

**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 Under the South Dakota Energy Conversion and Transmission Facilities Act to Construct the Heartland Greenway Pipeline in South Dakota	Docket No. HP22-002
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**Motion to Intervene of the Great Plains Laborers’ District Council and the International
Union of Operating Engineers Local 49**

On September 27, 2022, Navigator Heartland Greenway, LLC (“Navigator” or “Applicant”) submitted an application to the South Dakota Public Utilities Commission (“Commission”) for a permit under the South Dakota Energy Conversion and Transmission Facilities Act to construct and operate a carbon dioxide transmission pipeline project (“Project” or “Application”). According to the Application, the South Dakota portion of the Project will include construction of approximately 111.9 miles of pipeline estimated to cost \$154 million. At peak construction, approximately 1,020 construction personnel will be employed in the state. Average employment during the four-year construction timeline is 430 jobs.¹

Pursuant to the Amended Notice of Application for Docket No. HP22-002 establishing a deadline for intervention of November 28, 2022, the Great Plains Laborers’ District Council (“GPLDC”) and the International Union of Operating Engineers Local 49 (“Local 49”) (Collectively, “Pipeline Trades”) respectfully move to intervene in the above-captioned proceeding. For the reasons stated below, the Commission should grant this Motion to Intervene and confer party status to the Pipeline Trades.

I. Communications

Communication should be directed as follows:

Tony Penn, Business Manager
Great Plains Laborers’ District Council
4208 W. Partridge Way, Unit 2
Peoria, IL 61615

¹ See Direct Testimony of Jonathon Muller, p. 3, September 26, 2022.

Phone: 309-692-8750
Email: gpldc@aol.com

And

Nathaniel J. Runke
International Union of Operating Engineers Local 49
4009 W. 49th Street, Suite 102
Sioux Falls, SD 57106
Phone: 612-391-7176
Email: nrunke@local49.org

With a courtesy copy to:

May Va Lor
Laborers International Union of North America
Department of Corporate Affairs
905 16th Street NW
Washington, DC 20006
Phone: 202-251-3108
Email: mlor@liuna.org

II. Basis for Intervening

The Pipeline Trades consist of two of the four construction trade unions employed on main line pipeline projects across the United States: the Laborers International Union of North America (“LIUNA”) and the International Union of Operating Engineers (“IUOE”). Members of the Pipeline Trades are employed by pipeline construction companies that belong to the Pipe Line Contractors Association (“PLCA”), and are signatory to the National Pipe Line Agreement, a labor agreement governing main line pipeline construction. The PLCA was established in 1948 and consists of the largest and most experienced pipeline contractors in the country. All of the major interstate transmission pipeline projects in South Dakota have been built by PLCA contractors and members of the Pipeline Trades, including the Keystone Pipeline in 2009 and the Dakota Access Pipeline in 2016. Collectively, the Pipeline Trades comprise hundreds of construction workers in the state including members who live within ten miles of the proposed pipeline route. The Pipeline Trades have local offices at: Laborers’ Local

620, 606 N. Kiwanis Avenue, Sioux Falls, SD 57104 and Local 49, 4009 W. 49th Street, Suite 102, Sioux Falls, SD 57106.

SDCL 49-41B-17 establishes the statutory requirements for intervention to include:

(4) Any person residing in the area where the facility is proposed to be sited, or any directly interested person, if timely application therefore is made as determined by the commission pursuant to rule. An application for party status in a proceeding under this chapter must contain a detailed statement of the interests and reasons prompting the application.

The Pipeline Trades have a direct interest in the Project because our members will be employed to build the pipelines in South Dakota. Moreover, because the Project will be built under the terms and conditions of the National Pipe Line Agreement, 50 percent of the construction workforce will be dispatched from local union hiring halls, ensuring employment and economic benefits stay in South Dakota. In addition, union members employed on the Project will receive family-sustaining wages, affordable family health insurance, and pension benefits which will create multiplier effects in the local economy.

Second, the Pipeline Trades' interest which entitles us to intervene is supported by law. Our members will be materially affected by the outcome of this proceeding because we stand to directly benefit from employment opportunities created by the Project, or we stand to lose employment opportunities if the Application is denied. Construction of the Navigator pipeline will support millions of work hours for our membership. The South Dakota Supreme Court has held that "the interest which entitles a party to intervene must be a direct interest, by which the intervening party is to obtain immediate gain or suffer loss by the judgment which may be rendered between the original parties." *Jackson v. Board of County Commissioners for Pennington County*, 76 SD 495, 500, 81NW2d 686, 689 (1957).

The Pipeline Trades assert that we are entitled to intervention as an individual with a direct interest pursuant to SDCL 49-41B-17 because: 1) the interests we are protecting are significant employment opportunities for our members who will be employed on the Project,

and 2) as the bargaining unit representatives of our members, the Pipeline Trades are empowered to represent our members' collective interests on their behalf.

III. Conclusion

For the reasons set forth above, the Pipeline Trades have an interest which may be materially affected by the outcome of this proceeding, and no other parties can represent our interest. Further, these interests are not shared by the public or taxpayers at-large. Accordingly, the Pipeline Trades move to intervene pursuant to SDCL 49-41B-17 and ARSD 20: 10:22:40.

Dated: November 28, 2022

Respectfully submitted,

/s/ Tony Penn

Tony Penn, Business Manager
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and

/s/ Nathaniel J. Runke

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