

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

**IN THE MATTER OF THE APPLICATION OF
NAVIGATOR HEARTLAND GREENWAY,
LLC FOR A PERMIT TO CONSTRUCT THE
HEARTLAND GREENWAY PIPELINE IN
SOUTH DAKOTA**

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**JON THURBER'S
AFFIDAVIT

HP22-002**

STATE OF SOUTH DAKOTA)
COUNTY OF HUGHES)

I, Jon Thurber, hereby swear and affirm as follows;

1. I am a Utility Analyst with the South Dakota Public Utilities Commission (Commission).
2. I attended all days of the evidentiary hearing and have heard live testimony for Docket HP22-002, including live testimony on August 3, 2023.
3. I listened to the entire testimony of Ms. Dana Bosma, including her testimony of a tractor getting stuck in her field and the related picture she had of the incident. This photo was offered as Exhibit LO134 and was received into evidence by the hearing examiner due to no objection from any party.
4. On August 7, 2023, I was made aware that a co-worker questioned the authenticity of the picture since there was a lack of tire tracks leading to where the tractor ended up getting stuck. After looking at the picture a second time, I noticed the writing "John Deere" and "4440" on the tractor was backwards. While the lack of tire tracks is not dispositive that the image is fake, I decided to do a google search and Microsoft Bing search for "stuck tractor photos." Exhibit 1 is a print-out of the google and Microsoft Bing search results.
5. The google and Microsoft Bing search results appear to include the image presented to the Commission by Ms. Bosma. Further, I was able to find a picture of the mirror opposite of Exhibit LO134, which displayed the writing "John Deere" and "4440" in the correct manner.
6. I also observed several users had the same photo posted on pinterest accounts.
7. At the evidentiary hearing, I was under the impression that the picture in Exhibit LO134 occurred on Ms. Bosma's property. This is due to the following answers Ms. Bosma provide during the hearing:
 - a. "Q. Now, ma'am, before I turn you over for cross-examination is there anything else particularly again without going through your entirely prefiled testimony that you would specifically like to highlight for the Commission that we haven't yet discussed?"

A. Well, I do have a picture that was not in my original testimony of our tractor that got stuck in the upper part of the field on wet -- with the drainage problems that are up there. The wheel is 9 feet 9 inches, which is taller than me, and it's stuck way up to 6 the belly of the tractor.” (8/3/2023 Transcript Rough Draft at page 195, lines 21 through page 196, lines 6).”

b. “Q. All right. Do you recall when that photograph was taken? A. It was a couple years ago. Q. Okay. And what were the weather conditions when it was -- when that occurred? A. Well, obviously it was a year when we had some rain. Q. Sure. And do you recall, was -- I guess, can you just explain how that tractor got in that condition, unless there's an objection. A. Well, it was out in the field and somebody was driving it and they were trying to get across the field and it got stuck. Q. Okay. All right. Thank you.” (8/3/2023 Transcript Rough Draft at page 200, Lines 8-20).

8. Exhibit 1 suggests the picture has been in circulation much longer than was represented in testimony.

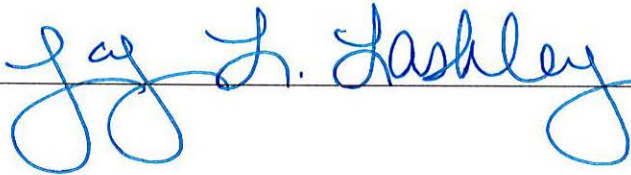
9. At this time, I have no further information on the matter.

Dated on this 8th day of August 2023.



JON THURBER

Subscribed and sworn to before me this 8th day of August, 2023



(Notary Public)

My Commission expires: 08.12.25

