

February 28, 2023

VIA U.S. MAIL & E-MAIL: ndpsc@nd.gov

Steve Kahl
Executive Secretary
North Dakota Public Service Commission
State Capitol
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480

RE: In the Matter of the Application of SCS Carbon Transport LLC for
Certificate of Corridor Compatibility and Route Permit for the Midwest
Carbon Express
Case No.: PU-22-391

Dear Mr. Kahl:

Enclosed for filing please find the following original documents:

1. Petition to Intervene;
2. Motion for Admission Pro Hac Vice;
3. Affidavit of Brian Jorde; and
4. Declaration of Service.

This Petition to Intervene is being filed with the North Dakota Public Service Commission (hereinafter "NDPSC") on behalf and at the request of several landowners in North Dakota. These landowners each own land across which SCS Carbon Transport LLC ("hereinafter" SCS") intends to construct a carbon dioxide pipeline. The landowners have a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by NDPSC's findings and conclusions. The landowners seek to intervene in this matter for these reasons.

The motion for admission pro hac vice seeks the admission of Brian Jorde as counsel for the landowners in this proceeding. Mr. Jorde is located in Omaha, NE and has been acting as counsel for the landowners for some time in related court proceedings. He is not licensed in North Dakota. It is the desire of these North Dakotans that Mr. Jorde appear on their behalf in this proceeding. A pro hac vice

Steven J. Leibel, Partner

PO Box 858 · 1915 N. Kavaney Drive, Suite 3 · Bismarck, ND 58502-0858
Phone 701-255-2010 · Fax 701-255-1980 · Email steve@bismarck-attorneys.com · www.bismarck-attorneys.com

57 PU-22-391 Filed 02/28/2023 Pages: 18

Petition to Intervene and Motion for Admission Pro Hac Vice with supporting documents
Knoll Leibel, LLP
Steven J. Leibel

Steve Kahl
February 28, 2023
Page 2 of 2

motion is where an out-of-state attorney requests permission to represent clients in this proceeding.

Please feel free to call me with any questions.

Sincerely,

KNOLL LEIBEL LLP



Steven J. Leibel

steve@bismarck-attorneys.com

SJL: rmo

Enclosures

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

PETITION TO INTERVENE

Pursuant to N.D.A.C. § 69-02-02-05, SPLJ LLP, Burleigh County, ND; Paul Kuetemeyer, Burleigh County, ND; Steven J. Laine and Pamela M. Laine Family Trust, Emmons County, ND; James Rockstad, Richland County, ND; Kevin and Ann Bernhardt, Emmons County, ND; Randall and Karla Waloch, Sargent County, ND; 8N2E Properties, LLP, Burleigh County, ND; Larry Hoge, Burleigh County, ND; BRH LLLP, Burleigh County, ND; Kari Curran, Sargent County, ND; Brosowske Farms, Richland County, ND; Mary Kuehn, Richland County, ND, (“Intervenors” and “Sued Landowners” or “Affected Landowners”, all collectively “Landowners”), by and through their lawyers David Knoll, Steve Leibel, and Brian Jorde, hereby petition to intervene in the above-captioned proceedings. In support of this petition, Landowners state and allege as follows:

1. Each of the following persons or entities (“Sued Landowners”) are owners of North Dakota land that have been sued by SCS Carbon Transport, LLC (“Summit”) and have been forced to retain the undersigned legal counsel to defend their property and constitutional rights. The alleged purpose of such

lawsuits filed by Summit was to survey and examine such property of Sued Landowners in furtherance of Summit's goal to contract the construction of a hazardous carbon dioxide pipeline on, under, across, and/or through Sued Landowners properties:

