

February 8, 2023

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HAND DELIVERED

Mr. Steve Kahl
Executive Secretary Director
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**RE: SCS Carbon Transport LLC
Midwest Carbon Express Project
Case No. PU-22-391**

Dear Mr. Kahl:

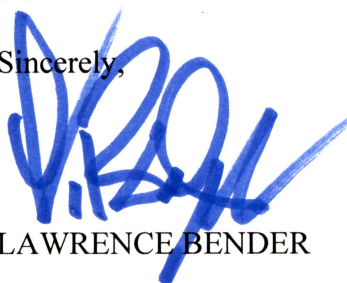
Please find enclosed herewith for filing with the North Dakota Public Service Commission, an original and five (5) copies of the following:

1. Application of SCS Carbon Transport LLC to Protect Information (GIS Data).

Also enclosed is a Compact Disc (CD) containing this letter and the above-referenced application in PDF format.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/tjg
Enclosure(s)

78327820 v1

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

IN THE MATTER OF THE APPLICATION
OF SCS CARBON TRANSPORT LLC FOR
A CERTIFICATE OF CORRIDOR
COMPATIBILITY AND ROUTE PERMIT
FOR THE MIDWEST CARBON EXPRESS
PROJECT IN BURLEIGH, CASS, DICKEY,
EMMONS, LOGAN, MCINTOSH,
MORTON, OLIVER, RICHLAND AND
SARGENT COUNTIES, NORTH DAKOTA

CASE NO. PU-22-391

Application of SCS Carbon Transport LLC to Protect Information

Pursuant to North Dakota Administrative Code (“NDAC”) § 69-02-09-01, SCS Carbon Transport LLC (“Summit”) submits this application to protect from disclosure certain confidential information filed with the North Dakota Public Service Commission (“Commission”) in the above-captioned matter. Specifically, the purpose of this application is to protect from public disclosure certain geographic information systems (GIS) data related to the location of the proposed facilities, the proposed corridor and route, and the criteria evaluated, including, without limitation, the location of cultural, archaeological, historical, or paleontological sites (the “GIS Data”) and to require any other persons or agencies who wish to view the protected information to comply with the rules and procedures set forth in NDAC § 69-02-09-07.

On October 17, 2022, Summit filed a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit in the above-referenced case (“Consolidated Application”). *See* Docket No. 1, Case No. PU-22-391. Summit’s Consolidated Application contained GIS Data required to be submitted to the Commission under NDAC § 69-06-05-01(2)(q).

On October 19, 2022, Summit filed with the Commission an Application for Protection of Information pertaining to the location of certain cultural, archaeological, historical, or paleontological sites set forth in Appendix 5 of the Consolidated Application (the “October 19 Application”). *See* Docket No. 5, Case No. PU-22-391.

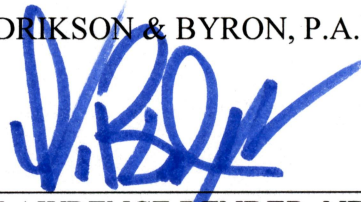
On January 12, 2023, the Administrative Law Judge granted Summit’s October 19 Application citing the Commission’s authority under § 49-22.1-24 of the North Dakota Century Code to “limit access to, and release of, information that contains data that specifically identifies the location of cultural, archaeological, historical, or paleontological sites.” *See* Docket No. 26, Case No. PU-22-391.

The GIS Data submitted to the Commission in the above-referenced case contains sensitive and confidential information relating the location of the proposed route and corridor and the location of cultural, archaeological, historical, or paleontological sites and therefore should be protected from public disclosure. Since it would be very difficult, if not impossible, to produce a redacted version of the GIS Data, Summit respectfully requests that the Commission waive the requirement to file a redacted version of the GIS Data pursuant to NDAC § 69-02-09-01.

Based on the foregoing, Summit requests that protection be given to any and all GIS Data submitted by Summit to the Commission in the above-referenced case. Specifically, Summit requests that the information be available only to the Administrative Law Judge, the Commission, including substitute decision makers and the Commission’s counsel, and the Commission’s siting analysts. In the event the Commission grants authorization to any other person or agency to view the GIS Data, Summit requests that such persons or agencies be required to comply with the rules and procedures set forth in NDAC § 69-02-09-07.

Dated this 8th day of February, 2023.

FREDRIKSON & BYRON, P.A.



By: _____

LAWRENCE BENDER, ND Bar #03908

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Bismarck, ND 58501

(701) 221-8700


lbender@fredlaw.com

Attorneys for SCS Carbon Transport LLC

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

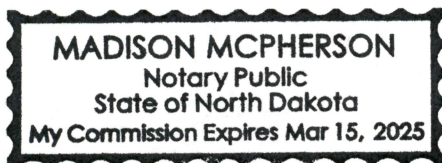
LAWRENCE BENDER, of lawful age, being first duly sworn, on oath deposes and says:

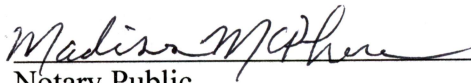
That he is the duly elected and qualified attorney for SCS Carbon Transport LLC, the applicant in the foregoing application; that he executed the foregoing application for and on behalf of said applicant and as its said attorney that he has read said application and knows the contents thereof, and that the statements made and contained therein are, to the best of his knowledge and belief, true and correct.



LAWRENCE BENDER

Subscribed and sworn to before me this 8th day of February, 2023.





Notary Public