

February 18, 2023

To the North Dakota Public Service Commission:

Thank you for considering our petition. My land which is affected by Case No. PU-22-391 is located at: Section 27, Township 129N, and Range 62W in Dickey County.

On October 17th, 2022, SCS Transport LLC submitted an application with the North Dakota Public Service Commission for a route permit and certificate of corridor compatibility. As a part of this application— the applicant was required to submit proposed maps to the commission. Upon reviewing the maps submitted by the applicant— you will find that my land is located either in the route or corridor for the proposed project such that I am a landowner affected by Case No. PU-22-391. Additionally, the applicant has sought survey access on the property and the applicant has sought an easement across the property for 99 years.

I was first contacted by Summit on August 3, 2021 via a letter requesting permission to survey. Not knowing much about the project or CO2 pipelines at the time, I ended up signing the survey form on August 27, 2021 since it was foot traffic only and seemed relatively harmless. In addition, they advertised the pipeline as helping the agricultural industry while also seemingly helping the environment and who doesn't want to save the world? However, knowing what I know now, I wish that I hadn't signed the permission form.

From the beginning of contact with SCS, representatives have been extremely persistent (aka pushy) with repeated phone calls and requests to visit. When conversations have occurred, they have a very well-rehearsed speech on how great the project is for agriculture, the ethanol industry and the environment. They seem to have all of the "right" answers.

However, Summit severely lacked transparency regarding the pipeline route and would, upon request, provide maps showing only a quarter or two of land beyond mine. It seemed that they didn't want landowners talking to each other about what was going on. Rather than casually visiting landowners from the very start a long time ago to discuss the potential project and see who might be in support of it, they just drew the map of their proposed route either assuming that people would jump at the chance of making a quick buck by signing their measly easement or not really giving a hoot figuring they'd be able to use eminent domain regardless. It seems it's one of those "better to beg for forgiveness rather than ask for permission" scenarios. Because of this bullyish attitude and utter lack of respect, SCS has left a bitter taste in many landowners' mouths.

There are several landowner concerns regarding this CO2 pipeline project including the actual necessity of the project, safety, lack of regulation, loss of land value, ties to foreign countries and the simple fact of landowner rights to protect their property. Much of the property that the pipeline proposes to cross is family owned and has been in the family for generations.

Many of us question "global warming" or whether reduction of CO2 is even necessary. For the sake of argument and assuming that it is, is a pipeline and sequestration the best way? Another thought to ponder is how much of a carbon footprint will the construction and operation of the pipeline leave behind? The carbon capture "boondoggle" enables big oil and gas to keep drilling, burning and increasing emissions while failing as a technology to actually help reduce emissions. One of SCS's selling points is to lower ethanol plants' carbon footprint so they can sell to big markets in California and Canada (approx. 30% of ethanol sales) followed by South

Korea, India, China and Mexico. The ethanol would still be going into fuel that would be used for transportation so doesn't seem to make "green" sense.

Further to that point, the latest easement revision from Summit states, "Company shall not use the pipeline to transport any other material or substance other than dense phase carbon dioxide and its naturally occurring constituents and associated substances for the purpose of carbon sequestration **or any other lawful purposes.**" The "ideal geological formations" where the CO2 is proposed to be stored is conveniently close to oil fields in northwestern ND. Early on, Summit said that the captured CO2 would not be used for EOR or fracking as that would defeat the purpose of reducing CO2 emissions. The portion of aforementioned phrase that is in bold was not part of the earlier easement revisions and was just added in the December 2022 revision. And EOR is legal. It sure seems suspicious. (The vast majority, if not all, of the existing 5,150 miles of CO2 pipelines in the U.S. are driven by the use of CO2 for EOR.)

There are several other options for keeping CO2 out of the atmosphere including metal fabrication, food and beverage production, fire suppression, cooling, stimulating plant growth in greenhouses, or storing in concrete aggregates. Of course, none of these options would be able to use any of the \$2.1 billion earmarked to fund CO2 pipeline expansion or take advantage of the 45Q tax credit.

Safety is the biggest concern for most people including myself. The pipe diameters range from 8" - 24" and could be as little as 4 feet below the surface. This does not leave much "cushion" for farm equipment such as cultivators, plows or sprayers that may get stuck while working over the pipeline. Another point that needs to be considered is the freeze/thaw cycles along the pipeline route and whether the pipe can withstand that movement for the proposed 99 years.

