

# Support SB 2842: No Eminent Domain for CO<sub>2</sub> Pipelines

## FREQUENTLY ASKED QUESTIONS

January 2026

### There is a need for “No Eminent Domain for CO<sub>2</sub> Pipelines” legislation.

#### **Q: What is the purpose of the recommended amendments to the SAFE CCS Act?**

A: The purpose is to ban eminent domain in Illinois for CO<sub>2</sub> pipeline permits: to protect landowner property rights, to support farmland productivity, and to improve the safety of CO<sub>2</sub> pipeline routes through negotiation.

#### **Q: But didn't the 2024 SAFE CCS Act set a threshold for voluntary easement agreements before granting eminent domain for the remaining parcels?**

A: No, the 75% threshold only applies to assembling pore space for carbon dioxide storage sites. The bill does not set limits on the use of eminent domain for CO<sub>2</sub> pipelines. This is unequal treatment and unfair. Amendments to both the CCS Act and the Public Utilities Act, which are embedded in the 2024 SAFE CCS Act, are required to ban or to set limits on the use of eminent domain for CO<sub>2</sub> pipelines.

#### **Q: Why not just leave the determination of eminent domain for CO<sub>2</sub> pipelines to the Illinois Commerce Commission (ICC)?**

A: The ICC does not have a voluntary easement threshold for CO<sub>2</sub> pipelines. Non-consenting landowners along a CO<sub>2</sub> pipeline route feel compelled to officially intervene in the ICC proceedings, which is extremely burdensome—in both time and money—and can cost as much as \$150,000 or more.

1. The ICC's pipeline authorization mandate follows a checklist, which is described in Section 20 of the 2024 SAFE CCS Act (Appendix A) and its predecessor. However, there is no specific criteria, including no threshold, spelled out for when the use of eminent domain is warranted. Instead, the legislation leaves it to the ICC's interpretation.
2. We have great respect for the ICC, and, thus far, its staff has recommended denial of the applications for Navigator, Wolf, and One Earth CO<sub>2</sub> pipelines based on multiple factors, including low numbers of voluntary easement agreements, which indicated low “public interest.” However, because staff recommendations run concurrently to intervenor filings, landowners still had to officially intervene at the ICC.
3. In a recent example in Illinois, Navigator was able to obtain voluntary pipeline easements on only 164 of the 1,103 parcels (14%) of Illinois land that it targeted even after several years of negotiations. This was due largely to its treatment of landowners, concerns over routing safety, and adverse impacts to farm ground and operations.
  - a. Despite this low number (a clear indication that most Illinois landowners wanted nothing to do with Navigator), Navigator's ability to ultimately rely on eminent domain required the Illinois landowners to incur the cost of ICC intervention to protect themselves and their property.
  - b. Later, ICC staff recommended denial of Navigator's permit application, and Navigator withdrew. Then Navigator filed again and withdrew again! Interveners are not compensated by the company if it withdraws its application.

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**Q: Have all of the CO2 pipeline applications in Illinois been filed by private companies?**

A: Yes, to date, all Illinois CO2 pipeline applications have been filed by private companies, some with foreign investment or ownership.

1. Due to the 2024 SAFE CCS Act moratorium on CO2 pipelines until July 2026, there are no CO2 pipeline applications currently before the ICCs. However, there are currently 11 CCS projects (that we know of) planned for Illinois given US-EPA Class VI well application information for Illinois (CO2 storage). Attached is the map of currently planned Illinois CCS projects.
2. Three companies filed CO2 pipeline applications with the ICC in 2022-2024 before 2024 SAFE CCS moratorium until July 2026 was signed into law:
  - a. Nebraska-based Navigator CO2 Ventures' Heartland Greenway CO2 Pipeline received financing from BlackRock's Global Energy & Power Infrastructure Fund III and was "commercially anchored" by Valero. They planned for 292 miles of CO2 pipelines through 14 Illinois counties. Navigator filed twice with the ICC and the ICC staff recommended denial twice. Navigator secured only 14% voluntary easement agreements.
  - b. One Earth Sequestration (OES) is a subsidiary of Ohio-based REX American Resources Corporation. They are planning for 7-mile-long pipeline, but their proposed sequestration site capacity suggests a multi-state and/or much expanded project. OES filed twice with the ICC and the ICC staff recommended denial twice. They signed a majority of voluntary easements, but only along a 7-mile route. The OES strategy appears to be to construct a much larger project by building off of incremental smaller projects ("a thousand cuts").
  - c. Wolf Carbon Solutions, a private company backed by Canada Pension Plan Investment Board, planned for 260-mile of pipelines through 9 Illinois counties. They filed once and the ICC staff recommended denial. Wolf had no voluntary easement agreements.

