



Chris Nelson, Chairman  
Kristie Fiegen, Vice Chairperson  
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*South Dakota*

**PUBLIC UTILITIES COMMISSION**

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February 18, 2022

Susan Bowne  
[REDACTED]

Dear Ms. Bowne,

This is in response to your letter to my fellow commissioners and me with the Public Utilities Commission regarding the proposed CO2 Summit Carbon Solutions and Heartland Greenway or Navigator pipelines.

You are correct that an application for a siting permit was filed by SCS on Feb. 7, and this prompted the opening of PUC docket HP22-001. You will find this complete docket on the PUC's website at PUC.sd.gov. The commission has not received an application for a Heartland Greenway or Navigator siting permit. You can find the SCS docket by clicking on the Commission Actions tab, then Commission Dockets, Hydrocarbon and Carbon Dioxide Pipeline Dockets, 2022 Hydrocarbon and Carbon Dioxide Pipeline Dockets, and HP22-001.

Your questions are listed below with answers as best I am able to address them regarding HP22-001. A docket such as this will likely take most of the one-year limit allowed by law for review, and ultimately for commissioners to vote to grant or deny. There are many steps ahead of the commission in processing this docket. The enclosed Pipeline Siting Info Guide will help you understand that process.

Q. Would the SD PUC's approval of a permit to construct a carbon dioxide transmission pipeline by Summit Carbon Solutions or Heartland Greenway through SD also give SCS Carbon Transport LLC and Navigator CO<sub>2</sub> Ventures authorization to use eminent domain to acquire easements along the proposed pipeline routes?

A. The commission is not involved with the eminent domain process. Here is an excerpt from the enclosed Information Guide to Siting Pipelines: *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.*

Q. Since SCS Carbon Transport LLC and Navigator CO<sub>2</sub> Ventures are not public utilities, could they even get permission to use eminent domain in SD?

A. Again, this determination is not a consideration or decision for the commission. The commissioners must follow state law in reviewing a docket and making decisions pertaining to it, and eminent domain is not within the legal purview provided to the commission.

Q. What SD government body would decide if eminent domain even can be allowed for the above-mentioned proposed CO<sub>2</sub> pipelines?

A. As referenced above, the circuit court system handles the eminent domain process.

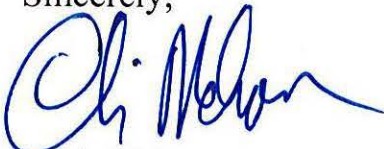
Q. Would this type of a CO<sub>2</sub> pipeline project fall under a classification of a project for public use? On the surface it doesn't appear that it would.

A. Once again, you will want to confer with your personal attorney.

Thank you for reaching out to the commission with your questions, however, the topic of eminent domain is not one within the regulatory oversight provided by state law for the PUC. If you have land in the project area, I strongly suggest you confer with your personal attorney, as well as glean guidance provided by the Minnehaha County Commission in response to your questions. I also encourage you to attend one of the upcoming public input meetings on the project as listed in the docket, and to follow along as additional information and filings are added to the online docket.

Your letter and this response will be posted in the online SCS docket, HP22-001, under Comments and Responses.

Sincerely,



Chris Nelson