

PROPOSED PERMIT CONDITIONS

1. Navigator shall comply with all applicable laws and regulations in its construction and operation of the Project.
2. Navigator shall construct, operate, and maintain the Project in a manner consistent with (1) descriptions in the Application, (2) Application supplements and corrections, (3) commitments made by Navigator in the Application and responses to data requests, (4) the Final Decision and Order Granting Permit to Construct Facility (Order or Permit) and Permit Conditions, (5) all applicable permits issued by a federal, state, or local agency with jurisdiction over the Project, and (6) evidence presented by Navigator at the evidentiary hearing.
3. Navigator shall obtain all permits required by the applicable federal, state, or local agency prior to engaging in the particular activity covered by the permit. Applicant shall file an itemized affidavit with the Commission attesting that all permits were properly obtained prior to commercial operation. To the extent that any condition, requirement or standard imposed by any federal agency or local government, unless the local government is preempted pursuant to SDCL 49-41B-28, differs from the requirements of these Conditions, the more stringent shall apply.
4. The permit granted by this Order shall not be transferable without the approval of the Commission pursuant to SDCL 49-41B-29.
5. Navigator agrees that the Commission's complaint process as set forth in ARSD Chapter 20:10:01 shall be available to landowners and other persons sustaining or threatened with damage as the result of Navigator's failure to abide by the conditions of the Permit or otherwise having standing to seek enforcement of the conditions of the Permit.
6. The most recent and accurate depiction of the Project route and facility locations are Found on the maps in Exhibit N1, pages 79 – 96. The Application filed by Navigator with the Commission indicates Navigator will continue to develop route adjustments throughout the pre-construction design phase. These route adjustments will accommodate environmental and cultural features identified during surveys, property-specific issues, and civil survey information. Navigator 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 any deviations are proposed to the route and the Commission must review and approve all modifications prior to construction.
 - c) Upon completion of the pre-construction route, Navigator shall file maps with the Commission depicting the final preconstruction route.
 - d) At the conclusion of construction, Navigator shall file detailed maps with the Commission depicting the final as-built location of the Project facilities.
7. Navigator shall provide a public liaison officer, approved by the Commission, to facilitate the exchange of information between Navigator, 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. Navigator shall file with the Commission its proposed public liaison officer's credentials for approval by the Commission at least sixty days prior to the commencement of construction. Construction may not commence until a public liaison office has been approved by the Commission. After the public liaison officer has been approved by the Commission, the public liaison officer may not be removed by Navigator without the approval of the Commission. The public liaison officer shall be afforded immediate access to Navigator'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. Navigator shall also implement and keep an up-dated 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 Navigator's public liaison officer has been appointed and approved, Navigator shall provide contact information for him/her to all landowners crossed by the Project, landowners of record within one-quarter mile of the Project route, 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 Navigator and the public liaison officer, take action to remove the public liaison officer.

8. Navigator shall submit quarterly progress reports to the Commission that summarize the status of land acquisition and route finalization, the status of construction, 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 Agriculture and Natural Resources (SDDANR) 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 December 31, 2023. The reports shall be filed within 31 days after the end of each quarterly period and shall continue until the Project is fully operational.

9. Navigator shall notify the Commission of key Project milestones by making the following filings in the docket:

- a) Report the date construction will commence as soon as it is known, but no later than five business days prior to commencement;
- b) Report the date construction was completed within five business days of completion;
- c) Report the commercial operation date within five business days of operation; and
- d) Report the date reclamation was completed within five business days of completion.

10. Continuing until landowner reclamation is complete, Navigator'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 15 and provide them to the Commission or Commission Staff upon request.

For the period of three years following completion of construction, Navigator 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.

11. Not later than two months prior to construction, Navigator 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.

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

13. Except as otherwise provided in the conditions of this Order and Permit, Navigator shall comply with all mitigation measures set forth in the Environmental and Construction Guidance, Agricultural Protection Plan, Weed Control Plan, and Inadvertent Return Contingency Plan. Navigator shall incorporate a plan for managing hydrostatic test water discharges, including a method to manage the temperature of hydrostatic test water prior to discharge, into its Environmental and Construction Guidance. Final drafts of the plans identified in this condition shall be filed with the Commission at least thirty days prior to construction. If further modifications to a plan are made by Navigator 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 Navigator.

14. The probability of Navigator encountering karst features is low. However, if voids or other signs of karst topography are found during construction, Navigator shall conduct further site-specific evaluations by a qualified geologist or geotechnical engineer to provide input on mitigation measures. Navigator 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.