- a. Dean Twardoski, Tract B of 18-140-80, Burleigh County, ND.
- b. Connie Erickson, SE/4 of 27-140-79, Burleigh County, ND.
- c. Hoge Farm LP, SE/4 of 19-140-79 and NE/4 of 30-140-79, Burleigh County, ND.
- d. Tim Hoge, NE/4SW/4 of 19-140-79, Burleigh County, ND.
- e. Harry L. Malloy Trust – Howard Malloy, Trustee, S1/2 of 6-140-81 and N1/2 of 7-140-81, Morton County, ND.
- f. John Carrels, N1/2 of 30-130-59 and SE1/4NE1/4 of 30-130-59, Dickey County, ND.
- g. Staroba Revocable Living Trust – Loren and Diane Staroba, E1/2 of 35-132-51 and NW1/4 of 2-131-51, Richland County, ND.
- h. Verdell T. Jordheim and Phyllis Jordheim Living Trust, N/2 of 14-135-51, Richland County, ND.
- i. Valera Hayen, S/2SW/4 of 11-130-58, NW/4NW/4 of 14-130-58, and NE/4 of 15-130-58, Sargent County, ND.
- j. Shirley Waloch, SW1/4 of 14-131-56, SE1/4 of 14-131-56, SW1/4 of 12-131-56, Sargent County, ND.

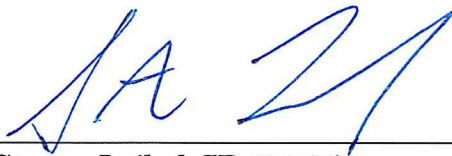
- k. SPLJ LLP – Pam Schonert and Susan Doppler, S15 T140N R80W, Burleigh County, ND.
 - l. Paul Kuetemeyer, S28-140N-79W of 5th PM, Burleigh County, ND.
 - m. Randall and Karla Waloch, S14, T131, R56 NE1/4, Sargent County, ND.
 - n. 8N2E Properties, LLP – Marilyn Bryan, Lon and Roberta Klusmann, Gordon Morris, Jeffory Morris, Daniel Morris, Teresa Yarlott, S24, T140N, R80W, Burnt Creek Township, Burleigh County, ND.
 - o. Larry Hoge, T140N, R81W, S14, NW1/4NE1/4, NW1/4, Burleigh County, ND.
 - p. BRH LLLP – Brent and Rachelle Herbel, N1/2NW1/4 of S13, T140N, R81W of 5th PM, Burleigh County, ND and NE1/4NE1/4 of S14, T140N, R81W of 5th PM, Burleigh County, ND.
2. The following “Affected Landowners” are owners of North Dakota land that have either been approached by Summit or its agents in relation to obtaining survey and examination access to their property and/or in seeking a lease or other agreement for the potential location of a hazardous carbon dioxide pipeline. Upon information and belief Affected Landowners are persons or entities that would be negatively affected by Summit’s proposed hazardous carbon dioxide pipeline should it be approved by all necessary states and obtain the thousands of leases and/or easements necessary to locate such approximate 2,000-mile hazardous pipeline and other related structures:

- a. Steven J. Laine and Pamela M. Laine Family Trust, SE4, S26-134-75, Emmons County, ND.
 - b. James Rockstad, Viking and Berry Township, Richland County, ND.
 - c. Kevin and Ann Bernhardt, 36-134N-75W, 6-133N-74W, and 7-133N-74W, Emmons County, ND.
 - d. Tony Hoge, NE/4SW/4 of 19-140-79, Burleigh County, ND.
 - e. Mary Kuehn, T132N, R51W, S24 SW/4 and S25 NW/4, Richland County, ND.
 - f. Kari Curran, S/2SW/4 of 11-130-58, NW/4NW/4 of 14-130-58, Sargent County, ND.
 - g. Leon Mallberg, SE1/4 S6, T130N, R54W, Sargent County, ND.
 - h. Brosowske Farms – Tom and Maxine Brosowske, 24-132-51, Richland County, ND.
 - i. APH Farms – Arden Hagerott, Jonathan Hagerott, Janel Olson, Section 10 and 11, T140N, R83W, Morton County, ND.
3. Sued and Affected Landowners each own land across which Summit desires blanket easements for a period of ninety-nine (99) years, which are in effect total takings, for potential locating, construction, maintenance, and operation of a dangerous and hazardous carbon dioxide pipeline.
 4. Sued and Affected Landowners have a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by the ND Public Service Commission's findings and conclusions in

this matter. Sued and Affected Landowners are intimately familiar with the land they own and rent and can provide the PSC with specific information related to its routing determination in this proceeding, with respect to their individual lands.

5. Sued and Affected Landowners are not adequately represented by existing parties, and their intervention would not unduly broaden the issues or delay the proceedings, particularly given the early nature of the proceedings.
6. Sued and Affected Landowners intend to present evidence opposing Summit's requested relief in its Application and all Landowners object and resist the current proposed location of Summit's proposed pipeline.

