



The Nature Conservancy in Minnesota, North Dakota and South Dakota
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RE: HP22-002 Regarding the Application of Navigator Heartland Greenway, LLC for a Permit to Construct the Heartland Greenway Pipeline in South Dakota

Dear South Dakota Public Utilities Commission:

Thank you for the opportunity to comment on the Construction Permit Application regarding Navigator Heartland Greenway LLC (“Heartland”) proposed pipeline project. These comments are submitted on behalf of The Nature Conservancy in Minnesota, North Dakota and South Dakota (“the Conservancy”).

The Conservancy encourages the Commission to require rigorous assessment and due diligence of this project, including a comprehensive environmental review through an Environmental Impact Statement (EIS). The Conservancy also encourages Heartland to proactively collaborate with and follow the guidance of the South Dakota Game, Fish & Parks Environmental Review Coordinator to ensure best conservation practices and priorities. In particular, it would be appropriate for the applicant to maximize project colocation on existing rights-of-way, and we strongly encourage avoiding any impact to untilled prairie,¹ wetlands and other sensitive ecosystems.

The Conservancy’s mission is to conserve the lands and waters on which all life depends. The Conservancy is a leading conservation organization working in all 50 states and more than 70 countries. As a pragmatic, science-based organization, we are committed to limiting climate change to 1.5°C in accordance with the Paris Agreement. We understand the need to reduce greenhouse gas emissions, including by lessening reliance on fossil fuels, as a critically important step to a low-carbon transition.

Projects that utilize carbon capture, utilization and storage (CCUS) may be required to meet global climate goals. Rather than questioning whether CCUS and associated transportation infrastructure are necessary, we urge the Commission to: subject these projects to robust analysis and assessment; and ensure that they are sited to avoid and minimize impacts to habitats and species, inclusive of mitigation measures where habitats and species are unavoidably impacted.

The proposed carbon dioxide pipeline is significant to the State of South Dakota as well as neighboring states impacted by the Heartland Greenway project. Because of the relative newness of carbon dioxide pipelines and the nascent nature of state review and regulation, it is imperative that the Commission undertake extra precaution to understand the project’s full impact before approving the permit request.

Before ruling on the permit request, the Conservancy encourages the Commission to require a comprehensive EIS (considering all pieces and spurs of the pipeline together, not piece by piece). While the Conservancy cannot presuppose the outcome of such an environmental assessment, some of the representations made in the permit application underscore the need for a detailed and public assessment:

¹ openprairie.sdstate.edu/data_land-easternSD/1

- According to the Notice of Application documentation and South Dakota PUC pipeline guidance information, the “Applicant must show that the proposed Project will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area [and] will not substantially impair the health, safety or welfare of the inhabitants.” However, environmental, social and economic outcomes resulting from carbon dioxide pipelines are not yet clear. The applicant could better support claims of environmental sustainability by demonstrating a robust life cycle assessment to determine the net carbon impact of fuel resulting from this project, as compared to traditional ethanol. Such assessment should be comprehensive, considering the impacts of ethanol production from the planting of the feed crop (corn) to the point of combustion.
- While the Conservancy is pleased to hear that Heartland is pursuing siting on agricultural lands, this land category is too broad and varied to comprise a single land category. Through a more robust assessment, Heartland could distinguish between cropland, rangeland, and untilled grassland to best ensure the protection of sensitive ecosystems and prairie species. The pipeline route, including rights of way, must not cross untilled prairie as defined by data on South Dakota Undisturbed Sod;² and Heartland should avoid, minimize and offset any necessary impacts to wetlands and other ecosystems.
- The Conservancy is committed to deeply respecting the needs, values and traditions of local communities. We have been dismayed by the number of neighbors and partners who are concerned about eminent domain and the negative impacts of pipeline construction to farmland soil quality and productivity. The Conservancy encourages the Commission to carefully consider the use of an eminent domain strategy for the public benefit.
- The proposed pipeline route crosses Medary Creek through Brookings County. Medary Creek is considered habitat for the Topeka shiner—a federally listed endangered species with a South Dakota Management Plan.³ The project should not cross Medary Creek, and any impacts to the creek environment should be viewed with the utmost concern.
- Construction impacts can have lasting effects on surrounding lands and waters. Even with attempted restoration and recovery, hasty processes usually do not mitigate the full suite of impacts. TNC urges the Commission to require Heartland to use best management practices for soil and plant community restoration. Specifically, Heartland should use only native plant species in restoration practices to avoid the expansion of invasive species and a loss of biodiversity.

Thank you for the opportunity to provide comments on this important project. Please feel free to contact me with any questions about these comments.

Sincerely,



Ann Mulholland
Chapter Director, Minnesota, North Dakota, and South Dakota

² openprairie.sdstate.edu/data_land-easternSD/1

³ ecos.fws.gov/ecp/report/species-listings-by-state-totals?statusCategory=Listed and gfp.sd.gov/nav/TopekaShinerManagementPlan-Revised