

**From:** Nelson, Chris  
**Sent:** Friday, September 9, 2022 8:48 AM  
**To:** Steve Johnson [REDACTED]  
**Cc:** Van Gerpen, Patty  
**Subject:** RE: [EXT] CO2 Pipelines

Steve,

Thank you for contacting me with your thoughts and questions.

State law and supreme court precedent prohibit a PUC commissioner from having a conflict of interest or bias on any case brought before the Commission. Because of that legal requirement, I don't have an "individual position(s) on the CO2 pipeline projects." At this time there is only one carbon related siting docket at the PUC. All public filings on that docket can be found at <https://puc.sd.gov/Dockets/HydrocarbonPipeline/2022/HP22-001.aspx> . My vote on that docket, as with every docket, will be determined based on criteria already established in state law and only following the gathering of all the facts, evidence, testimony, and argument at the formal hearing which will likely be conducted sometime in 2023. Participants in that hearing will be the project applicant, PUC staff, and approximately 400 individuals and organizations which have been granted party status in that docket.

The currently filed route of that pipeline does not go through Moody County. There is another contemplated pipeline which has not yet filed for a siting permit from the PUC which may impact Moody County.

You asked about a state statute related to surveying. I believe the following is the statute you are asking about. The constitutionality of that statute is currently being challenged in circuit court. Again, no siting permit application has been submitted to the PUC relating to Moody County.

**21-35-31. Entry on private property for examination and survey of project requiring siting permit from Public Utilities Commission.**

The provisions of this section only apply to a project which requires a siting permit pursuant to chapter 49-41B. Each person vested with authority to take private property for public use may cause an examination and survey to be made as necessary for its proposed facilities. The person or the person's agents and officers may enter the private property for the purpose of the examination and survey. Any person seeking to cause an examination or survey, where permission for examination or survey has been denied, shall:

- (1) Have filed a siting permit application with the Public Utilities Commission pursuant to § 49-41B-11;
- (2) Give thirty days written notice, including the filing and expected dates of entry, to the owner and any tenant in possession of the private property; and
- (3) Make a payment to the owner, or provide sufficient security for the payment, for any actual damage done to the property by the entry.

This section does not apply to the state or its political subdivisions. This section is in addition to and not in derogation of other existing law.

I hope this information has been helpful. Your email and my response will be filed as public comments in Docket HP22-001.

Sincerely,

*Chris Nelson*

South Dakota Public Utilities Commissioner  
500 E Capitol Ave  
Pierre, SD 57501  
605-773-3201