

1-1) Please provide GIS shapefiles for the proposed project.

RESPONSE: Responsive shapefiles for the centerline have been provided to Staff.

1-2) Please file updated maps for Exhibits A2 through A6 that includes labels on the streets and, further, please orient those maps with north being toward the top of the page.

RESPONSE: Revised maps are attached and will be filed in the docket as exhibits to the application.

1-3) Referring to Question 7 on page 3 of Mr. Lee's direct testimony, please explain in detail what changes to the proposed route are anticipated and why those changes may occur.

RESPONSE: Slight deviations in the route may be warranted as a result of our pending Spring 2023 surveys (e.g. shifting a few 10s of feet around a resource not previously identified) and/or landowner negotiations regarding the specific location of the route in their parcel (e.g. moving to a different edge of a parcel or following a parcel line on its adjacent field).

1-4) Please provide a definition for Navigator's use of the term "micro-routing" as found in the response to Question 8 on page 4 of Mr. Lee's direct testimony.

RESPONSE: Micro-routing is the exercise of manually adjusting the route from the GIS routing program accounting for information not readily incorporated in the program such as of angles of road crossings, space for HDD pull strings, distinguishing between residential structures and out buildings, points of inflection in the alignment for field bends, etc.

1-5) Referring to Section 2.2 of the Application, please provide the weighting (or the configuration and constraint criteria) used by Navigator for each feature class analyzed by the GIS routing program (Pivvot).

RESPONSE: Please note that Pivvot is a subscription program that was used for initial routing and Navigator and its consultants who used the program cannot exactly recreate the iterative process used resulting in the proposed route. The program operates such that it identifies categories of datasets and is accompanied by an adjustable sliding scale to indicate desired level of avoidance and minimization to determine a preferred route. The following indicate categories Navigator identified for refined routing in addition to those features listed in Section 2.2, all of which were taken into account.

* Co-Located Alignment - Utilized existing utilities, roads, and parcel boundaries to determine a preferred route. This route would parallel these items for the majority of its length as well as adhere to a set avoidance criteria.

*Co-Located Alignment Adjusted - Same method as used in 'Co-Located Alignment' with an adjusted avoidance criteria to assist in averting Mines and all its subtypes. These subtypes include: Abandoned Mines, Refuse Structure, Strip/Removal/Underground, Surficial Aggregate, and permitted areas for mining.

*Non Co-Located Alignment - Does not utilize the co-location/paralleling method. Avoidance criteria remains the same as the 'Co-Locate' routing option.

*Non Co-Located Alignment Adjusted - Does not utilize the co-location/paralleling method. Avoidance criteria remains the same as the 'Co-Located Alignment Adjusted' routing option.

1-6) Referring to Section 2.2 of the Application, please provide all initial routes generated by Pivvot.

RESPONSE: Objection. This request seeks information that Navigator maintains as confidential and proprietary. Without waiving the objection, Navigator will produce responsive KMZ files subject to entry of an appropriate protective order by the Commission.

1-7) Please provide a summary report on the plume modeling completed and the results of such modeling that are referenced on page 11 of Mr. Lee's direct testimony and in Section 2.2 of the Application.

RESPONSE: Objection. This request seeks information that is confidential and proprietary because it has commercial value and disclosure to any competitor would cause damage to Navigator. It also seeks information that may be outside the jurisdiction of the PUC based on federal preemption and to that extent is not relevant to the scope of this proceeding. Without waiving the objection, a table containing responsive information will be provided subject to entry of a protective order by the PUC.

- 1-8) What were the setback distances Navigator established based on the plume modeling for:
- a) inhabited structures,
 - b) gathering places, and
 - c) population centers.

RESPONSE: Objection. This request seeks information that is confidential and proprietary. Navigator's plume modeling is commercially sensitive, complex, and easily misinterpreted. This request also seeks information that may be outside the jurisdiction of the PUC based on federal preemption and to that extent is not relevant to the scope of this proceeding. Without waiving the objection, a confidential responsive summary report will be provided subject to entry of an appropriate protective order by the PUC.

1-9) Will road bores have the warning tape installed? If not, please explain why warning tape cannot be installed on top of the pipeline installed by road bore.

