

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Sacagawea Pipeline Company, LLC**  
**12-inch Crude Oil Pipeline – Mountrail County**  
**Siting Application**

**Case No. PU-15-670**

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**February 10, 2016**

**Appearances**

Commissioners Julie Fedorchak, Randy Christmann, and Brian P. Kalk.

Danielle M. Krause, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Sacagawea Pipeline Company, LLC.

Zachary E. Pelham, Special Assistant Attorney General, 314 East Thayer Avenue, Bismarck, North Dakota 58502, on behalf of the North Dakota Public Service Commission.

Janet Demarais Seaworth, Administrative Law Judge, Office of Administrative Hearings, 2911 North 4th Street, Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

**Preliminary Statement**

On September 14, 2015, Sacagawea Pipeline Company, LLC (Sacagawea) filed applications for a certificate of corridor compatibility and a route permit concerning approximately 8 miles of 12-inch diameter pipeline and associated facilities for the transmission of crude oil (Project). The Project will be located in Mountrail County, North Dakota.

Also on September 14, 2015, Sacagawea filed an application for waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, and 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings, separate notices, and separate hearings on the certificate of corridor compatibility and route permit applications.

On October 14, 2015, the Commission found the applications for a certificate of corridor compatibility and a route permit complete, and issued a Notice of Filings and

Public Hearing (Notice) scheduling a hearing for January 12, 2016, at 10:00 a.m. Central Time at the Mountrail County South Complex, 8103 61<sup>st</sup> Street NW, Stanley, North Dakota 58784.

The Notice identified the following issues to be considered with respect to the application for a waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects such that adherence to applicable procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?

The Notice identified the following issues to be considered with respect to the applications for certificate of corridor compatibility and route permit:

1. Will the location, construction, and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On January 12, 2016, the hearing was held as scheduled.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes the following findings of fact:

### **Findings of Fact**

1. Sacagawea is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission on June 8, 2015, in Case No. PU-15-115.
2. Sacagawea testified that it is a joint business venture between Paradigm Energy Partners (Paradigm), Phillips 66, and Grey Wolf Midstream, LLC.
3. Sacagawea testified that the Project will be constructed by Paradigm, owned by Sacagawea, and operated by Phillips 66.

### Size, Type, and Preferred Location of Facility

4. The Project will consist of approximately 8 miles of 12-inch diameter pipeline and associated facilities to be located in Mountrail County, North Dakota, and will be known as the "Palermo to Enbridge Crude Oil Pipeline".
5. The Project will be constructed between Phillips 66's Palermo Rail Facility and Enbridge's crude oil terminal, located near Stanley, North Dakota.
6. The Project will be constructed for the bi-directional transmission of crude oil.
7. The pipe to be used in the Project will have a wall thickness of 0.312 inches, with the exception of pipe to be bored, which will have a wall thickness of 0.375 inches. The maximum operating pressure of the pipeline will be 1,440 pounds per square inch gauge.
8. The maximum capacity of the Project will be 100,000 barrels per day.
9. Above-ground facilities will include valves, in-line inspection tool launcher and receiver sites, pipeline markers, and rectifiers.
10. The total anticipated cost of the Project is approximately \$18 million.

### Study of Preferred Location

11. Sacagawea evaluated a one-mile-wide study area centered on the route (Study Area) for soils, wildlife, protected and sensitive plant and animal species, recreational areas, and rural residences and farmsteads.
12. Sacagawea conducted a field survey on a 500-foot-wide area centered on the route for botany.
13. Sacagawea conducted a field survey on a 300-foot-wide area centered on the route (Survey Area) for wetlands and water bodies, protected species and critical habitats, land use, and noxious weeds.
14. Sacagawea conducted a Class I cultural resource literature search on the Study Area and a Class III cultural resource inventory on the Survey Area.
15. The following agencies were contacted by Sacagawea; the United States Army Corps of Engineers (USACE); the United States Air Force (USAF); the United States Fish and Wildlife Service (USFWS); the North Dakota Game and Fish Department (NDGFD); the North Dakota Parks and Recreation Department (NDPRD); the North Dakota Department of Trust Lands; the North Dakota State Historic Preservation Office (NDSHPO); the North Dakota State Water Commission (NDSWC); the North Dakota Department of Health (NDDOH); the North Dakota Department of Transportation;

Mountrail County Planning and Zoning; and Idaho Townships, Mountrail County; and Palermo Township, Mountrail County.