15. Navigator shall record and keep the following information: (i) landowner concerns or requests which differ from the Agricultural Protection Plan, (ii) an indication of how Navigator 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, and (v) any action items as ordered, directed or recommended by Navigator's environmental inspector program.

16. Navigator shall coordinate all utility crossings in good faith with existing operators and will follow all One Call Procedures.

17. Prior to construction, Navigator shall consult with the SDDANR, 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. Navigator shall conduct analytical soil probing and/or soil boring and analysis in areas of particularly sensitive soils where reclamation potential is low. Navigator shall adequately identify and plan for areas susceptible to erosion and any areas with low reclamation potential. Records regarding these analyses, identifications, and plans shall be recorded and made available to the Commission and the affected property owner upon request.

18. Navigator shall file with the Commission information detailing the anticipated construction schedule and information describing construction spreads, including a map of construction spreads, prior to construction. This filing shall disclose the general contractor responsible for each construction spread in South Dakota.

19. Navigator shall provide each landowner with an explanation regarding trenching and topsoil and subsoil/rock removal, segregation, and restoration method options for the landowner's property, a written explanation of the option for complete topsoil segregation, a copy of the Agricultural Protection Plan, and a copy of the Order and Conditions. Navigator shall follow the landowner's selected preferences as documented on any written agreements with the landowner, as modified by any subsequent amendments, or by other written agreements. Navigator shall take the following steps to mitigate reclamation challenges and assure proper reclamation occurs:

- a) Navigator shall separate and segregate topsoil from subsoil in all areas where excavation occurs, as provided in the Agricultural Protection Plan. If it is discovered during excavation that the topsoil depth is greater than 12 inches, Navigator shall inform the landowner of the actual depth of topsoil and afford the landowner the options of stripping the entire depth of the topsoil.
- b) Navigator shall repair any damage to property that results from construction activities.
- c) Navigator 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) Except where practically infeasible, final grading and topsoil replacement and installation of permanent erosion control structures shall be completed in non-residential areas with 20 days after backfilling the trench. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Navigator's control cause for delay, temporary erosion controls shall be maintained until conditions allow completion of cleanup and reclamation. In the event Navigator cannot comply with the 20-day time frame as provided in this Condition, Navigator 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) Navigator shall draft specific crop monitoring protocols for agricultural lands. If requested by the landowner, Navigator shall provide an independent crop monitor to conduct yield testing and/or such other measurements of productivity as the independent crop monitor 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 filed with the Commission and shall 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 Navigator, the landowner retains the right to use an independent crop monitor of the landowner's choosing and at the landowner's own cost.
- f) Navigator 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, Navigator 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 plants from setting seeds.
- h) Section 18 of the Agricultural Protection Plan regarding wet conditions shall apply to improved hay land, pasture lands, and 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. Navigator 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) Navigator shall employ adequate measures to de-compact subsoil as provided in its Agricultural Protection Plan. Navigator 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. Topsoil shall be de-compacted if requested by the landowner.
- k) Navigator 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. Navigator shall notify landowners prior to any discharge of saline water on their lands or of any spills of hazardous materials on their lands of one pint or more or of any lesser volume 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) Navigator shall follow the Stormwater Pollution Prevention Plan (SWPPP). On site modification shall be approved by Navigator's environmental inspector program, documented by the inspector and filed with the Commission.
 - m) Navigator shall apply mulch when reasonably requested by landowners and also whenever necessary following seeding to stabilize the soil surface and to reduce wind and water erosion.
 - n) Navigator 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. Cropland shall be seeded with cover crops consistent with the Agricultural Protection Plan. Navigator shall actively monitor revegetation on all disturbed areas for at least two years. Revegetation will be considered complete when the coverage/density of the vegetation within the impacted right of way is consistent with the coverage/density of the adjacent vegetation off the impacted right of way.
 - o) Navigator shall coordinate with landowners regarding their desires to protect livestock, shall implement protective measures as are reasonably requested by the landowner, and shall adequately compensate the landowner for any loss.
 - p) Prior to commencing construction, Navigator 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.
 - q) Navigator 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 handheld fire extinguisher, portable compact shovel, and communication device such as a cell phone, in areas with coverage, or a radio capable of achieving prompt communication with Navigator's fire suppression resources and emergency services.
 - r) Temporary sediment barriers shall remain in place until permanent revegetation cover 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.
20. Navigator shall provide the SWPPP to the Commission when Navigator has a final design for the Project. The SWPPP will outline the water and soil conservation practices that will be used during construction to prevent or minimize erosion and sedimentation and be in a form

consistent with the SDDANR guidelines for such plans. The SWPPP will be completed before submittal of an application for a National Pollutant Discharge Elimination System (NPDES) general permit for construction activities. All contractors to be engaged in ground disturbing activities shall be given a copy of the SWPPP and the requirements shall be reviewed with them by Applicant prior to the start of construction.

