



Policy Update

August 22, 2024

South Dakota Supreme Court Rules On Summit Carbon Solutions' Common Carrier Status

The South Dakota Supreme Court recently reversed a Circuit Court ruling that claimed that Summit Carbon Solutions was a common carrier. A common carrier, according to South Dakota Codified Law, holds itself out to the general public to transport a commodity for hire. The Supreme Court, in their opinion, stated, "It is thus premature to conclude that Summit Carbon Solutions is a common carrier, especially where the record before us suggests that CO₂ is being shipped and sequestered underground with no apparent productive use," wrote Justice Janine Kern. Additionally, the Supreme Court noted that the South Dakota Legislature did not define carbon dioxide as a commodity as other states have done.

The Court ruled that Summit has not yet demonstrated it is a common carrier that can exercise eminent domain authority under South Dakota law. Summit will have to show that it transports a commodity for hire and the customer either keeps ownership or sells it to the public. Summit will have an opportunity to prove it's a common carrier on remand before the district court. The landowners will also be allowed to get more information from Summit.

Second, the Court upheld the constitutionality of the SD land survey statute as a longstanding restriction on property rights. However, the statute was interpreted to include only limited superficial examinations for making surveys or maps. Soil borings, and geotechnical or deep-dig examinations were determined to be too invasive and would be an unconstitutional taking.

The North Dakota Supreme Court ruled in June that Summit was allowed to enter private property to conduct such land surveys and examinations without it being an unconstitutional taking. Iowa has a similar case from Hardin County pending before the Iowa Supreme Court which will be heard for oral argument at 7 p.m. on October 8, 2024, in the Iowa State Capitol.

Please click [here](#) to read the opinion.

South Dakota Farm Bureau Testified at Property Tax Assessment Summer Study

South Dakota Farm Bureau testified at the recent legislative property tax assessment methodology summer study.

The Study Committee on Property Tax Assessment Methodology, co-chaired by Senator Randy Deibert (R-Spearfish) and Representative Drew Peterson (R-Salem), heard comments from the South Dakota Retailers Association, South Dakota Farm Bureau, South Dakota Realtors Association, and the Directors of Equalization for Brown, Dewey, Lawrence, and McCook Counties. South Dakota Farm Bureau's comments focused largely on why the productivity methodology that is currently being utilized to assess agricultural land for property tax purposes is working.

The next summer study meeting is scheduled for September 11, 2024, in Pierre, SD.

Click [here](#) to listen to a recording of the meeting.

South Dakota Farm Bureau Hosts Forums at Dakotafest

South Dakota Farm Bureau hosted two forums at Dakotafest. On Tuesday, SDFB hosted a forum on young farmer and rancher program and finance opportunities. The forum included representatives from Farm Service Agency, Natural Resource Conservation Service, the banking industry, and a young producer. SDFB also hosted a Congressional forum with Sen. John Thune, Sen. Mike Rounds and Rep. Dusty Johnson. The panel was moderated by former Secretary of Agriculture, Walt Bones.

Click [here](#) to access a recording of the events.

New Governor's Office of Economic Development Commissioner

Governor Kristi Noem appointed Joe Fiala as the Commissioner of the Governor's Office of Economic Development (GOED).

Joe was raised with a ranching background in Custer and Hot Springs in the southern Black Hills. After taking computer science courses at South Dakota State University, he worked in the software industry, including designing business software at Microsoft.

In 2007, Joe entered the field of economic development as the executive director of the local economic development office in Miller. In 2012, he joined GOED as a business development representative and has since served as a director in several areas including research, community development, business development, and partner relations.

Contact for Questions

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