RESPONSE: Warning tape is a flexible material that is lain in the ditch spoil during backfill operations. It is not of material that can be successfully pulled through a bore hole. Bores and HDDs have other design factors to further protect from third party damages. For one, pipeline signage is posted and readily visible at road crossings, thereby increasing awareness to its presence. Also, bore pipe has a thicker wall and additional abrasion resistant coating.

1-10) Referring to Question 28 on page 15 of Mr. Lee's direct testimony, please provide more detail on the unique odorant under R&D and the potential timeline for determining whether or not the odorant will be used.

RESPONSE: Navigator is working with a university under the terms of a confidentiality agreement, and continues to conduct olfactory testing on potential odorants. A third panel test is currently in process.

1-11) Referring to Question 28 on page 15 of Mr. Lee's direct testimony, please provide additional details on the NAV911 system.

RESPONSE: Navigator is currently evaluating various systems that would allow landowners and other interested stakeholders to enroll into a notification system that would provide an automatic call alert to a local region in the event of an emergency. This system that would be known as NAV911. The evaluation process is ongoing.

1-12) Referring to Question 42 on page 22 of Mr. Lee's direct testimony, when will Navigator receive the formal Geohazard Analysis from Terracon to determine if additional mitigation measures are needed for karst, subsidence, or landslides?

RESPONSE: Navigator expects the Geohazard Analysis to be completed by the end of Q1 2023.

1-13) Did Navigator verify the truth and accuracy of the Application in accordance with ARSD 20:10:22:04? If so, please refer to the document with the proper verification.

RESPONSE: A verification signed by Monica Howard is attached and will be filed in the docket.

1-14) Referring to Section 1.2 of the Application, when do the transportation agreements with the industrial producers expire? Further, do the transportation agreements convert to long-term contracts for firm capacity upon project completion and what will be the term of those contracts?

RESPONSE: Objection. This request seeks information that is confidential and proprietary because it has commercial value and disclosure to any competitor would cause damage to Navigator. Without waiving the objection, a table containing responsive information will be provided subject to entry of a protective order by the PUC.

1-15) Did the Application contain maps that show cemeteries, places of historical significance, and public facilities adjacent to or abutting the transmission site in accordance with ARSD 20:10:22:11? If so, please identify what map set contains those layers.

RESPONSE: Attached is a set of maps showing responsive publicly available information obtained from PAD-US, the Census Bureau, U.S. Geographic Names Information System Cemeteries, the National Register of Historic Places, the Homeland Infrastructure Foundation-Level Data, and the South Dakota Department of Transportation. The map set will be filed in the docket as an exhibit to the application.

1-16) Referring to Section 2.3 of the Application, please provide an analysis supporting the statement that the proposed route “minimizes the collective impact and maintains the health and safety of the public and environment while meeting the objectives of the Project” when compared to alternative routes.

RESPONSE: As described in the application, Navigator did not use a routing analysis that identifies a set of distinct or largely distinct potential routes. Instead, the GIS program used, Pivvot, identifies multiple paths from the designated starting and ending points, and evaluates them based on the features described in section 2.2 of the application. Micro-routing, as further described in answers to these requests, followed that process, and further refinements were made based on 2021 aerial imagery and lidar information. The centerline was then determined after consideration of appropriate setbacks from inhabited structures, gathering places, and population centers, as well as avoiding areas of known cultural resources.

1-17) Pursuant to ARSD 20:10:22:14(3) please provide a map showing the bedrock geology and surficial geology with sufficient cross sections to depict major subsurface variations in the siting area.

RESPONSE: Navigator will provide this information after receipt of the Geohazard Analysis by the end of Q1 2023.

1-18) Referring to Section 6.2.4 of the Application, when will the Geohazard Assessment Study be completed? Further, will the Geohazard Assessment Study be used to inform routing decisions? Please explain.

RESPONSE: Navigator expects the Geohazard Analysis to be completed by the end of Q1 2023. Areas where geohazard risk are identified may warrant further evaluation through review of additional mapping / survey data, aerial survey, field inspection, subsurface exploration, site characterization, stability modeling, and /or monitoring.

1-19) Referring to Section 6.3 of the Application, Navigator states “[d]uring construction activities, the topsoil layer from cultivated prime farmland areas associated with the pipeline will be stripped to a maximum depth of approximately 12 inches and segregated from the subsoil.” Please explain why Navigator won’t strip and segregate the topsoil beyond 12 inches for locations that may have topsoil deeper than 12 inches.

