

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)	ORDER FOR AND NOTICE
NAVIGATOR HEARTLAND GREENWAY, LLC)	OF EVIDENTIARY HEARING
FOR A PERMIT UNDER THE SOUTH)	
DAKOTA ENERGY CONVERSION AND)	
TRANSMISSION FACILITIES ACT TO)	
CONSTRUCT THE HEARTLAND GREENWAY)	
PIPELINE IN SOUTH DAKOTA)	HP22-002

On September 27, 2022, the South Dakota Public Utilities Commission (Commission) received an Application for a Permit under the South Dakota Energy Conversion and Transmission Facilities Act to Construct the Heartland Greenway Pipeline in South Dakota (Application) from Navigator Heartland Greenway, LLC, a limited liability company owned by Navigator CO2 Ventures LLC (Navigator or Applicant). Applicant proposes to construct and operate a carbon dioxide (CO₂) transmission pipeline (Project). The Project is approximately 1,300 miles of pipelines for the transportation of CO₂ from more than 21 ethanol and fertilizer plants across five states, including three ethanol plants in South Dakota, that will transport captured carbon dioxide for permanent and secure underground sequestration in Illinois and/or to off-take facilities for commercial/industrial use.

The Project consists of 111.9 miles of carbon dioxide pipeline in South Dakota that will cross the counties of Brookings, Moody, Minnehaha, Lincoln, and Turner. More specifically, the Project consists of three segments: 1) the Aurora to Hartley lateral that will be approximately 63.6 miles of 8-inch diameter pipeline; 2) the POET Chancellor lateral that will be approximately 22.6 miles of 6-inch diameter pipeline; and 3) the POET Hudson lateral that will be approximately 25.7 miles of 6-inch diameter pipeline. In addition, one inline inspection tool launcher/receiver site will be constructed in Lincoln County. No pump stations are proposed in South Dakota for the Project. Applicant estimates the total cost of the proposed Project in South Dakota to be \$142 million.

The proposed route of the Aurora to Hartley lateral enters South Dakota in southeast Minnehaha County at the Iowa/South Dakota border and extends in a north/northwesterly direction, through eastern Minnehaha County and central Moody County, before entering Brookings County and terminating at the Valero ethanol plant near Aurora, South Dakota.

The proposed route of the POET Chancellor lateral enters South Dakota in northeastern Lincoln County at the Iowa/South Dakota border, extending westward and terminating in Turner County at the POET ethanol plant near Chancellor, South Dakota.

The proposed route of the POET Hudson lateral would be entirely within Lincoln County, beginning at the POET ethanol plant southwest of Hudson, South Dakota, and proceeding northwest to connect with the POET Chancellor lateral approximately 2.5 miles south of Harrisburg, South Dakota.

On September 29, 2022, the Commission electronically transmitted notice of the filing and the intervention deadline of November 28, 2022, to interested individuals and entities on the Commission’s PUC Weekly Filings electronic listserv. On September 30, 2022, the Commission issued an Amended Notice of Application; Order for and Notice of Public Input Meeting; Notice of

Opportunity to Apply for Party Status. On November 21 and 22, 2022, the Commission held public input meetings in Canton, Flandreau, and Sioux Falls. Party status has been granted to numerous individuals and entities. On January 19, 2023, the Commission issued an Order Setting Procedural Schedule. On January 30, 2023, the Commission issued an Order for and Notice of Motion Hearing on Less than 10 Days' Notice. On February 13, 2023, the Commission issued an Order Denying Motion to Return Application. On February 21, 2023, the Commission issued an Order for and Notice of Motions Hearing on Less Than 10 Days' Notice. On March 2, 2023, the Commission issued an Order Granting Request to Withdraw Party Status; Order Amending Procedural Schedule; Order Granting Motion for Protective Order. On April 17, 2023, the Commission issued an Order Granting Request to Withdraw Party Status. On April 28, 2023, the Commission issued an Order Denying Late-Filed Party Status. On June 8, 2023, the Commission issued an Order Granting Request to Withdraw Party Status.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-1, and 49-41B and ARSD Chapters 20:10:01 and 20:10:22.

A hearing will be held beginning at 9:00 a.m., CDT on July 25 through August 3, 2023, at the Casey Tibbs South Dakota Rodeo Center at 210 Verendrye Drive, Fort Pierre, South Dakota. Marking of exhibits will begin at 8:00 a.m. CDT, on July 25, 2023. Due to scheduling conflicts, there will be no hearing on July 28-30, 2023.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issues involved in the case. Opening statements will be limited to 10 minutes, however, a party may submit their opening statement in writing.

The hearing will be a quasi-judicial contested case proceeding conducted pursuant to SDCL Chapter 1-26. All parties will have the opportunity to appear, present evidence, cross-examine the other parties' witnesses, and exercise all other rights afforded by SDCL Chapters 1-26 and 49-45, and ARSD Chapters 20:10:01. All parties have the right to be present and to be represented by an attorney. Pursuant to South Dakota law, natural persons may appear pro se, however, a company or entity must be represented by a licensed attorney. These rights and other due process rights will be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on the testimony and evidence offered and received into evidence at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issue set forth above. The Commission's final decision may be appealed by the parties to the circuit court and the State Supreme Court as provided by law.

It is therefore

ORDERED, that a hearing on the Application will be held by the Commission on July 25, 2023, beginning at 9:00 a.m., CDT at the Casey Tibbs South Dakota Rodeo Center at 210 Verendrye Drive, Fort Pierre, South Dakota.

For approval, Applicant must show that the proposed Project will comply with all applicable laws and rules, will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area, will not substantially impair the health, safety or welfare of the inhabitants, and will not unduly interfere with the orderly

development of the region with due consideration having been given to the views of governing bodies of affected local units of government. Based upon these factors, the Commission will decide whether the permit to construct should be granted, denied, or granted upon such terms, conditions, or modifications of the construction, operation, or maintenance as the Commission finds appropriate. It is therefore

ORDERED, that the Commission will hold an evidentiary hearing on the Application and Project on:

Tuesday, July 25, 2023 – 9:00 a.m. CDT – Casey Tibbs South Dakota Rodeo Center at 210 Verendrye Dr., Fort Pierre, South Dakota. Marking of exhibits will begin at 8:00 a.m. CDT, on July 25, 2023.

Pursuant to the Americans with Disabilities Act, these meetings will be held in physically accessible locations. Please contact the Public Utilities Commission at least 48 hours prior to the meeting if you have special needs so arrangements can be made to accommodate you.

The Commission's contact information is: Public Utilities Commission, 500 E. Capitol Avenue, Pierre, SD, 57501; phone (605) 773-3201.

Dated at Pierre, South Dakota, this 9th day of June 2023.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u>Adam Jettnech</u>
Date: <u>6/9/23</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner