
From: PUC
Sent: Thursday, April 7, 2022 1:23 PM
To: tklatt@minnehahacounty.org
Subject: HP22-001

Commissioners Heiberger, Bender, Barth, Beninga, and Karsky,

This is in response to your letter regarding the proposed SCS Carbon Transport LLC pipeline's requested siting permit application filed with the Public Utilities Commission.

The PUC received a siting permit application for this pipeline project on Feb. 7, 2022, resulting in the opening of docket [HP22-001](#). This docket will receive a detailed review of the proposed project by the commission, with a final decision required by state law by Feb. 7, 2023. This began with the March 22-25 public input meetings hosted by the commission along the pipeline's route, as required by law.

You will be able to learn more as further project information will be requested by the PUC commissioners and staff, filed in the online docket, and be publicly available during the months ahead. I encourage you to follow this docket as it is processed and new information is posted in the online docket. Many issues raised will be addressed by commission staff working with other state agencies and industry expert witnesses.

The commission is not involved with eminent domain or easements. Here is an excerpt from the Public Utilities Commission's [Information Guide to Siting Pipelines](#) posted online:

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.

Since easements are not within the legal authority of the commission, affected landowners are encouraged to seek advice from their attorney or one that specializes in easements. It would be misleading and irresponsible for the commission to attempt to counsel landowners on easement details. Landowners may also wish to communicate directly with the applicant on certain questions and suggestions.

Please keep in mind that the commission is not involved in planning or routing the project, and does not have the legal authority to change or mandate a route. See

[SDCL 49-41B-36](#). In past siting dockets involving other projects, an applicant's project routes and layouts have become more firm following the information gathered at the public input meetings.

One item you relay you have heard from public comment is concern that previous conditions imposed by the commission are not enforced. PUC commissioners and staff have heard anecdotes from folks about issues such as construction and reclamation for the Dakota Access Pipeline that were not handled or fulfilled to landowners' satisfaction. Staff members followed up on numerous such comments during that project's construction and reclamation, and worked to resolve actual issues with the appropriate applicant liaison and landowner. The option for a landowner to file a formal complaint with the commission was referenced numerous times during this process, but no formal complaint was filed.

My fellow commissioners and I cannot deny any applicant a siting permit without fully reviewing and processing the application. We are bound by law to follow the criteria on whether or not a project is eligible to receive a permit. If the commissioners were to not follow the specific criteria in state law and deny a permit without proper cause, that decision would be appealed to, and almost certainly overruled by, circuit court.

Thank you for reaching out to share your concerns. Your letter and this response will be posted under Comments and Responses in the public docket on the PUC's website.

Chris Nelson, Chairman
South Dakota Public Utilities Commission
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