names, and the results of each contact and the company's progress in implementing prescribed construction, land restoration, environmental protection, emergency response and integrity management regulations,

plans and standards. The first report shall be due for the period ending March 31, 2016. The reports shall be filed within 31 days after the end of each quarterly period and shall continue until the project is fully operational.

8. Continuing until landowner reclamation is complete, Dakota Access's public liaison officer shall report quarterly to the Commission on the status of the Project from his/her independent vantage point. The report shall detail problems encountered and complaints received. The liaison officer shall collect all reports generated per Condition 13 and provide them to the Commission or Commission Staff upon request.

For the period of three years following completion of construction, Dakota Access shall report to the Commission annually on the status of road repairs, road reconstruction and any problems or issues occurring during the course of the year.

9. Prior to construction, Dakota Access shall commence a program of contacts with state, county and municipal emergency response, law enforcement and highway, road and other infrastructure management agencies serving the Project area in order to educate such agencies concerning the planned construction schedule and the measures that such agencies should begin taking to prepare for construction impacts and the commencement of project operations.

10. Dakota Access shall conduct a preconstruction conference prior to the commencement of construction to ensure that Dakota Access, and its contractors, fully understands the conditions set forth in this order. At a minimum, the conference shall include a Dakota Access representative, Dakota Access's construction supervisor and Commission Staff.

III. Construction

11. Except as otherwise provided in the conditions of this Order and Permit, Dakota Access shall comply with all mitigation measures set forth in the Stormwater Pollution Prevention Plan, and Appendices, Agricultural Impact Mitigation Plan, Horizontal Directional Drill Contingency Plan and Blast Plan as set forth in DAPL-5. If modifications to a plan are made by Dakota Access as it refines its construction plans or are required by any federal or state agency, the plan as so modified shall be filed with the Commission and shall be complied with by Dakota Access.

12. The probability of Dakota Access encountering karst features is low. However, if voids or other signs of karst topography are found during construction, Dakota Access shall conduct further site-specific evaluations by a qualified geologist or geotechnical engineer to provide input on mitigation measures. Dakota Access shall complete site-specific mitigation measures on a case by case basis for each karst feature encountered during construction. Any site specific mitigation plans completed for a karst feature shall be submitted to the Commission for review.

13. Dakota Access shall record and keep the following information: (i) landowner concerns or requests which differ from the agricultural mitigation plan, (ii) an indication of how Dakota Access responded to any such landowner requests (iii) environmental compliance concerns with regard to the Commission order or other law, rule or regulation, (iv) unique reclamation activities

based on landowner request or field factors such as problematic soils, large weed plots, or other such unanticipated conditions, (v) any action items as ordered, directed or recommended by the environmental inspector.

14. Dakota Access will coordinate all utility crossings in good faith with existing operators and will follow all One Call Procedures.

15. Prior to construction, Dakota Access shall consult with the South Dakota Department of Agriculture, the NRCS, and local county officials to develop specific plans for the following: proper seed mix for pasture areas, identification of areas of noxious weed concern, and to develop control methods for those areas of noxious weed concern.

16. Dakota Access shall take the following steps to mitigate reclamation challenges and assure proper reclamation occurs:

a) Dakota Access shall separate and segregate topsoil from subsoil in all areas where excavation occurs, as provided in the Agricultural Impact Mitigation Plan. If it is discovered during excavation that the topsoil depth is greater than 12 inches, Dakota Access shall inform the landowner of the actual depth of topsoil and afford the landowner the options of either stripping the entire depth of the topsoil or the 12 inches as set forth in the Agricultural Impact Mitigation Plan.

b) Dakota Access shall repair any damage to property that results from construction activities.

c) Dakota Access shall restore all areas disturbed by construction to their preconstruction condition, including their original preconstruction topsoil, vegetation, elevation, and contour, or as close thereto as is feasible, except as is otherwise agreed to by the landowner in writing.

d) Final grading and topsoil replacement and installation of permanent erosion control structures shall be completed as soon as possible. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Dakota Access' control cause for delay, temporary erosion controls shall be maintained until conditions allow completion of cleanup and reclamation. In the event of unacceptable delay, Dakota Access shall give notice of such fact to all affected landowners, and such notice shall include an estimate of when such restoration is expected to be completed.

