

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION)	
OF NAVIGATOR HEARTLAND GREENWAY,)	HP22-002
LLC FOR A PERMIT UNDER THE SOUTH)	
DAKOTA ENERGY CONVERSION AND)	POST-HEARING BRIEF ON
TRANSMISSION FACILITIES ACT TO)	BEHALF OF SOUTH DAKOTA
CONSTRUCT THE HEARTLAND)	ASSOCIATION OF RURAL
GREENWAY PIPELINE IN SOUTH DAKOTA)	WATER SYSTEMS

Background

The South Dakota Association of Rural Water Systems (SDARWS) serves communities across South Dakota. *See* Exhibit W2. SDARWS intervened in this docket to protect the interests of its member systems and ensure the safety and integrity of the water systems’ resources. *See* Exhibit W1, page 3-4, lines 81-84. SDARWS was granted party status in this docket by Order of the South Dakota Public Utilities Commission (hereinafter “the Commission”) on December 7, 2022. SDARWS submitted pre-filed testimony of Mr. Clinton Koehn on May 24, 2023 and its Witness and Exhibit List on July 18, 2023. SDARWS participated in the evidentiary hearing before this Commission beginning on July 25, 2023 and its witness, Mr. Koehn, testified before the Commission on July 31, 2023. SDARWS now files this post-hearing brief to request that if a permit is issued to Navigator by the Commission, the permit includes safeguards to protect SDARWS’ existing and future water system resources.

Authority

As the Commission emphasized throughout the hearing, Applicant’s burden of proof is set forth in SDCL 49-41B-22. Of particular relevance here are subsections three and four. Subsection three requires Applicant to prove by a preponderance of the evidence that its pipeline “will not substantially impair the health, safety or welfare of the inhabitants[.]”. Subsection four

requires Applicant to prove by a preponderance of the evidence that its pipeline “will not unduly interfere with the orderly development of the region[.]”. Satisfying both these subsections will require that minimum safety standards and requirements be incorporated into any permit issued by this Commission.

Application

SDARWS member systems known to be impacted by Navigator’s proposed pipeline route at this time are: Lewis and Clark Regional Water System, Big Sioux Community Water System, South Lincoln Rural Water System, Minnehaha Community Water Corporation, and Lincoln County Rural Water System. Hearing Transcript (hereinafter “TR”) 1217-18.

Ultimately, SDARWS is asking that Navigator work with its member systems to minimize the potential impacts the proposed pipeline would have on the water systems’ resources. TR 1220.

As such, SDARWS requests that the following conditions be incorporated into any permit issued by this Commission:

1. Vertical crossings between SDARWS water lines and the Navigator Pipeline shall be a minimum of 48 inches.
2. The above condition shall apply to all current and future crossings.
3. Navigator shall enter into crossing agreements with all impacted SDARWS water systems. Such agreements shall be finalized prior to any construction on the Navigator Pipeline within the State of South Dakota.
4. Navigator shall reimburse SDARWS member systems for all damages to their infrastructure caused by Navigator.
5. Any mutually agreed upon relocation of water system infrastructure shall be at the expense of Navigator.

Given the vital importance of water to South Dakotans, failure to appropriately safeguard SDARWS resources will substantially impair the health, safety or welfare of the inhabitants

served by the water systems. *See* SDCL 49-41B-22(3). As Such, SDARWS respectfully requests that the above safeguards be incorporated into any forthcoming permit issued to Navigator.

Further, failure to require that these minimum standards apply not only to current crossings but also to all future crossings will unduly interfere with the development of the regions impacted by the pipeline. *See* SDCL 49-41B-22(4). The application of these specifications to future crossings will better enable SDARWS member systems to continue to successfully develop, grow, and serve South Dakota communities.

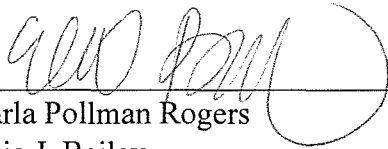
Of course, the proposed crossing agreement set forth in Exhibit W4 outlines many other specifications and details that require further collaboration between the parties prior to any construction taking place. *See* Exhibit W4. Notably, there is considerable need for the parties to collaborate as to parallel routing specifications, and horizontal directional drilling when appropriate. *See id.* page 2, placeholder for technical specifications. As such, SDARWS has modified its initial request that the full crossing agreement be incorporated into any permit issued. *See* W1, page 6, lines 136-138. Thus, SDARWS has included those parameters that are most critical for the Commission to incorporate in order to safeguard and protect water system resources.

Conclusion

SDARWS respectfully requests that if this Commission grants the permit application currently pending that it incorporate the five above-referenced parameters as a component of the permit conditions. Such conditions are crucial to adequately protect existing and future SDARWS water system resources.

Dated this 28th day of August, 2023.

RITER ROGERS, LLP

BY:  _____

Darla Pollman Rogers

Ellie J. Bailey

319 S. Coteau – P. O. Box 280

Pierre, SD 57501-0280

605-224-5825