

4. As a result of additional surveys and landowner negotiations, are there any updates to the data/ crossing tables included in the Application that Navigator can provide?

Answer: Yes, Navigator has updated the permit table, crossing tables, and impact tables based on the current alignment. The following are attached as Exhibit A:

- Table 1.8-1 Anticipated Permits for South Dakota Segment of the Heartland Greenway Pipeline System
- Table 2.1 1 Summary of the Project Facilities in South Dakota
- Table 6.2-1 Geologic Formations Crossed by the Project
- Table 6.2-1 Geologic Hazards Crossed by the Project
- Table 6.3-1 Summary of Major Soil Characteristics Impacted by the Project
- Table 6.4-2 Water Wells within 400 feet of the HGPS Centerline
- Table 6.4-3 South Dakota Rural Water Systems Crossed by the Project
- Table 6.5-1 Vegetative Communities Crossed by the Project
- Table 6.6-1 Summary of Wetlands Crossed by the Project by County
- Table 6.6-2 Horizontal Directional Drill Locations
- Table 6.8-2 Land Uses Crossed by the Heartland Greenway Pipeline System Centerline
- Table 6.10-1 EPA Listed 303(d) Listed Waterbodies
- Table C-1 Soils Characteristics of Soil Map Units Crossed by the Project Centerline
- Table C-2 Surface Waterbodies Crossed by the Project Centerline

5. As a result of additional surveys and landowner negotiations, are there any updates to the mapping exhibits included in the Application that Navigator can provide?

Answer: Yes, Navigator has updated the following mapping exhibits which are attached as Exhibit B:

- A1- Project Vicinity Map
- A2- Hydrology Aerial Maps
- A3- Topographic Maps
- A4- Soil Maps
- A5- Hydrology Maps

Rural Water Systems Map

Water Protection Maps

- A6- Land Cover Maps
- A7 – Public Facilities Map

6. Please explain why some survey work has not been completed and how Navigator is managing any need to complete them.

Answer: As explained to Staff during discovery in response to Staff DR-6(a), the reason for incomplete surveys is due to landowners who have refused survey permission despite Navigator’s right to survey access under SDCL § 21-35-31. Given the small portion of the route that has not been surveyed, Navigator has opted not to seek an injunction against those landowners in court at this time and is continuing to work with the landowners to address their concerns to obtain access. Navigator is continuing to work with the agencies to refine the areas where surveys are needed, and if avoidance and/or mitigation measures may be appropriate in lieu of completed surveys. It is possible that surveys may not be complete until respective easements are secured, an injunction is granted, or voluntary survey permission is granted. Agencies may issue Navigator permits conditioned on completion of surveys and providing results to the respective agency prior to construction in those respective locations.

7. Please explain how Navigator has worked with the South Dakota Department of Agriculture and Natural Resources since your previous testimony.

Answer: Navigator submitted a draft of its Weed Management Plans and Agricultural Protection Plan to DANR for review and comment on April 21, 2023. Current versions of the Weed Control Plans are attached as Exhibits C and D, which includes input from DANR. The Weed Management Plans address the following Major Land Resource Areas crossed by the Project: Rolling Till Prairie in Brookings and Moody Counties; Till Plains in Lincoln and Turner Counties; and Loess Uplands in Lincoln, Minnehaha, and Moody Counties. These plans have been developed to prevent new infestations of weeds along the HGPS Right-of-Way (ROW) and/or avoid exacerbating areas of existing infestations. The plans also provide guidance for treatment methods before, during, and after construction, including documentation and reporting.

The Agricultural Protection Plan supplements Navigator's Environmental Construction Guidance filed as Exhibit E to the Application. DANR did not have any comments on the plan submitted for review on April 21, 2023. Its purpose is to avoid, mitigate, or minimize impacts to privately owned agricultural land. It addresses the use of agricultural inspectors, the construction sequence, points of contact with Navigator, and mitigation measures related to: the width of the construction right of way; depth of cover, including the effects of construction on drain tile and separation from existing utilities; winter construction; topsoil stripping, segregation, and replacement; repair or replacement of affected drain tile; livestock protection; rock removal; compaction; land leveling; interference with irrigation systems; ingress and egress; temporary access roads; construction in wet conditions; and procedures for determining construction-related damages.

8. Please explain how Navigator has worked with the State Historic Preservation Office since your previous testimony.

Answer: On February 10, 2023, Navigator submitted a Level III Cultural Resources Survey Report as part of the U.S. Army Corps of Engineers (USACE) permit. SHPO provided a letter on March 7, 2023, acknowledging the receipt of report materials and to submit results from the 2023 surveys, this letter is attached as Exhibit E.

9. Please explain how Navigator has worked with the South Dakota Department of Game Fish & Parks related to state-listed endangered species since your previous testimony.