What many people that aren't familiar with the project don't realize is that it's not just a carbon dioxide gas that's being passed through the pipe. It is "dense phase" carbon dioxide. In its dense phase, the CO2 is a highly compressed fluid that demonstrates properties of both a liquid and a gas. It is called a dense fluid, or supercritical fluid, to distinguish it from normal vapor and liquid. The gas becomes a liquid when pressurized up to 2,200 psi in order to transport it for sequestration. That is where the concern for safety comes in because if there were to be a breach in the pipe, the liquid would escape under that high pressure and would displace oxygen potentially causing loss of life to humans or animals in the vicinity. Ruptures have happened before. They can happen again no matter how well-engineered the pipeline is. CO2 pipeline ruptures can impact areas measured in miles, not feet. On the bright side, Summit does ensure that the route will avoid "highly populated areas" with safety in mind so I guess a few unlucky people out in the country would be considered collateral damage.

CO2 pipelines are regulated by US Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) 49 C.F.R. Part 195. They pose a public safety risk, as demonstrated by a 2020 CO2 pipeline rupture in Sartoria, MS, which led to a local evacuation and caused 45 people to be hospitalized. Because of this incident, the PHMSA announced on May 26, 2022, a rulemaking to update its CO2 pipeline safety standards and a research solicitation to study the impact of CO2 pipeline releases. This research is still ongoing so it seems wise to wait for this study to be complete before thinking of constructing any CO2 pipeline.

Article 1, Section 1 of the North Dakota Constitution's Declaration of Rights states (in part) "All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; **acquiring, possessing and protecting property and reputation**". While some landowners are supportive of the pipeline, many others are not and we simply want the CHOICE to say "no". The ND Century Code does list CO2 pipelines as common carriers, but it's extremely difficult to accept that eminent domain

has the potential to be used by a private company to transport and store the CO2 with no public use or benefit.

And if the pipeline is constructed, another concern is that the land values will decrease due to restrictions in the easements. For example, if the land does not have drain tiling and the landowner would like to tile it, would there be a tiling company that would be willing to take the risk of tiling over the pipeline and accidentally hitting it? It has been reported that some land values have decreased by 10% due to easements.

For those of us that have received easement offers, Summit has a list of “dealbreakers” including no annual payments and restriction of assignment should Summit sell to a third party when it’s done reaping as many 45Q tax credits as it can (approximately \$1 billion annually for 12 years). If the easement would be signed, Summit may sell to anyone they wish as long as the purchasing company is authorized to do business in the United States. It is highly aggravating to think that any foreign country could be able to purchase family land even if a small amount. It’s opening the door to further opportunities.

Unfortunately, it doesn’t seem that we landowners are allowed to have any “dealbreakers” so we are already at an unfair advantage. It’s almost like Summit is humoring us for a bit hoping to get easements signed voluntarily all the while knowing that they have eminent domain in their back pocket because they are the ones with very deep pockets thanks to the “Inflation Reduction Act of 2022” and foreign investors such as South Korea’s SK Group. With that kind of funding, Summit can be compared to 1980’s show Dallas’ JR Ewing who always manages to get his way trampling over all of the “little people”. And that is how we landowners feel...like what we want or say doesn’t matter because some of us aren’t jumping on the bandwagon. Please give landowners their voices back.

In conclusion, I feel that there are currently too many risks and unknowns with the proposed CO2 pipeline project to approve the use of eminent domain. I would recommend at least waiting until the PHMSA completes their study and updates the pipeline regulations specifically for the carrying of liquid CO2. The federal 45Q tax credit for geologic CO2 storage is available as long as construction begins by January 1, 2026 so there should be no rush or rash decision-making. Summit has often said that they’re seeking voluntary easements and are willing to work with landowners or possibly even rerouting. In the interest of protecting landowners’ rights by not granting eminent domain, this would allow Summit the opportunity to put their money where their mouth is.

Please let me know if you require any additional information. Thank you for your consideration.

Sincerely,

Michelle D. Mueller

Helpful Links:

[PHMSA Announces New Safety Measures to Protect Americans From Carbon Dioxide Pipeline Failures After Satartia, MS Leak](#)

[CO2 Pipelines – Dangerous and Under-Regulated](#)

[Carbon Dioxide Pipelines: Safety Issues](#)

[Lake Nyos disaster - Wikipedia](#)