16. In a response dated June 10, 2015, the USFWS recommended that a 30-foot construction buffer be maintained around jurisdictional wetlands.

17. In a response dated June 22, 2015, the NDGFD indicated that wetlands are located within the proposed corridor and recommended steps be taken to protect wetlands, that no alterations be made to existing drainage patterns, that above-ground appurtenances not be placed in wetland areas, and that unavoidable destruction or degradation of wetland acres be mitigated in kind. The NDGFD further indicated that the Project should not have any significant adverse effects on wildlife or wildlife habitat, including species of concern, provided recommendations of the NDGFD are implemented where appropriate and disturbed areas are reclaimed to pre-project conditions.

18. In a response dated August 18, 2015, the USAF indicated that the Project will cross buried USAF cable at one location. The USAF recommended that the crossing angle relative to the buried USAF cable should be at least 30 degrees, with a 90-degree crossing angle preferred; that no crossing may occur within 50 feet of cable splices; and that a representative of the USAF must be present on site during construction.

19. In a response dated August 21, 2015, the NDSHPO concurred with a "no significant sites affected" determination for the Project, provided the Project remains as described in the Class III cultural resource report.

20. In responses dated August 26, 2015, and October 22, 2015, the NDDOH recommended that measures be taken to minimize fugitive dust emissions and that associated complaints be responded to in an efficient and effective manner; that care be taken during construction activities near waters of the state on order to minimize impacts to water bodies from disturbance and oil, gas, or fuel spills associated with construction equipment; that a stormwater discharge permit may be necessary; that construction should not take place during early morning or late evening hours; that noise levels be minimized by use of mufflers on construction equipment; that a spill response plan be developed; and that the pipeline be properly monitored for leaks. The NDDOH further indicated that the NDDOH does not own land within or adjacent to the Project, does not have any projects scheduled within the Project area, and that the Project is consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

21. In a response dated August 26, 2015, the NDSWC indicated that there are no mapped floodplains in Mountrail County and that no sole source aquifers have been designated in North Dakota, and requested that Sacagawea contact the NDSWC if gaging stations or water wells are affected or damaged by the Project. The NDSWC further indicated that Sacagawea is responsible for contacting all local, state, and federal agencies for required approvals, permits, and easements, and recommended that the

Western Area Water Supply Authority (WAWS) be contacted regarding the location of WAWS infrastructure.

22. In a response dated September 1, 2015, the NDPRD indicated that the Project will not affect state park lands managed by or Land and Water Conservation Fund recreation projects coordinated by the NDPRD. The NDPRD further indicated that three communities of piping plovers have been documented adjacent to the Study Area.

#### Siting Criteria

23. The Commission has established criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the Commission in evaluating the suitability of granting a certificate of corridor compatibility and route permit. The criteria, as set forth in North Dakota Administrative Code section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

24. Sacagawea evaluated the Project with respect to the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

25. A transmission facility route must not be sited within an Exclusion Area. Exclusion areas may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative.

26. Six cultural resources are present within the Survey Area, of which two resources have been determined to be not eligible for listing in the National Register of Historic Places (NRHP), and four resources remain unevaluated for listing in the NRHP. NDSHPO concurred with a "no significant sites affected" determination for the Project. Unevaluated resources will be avoided by more than 100 feet.

27. Areas critical to the life stages of threatened or endangered animal or plant species are considered to be Exclusion Areas. The Project route crosses a designated critical habitat area for the piping plover, a threatened avian species. Sacagawea testified that the Project will be bored underneath the critical habitat area to avoid disturbance of this Exclusion Area. In the event that construction is planned during active nesting season for piping plovers, which is between April 15 and September 1 annually, Sacagawea has committed to performing a preconstruction nest survey of the Survey Area. If it is determined from the nest survey that active piping plover nests are present within the Survey Area, boring will not take place until after the nests are no longer active.

28. No other Exclusion Areas are present within the Survey Area.

29. An Avoidance Area is a geographical area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission facility, the Commission may consider,

among other things, the proposed management of adverse impacts, the orderly siting of facilities, system reliability and integrity, the efficient use of resources, and alternative routes. A transmission facility route may not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives. Economic considerations alone are not sufficient to establish no reasonable alternative.