e) Dakota Access shall draft specific crop monitoring protocols for agricultural lands. If requested by the landowner, Dakota Access shall provide an independent crop monitor to conduct yield testing and/or such other measurements of productivity as he shall deem appropriate. The independent monitor shall be a qualified agronomist, rangeland specialist or otherwise qualified with respect to the species to be restored. The protocols shall be available to the Commission upon request and may be evaluated for adequacy in response to a complaint or otherwise. If the landowner foregoes the opportunity to use the independent crop monitor provided by Dakota Access, the landowner retains the right to use an independent crop monitor of their choosing and at their own cost.

- f) Dakota Access shall work closely with landowners, NRCS and county governments in planning for noxious weed control. Landowner permission shall be obtained before the application of herbicides.
- g) Throughout the construction duration, Dakota Access shall employ weed control measures as soon as reasonably practical and immediately when noxious weeds are observed to mitigate weeds on the temporary soil piles and within the construction right-of-way. To implement this additional weed control mitigation, the environmental inspector or agricultural inspector should be capable of identifying multiple species of weeds at a number of life stages, and be able to recommend and implement weed control measures early enough in the life cycle of the weed species in question to minimize or prevent the plant from setting seeds.
- h) Section 6n of the Agricultural Impact Mitigation Plan regarding wet conditions shall apply to improved hay land and pasture lands in add in addition to crop lands.
- i) The size, density and distribution of rock within the construction right-of-way following reclamation shall be similar to adjacent undisturbed areas. Dakota Access shall treat rock that cannot be backfilled within or below the level of the natural rock profile as construction debris and remove it for disposal offsite except when the landowner agrees to the placement of the rock on his property in writing. In such case, the rock shall be placed in accordance with the landowner's directions.
- j) Dakota Access shall employ adequate measures to de-compact subsoil as provided in its agricultural impact mitigation plan. Dakota Access shall conduct compaction testing of areas on and off the construction right-of-way, using a penetrometer or other equivalent measuring device, to provide an adequate means of determining whether such measures have reduced compaction to levels similar to adjacent sections of cropland undisturbed by construction.
- k) Dakota Access shall monitor and take appropriate mitigative actions as necessary to address salinity issues when dewatering the trench, and field conductivity and/or other appropriate constituent analyses shall be performed prior to disposal of trench water in areas where salinity may be expected. Dakota Access shall notify landowners prior to any discharge of saline water on their lands or of any spills of hazardous materials on their lands which is required by any federal, state, or local law or regulation or product license or label to be reported to a state or federal agency, manufacturer, or manufacturer's representative.
- l) Dakota Access shall follow the Stormwater Pollution Prevention Plan. On site modification shall be approved by the environmental inspector, documented by the inspector and provided to the Commission upon request.
- m) Dakota Access shall reseed all impacted vegetated land, excluding commodity or row crops. This is intended to include, but is not limited to a reseeded of all pasture, hay and native species areas with comparable seed or native species mix to be approved by

landowner, in writing. Dakota Access shall actively monitor revegetation on all disturbed areas for at least two years.

n) Dakota Access shall coordinate with landowners regarding his/her desires to protect cattle, shall implement protective measures as are reasonably requested by the landowner and shall adequately compensate the landowner for any loss.

o) Prior to commencing construction, Dakota Access shall file with the Commission a confidential list of property owners crossed by the pipeline and update this list if route changes during construction result in property owner changes.

p) Dakota Access shall, and shall cause its contractor to, equip each of its vehicles used in pre-construction or construction activities, including off road vehicles, with a hand held fire extinguisher, and communication device such as a cell phone, in areas with coverage, or a radio capable of achieving prompt communication with Dakota Access's fire suppression resources and emergency services.

q) Temporary sediment barriers shall remain in place until the permanent revegetation coverage has reached a minimum of 70 percent cover as compared to similar cover in an adjacent area that is undisturbed by construction. This includes a comparative presence of noxious species such that the presence of noxious species shall not be more dominant on the revegetated area when compared to the adjacent undisturbed lands.