**There is widespread public support for eminent domain bans in Illinois and across Midwest.**

**Q: Has a survey been done that indicates how Illinois voters view the use of eminent domain?**

A: Yes. A 2024 poll commissioned by Bold Alliance and conducted by Embold Research surveyed registered voters across 6 Midwestern states, including Illinois.

1. Across all states, the results showed an overwhelming majority of voters oppose the use of eminent domain for CO2 pipelines (Hefflinger, 2024).
2. Among Illinois voters surveyed, 80% showed strong familiarity with the concept of eminent domain. When asked about their concerns with CCS projects and how serious those concerns are, 94% called it a "serious" concern if "corporations are allowed to seize people's private property to build CCS projects." When asked directly, 82% of Illinois registered voters say they oppose private corporations' use of eminent domain for private CCS projects and 89% think CCS poses a serious risk of CO2 leaks, potentially at lethal levels. (Richart, 2024)

**Q: What are the positions of the Illinois Farm Bureau and the Illinois Soybean Growers Association on banning eminent domain use for CO2 pipelines?**

A: The Illinois Farm Bureau has adopted a policy that supports the elimination of eminent domain for CO2 pipelines, and the Illinois Soybean Association also supports that position.

**Q: What is happening with eminent domain for CO2 pipelines in other states?**

A: South Dakota enacted a statute in 2025 prohibiting the use of eminent domain by CO2 pipeline companies. In Iowa, a bill prohibiting the use of eminent domain for CO2 pipelines passed both houses but was vetoed by Governor Reynolds. The bill will undoubtedly come up again. Minnesota does not allow private companies to use eminent domain.

**It would be fairer to landowners to force CCS companies to negotiate the conditions of voluntary easements by banning the use of eminent domain.**

**Q: Have companies threatened the use of eminent domain to prevent fair negotiations?**

A: Yes. For example, Navigator's letters to Illinois landowners stated that the company would be asking them for easements, and that it would apply to the Illinois Commerce Commission for the power to condemn their land and take it using eminent domain if they refused. Similar threats have been made by CO2 pipeline companies to landowners in other states. The ability to use eminent domain creates an adversarial relationship between landowners and CO2 pipeline companies and gives the companies an unfair advantage in negotiations.

**Q: How would eliminating eminent domain for CO2 pipeline companies create a fairer deal for landowners?**

A: Landowners should have the right to say no to a hazardous waste pipeline that does not benefit their families, livelihoods, and land OR to negotiate a voluntary easement with more favorable terms and routing to them. In such voluntary easement negotiations, CO2 pipeline companies might have to address such concerns as:

1. Protecting landowner assets and aligning financial payments with future land use options. For example, negotiating fair market value for right-of-way land could include opportunity costs considerations:
  - a. Any changes to land use (e.g., buildings, irrigation lines, drainage tiles) are typically prohibited in easement agreements, particularly over hazardous pipelines and the ROW. Landowners must be allowed to weigh the choice between an upfront payment for easement and a long-term limitation on land use. In addition, there are questions on the liability risk of working over a pipeline and whether a landowner could buy insurance.
  - b. Regarding the property value impact of a CO2 pipeline right-of-way, CCS research findings are unavailable due to the small number of CO2 pipelines currently in operation in the US. An often-cited research paper on the impact of gas pipeline incidents on property values suggests that “severe (i.e., high profile) incidents (versus pipeline installation) have adverse effects on nearby property values with property values decreasing by 8.2% within 1000m and persisting for 8 years on average” (Cheng, N., et al. 2024).
2. Respecting livelihoods and maintaining field productivity. Farmers should have the ability to reject a private CO2 pipeline OR to negotiate a route that would minimize impacts to fields, drainage tiles, and buildings. In previous Illinois CO2 pipeline applications, the planned pipeline routes did not respect the location of drain tile and erosion control systems, impeded planting and harvesting patterns by bisecting crop areas, and failed to avoid erodible land. In some cases, pipeline trenches would have been excavated on highly erodible land with slopes as steep as 14%.

