

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.

27. 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. At least two months prior to the start of construction in South Dakota, Dakota Access shall file with the Commission and provide to the landowners 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.

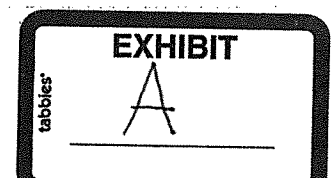
28. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.

29. 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 filed with the Commission and provided to landowners upon completion of the plan.

30. Numerous Conditions of this Order relate to construction and its effects upon affected landowners and their property. Dakota Access 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, Dakota Access 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.

31. Dakota Access shall contract with an independent third-party, approved by the Commission, to monitor compliance with this permit. More specifically, prior to construction, Dakota Access shall file with the Commission its proposed third-party monitor's credentials, which shall include the individual's name, qualifications, and a description of how Dakota Access proposes for the selected individual to monitor for compliance. After the third-party monitor has been approved by the Commission, the third-party monitor may not be removed by Dakota Access without approval of the Commission. If the Commission determines that the third-party monitor 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 third-party monitor, take action to remove the third-party monitor. 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 noncompliance, 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 noncompliance 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 third-party monitor of the inspection date, time, and location and afford the third-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 monitoring obligations to the Commission will require them to begin their monitoring responsibilities with the onset of mainline construction activities and will end at the conclusion of initial reclamation 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 Commission or Staff as determined by the Commission 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 a list of any areas of concerns.

IV. Pipeline Operations, Detection, and Emergency Response

32. 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 and the conditions of this Order and the construction permit granted herein.