17. Dakota Access shall cover open-bodied dump trucks carrying sand or soil while on paved roads and cover open-bodied dump trucks carrying gravel or other materials having the potential to be expelled onto other vehicles or persons while on all public roads.

18. Dakota Access shall position water trucks on gravel roads, for dust control, where conditions warrant.

19. Dakota Access shall require that its primary contractor ensure that all construction equipment is properly tuned and maintained and that idling be minimized during construction.

20. Dakota Access shall use its best efforts to not locate fuel storage facilities within 200 feet of private wells and 400 feet of municipal wells and shall minimize and exercise vigilance in refueling activities in areas within 200 feet of private wells and 400 feet of municipal wells.

21. If trees are to be removed that have commercial or other value to affected landowners, Dakota Access shall compensate the landowner for the fair market value of the trees to be cleared and/or allow the landowner the right to retain ownership of the felled trees.

22. Dakota Access shall develop frac-out plans specific to areas in South Dakota where horizontal directional drilling will occur. The plan shall be followed in the event of a frac-out. If a frac-out event occurs, Dakota Access shall notify all government agencies including but not limited to SDDENR as required by the plan and state and federal law.

23. Dakota Access shall comply with the following conditions regarding road protection and bonding:

- a) Dakota Access shall coordinate road closures with state and local governments and emergency responders and shall acquire all necessary permits authorizing crossing and construction use of state, county and township roads.
- b) Dakota Access shall implement a regular program of road maintenance and repair through the active construction period to keep paved and gravel roads in an acceptable condition for residents and the general public.
- c) Prior to their use for construction, Dakota Access shall videotape those portions of all roads which will be utilized by construction equipment or transport vehicles in order to document the pre-construction condition of such roads.
- d) After construction, Dakota Access shall repair and restore, or compensate governmental entities for the repair and restoration of, any deterioration caused by construction traffic, such that the roads are returned to at least their preconstruction condition.
- e) Dakota Access shall use appropriate preventative measures as needed to prevent damage to paved roads and to remove excess soil or mud from such roadways.
- f) Pursuant to SDCL 49-41B-38, Dakota Access shall obtain and file for approval by the Commission prior to construction in such year a bond in the amount of \$24 million, including any additional period until construction and repair has been completed, to ensure that any damage beyond normal wear to public roads, highways, bridges or other related facilities will be adequately restored or compensated. Such bonds shall be issued in favor of, and for the benefit of, all such townships, counties, and other governmental entities whose property is crossed by the Project. The bond shall remain in effect until released by the Commission, which release shall not be unreasonably denied following completion of the construction and repair period. Dakota Access shall give notice of the existence and amount of these bonds to all counties, townships and other governmental entities whose property is crossed by the Project.
- g) All pre-existing roads and lanes used during construction must be restored to at least their pre-construction condition that will accommodate their previous use, and areas used as temporary roads during construction must be restored to their original condition, except as otherwise requested or agreed to by the landowner or any governmental authority having jurisdiction over such roadway.
- h) Dakota Access shall, prior to any construction, file with the Commission a list identifying private and new access roads that will be used or required during construction and file a description of methods used by Dakota Access to reclaim those access roads.

24. In those areas where the Project passes within 500 feet of a residence or farmstead building:

- a) To the extent feasible, Dakota Access shall coordinate construction work schedules with affected residential landowners prior to the start of construction in the area of the residences.
- b) Dakota Access shall maintain access to all residences at all times, except for periods when it is infeasible to do so or except as otherwise agreed between Dakota Access and the occupant. Such periods shall be restricted to the minimum duration possible and shall be coordinated with affected residential landowners and occupants, to the extent possible.
- c) Dakota Access shall install temporary safety fencing, when reasonably requested by the landowner or occupant, to control access and minimize hazards associated with an open trench and heavy equipment in a residential area.
- d) Dakota Access shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption.
- e) Dakota Access shall repair any damage to property that results from construction activities.
- f) Dakota Access shall separate topsoil from subsoil and restore all areas disturbed by construction to at least their preconstruction condition.
- g) Except where practicably infeasible, final grading and topsoil replacement, installation of permanent erosion control structures and repair of fencing and other structures shall be completed in residential areas within 14 days after backfilling the trench. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Dakota Access's control prevent compliance with this time frame, temporary erosion controls and appropriate mitigative measures shall be maintained until conditions allow completion of cleanup and reclamation.
- h) When reasonably requested by a landowner, Dakota Access shall evaluate the use of a chemical dust suppressant. If Dakota Access determines the use of a chemical dust suppressant is not feasible, the company shall notify the landowner of its decision and reason.