- a. Although the 2024 SAFE CCS Act requires consideration of some damage and yield losses, the process is backward-looking rather than upfront considerations in route planning. There might also unforeseen (and therefore not requiring compensation) circumstances that are unique to certain fields, farms, and local areas.
- b. Research studies have documented significant and sustained yield losses over a pipeline right-of-way.
  - i. A study out of Iowa State University concluded that “persistence of subsoil compaction in construction right-of-way (ROW) areas is a major cropland concern following installation of underground pipelines...Compared to yield data from the adjacent unaffected zones, the ROW zones had statistically significant crop yield declines of 25% in soybean (2017) and 15% in corn (2018)...Recovery to normal conditions as in the unaffected areas has not been achieved within the 2-year period” (Tekeste, M. et al., 2020).
  - ii. In a review and quantitative synthesis of 34 studies that reported pipeline installation impacts on agricultural and natural ecosystems, Ohio State University researchers found that, “averaged across studies (most studies reported within 10 years of installation and averaging 8.7 years after installation), soil stability decreased 44.8%, water infiltration reduced by 85.6%, and compaction increased 40.9% relative to non-disturbed adjacent areas” (Brehm and Culman, 2022).
  - iii. The Ohio State researchers also studied soil degradation impacts on corn and soybean yields after a 4–5-year remediation period which “often coincided with the end of landowner compensation” (Brehm and Culman, 2023).
    1. Observations from 3 pipelines at 29 sites across 8 Ohio counties found that “soil degradation resulted in decreased of 23.8% and 19.5% in corn yields and 7.4% and 12.5% in soybean yields in years 4 and 5 (2020 and 2021), respectively.
    2. Widespread disturbance persisted 5 years following pipeline installation in soil physical, chemical, and biological properties.
    3. Current best management practices of pipeline installation and remediation employed by the 3 companies were insufficient to combat widespread soil degradation and crop yield loss”.
- c. The industry itself recognizes that yield losses will occur. Companies had been negotiating compensation for ROW yield losses at a decreasing rate over 3 years. Recent agreements have moved that horizon to 5 years, presumably as the result of the above-mentioned research, though the % return to pre-construction yields is optimistic . In its Economic Impacts of CO2 Pipelines in South Dakota report based on industry provided data, the Dakota Institute noted (McEntaffer, J., Dakota Institute, 2023, Appendix A) that:
  - i. “...the majority of the pipeline miles cross rural farmland and thus any damages related to pipeline construction are assumed to be borne by the farm producers.”

- ii. “We model crop damages as a reduction in farm income resulting from lower yields in an assumed 150-foot-wide easement area surrounding the CO2 pipeline...we model damages as a complete loss in yield during the first year following the pipelines’ construction. Crop yields are assumed to return quickly, reaching 80% in year two, 90% in year four, 95% in year five, and full recovering in year 10.”
3. Ensuring safety including routing and equipment. Negotiations might include discussion of adequate setbacks from occupied buildings and livestock facilities, and provisions of safety equipment (beyond the CO2 alarms and oxygen masks required in the 2024 SAFE CCS Act) in event of a rupture.
  - a. Neither the U.S. Government nor State of Illinois have imposed setbacks for CO2 pipelines--- even though CO2 pipelines transport a toxic asphyxiant and are dangerous! Eliminating the option of eminent domain for CO2 pipeline companies could force them to consider safe routing of pipelines in order to obtain voluntary right-of-way easements from landowners.
  - b. For example, in their previous CO2 pipeline applications in Illinois, Navigator and Wolf planned pipeline routes to run close to farms, houses, businesses, churches, a center for handicapped children, and even an elementary school. According to plume modeling, within 5 minutes of a rupture, these places would likely be hit with CO2 levels causing a 50% fatality rate within 10 minutes of exposure (SOURCE).
  - c. Because these companies could threaten the use of eminent domain, they were able to disregard the safe routing of their CO2 pipelines and avoid providing adequate compensation to relocate buildings to safer areas. In one case, a CO2 pipeline company representative told an Illinois landowner it would be cheaper for the company to pay a wrongful death judgment than to move its CO2 pipeline route a safe distance from her house.

### **A ban on eminent domain does NOT limit business opportunities.**

***Q: Have any CO2 pipeline companies recently obtained 100% voluntary easements?***

**A:** Yes.

1. On November 3, 2025, representatives from Big River Resources, LLC, which operates an ethanol plant at Galva, Illinois, and Lapis Carbon Solutions, met with the Galva City Council to discuss a project whereby the companies are seeking permission to inject CO2 under nearly 1,600 acres of privately owned farmland east of Galva. An attorney who represents one of the landowners says the CO2 will be transported from the ethanol plant to the sequestration site through an underground pipeline. He reports that 100% percent of the affected pore space and right-of-way landowners have already signed voluntary easements or made handshake deals promising to do so--all without the threat, or use, of eminent domain by Big River or Lapis.
2. Other companies proposing carbon capture and sequestration projects in Illinois have experienced similar success obtaining voluntary easements from landowners. In a July 31, 2024, interview, Steve Kelly, president of One Earth Energy in Gibson City, Illinois, discussed the company's proposal for a pipeline to transport CO2 from its ethanol plant in Ford County to an underground sequestration site in McClean County. He said, "We have all of the easements to get to Well #1 and we have all of the pore space--or 98%--to get to Well #2."

**Q: Doesn't the construction and operation of CO2 pipelines bring jobs to Illinois?**

A: It is inappropriate and seen as a violation of property rights to forcibly take someone's land to create what is mostly temporary jobs for others. Family farms and homes exist for their livelihoods and lives-- not to provide job sites and profits for CO2 pipeline companies. It is unlikely that CO2 pipeline companies' construction or operation activities would create a majority Illinois-hired crew or permanent jobs respectively.

