

January 22, 2025

VIA: PUC@state.sd.us

Public Utilities Commission
Capitol Building, 1st floor
500 E. Capitol Ave.
Pierre, SD 57501-5070

RE: Docket #HP24-001, In the Matter of the Application by SCS Carbon Transport LLC for a Permit to Construct a Carbon Dioxide Transmission Pipeline

Dear Public Utility Commission (PUC) Members:

I am writing in opposition of granting a PUC permit for the above referenced docket number and I encourage the Commission members likewise do the same. As members of the commission are aware, 59.4% of South Dakotans overwhelmingly opposed Referred Law 21 (previously known as SB 201) in the South Dakota General Election of November 5, 2024, with even a larger margin of rural South Dakotans opposing RL 21 at 70%. Therefore, it is in the interest of the PUC to listen to the will of the people who voted in opposition of using eminent domain for private gain and ignoring and circumventing county and municipal local ordinances that desire to protect its citizenry from the severe social and environmental consequences of a carbon capture transmission pipeline.

Carbon capture pipelines under intense pressure are known to rupture. On April 7, 2023, a carbon pipeline ruptured in Sartartia, Mississippi causing CO2 poisoning and oxygen deprivation to the people within the plume area.

There currently are few, if any, set regulations for the installation of liquid CO2 pipelines at the federal level. The Pipeline and Hazardous Materials Safety Administration (PHMSA), the federal agency responsible for the safe transportation of commodities through a transmission line, provides minimal guidance or oversight concerning the transmission of liquid CO2 pipelines. A rupture of a liquid carbon capture transmission line is far more dangerous than a crude oil pipeline spill. I highly encourage members of the PUC to review a 2022 study commissioned by the Pipeline Safety Trust (PST) written by an independent pipeline safety expert on the unique aspects of carbon dioxide pipelines. The report outlined and provided a summary for policymaker that presents the current state of safety risks and knowledge gaps associated with CO2 pipeline transportation. The report concluded that decision makers must ensure the pipelines will be fully regulated by an appropriate authority and constructed and operated in a way that does not compromise pipe integrity or public safety and decision makers must also ensure that the risks placed on communities from these pipelines will be borne in a just and equitable manner. The PUC is in uncharted territory when approving the above referenced application by Summit Carbon Solutions (SCS). The commissioners must take into consideration all of the information that is at their disposal and not rely on information solely from the applicant. The livelihood of many rural South Dakotans is at stake and the risks are too great to ignore.

Furthermore, the PUC must remember that what is being transported is not a commodity that benefits the general public. The liquid carbon dioxide, under immense pressure, does not benefit the common good, but strictly the corporate capitalists in Ames, Iowa. The South Dakota Supreme Court Justice Kern wrote that the lower courts erred in granting summary judgment because SCS has not demonstrated

that it is a common carrier holding itself out to the general public as transporting a commodity for hire. Moreover, the justice declared that the power of eminent domain to pipeline companies in SDCL 49-7-13 must be understood to require a public use that actually serves the public and cannot become a common carrier simply by declaring itself to be one. Therefore, how is it that the PUC has the authority to overturn a court order by our South Dakota State Supreme Court?

Finally, the Williston Herald reported on July 4, 2024, that the main objective to the carbon dioxide sequestration in North Dakota is not to be entombed, but rather to be used in the oil fields as taxpayer-funded fracking assistance in North Dakota. The liquid CO2 will be used not to reduce greenhouse gas emissions, but for enhanced oil recovery in the Bakken Fields in North Dakota – at the taxpayers’ expense mind you and benefit the crude oil companies. The authors of this article wrote that enormous amounts of CO2 from sources outside of North Dakota would be needed for this to even be possible. The question that the PUC members should be asking is, “Why should the landowners in South Dakota have to give up their rights to their land for the sake of the rich oil producers in North Dakota’s Bakken Field?” Who is going to benefit the most from this carbon capture pipeline project? A small financial benefit that would be received in exchange of a transmission pipeline easement across one’s property is paltry by comparison to the benefits that will be received by big oil corporations. As a result, the permit process removes local control, and is now again put in the hands of our elected officials at the state’s PUC. Hence, local property owners across South Dakota lose, and crony capitalism with government kickbacks wins. The landowners and our rural counties certainly will not reap the benefits of a transmission pipeline if it should happen to rupture. Our rural South Dakotans deserve better from our elected officials and the measured outcomes should reflect the will of the people, not out-of-state special interests.

In closing, overstepping the desires and wishes of our rural landowners and the voters of South Dakota should be honored and not overlooked. I highly recommend that the PUC vote in opposition of the permit application put forth by SCS based on the documented evidence provided in this letter.

Sincerely,

Anthony G. Kathol, PE
2024 Republican Candidate for District 27 State Senate
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Martin, South Dakota 57551
[REDACTED]