25. Construction must be suspended when weather conditions are such that construction activities will cause irreparable damage, unless adequate protection measures approved by the Commission are taken. Prior to the start of construction in South Dakota, Dakota Access shall file with the Commission an adverse weather land protection plan containing appropriate adverse weather land protection measures, the conditions in which such measures may be appropriately used, and conditions in which no construction is appropriate.

26. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.

27. If construction, reclamation, and final stabilization will not be completed prior to winter weather, Dakota Access shall put in place a winter stabilization plan to stabilize conditions for reclamation the following spring. The plan shall be provided to the Commission and to landowners upon request.

28. Numerous Conditions of this Order, including but not limited to _____ relate to construction and its effects upon affected landowners and their property. The Applicant may encounter physical conditions along the route during construction which make compliance with certain of these Conditions infeasible. If, after providing a copy of this order including the Conditions to the landowner, the Applicant and landowner agree in writing to modifications of one or more requirements specified in these conditions, Dakota Access may follow the alternative procedures and specifications agreed to between it and the landowner.

29. Dakota Access shall contract with an independent third-party to monitor compliance with this permit. More specifically, prior to construction, Dakota Access shall file with the Commission its selection of a monitor which shall include the individual's name, qualifications and a description of how Dakota Access proposes for the selected individual to monitor for compliance. At least 30 days prior to construction, Dakota Access shall file with the Commission a plan that will be developed jointly with the selected third-party monitor. The plan will outline the specific terms and conditions of the third-party monitoring program that will include a minimum of the following considerations:

- a) The third-party monitor will be paid for by Dakota Access, but will report directly to the Commission.
- b) The third-party monitor will work directly with the Public Liaison Officer, the Dakota Access Environmental Inspectors and Agricultural Inspectors to ensure compliance with the various conditions of the permit. In the event of a non-compliance, the monitor will have the obligation to timely notify Dakota Access via the Environmental or Agricultural Inspector so as Dakota Access can take the appropriate action to mitigate or correct the noncompliance. Should the third-party monitor report any noncompliance to the Commission or Staff, the report shall simultaneously be shared with Dakota Access.
- c) The third-party monitor will have direct access to the company construction manager, project manager or other company management staff and will have the ability to communicate any non-compliance issues or concerns that are not addressed or mitigated by the Environmental or Agricultural Inspectors.
- d) This condition will not include the monitoring of laws or processes that are otherwise under the inspection or jurisdiction of a different agency such as the USACE, USFWS or PHMSA. The monitor will not inspect report on any technical design standard or requirement pursuant to 49 CFR Parts 194 and 195. However, Should Dakota Access be notified in advance of a compliance inspection to be conducted by

any regulatory agency, Dakota Access shall notify the 3rd party monitor of the inspection date, time, and location and afford the 3rd party monitor the opportunity to participate in the inspection for the purpose of submitting a summary report of the inspection to the Commission.

- e) The third-party monitor's contractual obligation to the Commission will begin and will end their monitoring responsibilities with the onset and conclusion of mainline construction activities and will not include post construction restoration activities.
- f) The third-party monitor will comply with all Dakota Access safety requirements. This includes the obligation to safely work, travel and traverse within the limits of the construction work area and will be subject to Dakota Access safety standards and processes at all times, under no exceptions. The third-party monitor must comply with all access points, travel restrictions within the construction work areas and any special conditions or safety exclusion areas throughout the duration of construction. The third-party monitor must comply with all local, state and federal laws and regulations.
- g) The monitor will not have any stop work authority.
- h) The third-party monitor shall prepare a report to the Commissioners or Staff as determined by the PUC that will include at a minimum the work areas that were monitored, any concerns, noncompliances, any remediation or mitigation measures employed to ensure compliance with the various conditions of the permit, any additional steps to correct or remedy a noncompliance and last, provide a list of any areas of concerns.