RESPONSE: Navigator will strip the topsoil to whatever depth exists, which in most locations is a maximum of approximately 12 inches. If the actual depth is more than 12 inches, Navigator will strip the topsoil to its actual depth.

1-20) Referring to Section 6.3 of the Application, Navigator states “[t]he Applicant will minimize these impacts by implementing mitigation measures such as [...] limiting construction in wet weather conditions to that which typical farm operations would occur under to avoid excessive rutting or compaction.” Please explain the meaning of this sentence in detail. Further, how will the Applicant know when the conditions are too wet to work and, thus, limit construction activities?

RESPONSE: Typically wet weather conditions persist with rain events and ponded water from snow melt. The passage of construction equipment in these conditions causes or is likely to cause rutting that mixes topsoil and subsoil, prevents the effective removal or replacement of topsoil and subsoil, prevents proper decompaction, and/or damages underground tile lines. This issue is addressed generally in section 6.8 of the ECG. Additionally, Notes 7 and 8 on typical drawing HGS-BMP-030-SDP (Appendix E), address the effects of using heavy equipment and the use of timber mats. Navigator's environmental inspector will monitor this issue and advise when conditions of this nature require that construction activities be limited in agricultural areas. The environmental inspector's role is addressed in section 1.1.1 of the ECG provided in Appendix E. These conditions will also be addressed in the Agricultural Construction Mitigation Plan discussed in Section 6.3 of the Application.

1-21) Referring to Section 6.3 of the Application, when will the Agricultural Mitigation Plan and Weed Control Plan be finalized?

RESPONSE: Navigator expects to this to be finalized by the end of Q1 2023.

1-22) Referring to Section 6.4.3 of the Application, please explain the expected impacts as contemplated in the following statement: “an inadvertent release [of drilling fluids] would permanently impact groundwater quality within the Project area [...]”

RESPONSE: The quoted language contains a typographical omission. It should read “would not permanently impact groundwater quality.”

1-23) Please identify what map-set contains “[...] the current planned water uses by [...] agriculture, recreation, fish, and wildlife” as required by ARSD 20:10:22:15(2). If this information is not included on a map set that was filed with the Application, please provide updated maps with the required information.

RESPONSE: Please see Exhibit A5 to the application.

1-24) Referring to Section 6.5.2 of the Application, it is stated that “[t]he Applicant will monitor revegetation success along the pipeline ROW in accordance with applicable requirements.” Please identify the applicable requirements referenced in this sentence.

RESPONSE: The applicable requirements are part of the National Pollutant Discharge Elimination System permit. The Permit can be terminated upon reaching 70% revegetation success.

1-25) Referring to Section 6.6.1 of the Application, please provide a copy of the delineation surveys.

RESPONSE: A formal report will be provided after 2023 survey work which should conclude prior to June 2023.

1-26) Please provide an updated Table C-2 of Appendix C to the Application once the crossing lengths currently identified as "TBD" are determined.

RESPONSE: Appendix C Table C-2 will be updated after 2023 survey work.

1-27) Referring to Section 6.6.3 of the Application, please identify all HDD locations for the project by updating Table 6.6-2.

RESPONSE: Table 6.6-2 will be updated as soon as 2023 field survey data necessary to determine HDD locations is available.

1-28) Referring to Section 6.6.3 of the Application, in the "Open-Cut" section Applicant states: "Excess excavated materials will be distributed in an upland area in accordance with applicable regulations."

- (a) Please identify what applicable regulations are referenced.
- (b) Does applicant intend to work with the property owner on where to place excess materials? Please explain.

RESPONSE:

- (a) The referenced statement is incorrect. Navigator will work with landowners as described in the answer to (b).
- (b) Yes. Navigator will obtain easements for temporary work space and in some cases additional temporary work space and will negotiate with individual landowners about various construction options and issues, including the placement of excess material from an open cut.

- 1-29) Referring to Table 6.7-1, please provide:
- (a) the bat acoustic survey reports completed for the project;
 - (b) the eagle/raptor nest survey reports completed for the project;
 - (c) Avoidance/minimization measures to be implemented for the Topeka shiner and what streams/waterbodies those measures will be implemented at;
 - (d) survey report for the lined snake;
 - (e) Dakota Skipper habitat assessment survey reports; and
 - (f) Pollinator habitat survey report.

