



Known Unknowns:  
Legal, Regulatory and Public Policy  
Issues with CCS and CCUS and  
Possible Solutions

Joe Schremmer

Depew Gillen Rathbun & McInteer, LC



<https://www.youtube.com/watch?v=GiPe10iKQuk>



Photo: [https://rightweb.irc-online.org/profile/rumsfeld\\_donald/](https://rightweb.irc-online.org/profile/rumsfeld_donald/)

# Legal Regulatory & Public Policy Issues

- Capture
  - Transportation
    - Storage
- Ownership rights
- Risk mitigation and allocation
- Protection of the public interest



Photo:  
<http://news.bbc.co.uk/2/hi/americas/1536135.stm>

# Capture

- Sources: coal and ethanol
- Rate-payers' interests
- By generator or contractor



Photo: [https://rightweb.irc-online.org/profile/rumsfeld\\_donald/](https://rightweb.irc-online.org/profile/rumsfeld_donald/)

# Transportation

- Right-of-way acquisition & eminent domain
- In-transit liability and risk of loss
- Sources of regulation



Photo:

<https://www.defense.gov/About/Biographies/Biography-View/Article/602800/>

# Storage

- Pore space ownership and trespass; relation of surface and mineral estates
- Pore space acquisition, aggregation, and takings
- Regulatory concerns in site selection, injection, and financial assurance
  - *Carbon Dioxide Reduction Act of 2007 and would-be regulations*
  - *UIC Class VI Program*
- CO<sub>2</sub> ownership and short- and long-term liability; costs of monitoring, management, and closure

# Legal Regulatory & Public Policy Solutions

## ■ The “Wyoming Model”

- *Pore space ownership in surface; mineral estate dominant*
- *Unitization with 80% consent*
- *Ownership and liability for stored CO<sub>2</sub> with site operator perpetually*
- *State fund for long-term management and monitoring*

## ■ The “Public Utility Model”

- *One or more specialized public utilities for transportation and storage*
- *Regulatory jurisdiction with KCC*
- *Eminent domain for right-of-way acquisition, site aggregation*

# Questions?



Photo: <https://medium.com/fluxx-studio-notes/life-advice-from-donald-rumsfeld-that-actually-works-4bc250ad4e30>