IV. Pipeline Operations, Detection and Emergency Response

30. Dakota Access shall construct and operate the pipeline in the manner described in the application and at the hearing, including in Dakota Access's exhibits, in accordance with DOT's PHMSA regulations, and in accordance with the conditions of this permit the conditions of this Order and the construction permit granted herein.

31. Dakota Access shall require compliance by its shippers with its crude oil specifications in order to minimize the potential for internal corrosion.

32. Dakota Access's obligation for reclamation and maintenance of the right-of-way shall continue throughout the life of the pipeline. In its surveillance and maintenance activities, Dakota Access shall, and shall cause its contractor to, equip each of its vehicles, including off-road vehicles, with a hand held fire extinguisher, and communication device such as a cell phone, in areas with coverage, or a radio capable of achieving prompt communication with emergency services.

33. In accordance with 49 C.F.R. 195, Dakota Access shall continue to evaluate and perform assessment activities regarding high consequence areas.

34. Prior to putting the Dakota Access Pipeline into operation, Dakota Access shall prepare, file with PHMSA and implement a facility emergency response plan as required under 49 CFR 194. Dakota Access shall also prepare and implement a set of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies as required under 49 CFR 195.402. Dakota Access shall also prepare and implement a written integrity management program in the manner and at such time as required under 49 CFR 195.452.

At such time as Dakota Access files its Facility Response Plan and Integrity Management Plan with PHMSA or any other state or federal agency it shall also file such documents with the Commission. The Commission's confidential filing rules found at ARSD 20:10:01:41 may be invoked by Dakota Access with respect to such filings to the same extent as with all other filings at the Commission. If information is filed as "confidential," any person desiring access to such materials or the Staff or the Commission may invoke the procedures of ARSD 20:10:01:41 through 20:10:01:43 to determine whether such information is entitled to confidential treatment and what protective provisions are appropriate for limited release of information found to be entitled to confidential treatment.

35. To facilitate periodic aerial patrol pipeline leak surveys during operation of the facilities: in wetland and riparian areas, a minimum corridor of 30 feet centered on the pipeline centerline (15 feet on either side), shall be maintained in an herbaceous state. Trees within the corridor greater than 15 feet in height may be selectively cut and removed from the permanent right-of-way.

V. Environmental

36. Except to the extent waived by the owner or lessee in writing or to the extent the noise levels already exceed such standard, the noise levels associated with Dakota Access's pump station and other noise-producing facilities will not exceed the LDN=55dbA standard at the nearest occupied, existing residence, office, hotel/motel or non-industrial business not owned by Dakota Access. The point of measurement will be within 100 feet of the residence or business in the direction of the pump station or facility. Post-construction operational noise assessments will be completed by an independent third-party noise consultant, approved by the Commission, to show compliance with the noise level at each pump station or other noise-producing facility. The noise assessments will be performed in accordance with applicable American National Standards Institute standards. The results of the assessments will be filed with the Commission. In the event that the noise level exceeds the limit set forth in this condition at any pump station or other noise producing facility, Dakota Access shall promptly implement noise mitigation measures to bring the facility into compliance with the limits set forth in this condition and shall report to the Commission concerning the measures taken and the results of post-mitigation assessments demonstrating that the noise limits have been met.

37. At the request of any landowner or public water supply system that offers to provide

the necessary access to Dakota Access over his/her property or easement(s) to perform the necessary work, Dakota Access shall replace at no cost to such landowner or public water supply system, any polyethylene water piping located within 500 feet of the Project with piping that is resistant to permeation by BTEX. Dakota Access shall not be required to replace that portion of any piping that passes through or under a basement wall or other wall of a home or other structure. At least forty-five (45) days prior to commencing construction, Dakota Access shall publish a notice in each newspaper of general circulation in each county through which the Project will be constructed advising landowners and public water supply systems of this condition.

