

**From:** PUC  
**Sent:** Thursday, June 15, 2023 11:56 AM  
**To:** Sandy Ostraat [REDACTED]  
**Subject:** HP22-001

Ms. Ostraat,

This is in response to your June 15, 2023 email to the Public Utilities Commission regarding the SCS Carbon Transport LLC requested siting permit being reviewed, docket [HP22-001](#).

You ask if it is legal to take property for the project. The PUC does not have legal authority regarding eminent domain and therefore, is not involved in eminent domain proceedings as these are handled in circuit court. 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 state legislature, not the PUC. Disputes regarding eminent domain, including questions regarding constitutionality, can only be resolved in the court system. There are eminent domain-related cases currently pending in South Dakota courts that you may wish to follow.

You raise concerns and ask questions about the safety of CO<sub>2</sub>. This safety issue will be addressed during the evidentiary hearing on this docket, scheduled to begin Sept. 11, 2023. I encourage you to monitor the documents being filed in the HP22-001 docket from formal parties to the docket regarding this issue.

You reference the financial gain promised by this project and subsidies for developers. The matters of a developer's financial gain and subsidies are not within the commission's jurisdiction in state law.

And lastly, you share concerns about landowner choices for land involved in the project's development and potential affects to property value. This topic is partially addressed by landowner and developer easements. The property value matter will also be addressed during the docket's evidentiary hearing.

This [Pipeline Siting Information Guide](#) posted on the commission's website and in the docket may help you better understand the commission's processing of a siting docket such as this, including the commission's authority as provided by state law.

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. My fellow commissioners and I will gather an understanding of the facts of each of these projects through the contested case evidentiary hearing. The final decisions 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 applicable law.

Since commissioners will ultimately vote on this siting permit application, any communication with a commissioner about this must be done in a public, noticed meeting or made available via the online docket. Given this, your message and my response will be posted under Comments and Responses in the docket. Thank you for reaching out to share your concerns.

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