Dated this 28th day of February, 2023



Steven Leibel (ID 07361)
David Knoll (ID 06167)
Knoll Leibel LLP
P.O. Box 858
1915 N. Kavaney Drive, Ste. 3
Bismarck, ND 58501
Ph: (701) 255-2010
steve@bismarck-attorneys.com
david@bismarck-attorneys.com

Landowners'/Intervenors' Lawyers

Brian E. Jorde
Pro Hac Vice Pending
Domina Law Group
2425 S. 144th St.
Omaha, NE 68144
Ph: 402-493-4100
bjorde@dominalaw.com
NDCO2@dominalaw.com

Landowners'/Intervenors' Lawyers

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

**MOTION FOR ADMISSION
PRO HAC VICE**

Pursuant to Rule 3(A) of the North Dakota Admission to Practice Rules, Intervenor respectfully move the Commission for an Order admitting Brian E. Jorde, with the firm of Domina Law Group, located at 2425 S. 144th Street, Omaha, NE 68144, to practice on behalf of the Intervenor, for the limited purpose of participating in the above-captioned case. In support of this motion, Intervenor states:

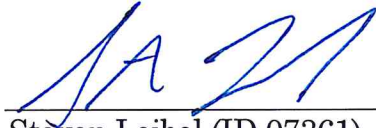
1. Brian E. Jorde has been admitted to, and is in good standing to appear before, the courts as outlined in his attached Affidavit in Support of Admission to appear Pro Hac Vice. See Affidavit of Brian Jorde, attached as Ex. 1.

2. Attorney Jorde has been admitted *pro hac vice* in the consolidated matter pending in North Dakota State Court involving many of these issues and parties. *SCS Carbon Transport LLC v. Malloy*, Case No. 30-2022-CV-00665 (South Central Judicial District, Morton County). A copy of this Order of admission is attached hereto as Ex. 2.

3. A copy of this Motion and supporting Affidavit has on this day been sent to the State Board of Law Examiners.

WHEREFORE, the undersigned requests admission of Brian E. Jorde for the special limited purpose of participating in the above-captioned agency proceeding on behalf of the Intervenors.

Dated this 28th day of February, 2023.

A handwritten signature in blue ink, appearing to be 'AA 21', is written over a horizontal line.

Steven Leibel (ID 07361)
David Knoll (ID 06167)
Knoll Leibel LLP
P.O. Box 858
Bismarck, ND 58501
Ph: (701) 255-2010
david@bismarck-attorneys.com
steve@bismarck-attorneys.com

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

AFFIDAVIT OF BRIAN JORDE

Brian E. Jorde, being first duly sworn, deposes and states the following is true and correct based upon his personal knowledge:

1. I am an attorney with the firm of Domina Law Group pc llo, located at 2425 S. 144th Street, Omaha, NE 68144. My telephone number is 402-493-4100. My email address is bjorde@dominalaw.com. I received my J.D. from Thomas M. Cooley Law School in 2007.

2. I have been admitted to, and I am in good standing to appear before the following courts:

Court	Year Admitted
Nebraska State Court	2007
Michigan State Court	2007
Iowa State Court	2013
Wisconsin State Court	2017

US District Court of Nebraska 2007

US Bankruptcy Court Nebraska 2007

US District Court Eastern Michigan 2007

US District Court Western Michigan 2007

US Court of Appeals 8th Circuit 2013

US Court of Federal Claims 2010

US District Court Southern District Iowa 2013

8th Circuit Court of Appeals 2013

US District Court Colorado 2013

US District Court Southern Illinois 2015

3. I am not presently, nor have I ever been, subject to a disciplinary proceeding in any jurisdiction.

4. I am not under any restriction or probation in the practice of law in any jurisdiction in which I am licensed.

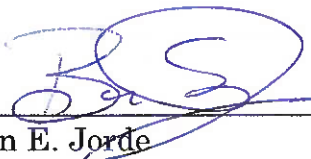
5. I am not presently, nor have I ever been, suspended or disbarred from a court in any jurisdiction.

