

**From:** PUC  
**Sent:** Thursday, May 4, 2023 8:44 AM  
**To:** [REDACTED]  
**Subject:** HP22-001, HP22-002

Mr. Nelson,

This is in response to your May 1 email to me at the South Dakota Public Utilities Commission regarding the proposed carbon capture pipelines. The commission currently has two open pipeline dockets, the SCS Carbon Transport LLC CO<sub>2</sub> Pipeline docket, [HP22-001](#), and the Navigator Heartland Greenway, LLC Pipeline docket, [HP22-002](#).

You raise concerns about the legitimacy of green energy and carbon capture, as well as the use of eminent domain. I appreciate your apprehension on these topics and I do recognize that if the PUC does not provide siting permits then the companies will not be allowed to pursue eminent domain. However, excluding that situation these matters go beyond the commission's regulatory authority in law. Any efforts to pursue a law change or to request the Governor to declare a special session, needs to be taken up with legislators. The legislature considered several bills this year and declined not to pursue the matters that you reference.

Docket HP22-001 was opened on Feb. 7, 2022, because the commission received the application for a pipeline siting permit from SCS. Docket HP22-002 was opened on Sept. 27, 2022, as required of us after Navigator filed their application. Each project's details and documents filed with the applications are being reviewed. Additional questions have and continue to be asked of the developers by the commission's staff, of other state agency staff and industry expert witnesses that PUC staff have engaged, as well as by intervenors, my fellow commissioners, and me. The commission must process each permit application that has been legally filed. My fellow commissioners and I cannot simply deny a permit without fully reviewing the entire application – as to do so would be in violation of the oath each of us took, pledging to follow the law.

Given your interest and concern, I encourage you to follow these permit applications as they are processed, additional information is obtained and filed in the public dockets.

The [Information Guide to Siting Pipelines](#), posted on the commission website home page and in each docket, explains the processing of a siting docket like these

within the jurisdiction of the commission. See the following excerpt that addresses property acquisition and eminent domain.

*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.*

Commissioners have a decision-making role in docket matters, so any communication with a commissioner about any open or imminent docket must take place in an open forum, such as a public meeting, with notice given to all parties, or made available in the docket. Thus, your email and my response will be posted under Comments and Responses in each of these dockets.

Thank you for reaching out and allowing me to shed some further light on your topics of concern.

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