38. DAPL shall comply with all applicable state and federal laws pertaining to the protection of sensitive species, including the Endangered Species Act, Migratory Bird Treaty Act, and Bald & Golden Eagle Protection Act, as well as the Programmatic Biological Opinion for the Issuance of Selected Nationwide Permits Impacting the Topeka Shiner in South Dakota. The U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service will determine the scope of DAPL's compliance with such laws and the Biological Opinion. Any correspondence received from U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service shall also be filed with the Commission.

39. Dakota Access shall keep a record of drain tile system information throughout planning and construction, including pre-construction location of drain tiles. Location information shall be collected using a sub-meter accuracy global positioning system where available, or where not available by accurately documenting the pipeline station numbers of each exposed drain tile. Dakota Access shall maintain the drain tile location information and tile specifications and incorporate it into its Facility Response and Integrity Management Plans where drains might be expected to serve as contaminant conduits in the event of a release. If drain tile relocation is necessary, the applicant shall work directly with landowner to determine proper location. The location of permanent drain tiles shall be noted on as-built maps. Qualified drain tile contractors and or persons shall be employed to repair drain tiles.

40. Waterbody crossing methods shall be determined prior to construction of each particular water body crossing, as a best management practice. The purpose of this requirement is to allow the construction contractor to plan ahead for the right equipment at the right locations and times, and provide Dakota Access's environmental inspectors sufficient time and ability to advise the contractor regarding potential changes to the planned crossing method based on field conditions.

VI. Cultural Resources

41. Dakota Access shall follow the "Unanticipated Discoveries Plan," as reviewed and approved by the State Historical Preservation Office ("SHPO"). If during construction, Dakota Access or its agents discover what may be an archaeological resource, cultural resource, historical resource or gravesite, Dakota Access or its contractors or agents shall immediately cease work at that portion of the site and follow the "Unanticipated Discoveries Plan." If the unanticipated discovery is of such a nature that a materially different route than that approved by

the Commission is required, Dakota Access shall obtain Commission approval for the new route before proceeding with any further construction.

42. Dakota Access shall provide and/or work with the lead Federal agency to provide data, avoidance plans or mitigation plans to the SHPO that are agreed to for areas that are subject to jurisdiction under the National Historic Preservation Act. In the event archaeological resources are identified outside of Federal jurisdictional areas where the National Historic Preservation Act applies, Dakota Access shall provide SHPO any data, avoidance or mitigation plans that are agreed upon or approved for release from the landowners for archaeological resources that have the potential to be or that have been listed as eligible for listing on the National Register of Historic Places

43. Dakota Access shall have access to a certified archeologist in order to facilitate the training, identification, handling, and impact mitigation of archeological resources, cultural resources, historical resources, or gravesites encountered during construction of the pipeline.

VII. Enforcement and Liability for Damage

44. Dakota Access shall repair or replace all property removed or damaged during all phases of construction and operation of the proposed transmission facility, including but not limited to, all fences, gates and utility, water supply, irrigation or drainage systems. Dakota Access shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity and crop and livestock losses, loss of organic certification, or loss of value to a paleontological resource damaged by construction or other activities.

45. In the event that a person's well is contaminated as a result of construction or pipeline operation, Dakota Access shall pay all costs associated with finding and providing a permanent water supply that is at least of similar quality and quantity; and any other related damages, including but not limited to any consequences, medical or otherwise, related to water contamination.

46. Any damage that occurs as a result of soil disturbance on a persons' property resulting from the construction or operations of Dakota Access shall be paid for by Dakota Access.

47. Dakota Access shall compensate the landowner for crop loss beyond the scheduled three years, if it is proven that Dakota Access caused the extended crop loss.

48. No person will be held responsible for a pipeline leak that occurs as a result of his/her normal farming practices over the top of or near the pipeline.

49. Dakota Access shall pay commercially reasonable costs and indemnify and hold the landowner harmless for any loss, damage, claim or action resulting from Dakota Access's use of the easement, including any resulting from any release of regulated substances or from abandonment of the facility, except to the extent such loss, damage claim or action results from the gross negligence or willful misconduct of the landowner or its agents.

50. The Commission's complaint process as set forth in ARSD 20:10:01 shall be available to landowners, other persons sustaining or threatened with damage or the consequences of Dakota Access's failure to abide by the conditions of this permit or otherwise having standing to obtain enforcement of the conditions of this Order and Permit.