

Brookings County CO2 Pipeline Advisory Committee – July 8, 2025 - Minutes

The meeting was attended by 11 individuals including Robert Hill, Jay Gilbertson, County Commissioner Doug Post, Dave Biteler, Terry Pritchard, Shon Morris, Mark Potthast, Randy Jensen, Dwaine Chapel, County Commissioner Kelly VanderWal, and recorder Rae Lynn Maher. Absent: State Attorney Dan Nelson, Anna Beasley, Mark Jorenby, Stephanie Mason, and Matt Wagner.

Meeting called to order by Hill at 9:02 AM.

Approval of Agenda. Jensen/Potthast

Approval of April 22, 2025 minutes – Potthast/Gilbertson

Reports & Board Open Discussion

Report – Hill presented and reviewed with committee members the table of setbacks gathered from Lincoln, Moody, Brown, Spink, Edmunds and McPherson Counties. Document United States Court of Appeals for the Eighth Circuit No. 23-3758 William Couser; Summit Carbon Solutions, LLC vs. Shelby County, Iowa that had been submitted for review by States Attorney Dan Nelson was presented for discussion.

Pritchard requested the States Attorney to investigate Safety Standards vs. Safety Considerations as noted in the court document.

Gilbertson asked how much time to put in to making an Ordinance, noting concerned with how to write an ordinance so that it would stand up in court per the outcome of the court document reviewed.

Post noted Eminent Domain consideration for other landowners.

Potthast brought up for discussion requirement or how to ensure that pipeline company would be liable for accident noting that product transported via truck or insured.

Hill noted it was up to the DOT and that the Federal level trumped local level.

Morris referenced the past incident that had occurred in Mississippi (Yr. 2020) noting concerns for recourse to landowners should an incident occur – leaving behind unusable land, water, etc.

Jensen noted in the past Brookings County was bombarded with CAFO's and felt the county needed to be ahead of the game. Asking how do proposed pipeline setbacks compare to CAFO setbacks.

Hill pulled up the County Ordinance for members to review during the discussion.

Pritchard asked if companies must obtain a permit from the county for pipelines.

Hill noted a building permit would be required for anything above ground, but permits were not required for things below ground as the SD PUC (Public Utilities Commission) regulated CO2 pipelines, particularly those used for transporting CO2 for enhanced oil recovery or geologic sequestration. Hill and VanderWal identified rural water as an example that the county issues permit only the above ground buildings.

Pritchard added her firsthand dealings with the initial CO2 pipeline company and acquiring easements, Jensen asked the time length of the easements, Pritchard noted the one related to her land was forever.

Hill asked for any final thoughts or comments.

VanderWal thanked the members for their help and interest.

Chapel noted that with Economic Development it was good to be ahead of things.

Jensen voiced that he would like to see all the counties in the pathway agree on the same Ordinance (criteria, setbacks, etc.

Potthast agreed with Jensen, that it would be beneficial that counties match.

Hill noted that at an upcoming Conference of County Commission it would be a good topic to bring up for discussion, compare and get feedback from.

Morris noted, consider the large amount of water that is required for use and consider the hazards and possible effects on the aquifers.

Pritchard agreed with the need for unified, common ground with other counties on setbacks and would like to see working verbiage for an ordinance at the next meeting.

Biteler liked the good discussions.

Post noted he would like to see setbacks for CAFOs used as framework as it would show uniformity and justification as how the setbacks were decided on and using parameters such as 330 feet on each side of pipeline for setbacks.

Gilbertson added that if use setback number to reference it as Hazardous Material Pipeline. Further noting that safety must be considered in deciding what setback amounts to be and why chose. If PHMSA says ok, you can't make it more difficult.

Next meeting set for Thursday, August 7, 2025 at 9:00 AM.

Motion to adjourn. Gilbertson/VanderWal. All members voted "aye."

Hill adjourned meeting at 10:00 AM.

Respectfully submitted, Rae Lynn Maher – Office Technician, County Development