

- 5-1) Has an Agricultural Impact Mitigation Plan been prepared for the project? If so, please provide. This Plan should be prepared in accordance with industry standard construction and restoration plans and at a minimum include a detailed sequence of construction events and schedule, details regarding vegetation clearing, topsoil segregation and replacement, a detailed description of drain tiles (marking, repair, inspection), restoration after soil compaction and rutting, descriptions of restoration of contours, construction in wet conditions and weed/invasives control.

RESPONSE: As indicated in Applicant's response to Staff DR 2-29, the Agricultural Impact Mitigation Plan is expected be completed by the end of April 2023 and will be provided.

- 5-2) Has a Sediment and Erosion Control Plan been prepared for the project? If so, please provide. This Plan should be prepared in accordance with industry standard construction and restoration plans and at a minimum include a description of the permits and notifications the project will require during the construction process and the schedule at which these permits will be obtained. A detailed description of the construction sequence that demonstrates planning to limit the amount and duration of open trench sections as necessary, a description of the Environmental Inspectors responsibilities, a description of the erosion and sediment controls/BMPs, seeding, mulch, if necessary winter construction plans, and post construction monitoring activities.

RESPONSE: Plans that address sediment and erosion control for projects come in many forms and with many titles. Applicant provided its Environmental Construction Guidance document as Exhibit E to the Application. This guidance document communicates the Applicant's standards that enable compliance with federal, state, tribal, and local environmental protections, erosion control requirements, specifications, and practices. The ECG is designed to address typical circumstances that may be encountered during the construction of the Project. Project-specific plans, permit conditions and/or landowner agreements may supersede general practices described in this document. General construction procedures are addressed in Section 4.0 of the ECG. The responsibilities of environmental inspectors are described in Section 1.1.1 of the ECG. BMP's for erosion and sediment control are addressed in Section 4.0, with more detailed procedures addressed in Section 5.0. Winter construction is addressed in Section 6.0, and post-construction activities are addressed in Section 9.0.

Permits required for construction were provided in Table 1.8-1 of the Application.

- 5-3) Has Navigator identified and addressed changes in status of ephemeral waterbodies, or any other waters potentially previously excluded based on EPA and U.S. Army Corps of Engineers updates to jurisdictional status of Waters of the U.S. published in the Federal Register on 18 January 2023 that may require permits and construction impact mitigation?

RESPONSE: Applicant took a conservative approach to delineating Waters of the US (WOTUS) that fits both pre-2015 and 2023 WOTUS rules to avoid and minimize any regulatory uncertainty and is permitting impacts to WOTUS using a PJD.

5-4) When does Navigator intend to provide a complete field assessment of wetlands and waterbodies crossed by the Project?

RESPONSE: Applicant is supplementing its 2022 survey efforts with additional surveys in 2023 and has a current assessment based on a combination of field and desktop delineated features.

5-5) There is specified intentions not to complete concrete coating within 100 feet of wetlands. Will Navigator apply this same restriction as it relates to waterbodies?

RESPONSE: Yes, concrete coating activities will not take place within 100 feet of wetlands or waterbodies.

5-6) Will there be seeding of disturbed non-agricultural wetland areas to facilitate revegetation?

RESPONSE: As Described in Section 5.2.4 of Exhibit E (ECG): Typically, wetlands are not reseeded and are revegetated via natural succession. In wetlands where no standing water is present, the construction ROW may be seeded with annual rye or be allowed to revegetate naturally based on site conditions, landowner agreements, and respective permits.

- 5-7) Is there intention to utilize water from the Big Sioux River, which hosts invasive aquatic species, as the application outlines, for hydrostatic testing? If so, would discharge of that water be returned to the Big Sioux River or to an upland area to prevent spread of aquatic invasive species?

RESPONSE: Source water for hydrostatic testing is being evaluated by the project team and will be further assessed by the selected contractor. If it is determined that the Big Sioux River is a necessary water source appropriate water withdrawal and discharge permits will be obtained. Best management practices for water withdrawal would include water intakes to be suspended within the water column to avoid disruption of benthic setting and minimize stirring up sediments. Mesh filters would also be placed at the intake piping to avoid entrainment and/or entrapment of aquatic species. Yes, the discharge water would be returned to the river or to an upland area to prevent the spread of the undesirable species.

5-8) CO2 is a regulated air pollutant in SD under the definition at 74:36:01:15. What emissions/regulatory analysis with citations were used to show that the operations at are not subject to an operating permit?

RESPONSE: No aboveground facilities subject to air permitting are being constructed in South Dakota.

5-9) Was a general conformity analysis completed to assess air quality impact?

RESPONSE: No, carbon capture results in a reduction of emissions. In addition, there will be electric generation equipment at the capture facilities, which are not subject to the PUC's review.

5-10) What technical studies and supporting documentation was used to the development of the buffers for the 6", 8", 12", 16", and 20" pipelines as shown in the table on page 3 of 5 in the document titled "Heartland Greenway System Plume Modeling and Buffer Overview"? Please provide.

RESPONSE: Objection. This request seeks information that is confidential and proprietary and is maintained as such. Without waiving the objection, subject to the Protective Order entered by the Commission, information Utilized for Evaluation of Routing and Plume/Dispersion Modeling is included on Page 2 of the document above the referenced Table on page 3. Additional information is included in the document provided in response to DR 2-26, DNV-RP-F104 Design and Operations of CO2 Pipelines.

Dated this 24th day of April, 2023.

WOODS, FULLER, SHULTZ & SMITH P.C.

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OBJECTIONS

The objections stated to Staff's Fifth 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 24th day of April, 2023, a true and correct copy of the foregoing Applicant's Responses to Staff's Fifth Set of Data Requests was served via e-mail transmission to the following:

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