21. Navigator 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.

22. Navigator shall position water trucks on gravel roads, for dust control, where conditions warrant.

23. Navigator shall require that its primary contract ensure that all construction equipment is properly tuned and maintained and that idling be minimized during construction.

24. Navigator shall prohibit fuel storage and refueling activities within 100 feet of wetlands and waterbodies, 200 feet of private wells, and 400 feet of community or municipal wells.

25. If trees are to be removed that have commercial or other value to affected landowners, Navigator 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.

26. If a inadvertent release of HDD drilling fluid occurs, Navigator shall notify all government agencies including but not limited to SDDANR as required by the plan and state and federal law.

27. Navigator shall comply with the following conditions regarding road protection and bonding:

- a) Navigator 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) Navigator 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, Navigator 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, Navigator 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) Navigator 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, prior to construction, Navigator shall obtain and file for approval by the Commission a bond in the amount of \$10 million 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. Navigator shall give notice of the existence and amount of this bond 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) Navigator 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 to be used by Navigator to reclaim those access roads.
28. In those areas where the Project passes within 500 feet of a residence or farmstead building:
- a) To the extent feasible, Navigator shall coordinate construction work schedules with affected residential landowners prior to the start of construction in the area of the residences.
 - b) Navigator 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 Navigator 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) Navigator 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) Navigator shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption.
 - e) Navigator shall repair any damage to property that results from construction activities.

- f) Navigator 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 Navigator'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.
29. 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, Navigator 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.
30. Reclamation and clean-up along the right-of-way must be continuous and coordinated with ongoing construction.
31. If construction, reclamation, and final stabilization will not be completed prior to winter weather, Navigator 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 impacted landowners.
32. Numerous Conditions of this Order relate to construction and its effects upon affected landowners and their property. Navigator 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, Navigator may follow the alternative procedures and specifications agreed to between it and the landowner.
33. Navigator shall contract with an independent third-party, approved by the Commission, to monitor compliance with this permit. More specifically, at least sixty days prior to construction, Navigator 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 Navigator 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 Navigator 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 Navigator and the third-party monitor, take action to remove the third-party monitor. At least 30 days prior to construction, Navigator shall file with the Commission a monitoring 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 elements:

- a) The third-party monitor will be paid for by Navigator but will report directly to the Commission.
 - b) The third-party monitor will work directly with the Public Liaison Officer, Navigator's Environmental Inspectors, and Navigator's 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 Navigator via the Environmental or Agricultural Inspector so as Navigator 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 Navigator.
 - 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 Navigator's 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 any technical design standard or requirement pursuant to 49 CFR Part 195. However, should Navigator be notified in advance of a compliance inspection to be conducted by any regulatory agency, Navigator 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 construction activities and will end at the conclusion of initial reclamation activities. The conclusion of initial reclamation activities will be determined by the Commission upon a motion from Navigator to make such a determination.
 - f) The third-party monitor will comply with all Navigator 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 Navigator 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.
34. Navigator'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, Navigator shall, and shall cause its contractor to, equip each of its vehicles, including off-road vehicles, with a handheld fire extinguisher, portable compact shovel, and communication device such as a cell

phone, in areas with coverage, or a radio capable of achieving prompt communication with emergency services.

35. At such time as Navigator files its Emergency 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 Navigator 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.

36. The U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service will determine the scope of Navigator's compliance with federal environmental laws. Any Biological Opinions or agency concurrences received during the federal process shall be filed with the Commission.

37. Navigator 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. Navigator shall maintain the drain tile location information and tile specifications and incorporate it into its Emergency Response Plan 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, Navigator 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.

38. 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 Navigator's environmental inspectors sufficient time and ability to advise the contractor regarding potential changes to the planned crossing method based on field conditions.

39. Navigator shall follow the "Unanticipated Discoveries Plan," as reviewed and approved by the State Historical Preservation Office ("SHPO"). If during construction, Navigator or its agents discover what may be an archaeological resource, cultural resource, historical resource, or gravesite, Navigator or its contractors or agents shall immediately cease work at that portion of the site and follow the "Unanticipated Discoveries Plan." Navigator shall notify the landowner of any unanticipated discovery and ownership of artifacts shall remain with the landowner. If the unanticipated discovery is of such a nature that a different route than that approved by the Commission is required, Navigator shall obtain Commission approval for the new route before proceeding with any further construction. Navigator shall be responsible for any costs that the landowner is legally obligated to incur as a consequence of the disturbance of a protected cultural resource as a result of Navigator's construction or maintenance activities.