30. No Avoidance Areas are present within the Survey Area.

31. In accordance with the Commission's Selection Criteria, a transmission facility route shall be designated if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum.

32. Sacagawea has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria and has determined that no significant adverse impact will result from the location, construction, and operation of the Project.

#### Measures to Minimize Impact

33. Sacagawea has agreed to a number of steps to mitigate the impact of the Project as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting with accompanying Tree and Shrub Mitigation Specifications filed in this proceeding, which is incorporated by reference and attached to this Order.

34. Sacagawea testified that a supervisory control and data acquisition (SCADA) system will be installed as part of the Project. The SCADA system will monitor pressure, flow, and temperature continuously at Phillip 66's control center located in Bartlesville, Oklahoma. The control center will have the ability to remotely shut down the Project, and is equipped with a back-up power system in the event of a power failure.

35. Sacagawea testified that it participates in the North Dakota One-Call Excavation System.

36. Sacagawea testified that the design, construction, and operation of the pipeline will be in accordance with the United States Department of Transportation (USDOT) regulations governing the transportation of crude oil, including USDOT regulations as set forth in 49 Code of Federal Regulations Part 195.

37. Sacagawea testified that wetlands under easement to the USFWS or subject to USACE jurisdiction will be bored to avoid impacts to those wetlands.

38. Sacagawea testified that it has contracted with Clean Harbors to provide emergency spill response services.

39. Sacagawea testified that all landowner easements needed for construction of the project have been obtained.

40. Sacagawea testified that third-party inspectors contracted by the company will be present on-site at each spread during construction to monitor environmental and regulatory compliance.

41. Sacagawea testified that a three-foot separation distance will be maintained between the pipeline and buried USAF cable.

From the foregoing Findings of Fact the Commission makes the following conclusions of law:

### **Conclusions of Law**

1. The Commission has jurisdiction over Sacagawea and the subject matter of these applications under North Dakota Century Code chapter 49-22.

2. Sacagawea is a utility as defined in North Dakota Century Code section 49-22-03(13).

3. The Project is a transmission facility as defined in North Dakota Century Code section 49-22-03(12).

4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The location, construction, and operation of the Project are compatible with the environmental preservation and the efficient use of resources.

6. The Project will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

7. The Project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code section 49-22-07.2.

8. The Project is of such design and location that it will produce minimal adverse effects and, therefore, it is appropriate for the Commission to waive those certain procedures and time schedules as requested in the waiver application under North Dakota Century Code section 49-22-07.2.

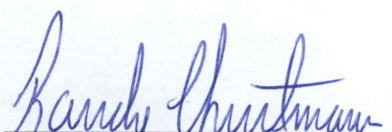
From the Findings of Fact and Conclusions of Law, the Commission makes the following order:

## Order

The Commission orders:

1. Sacagawea's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. 180 is issued to Sacagawea, designating a corridor for the construction, operation, and maintenance of approximately 8 miles of 12-inch diameter pipeline and associated facilities for the transmission of crude oil in Mountrail County, North Dakota. For purposes of the Certificate, the designated corridor is a 300 foot-wide area centered on the route.
3. Route Permit No. 192 is issued to Sacagawea, designating a route for the construction, operation, and maintenance of approximately 8 miles of 12-inch diameter pipeline and associated facilities for the transmission of crude oil in Mountrail County, North Dakota. For purposes of the Permit, the designated route is the proposed route depicted in Hearing Exhibit No. 2.
4. The January 4, 2016, Certification Relating to Order Provisions – Transmission Facility Siting (Certification), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.
5. To the extent that there are any conflicts or inconsistencies between Sacagawea's applications in this proceeding and the Certification, the Certification provisions control.
6. Sacagawea is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission facility than was specified in the application within the corridor granted in this proceeding.
7. In the event that construction is planned during active nesting season for piping plovers, which is between April 15 and September 1 annually, Sacagawea shall perform and file with the Commission a preconstruction nest survey of the Survey Area.

### PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
**Randy Christmann**  
Commissioner

  
\_\_\_\_\_  
**Julie Fedorchak**  
Chairman

  
\_\_\_\_\_  
**Brian P. Kalk**  
Commissioner

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Certificate of Corridor Compatibility Number 180**


*This is to certify that the Commission has designated a transmission facility corridor for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 8 miles of 12-inch diameter crude oil pipeline and associated facilities in Mountrail County, North Dakota.*

*This certificate is issued in accordance with the Order of the Commission dated February 10, 2016 in Case No. PU-15-670 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, February 10, 2016*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

**PUBLIC SERVICE COMMISSION  
STATE OF NORTH DAKOTA**

**Route Permit Number 192**

*This is to certify that the Commission has designated a transmission facility route for Sacagawea Pipeline Company, LLC for the construction, operation, and maintenance of approximately 8 miles of 12-inch diameter crude oil pipeline and associated facilities in Mountrail County, North Dakota.*

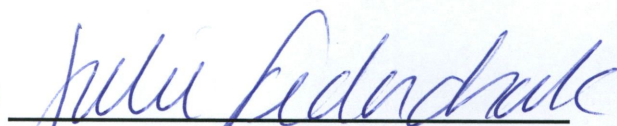
*This permit is issued in accordance with the Order of this Commission dated February 10, 2016 in Case No. PU-15-670 and is subject to the conditions and limitations noted in the Order.*

*Bismarck, North Dakota, February 10, 2016.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
**Executive Secretary**

  
**Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

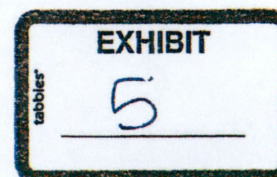
Sacagawea Pipeline Company, LLC  
12-inch Crude Oil Pipeline – Mountrail County  
Siting Application

Case No. PU-15-670

CERTIFICATION RELATING TO ORDER PROVISIONS  
TRANSMISSION FACILITY SITING

I am Troy Andrews, a representative of Sacagawea Pipeline Company, LLC ("Company") with authority to bind the Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission will be subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the transmission facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the transmission facility that requires said license or permit.
4. Company understands and agrees that any Certificate of Corridor Compatibility or Route Permit issued by the Commission is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission's order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission's order issuing a Certificate of Corridor Compatibility or Route Permit, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by any Certificate of Corridor Compatibility or Route Permit issued by the Commission for the



transmission facility are subject to modification by order of the Commission if deemed necessary to protect further the public or the environment.

**Construction:**

7. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
8. Company understands and agrees that all cultural resource mitigation plans must be submitted to the North Dakota State Historic Preservation Office and approved prior to the start of any fieldwork and construction activity in the affected area.
9. Company understands and agrees that topsoil removal will begin when the Commission's third-party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
10. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the transmission facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated on construction activities on a monthly basis.
11. Company understands and agrees that the pipeline will be buried to a minimum depth from the ground surface to the top of the pipe of 48 inches in range land, 48 inches for cultivated land, 48 inches at the bottom of the ditch for road crossings, and 72 inches across undeveloped section lines.
12. Company understands and agrees that all topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas where cuts will be made, must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must also be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

13. Company understands and agrees that all buried facility crossings of graded roads must be bored unless the responsible governing agency specifically permits Company to open cut the road.
14. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
15. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made and a report of such examination is filed with the Commission and the State Historical Society.
16. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
17. Company understands and agrees that the Commission has authority to stop Project construction activities in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

**Restoration and Maintenance:**

18. Company understands and agrees that it shall, as soon as practicable upon the completion of the construction of the transmission facility, restore the area affected by the activities to as near as is practicable to the condition as it existed prior to the beginning of construction.
19. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the transmission facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
20. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.

21. Company will fulfil its obligation for reclamation and maintenance of the approved transmission facility right-of-way, transmission facility, and associated facilities continuing throughout the life of the transmission facility.
22. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the transmission facility.
23. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the transmission facility.
24. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
25. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
26. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the transmission facility.

**Communication with Landowners and PSC:**

27. Company understands and agrees that, prior to beginning construction of the transmission facility at a location, it shall send a letter to each landowner with whom an easement was executed for that location specifying the name and phone number of the company representative who is responsible for receiving and resolving landowner issues for the life of the easement.
28. Company understands and agrees that it will file with the commission the name and phone number of the current company representative who is responsible for receiving and resolving landowner issues for the transmission facility. The company will update this information whenever there is a change to the current company representative for the life of all easements for the transmission facility.
29. Upon request, Company agrees to provide the Commission with engineering design drawings of the transmission facility prior to construction.
30. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the transmission facility, including injuries to any person.
31. Company agrees to report to the Commission, as soon as reasonably possible, the presence in the permit area of any critical habitat or threatened or endangered species of which Company becomes aware and which were not previously reported to the Commission.