RESPONSE:

- (a) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (b) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (c) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (d) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (e) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (f) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.

1-30) Referring to Section 6.7.1 of the Application, is there the potential for the route to change due to survey work that will be completed in 2023? Please explain.

RESPONSE: Navigator will resume species-specific and cultural surveys when the weather allows in 2023. The results could cause minor route changes to avoid or mitigate impacts to cultural or other resources.

1-31) In Section 6.8.3 of the Application, it is stated that “[a]side from the approximately 2 to 4-acre L/R site and fractions of an acre for each MLV, there will be no permanent effects on surrounding land uses as a result of HGPS.” However, in Section 6.8.5 of the Application, it is stated “[t]here are no aboveground facilities proposed for the Project within South Dakota; therefore, there will be no permanent impacts on changes to land use associated with the Project.” Please explain how both these statements can hold true at the same time, or, identify which statement is the correct one.

RESPONSE: The statement in Section 6.8.3 is correct. The statement made in Section 6.8.5 was an incorrect statement.

1-32) Referring to Section 6.8.6 of the Application:

- (a) Identify all applicable zoning and county permit requirements and/or ordinances the Project will be subject to.
- (b) On a county-by-county basis, and with specificity, identify each requirement in county or municipal land use, zoning, or building rules, regulations, or ordinances that the Applicant requests the Commission issue a SDCL 49-41B-28 finding on in order to supersede said requirement. In addition, please provide support for each requirement as to why it is unreasonably restrictive in view of existing technology, factors of cost, or economics, or needs of parties where located in or out of the county or municipality.

RESPONSE:

- (a) Navigator has worked with local planning and zoning officials in each county to identify required permits. In Brookings County, a conditional use permit is required for a contractor yard during construction. Brookings County has a Transmission Pipeline Risk Reduction Overlay District, Article 24, that may require consultation between Navigator and Brookings County to define the appropriate planning zone under the ordinance for the pipeline. A permit may be required under the county's floodplain ordinance. Moody County adopted a pipeline moratorium resolution that is currently in effect, but that expires in March 2023. Under Section 4.36 of the Moody County Zoning Ordinance, Navigator must obtain a conditional use permit for the pipeline, which must be granted if Navigator adheres to all requirements set by the PUC. In Minnehaha County, no zoning permits are required, but a permit may be required under the floodplain management ordinance. A permit is required to cross any road that is part of the county highway system. In Turner County and Lincoln County, no zoning permits are required for the pipeline.
- (b) Navigator does not presently seek relief from the Commission under SDCL 49-41B-28, but reserves the right to do so if any county regulation contradicts any requirements imposed by the PUC.

- 1-33) Referring to Section 6.9 of the Application on cultural resources:
- (a) Please provide a copy of the cultural resource survey report.
 - (b) Please identify how much of the route has yet to be surveyed.
 - (c) Is there the potential for the project route to change as a result of the ongoing surveys? Please explain.

RESPONSE:

- (a) A formal report will be provided after 2023 survey work which should conclude prior to June 2023.
- (b) Approximately 40% of cultural surveys remain that are required in federal jurisdictional areas.
- (c) Yes. Survey results could require minor route changes to avoid or mitigate impacts identified during the surveys.

1-34) Section 7.1 of the Application indicates that the project will result in up to 10 permanent jobs during operations whereas Section 7.4 indicates approximately 2-4 permanent jobs during operations. Please clarify this discrepancy in the number of South Dakota permanent jobs during operation.

RESPONSE: Both statements are correct, but not clearly explained. The 10 permanent jobs during operations include indirect jobs, meaning that the number includes persons not directly employed by the Applicant. The 2-4 permanent jobs during operations will be employees.

1-35) Regarding the discussion on law enforcement in Section 7.5 of the Application, does the Applicant anticipate the need to rely on law enforcement for security purposes during construction? If so, please explain to what extent local law enforcement may be used for construction security and the Applicant's plans to coordinate with local law enforcement.

RESPONSE: Navigator has consulted and will continue to consult with local law enforcement. Particular needs during construction have not yet been discussed, and Navigator does not anticipate protestor activity but will discuss that with local law enforcement as construction approaches. Navigator intends to use private security, where necessary, for contractor yards, pipe storage yards, and other construction-related yards.