40. Navigator 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, Navigator 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.
41. Navigator shall have access to a certified archeologist facilitate the training, identification, handling, and impact mitigation of archeological resources, cultural resources, historical resources, or gravesites encountered during construction of the pipeline.
42. Navigator 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. Navigator shall compensate the owners for damages or losses that cannot be fully remedied by repair or replacement, such as lost productivity, crop and livestock losses, or loss of value to an archeological or paleontological resource damaged by construction or other activities.
43. In the event that a person's well is contaminated as a result of construction or pipeline operation, Navigator 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.
44. Any damage that occurs as a result of soil disturbance on a persons' property resulting from the construction or operations of Navigator shall be paid for by Navigator.
45. Navigator shall compensate the landowner for crop loss beyond the scheduled five years, if it is proven that Navigator caused the extended crop loss. Navigator shall bear the burden of proof in a crop loss complaint brought by a landowner within ten years of issuance of this permit.
46. No person shall be responsible for a pipeline leak that occurs as a result of his/her normal farming practices over the top of or near the pipeline.
47. Navigator shall pay commercially reasonable costs and indemnify and hold the landowner harmless for any loss, damage, claim or action resulting from Navigator'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.
48. Navigator shall contact South Dakota Game, Fish and Parks (SDGFP) at least 60 days prior to the start of construction to coordinate public access to walk-in areas that may be temporarily disrupted due to construction activities.

49. Navigator shall implement the following mitigation measures regarding the state endangered Lined Snake:
- a) Silt fence shall be installed at least one day prior to commencing construction at a site that assumes presence, or has known presence, of a lined snake, from April through October and shall remain in-place until construction of that segment of the pipeline is complete, and any excavation is backfilled.
 - b) Silt fence shall be secured with wooden stakes and the lower edges should be buried to prohibit snakes and other animals from crawling under unsecured fencing.
 - c) A permitted wildlife monitor shall visually survey the fenced off construction area the morning prior to commencing construction or staging construction materials for any lined snakes that may have emerged in the fenced area.
 - d) Construction crews and contractors working within suitable habitat shall be trained on how to identify lined snakes.
 - e) Construction shall stop if lined snakes are encountered within the area. The on-site wildlife monitor shall remove and relocate lined snakes if they are present within the construction area. Construction can commence once snakes are removed.
 - f) If lined snakes are encountered during construction, Navigator is required to report sightings as stipulated in the wildlife monitor's wildlife collectors permit and threatened and endangered species authorization. A photo voucher shall also be provided to the SDGFP whenever possible.
 - g) Navigator shall not use plastic erosion control mesh in conjunction with silt fencing.
50. Navigator shall promptly report to the Commission the presence of any critical habitat of threatened or endangered species in the Project Area that Navigator becomes aware of and that was not previously reported to the Commission.
51. Navigator shall use pipeline construction inspectors that have API 1169 certification to ensure the installation of the pipeline is in accordance with 49 CFR Part 195 and the construction specifications and standards developed by the operator.
52. Navigator shall file the results of the Phase II geohazard assessment to the Commission sixty days prior to construction. The assessment shall include an analysis of any constraints that may be imposed by geological characteristics on the design, construction, or operation of the proposed facility and a description of plans to offset such constraints.
53. Navigator shall file a pipeline route map showing the buffer distance based on plume modeling results, including CFD modeling, and an exposure of 40,000 parts per million for Commission review and approval one hundred and twenty days prior to construction. In addition, Navigator shall provide the same route map to all emergency response organizations that could

respond to an incident and all landowners within the plume modeling buffer, and file an affidavit with an itemized list that identifies the emergency response organizations and landowners the route map was provided to.

54. Navigator shall incorporate the measures identified in the PHMSA Exceedance Table, Exhibit D to the Application, that proactively exceed 49 CFR Part 195, into the design, construction, operation and maintenance of the Project.

55. The Permit Conditions shall be uniform conditions of construction and operation, subject only to an affirmative written request for an exemption addressed to the Commission. A request for an exemption shall clearly state which particular Permit Condition should not be applied and the reason for the requested exemption. The Commission shall evaluate such requests on a case-by-case basis, which evaluation shall be completed within 60 days unless exigent circumstances require action sooner.

56. The Conditions set forth herein are binding on all officers, agents, employees, assigns, lessees, and successors in interest of Navigator.

57. Navigator shall provide a copy of the Commission's Final Decision and Order Granting Permit to Construct Facility; Permit Conditions; and Notice of Entry in this docket to the affected county, townships, and municipalities within 10 miles of the pipeline.