32. Company understands and agrees that it shall inform the Commission in writing of any plans to modify the transmission facility or of any plans to modify the site plan for the transmission facility.
33. Company agrees to provide the Commission with both an electronic and a paper copy of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the corridor approved by the Commission and the facility design specifications for the construction of the transmission facility showing the location of the transmission facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
34. Company shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.

**Route Adjustments Before or During Construction:**

35. Company agrees to utilize the following procedures if Company seeks a route adjustment before or during construction of the pipeline, pursuant under N.D.C.C. §49-22-16.3:
36. Company will specifically identify which subsection of NDCC 49-22-16.3 it is requesting the adjustment under. Company will file the name and contact information for a key contact person for the purposes of notice and communication during the adjustment application.
37. **ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before conducting any construction activities for any adjustment to the designated route within the designated corridor under NDCC 49-22-16.3(1), the Company will file:

- a. Certification and supporting documentation affirming that construction activities will be within the designated corridor, will not affect any known exclusion or avoidance areas within the designated corridor;
- b. Certification and supporting documentation, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, route and the route adjustment;
- c. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

**38. ROUTE ADJUSTMENT WITHIN DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(2), within the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route within the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, route and the route adjustment;
  - ii. all exclusion and avoidance areas within the portion of the designated corridor containing the route adjustment
- b. Certification and supporting documentation affirming:
  - i. That construction activities will be within the designated corridor
  - ii. That construction activities will not affect any known exclusion area
- c. All field studies performed on the portion of the designated corridor containing the route adjustment;
- d. Specific information about any mitigation measures Company will take within the adjustment area;
- e. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- f. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

39. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, NO AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(3), outside the designated corridor and not affecting any exclusion and avoidance area, before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. Certification and supporting documentation affirming that construction activities will not affect any known exclusion or avoidance areas,
- b. Certification and supporting documents stating the length of the proposed route outside of the corridor and a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated corridor, corridor adjustment, designated route and the route adjustment;
- c. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment; and
- d. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- e. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

40. **ROUTE ADJUSTMENT OUTSIDE DESIGNATED CORRIDOR, AVOIDANCE AREA AFFECTED:** Before adjusting the route of a gas or liquid transmission line under NDCC 49-22-16.3(4), outside the designated corridor that may affect an avoidance area, and before conducting any construction activities for any adjustment to the designated route outside the designated corridor, the Company will file:

- a. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
  - i. the designated corridor, corridor adjustment, route and the route adjustment;

- ii. all exclusion and avoidance areas within the adjustment area
- b. Certification that construction activities will not affect any known exclusion area;
- c. Certification that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist within the designated corridor and route;
- d. Certification that each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment;
- e. Provide specific information about any mitigation measures Company will take within the adjustment area;
- f. Detailed field studies indicating exclusion and avoidance areas for the proposed adjustment area; and
- g. Certification that Company will comply with the Commission's order, law and rules designating the corridor and route.

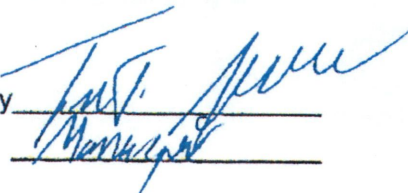
Company acknowledges and agrees that:

1. Written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity unless the Commission fails to act within ten working days of receipt of filing a complete adjustment application, in which case the adjustment is deemed approved.
2. The initiation of the ten working days begins upon receipt of a complete filing, to include Company's certifications, supporting documentation and maps. However, Commission may extend the ten working day provision if Company, in the person of the key contact referenced above, is informed of the reason additional time is necessary for extension and has no objection to an extension.

41. When applicable, Company may submit the field studies from the original application for the corridor and route provided they cover the adjustment area.

Dated this 4<sup>th</sup> day of January, 2016.

SACAGAWEA PIPELINE COMPANY, LLC

By 

Its \_\_\_\_\_