

F From: PUC
Sent: Thursday, May 25, 2023 2:00 PM
To: 'cperry91@abe.midco.net' <cperry91@abe.midco.net>
Subject: HP22-001, HP22-002

Rep. Perry,

Thank you for your email regarding the carbon dioxide pipeline siting jurisdiction of the South Dakota Public Utilities Commission.

It is important to understand that the PUC 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 the legislature, not the PUC. Disputes regarding eminent domain, including questions regarding constitutionality, can only be resolved in the court system. There currently are eminent domain-related cases pending in South Dakota courts.

Two applications for carbon dioxide pipeline siting permits have been submitted to the PUC: [HP22-001](#), by SCS Carbon Transport LLC, and [HP22-002](#), by Navigator Heartland Greenway, LLC. State law requires a siting permit from the PUC prior to either pipeline's construction. You can access all the publicly available filings in these dockets via these links. This [Pipeline Siting Information Guide](#) explains the commission's processing of siting dockets such as these.

Note that I recused myself from HP22-001, but not from HP22-002.

The 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. The PUC commissioners will gather an understanding of the facts of each of these projects through a contested case evidentiary hearing process. Those hearings are scheduled in late July/early August and in September.

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 these siting permit applications, 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 each of these dockets, and any future communication should be sent to PUC@state.sd.us.

Kristie Fiegen, Chairperson
South Dakota Public Utilities Commission
PUC.sd.gov