Answer: Navigator has continued consultation with Game Fish & Parks about state-listed endangered species that may be affected by the project. SDGFP sent a consultation letter on October 3, 2022 related to the POET laterals, a copy of which is attached as Exhibit F. Navigator has consulted on suitable habitat locations and presence of the lined snake, which has been documented in Minnehaha County. After consultation with SDGFP regarding 2022 survey results, and a review of known lined snake locations and habitat, the Project will presume lined snake presence in all areas of good or excellent habitat within the Project footprint. Navigator is currently conducting species surveys in two locations that were not accessible in 2022. Upon completion of surveys a final report will be submitted to SDGFP for review and comment. Navigator has agreed to implement certain mitigation measures requested by SDGFP in 15 locations identified as potential habitat with presumed presence. The mitigation measures include the installation of silt fence before commencing construction at a site during the Lined Snake active period and remaining until construction is complete; using a permitted wildlife monitor to visually survey the fenced off construction area the morning before commencing

construction or staging construction material; training construction crews and contractors on how to identify Lined Snakes; stopping construction if Lined Snakes are encountered; reporting such sightings to SDGFP; and not using plastic erosion control mesh in these locations. Additionally, as requested by SDGFP, Navigator has provided a list of Topeka Shiner streams that will be avoided via HDD to the SDGFP and the USFWS. SDGFP provided an email response on May 24, 2023 that avoidance measures were sufficient. Navigator will continue its consultation with SDGFP and expects that process to be completed by mid-2023

10. What is the status of consultation with the U.S. Fish and Wildlife Service?

Answer: Navigator has been seeking technical assistance from USFWS on species impact avoidance and mitigation measures since 2021. The draft Biological Opinion will be updated with 2023 survey results and formal consultation is likely to start in Q3 2023. Navigator is continuing to consult with USFWS on migratory bird impact mitigation measures which would be inclusive of mitigation measures for Birds of Conservation Concern.

11. Has Navigator worked with Moody County, Lincoln County, and Minnehaha County in their efforts to adopt zoning ordinances related to the proposed pipeline since the Application was filed?

Answer: Yes. Navigator has regularly attended county commission and planning and zoning meetings in which any pipeline moratorium or proposed ordinance regulating the construction and operation of pipelines has been on the agenda. Navigator has offered to work with each of these counties in their development and consideration of such ordinances.

12. What is the status of Moody County's consideration of pipeline-related zoning ordinances?

Answer: Moody County first enacted a pipeline moratorium on March 23, 2022. On March 21, 2023, the Commission voted to extend the pipeline moratorium for an additional year and stated that it would form a working group to hold a series of public-input meetings starting in May 2023 to address setbacks, with a stated goal of adopting an ordinance by July 2023. The moratorium precludes the issuance of any permits, licenses, or approvals, for the construction, installation, or use of any pipeline that requires a siting permit from the South Dakota Public Utilities Commission. Moody County's zoning ordinance requires that any such pipeline must obtain a conditional use permit before construction begins. Navigator understands that the moratorium precludes it from applying for any road crossing permits or any other road agreements or county permits related to the pipeline. The proposed ordinance is attached as Exhibit G. It is Navigator's opinion that the setback distances proposed are overly restrictive without establishing a variance process.

13. What is the status of Lincoln County's consideration of pipeline-related zoning ordinances?

Answer: At its meeting On March 6, 2023 an ordinance was presented to the Planning & Zoning Committee. The Planning & Zoning Committee held an open meeting on March 20, 2023 to solicit comments on the proposed ordinance, at this time the ordinance was not approved and the decision was made to establish a working group to develop an ordinance that could be passed and implemented at both the Planning & Zoning Committee and the Board of Commissioners level. As of the date of this testimony a working group has not been established. The proposed ordinance is attached as Exhibit H. It is Navigator's opinion that this proposed Ordinance is highly redundant to the PUC process, the setback distances are overly restrictive,

and requires information beyond the scope of review of a county level planning and zoning committee.

14. What is the status of Minnehaha County’s consideration of pipeline-related zoning ordinances?

Answer: At its meeting on April 24, 2023, the Minnehaha County Planning and Zoning Board passed a proposed zoning ordinance regulating transmission pipelines, defined as Hazardous Liquids Pipeline Facilities, including a transmission facility as defined in SDCL § 49-41B-2.1, but not including pipeline facilities that transport natural gas and are subject to the Natural Gas Act. The effect of passage was to require consideration of the proposed ordinance by the Minnehaha County Commission. A second reading of the proposed ordinance occurred on May 23, 2023. There was one approved amendment to the ordinance related to the timing of notification of PUC application submittal to the County from 7 days to 30 days. A copy of the draft ordinance is attached as Exhibit I. It is Navigator’s opinion that this proposed Ordinance is redundant to the PUC process, the setback distances are overly restrictive, and requires information beyond the scope of review of a county level planning and zoning committee.

15. Does this conclude your supplemental testimony?

Answer: Yes.

Dated this 25th day of May, 2023.

/s/Brandi Naughton
Brandi Naughton