

**From:** PUC  
**Sent:** Tuesday, June 27, 2023 2:27 PM  
**To:** Burton Sly [REDACTED]  
**Subject:** HP22-001

Mr. Sly,

Thank you for your email relaying your concerns about the SCS Carbon Transport LLC carbon dioxide pipeline project and their use of eminent domain.

It is important to understand that the South Dakota Public Utilities Commission does not have legal authority regarding eminent domain, and therefore, is not involved in eminent domain proceedings. Who can exercise eminent domain and under what circumstances it can be used are defined in state law. Any changes to that law would come from South Dakota's legislature, not the PUC. Disputes regarding eminent domain can only be resolved in the court system. There currently are eminent domain-related cases pending in South Dakota courts.

An application for a carbon dioxide pipeline siting permit was filed with the commission by SCS Carbon Transport LLC on Feb. 7, 2022, and is docket [HP22-001](#). State law requires a siting permit from the PUC prior to the pipeline's construction. You can access all the publicly available filings in the docket via this link. This [Pipeline Siting Information Guide](#) explains the commission's processing of siting dockets such as this. See excerpt below.

*The PUC is not involved in the easement acquisition process that occurs between applicants and landowners. Likewise, the PUC does not have a role in the eminent domain process, which is handled in the circuit court system. Landowners with concerns about these issues should seek advice from their personal attorney.*

The commission's decision on whether to issue a permit, deny a permit, or issue a permit with conditions will be based on whether a project complies with the criteria established in SDCL 49-41B-22. My fellow commissioners and I will gather an understanding of the facts of this project through the filings in the docket and a contested case evidentiary hearing process, during which the formal parties to the docket including industry experts will testify and be cross-examined. Each commissioner took an oath to follow state law upon acceptance of our responsibilities as a commissioner. I take my oath to follow the law seriously. This hearing is scheduled for Sept. 11-22 and 25-29.

The final decision of the commission may be appealed to the court system. In such an appeal, the court will evaluate whether the commission based their decision on the established facts and the applicable law.

Since commissioners will ultimately vote on this siting permit application, any communication with a commissioner about these must be done in a public, noticed meeting or made available via the online docket. As such, your message and this response will be posted under Comments and Responses in the docket.

Gary Hanson, Vice Chairman  
South Dakota Public Utilities Commission  
[PUC.sd.gov](http://PUC.sd.gov)