1. Despite being asked at ICC hearings to provide information about the Illinois jobs, the companies provided no guarantees that any Illinois workers would be hired for either temporary pipeline construction jobs (the largest pipeline workers local union is located in Oklahoma) or the few permanent jobs that remain after construction.
2. In a 2022 interview, Dr. Sylvia Secchi, an economist and professor at the University of Iowa's Department of Geographical and Sustainability Sciences, was asked if she had seen any evidence of companies exaggerating the societal benefits that will be generated by constructing and operating CO2 pipelines. She answered that, "It is common for these companies to hire consultants who, on the basis of data provided by the company itself, estimate egregious and inaccurately high benefits. This has been the case for the Dakota Access Pipeline and Keystone, and now for the ethanol CO2 pipelines. I urge everybody to look at the disclaimers that are present in these reports. They essentially say that the report is a PR stunt and should not be used for any other purpose. It is particularly important that elected officials don't take these reports' claims at face value, because they aren't vetted and aren't peer reviewed" (Schmit, 2022).
3. As an example, in its "Economic Impacts of CO2 Pipelines in South Dakota" report, the Dakota Institute published this statement: "DISCLAIMER: The following report and the services performed by the Dakota Institute (DI) in preparing this report for SDEPA (South Dakota Ethanol Producers Association) were advisory in nature...The findings and analyses contained in the report are based on data and information shared with DI by Navigator CO2, Summit Carbon Solutions, and the SDEPA. DI does not guarantee the accuracy or completeness of the data used in the analysis or its interpretation. It is important to note that additional relevant data or information that becomes available after the report's date may have a material impact on the findings in the report. DI has no obligation to update the report in the future" (McEntaffer, J., Dakota Institute, 2023, page 2).
  - a. And the Dakota Institute stressed again later in the report, "All data regarding pipeline routes, miles, and cost estimates were provided by Navigator CO2 and Summit Carbon Solutions. Dakota Institute makes no claims regarding the validity of the provided data" (McEntaffer, J., Dakota Institute, 2023, page 19).
  - b. Even using the companies' own job forecasts in the DI report, most employment gains are in the temporary construction phase and local jobs numbers are unknown and estimated to be less than 50% of hires. The DI report stated that for the combined Navigator and Summit pipelines that "the largest employment impact will be in the construction industry, which is expected to support an average of 2,772 jobs annually in 2024 and 2025. Navigator and Summit were unable to provide estimates for the number of local workers to be employed during the project, but the REMI model estimates net economic migration of approximately 1,800 workers in 2024 and another 1,400 in 2025" (McEntaffer, J., Dakota Institute, 2023, page 33).

**Q: Would banning eminent domain for CO2 pipelines block Sustainable Aviation Fuel (SAF) projects?**

A: Depends upon the SAF production method used and/or the ability of the company to negotiate voluntary easements.

1. If SAF is made from ethanol, the process of making the ethanol does create CO2 emissions and companies might use a pipeline to transport the CO2 for storage or other use. Depending on the geology under the plant, the pipeline may be very short or very long. The plant making SAF from the ethanol would still need a pipeline to get rid of its CO2 to significantly lower its carbon intensity (CI) score to qualify for the 45Z tax credit.
  - a. An example of a company looking to use ethanol for SAF is One Earth (OES). Its plan is to provide ethanol for SAF. The company has applied for a permit for a 7-mile-long pipeline to their storage site.
  - b. However, the proposed CO2 storage facility would have 10x more storage than is needed for their own plant's emissions. It is possible that their plan is for other ethanol plants to transport their CO<sub>2</sub> to the OES storage site-- creating a spiderweb of CO<sub>2</sub> pipelines. REX American Resources, OES' parent company, could also turn this into an interstate pipeline by bringing CO<sub>2</sub> in from IA, WI, and SD.
2. If SAF is made directly from CO2 rather than ethanol, the process could eliminate the need for a pipeline. It is possible to make SAF from CO2, although the process is still immature and may not turn out to be economical.

**Q: Do you oppose eminent domain for energy pipelines?**

A: CO2 pipelines do not transport energy. CO2 pipelines transport hazardous waste--not oil, gas, or any other product that can be used to generate energy. If a CO2 pipeline leaks or ruptures, people and livestock within two miles of either side could be in grave danger if the pipeline leaks or ruptures.

Eminent domain should not be allowed for pipelines that serve no public good but are constructed to remove a waste product or to make a profit for a private company. In fact, some experts argue that carbon capture is a very poor way of removing CO2. It is better to prevent the CO2 from getting produced in the first place than to try to make it, capture it, transport it, sequester it, and pray that it stays sequestered for 1,000 years.

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