



December 9, 2022

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**VIA E-MAIL ONLY**

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Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 E. Capitol Avenue  
Pierre, SD 57501

Re: In the Matter of the Application of Navigator Heartland Greenway, LLC for a Permit under the South Dakota Energy Conversion and Transmission Facilities Act to Construct the Heartland Greenway Pipeline in South Dakota - PUC Docket: HP 22-002

Dear Ms. Van Gerpen:

As I explained to the Commission at its meeting on December 6, 2022, in responding to inquiries from several landowners who advised Navigator or the Public Utilities Commission that they did not receive notice from Navigator under SDCL § 49-41B-5.2, Navigator reviewed its previous mailings made on September 29 and October 18, 2022, and discovered that some landowners within the statutory notice corridor did not receive timely notice.

Navigator uncovered a communications error in compiling the list of landowners that resulted in the omissions. In 2021, Navigator provided notice of the project and voluntary informational meetings to landowners along and adjacent to the anticipated route and within a one-half mile corridor of the anticipated route. This list was limited to the line to the Valero plant near Aurora because at that time there were no laterals to the POET plants near Chancellor and Hudson. When the POET laterals were added to the project scope in the second quarter of 2022, Navigator created a similar list identifying the landowners along and adjacent to those anticipated routes and within a one-half mile corridor of the new routes for purposes of contacting landowners for survey permission in advance of submitting an application to the Commission. No mailings were sent to these landowners.

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Then in the third quarter of 2022, Navigator created a new corridor list based on the gap in landowners between the half-mile corridor and the one-mile corridor under SDCL § 49-41B-5.2 (one-half mile on either side of the centerline). This list should have supplemented the previous landowner list, but instead inadvertently replaced the corridor list, thereby omitting some landowners. Navigator sent 1,052 letters to landowners providing notice of the application and informational meetings, but should have sent 1,256. Thus, all landowners with property on the right of way received notice in 2022, but some landowners in between the two different corridors (one mile versus one-half mile) did not receive notice under SDCL § 49-41B-5.2. Of these landowners who did not receive notice (204), some had previously heard about the project from Navigator in 2021 (92 along the Valero route), while some have not received any notice from Navigator (112 along the POET laterals).

As discussed at the Commission meeting on December 6, Navigator will not object that an application for party status filed by any landowner who received late notice is untimely. In addition, Navigator requests that the Commission set an additional public-input meeting under SDCL § 49-41B-15 to allow the landowners who received late notice to make public comment and ask questions directly to Navigator. We request that those speaking at the meeting be limited to landowners who received late notice, and that the meeting be held virtually sometime in January, which we think will best allow maximum participation at this time of year.

As soon as the Commission has decided whether another public-input meeting will be held, Navigator will provide notice to the affected landowners under SDCL § 49-41B-5.2. That way we can provide a single notice.

We apologize to the Commission and to the affected landowners for the error.

Yours very truly,

WOODS, FULLER, SHULTZ & SMITH P.C.



James E. Moore

cc: Service List