6. I was hired by the Intervenorors to represent them with respect to the SCS pipeline. Many of these same people were sued in North Dakota State court. I moved for admission *pro hac vice* in that consolidated action and was admitted *pro hac vice* in the consolidated North Dakota State Court action. Attached as Ex. A to this affidavit is a copy of that Order of admission.

7. I designate David M. Knoll and Steven J. Leibel with the Bismarck law firm Knoll Leibel LLP to associate with me in all phases of this case.

8. The applicable admission fee has been submitted to the State Board of Law Examiners.

Dated this 28th day of February, 2023.

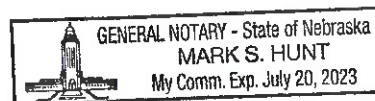


Brian E. Jorde

Subscribed and sworn to before me this 28th day of February, 2023.



Notary Public



STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

SCS CARBON TRANSPORT LLC, Petitioner, v. Howard L. Malloy, Trustee of the Harry L. Malloy Trust No. 2 dated May 25, 2008, Respondent.	Case No. 30-2022-CV-00665 ORDER GRANTING ADMISSION PRO HAC VICE
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THIS MATTER having come before the Court upon the Joint Motion for Admission Pro Hac Vice, and the Court having reviewed the filings, hereby FINDS that good cause exists to grant the relief sought, and ORDERS, ADJUDGES, and DECREES that Attorney Brian E. Jorde is admitted into this consolidated action on behalf of the respondents in the following cases:

- a. *CS Carbon Transport LLC v. Erickson*, Case No. 08-2022-CV-02073;
- b. *SCS Carbon Transport LLC v. Hoge*, Case No. 08-2022-CV-02075;
- c. *SCS Carbon Transport LLC v. Twardowski*, Case No. 08-2022-CV-02076;
- d. *SCS Carbon Transport LLC v. BRH LLLP*, Case No. 08-2022-CV-02078;
- e. *SCS Carbon Transport LLC v. SPLJ, LLP*, Case No. 08-2022-CV-02097;
- f. *SCS Carbon Transport LLC v. 8N2E Properties LLP*, Case No. 08-2022-CV-02116;
- g. *SCS Carbon Transport LLC v. Kuetemeyer*, Case No. 08-2022-CV-02161;

- h. *SCS Carbon Transport LLC v. Hoge Farm Limited Partnership*, Case No. 08-2022-CV-02162;
- i. *SCS Carbon Transport LLC v. Hoge*, Case No. 08-2022-CV-02163;
- j. *SCS Carton Transport LLC v. Malloy*, Case No. 30-20-22-CV-00665;
- k. *SCS Carbon Transport LLC v. Carrels*, Case No. 11-2022-CV-00050;
- l. *SCS Carbon Transport LLC v. Jordheim*, Case No. 39-2022-CV-00162;
- m. *SCS Carbon Transport LLC v. Staroba*, Case No. 39-2022-CV-00164;
- n. *SCS Carbon Transport LLC v. Waloch*, Case No. 41-2022-CV-00051;
- o. *SCS Carbon Transport LLC v. Hayen*, Case No. 41-2022-CV-00052; and
- p. *SCS Carbon Transport LLC v. Waloch*, Case No. 41-2022-CV-00054.

The Court further ORDERS, ADJUDGES, and DECREES that Attorneys Brian D. Boone, Kyle Hair, and Michael R. Hoernlein are admitted into this consolidated action on behalf of Petitioner SCS Carbon Transport LLC.

Signed: 1/5/2023 20:01:26



HON. DANIEL NARUM

Order prepared by:

/s/ Steven J. Leibel

Order approved by:

/s/ Kyle Hair

Counsel for Petitioner

Order approved as to form:

/s/ Tyler Malm

Counsel for Doolittle Respondent

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

SCS CARBON TRANSPORT LLC, Petitioner, v. Howard L. Malloy, Trustee of the Harry L. Malloy Trust No. 2 dated May 25, 2008, Respondent.	Case No. 30-2022-CV-00665 ORDER GRANTING ADMISSION PRO HAC VICE
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- a. *CS Carbon Transport LLC v. Erickson*, Case No. 08-2022-CV-02073;
- b. *SCS Carbon Transport LLC v. Hoge*, Case No. 08-2022-CV-02075;
- c. *SCS Carbon Transport LLC v. Twardowski*, Case No. 08-2022-CV-02076;
- d. *SCS Carbon Transport LLC v. BRH LLLP*, Case No. 08-2022-CV-02078;
- e. *SCS Carbon Transport LLC v. SPLJ, LLP*, Case No. 08-2022-CV-02097;
- f. *SCS Carbon Transport LLC v. 8N2E Properties LLP*, Case No. 08-2022-CV-02116;
- g. *SCS Carbon Transport LLC v. Kuetemeyer*, Case No. 08-2022-CV-02161;

