



June 1, 2023

ND Public Service Commission  
600 E. Boulevard Ave. Dept 408  
Bismarck, ND 58505

To Whom It May Concern:

Farmers Union Insurance Company recently became aware that a letter to our insureds about liability coverage related to CO2 pipelines was submitted as an exhibit by a party opposed to the SCS Carbon Transport LLC application before the Public Service Commission (PSC) (PU-22-391). We believe it is necessary to provide additional clarity now that the letter is part of the PSC's record.

First and foremost, we always recommend that our insureds work with an attorney to understand their liability under any contract. We do not provide legal advice to our insureds or any other person; ultimately, these items are subject to the agreement between the two parties.

In general, it is our intention to treat CO2 pipelines like any other pipeline. With any pipeline, there are two elements to consider: (1) damage to the pipeline and (2) losses caused by a release of the product moved by pipeline.

Damage to the pipeline

In general, if a policyholder is liable for negligently damaging a piece of infrastructure that is owned by others, such as a pipeline, our policy will defend our insured against a claim and provide indemnification for the cost of the damage to the infrastructure itself.

Losses caused by a release of the product moved by pipeline

Generally, our policies provide coverage for defense or indemnification of damage caused by products released from a pipeline. However, we do exclude coverage for defense or indemnification in certain situations, one of which is for losses caused by pollutants, even if the pollutants are released due to our insured's negligence. Whether our policy provides coverage for losses caused by the product in the pipeline depends on whether the product is considered a pollutant. Examples of pollutants commonly moved by pipeline include salt water, oil, and natural gas. *To be clear, our insurance company has not determined whether we would consider CO2 a pollutant that would trigger this exclusion in our policies. We continue to research that issue.*

If we determine a product is *not* a pollutant, then our policy provides indemnity coverage and legal defense if our insured is legally liable for the loss (unless another exclusion is triggered). If

we determine a product *is* a pollutant, we work with our insureds to find other coverage options. Of course, we can't always guarantee there will be coverage available.

To be clear, we don't make determinations about whether any pipeline or the products moved by pipeline are a health, safety, or environmental concern or affect development. Public policymakers, regulators, and courts make those decisions. However, those decisions may influence whether we consider a product to be a pollutant subject to the pollution exclusion.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brad Nold". The signature is stylized and cursive.

Brad Nold, AIC, AINS  
Chief Claims Officer

cc: SCS Carbon Transport LLC via Lawrence Bender