

IOWA UTILITIES BOARD

IN RE:	
NAVIGATOR HEARTLAND GREENWAY LLC	DOCKET NO. HLP-2021-0003

ORDER ADDRESSING PROCEDURAL MOTIONS

PROCEDURAL SCHEDULE

On August 8, 2023, the Utilities Board (Board) set a scheduling conference to be held on Monday, October 9, 2023, immediately following the Board's Monthly Public Board Meeting, to discuss the procedural schedule for Navigator Heartland Greenway LLC's (Navigator) petition for a hazardous liquid pipeline permit.

On September 25, 2023, Richard McKean, an intervening landowner, filed a motion to dismiss or stay proceedings. On September 29, 2023, Navigator filed a withdrawal of motion for procedural schedule, request to cancel scheduling conference, and request to hold the above-captioned docket in abeyance. On October 2, 2023, Sierra Club Iowa Chapter (Sierra Club) filed a response to withdrawal of motion for procedural schedule.

DISCUSSION

In his September 25, 2023 motion, Mr. McKean requests the Board dismiss Navigator's petition or stay the proceedings. Mr. McKean asserts that Navigator has not submitted complete information and the Board cannot make an informed decision or set a hearing at this time. Mr. McKean requests the proceeding be placed on hold until two Iowa Supreme Court cases are resolved. *See Navigator Heartland Greenway LLC v.*

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Martin Paul Koenig, Iowa Supreme Court Case No. 23-0739, and *Navigator Heartland Greenway LLC v. William P. Hulse and Vicki Hulse*, Iowa Supreme Court Case No. 23-1026.

In its September 29, 2023 motion, Navigator withdraws its motion for procedural schedule, requests that the Board cancel the October 9, 2023 scheduling conference, and requests the Board hold in abeyance any further activity on Navigator's petition or pending motions until Navigator files an update. In its motion, Navigator states that it requires regulatory approval from the Illinois Commerce Commission, which is to issue an order by February 29, 2024. Navigator asserts its belief that it will be in the best interest of all interested parties to hold this docket in abeyance until Navigator has completed its review of the Iowa route, technical specifications, and the Illinois Commerce Commission's decision. Navigator expects to provide an update to the Board in this docket, including any outstanding motions, by March 29, 2024.

On October 2, 2023, Sierra Club filed a response to Navigator's motion. In its response, Sierra Club asserts it does not object to the withdrawal of the motion for procedural schedule; however, Sierra Club believes that instead of cancellation of the scheduling conference, it should be changed to a status conference. Sierra Club states that a status conference is important to allow Navigator to provide important facts to interested parties, such as route updates and the number of voluntary easements obtained. Sierra Club also asserts that the Board should at least respond to Sierra

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Club's June 12, 2023 motion to reconsider,¹ which was filed in response to a June 9, 2023 order denying Sierra Club's motion to compel the number of voluntary easements.

Because Mr. McKean's alternative relief requested is to stay the proceedings, the Board will find his motion to be moot based on Navigator's subsequent filing.

Given Navigator's withdrawal of its motion for a procedural schedule, and for the reasons set forth in its September 29, 2023 filing, the Board will grant Navigator's request to cancel the October 9, 2023 scheduling conference. Sierra Club proposed an alternative of holding a status conference instead of a scheduling conference. Due to Navigator's stated intent to review its route and provide a route or easement update, a status conference is not necessary. The Board has determined that a status conference would not provide substantive information, and the need for a status conference can be revisited after Navigator provides an update in the docket.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The September 25, 2023 motion filed by Richard McKean is determined to be moot.
2. The October 9, 2023 scheduling conference in Docket No. HLP-2021-0003 is canceled.

¹ Pursuant to 199 Iowa Administrative Code 7.27(1), a motion for reconsideration is deemed denied unless the agency grants the motion within 30 days after it is filed. Due to Sierra Club's motion to reconsider being filed on June 12, 2023, and no action was taken by the Board, it was deemed denied.

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3. Docket No. HLP-2021-0003 will be held in abeyance until Navigator Heartland Greenway LLC files an update with the Utilities Board or the Utilities Board determines an update is appropriate.

UTILITIES BOARD

Erik M. Helland Date: 2023.10.03
12:17:44 -05'00'

Joshua Byrnes Date: 2023.10.03
12:21:16 -05'00'

ATTEST:

Keetah A Horras Date: 2023.10.03
13:45:26 -05'00'

Sarah Martz Date: 2023.10.03
12:33:30 -05'00'

Dated at Des Moines, Iowa, this 3rd day of October, 2023.