- h. *SCS Carbon Transport LLC v. Hoge Farm Limited Partnership*, Case No. 08-2022-CV-02162;
- i. *SCS Carbon Transport LLC v. Hoge*, Case No. 08-2022-CV-02163;
- j. *SCS Carton Transport LLC v. Malloy*, Case No. 30-20-22-CV-00665;
- k. *SCS Carbon Transport LLC v. Carrels*, Case No. 11-2022-CV-00050;
- l. *SCS Carbon Transport LLC v. Jordheim*, Case No. 39-2022-CV-00162;
- m. *SCS Carbon Transport LLC v. Staroba*, Case No. 39-2022-CV-00164;
- n. *SCS Carbon Transport LLC v. Waloch*, Case No. 41-2022-CV-00051;
- o. *SCS Carbon Transport LLC v. Hayen*, Case No. 41-2022-CV-00052; and
- p. *SCS Carbon Transport LLC v. Waloch*, Case No. 41-2022-CV-00054.

The Court further ORDERS, ADJUDGES, and DECREES that Attorneys Brian D. Boone, Kyle Hair, and Michael R. Hoernlein are admitted into this consolidated action on behalf of Petitioner SCS Carbon Transport LLC.

Signed: 1/5/2023 20:01:26



HON. DANIEL NARUM

Order prepared by:

/s/ Steven J. Leibel

Order approved by:

/s/ Kyle Hair

Counsel for Petitioner

Order approved as to form:

/s/ Tyler Malm

Counsel for Doolittle Respondent

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

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

DECLARATION OF SERVICE

[1] Rosanne Ogden declares that I am of legal age and not a party to this action, and that I served the following document(s):

- 1. Petition to Intervene;**
- 2. Motion for Admission Pro Hac Vice;**
- 3. Exhibit 1 – Affidavit of Brian Jorde;**
- 4. Exhibit A to Affidavit of Brian Jorde – Order Granting Admission Pro Hac Vice**
- 5. Exhibit 2 – Order Granting Admission Pro Hac Vice; and**
- 6. Declaration of Service.**

[2] On February 28, 2022, by sending a true and correct copy thereof by electronic means only to the following email addresses, to wit:

John Maurice Schuh Bar ID 08138
Special Assistant Attorney General
North Dakota Public Service
Commission
600 E. Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480
jschuh@nd.gov

Lawrence Bender Bar ID 03908
Fredrikson & Byron, P.A.
1133 College Dr., Ste. 1000
Bismarck, ND 58501-1215
lbender@fredlaw.com

Hope Lisa Hogan Bar ID 05982
Administrative Law Judge
Office Of Administrative Hearings
2911 N. 14th St., Ste. 303
Bismarck, ND 58503
hlhogan@nd.gov
North Dakota Public Service

Zachary Evan Pelham Bar ID 05904
Pearce Durick PLLC
314 E. Thayer Ave.
P.O. Box 400
Bismarck, ND 58502-0400
zep@pearce-durick.com

Commission
ndpsc@nd.gov

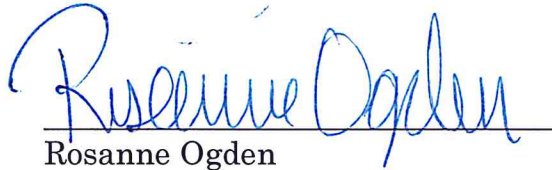
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

Steve Kahl
Executive Secretary
North Dakota Public Service Commission
State Capitol
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480

[4] The addresses of each party served are the last reasonably ascertainable e-mail address and post office address of such party.

[5] I declare, under penalty of perjury under the law of North Dakota, that the foregoing is true and correct.

Signed on the 28th day of February, 2023 at Bismarck, North Dakota.


Rosanne Ogden