1-36) Referring to Section 7.6 of the Application, please provide Applicant's plans for working with the SD GF&P on the closure of a walk-in area due to construction as well as how the public will be notified when a walk-in area is closed to hunting.

RESPONSE: Navigator will not unilaterally determine how to notify the public when a walk-in area is closed to hunting, but will consult with the South Dakota Department of Game Fish & Parks and provide notice based on that consultation. Navigator will supplement this answer when more information is available after continuing consultation.

1-37) Please provide Applicant's suggested amount for a road bond issued pursuant to SDCL 49-41B-38 along with support for the amount.

RESPONSE: Based on a formula previously adopted by the Commission, Applicant recommends an indemnity bond based on 10% of estimated construction cost in South Dakota, which is \$142 million. Thus, Applicant suggests an indemnity bond in the amount of \$7.1 million for 2024 and a bond for the same amount in 2025.

1-38) Referring to Section 7.11 of the Application, please provide a copy of the market study completed by Navigator that shows property values in rural areas are not usually affected by a pipeline.

RESPONSE: Objection. This request seeks information that is confidential and proprietary. Without waiving the objection, Navigator's market study will be provided subject to entry of an appropriate protective order by the PUC.

1-39) Does the Applicant expect any landowners to lose housing eligibilities or not be able to use a housing eligibility? If so, please quantify the impact of lost housing eligibilities within the project area and provide support for such. If not, please explain why housing eligibilities will not be impacted by the project.

RESPONSE: Navigator is aware of only one landowner directly raising this issue with a land agent. Whether the location of the right of way causes any loss of housing eligibilities (as opposed to a change in the location of those eligibilities within the parcel), and whether the location of the right of way affects the before and after value of the larger parcel subject to an easement for the right of way are issues that must be addressed case by case. In general, the value of housing eligibilities is included in the value of the larger parcel and is reflected in the sale price of the larger parcel. There may be cases in which the location of the right of way affects housing eligibilities in particular locations within a larger parcel, but without more information from affected landowners who believe that to be the case, Navigator cannot quantify the impact of lost housing eligibilities within the project area, and maintains that whether there is damage to a landowner must be determined by an appraiser in each case.

1-40) Since the project will use a SCADA system and remotely operated valves, please explain what type of cybersecurity measures are planned for operational technology (OT) during system operations and, further, what OT cybersecurity regulations the project will be subject to.

RESPONSE: This issue is within the jurisdiction of the Transportation Safety Administration and falls under TSA Security Directive Pipeline-2021-02C (SD02C), which applies to owners and operators of hazardous liquid and national gas pipelines who are notified by TSA that their pipeline system or facility is critical. Navigator will establish and implement a Cybersecurity Implementation Plan, develop and maintain a Cybersecurity Incident Response Plan to reduce the risk of operational disruption, and establish a Cybersecurity Assessment Program, all as required by the Security Directive. The control room will follow the same guidelines for cybersecurity measures that match or exceed Navigator's corporate standards including a network design that follows the Purdue Model, hardened workstations with adequate redundancy, and ongoing reviews. Communications between the control room and the Heartland Greenway operational systems will be secured and encrypted.

1-41) Please provide copies of any data requests Applicant has sent to or received from other parties in this docket. Please supplement with corresponding responses as received.

RESPONSE: Applicant received discovery from Landowner/Intervenor Rick Bonander in the form of interrogatories, document requests, and requests for admissions. Applicant also received discovery from Landowners Dwayne Pederson Land Co., LLC; Dakota Aeration, Inc; Pederson Ag, LLC; Sherwood Beek, and Kristi Devick Beek. Copies of the requests and Applicant's responses are attached. Applicant will supplement this response throughout discovery.

Dated this 13th day of February, 2023.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/James E. Moore
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OBJECTIONS

The objections stated to Staff's First Set of Data Requests were made by James E. Moore, one of the attorneys for Navigator Heartland Greenway, for the reasons and upon the grounds stated therein.

/s/ James E. Moore
*One of the Attorneys for Navigator Heartland
Greenway*

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February, 2023, a true and correct copy of the foregoing Applicant's Responses to Staff's First Set of Data Requests was served via e-mail transmission to the following:

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/s/ James E. Moore
*One of the Attorneys for Navigator
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