

Carbon Capture, Utilization and Storage in Kansas

October 15th, 2019

Statutory Changes

- Issues:
 - Integrate with existing law
 - Use existing statutory structures
 - Provide maximum predictability for both industry and regulators

Use of the Public Utility Model

- Establish a clear legal standard for ownership of pore spaces in the subsurface
 - Current law is a Court of Appeals decision that concerns the disposal of produced water from oil and gas operations
 - It is necessary to clarify that the pore space is owned by the surface owner
 - This will clarify determination of legal title. Mineral title is generally more complex.
 - Clarify that pore ownership transfers with ownership of the surface except if clearly implied in the instrument

Eminent Domain

- Expand the public utility statute to include use of the eminent domain statute to acquire pore space from land owners
- Declare that underground storage of carbon dioxide promotes the public interest
- Create a regulatory process for the State to determine that the area sought to be condemned is suitable and the amount of oil and gas reserves present
- Provide for public notice and hearing
- Provide for appropriate oversight and insurance

Ownership

- Each Geologic Carbon Storage Public Utility may use standard eminent domain procedure to obtain title to property for carbon storage
- Provision for State owned lands to be sold to Geologic Carbon Storage Public Utility
- Maps of lands and formations owned and subject to carbon storage available to the public

Ownership of Carbon Dioxide

- Provide that title to the carbon dioxide shall remain with the generator until transferred by contract
- Transporters shall be common carriers unless expressly agreed by contract
- Title to the carbon dioxide shall not transfer to the owners of the surface or minerals
- Provide a procedure to drill through the storage formations with appropriate safeguards
- Rights of judicial enforcement of ownership rights
- Owner of Carbon Storage facility allocated liability for damage from escape of the carbon dioxide

Closure of Storage Facilities

- At a time not less than 10 years after injection into storage has ceased owner may seek a certificate of completion
- Plug all wells
- Demonstrate stability of facility
- Facility is in compliance with all laws
- No pending claims
- Reasonably expected to retain the stored Carbon Dioxide

Final Closure

- Title to stored Carbon Dioxide transfers to the State including all rights and responsibilities for the stored gas
- Storage facility and all owners, generators, transporters and injectors from all regulatory requirements
- Bonds and insurance released
- Monitoring and management transfers to the State or Federal Government