



# North Dakota Senate

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## Senator Jeffery J. Magrum

District 8  
P.O. Box 467  
Hazelton, ND 58544-0467  
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[jmagrum@ndlegis.gov](mailto:jmagrum@ndlegis.gov)

**COMMITTEES:**  
Finance and Taxation  
Energy and Natural Resources



03/14/2023

Hello commissioners,

for the record I am Senator Jeff Magrum serving district 8 which is rural Burleigh County including Wilton, Baldwin, Hogue Island, Lincoln, Menoken and Moffit as well as all of Emmons County including Kintyre, Braddock, Hazelton, Temvik, Linton, Strasburg, Hague, Westfield and Hull.

There is over 60 miles of the proposed carbon pipeline running through district 8. I have been at several public meetings beginning approximately one and a half years ago. I was surprised at the threat of the use of Eminent Domain as an option that the representatives of SCS thought they had. The letter to self-declare themselves as common carrier was filed with the PSC on June 24<sup>th</sup> of 2022, many months after the initial threats against my constituents and then exactly two months later, August 24<sup>th</sup> Summit Carbon Solutions filed lawsuits against my constituents to invade their land for survey's. These cases will be heard this month. SCS has already cost our constituents financially in a big way as well as the civil unrest has already been a big problem.

Seeing many gaps in the law that Summit Carbon Solutions identified and is using to their advantage I introduced legislation in the current legislative assembly to address some of these issues. The self-declaring of Common carrier status was one of the issues that many acknowledged as an issue that needs to be fixed, legislatively. Unfortunately, the bill was defeated because of an all out invasion of lobbyists in the Capitol with the goal of defeating the bill. I also introduced a bill to require 85% participation by landowners in a carbon pipeline project by landowners as to when Eminent Domain can be used on the pipeline route and industry testified that 90% participation is generally achieved relatively easy. Two bills have passed to the House from the Senate. The Survey bill will be heard on Friday in the House of Representatives. This bill requires a surveyor to get written permission before surveying on land in eminent domain proceedings. This was brought on because of trespassing by SCS Surveyors on private land.

One thing that was astounding is that not a single individual from the east side of the Missouri River attended the senate hearings to oppose the private property protection bills but many attended in support of or submitted testimony in favor of the private property right's bills.

Emmons and Burleigh Counties acting to protect their citizens and their land have been very active in updating their ordinances in realization that the state wasn't going to look out for their people as to Carbon Pipelines. I

watched the Emmons County as well as the Burleigh County public hearings and they were very well attended, well run and the testimony was almost entirely in favor of the updates to their ordinances to protect landowner's rights. A PSC Commissioner recently attended a senate committee hearing and stated that local governments should be allowed to make local decisions for local people because they are closer to the people. I urge you Public Service Commissioners to honor the County Commissioners that represent the people of there respective counties and the people of District 8 and if you site this proposed pipeline, please keep the county ordinances in the forefront of your decision or just reject the siting request entirely.

Thank You !

# Civil, Family & Probate Case Records Search Results

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Record Count: 35

Search By: Party Exact Name: on Party Search Mode: Business Name Last Name: SCS Carbon Transport LLC All All Sort By: Filed Date

Case Number	Style	Filed/Location/Judicial Officer	Type/Status
<a href="#">39-2022-CV-00154</a>	SCS Carbon Transport LLC vs. Kathleen Miller	08/19/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00157</a>	SCS Carbon Transport LLC vs. Larry A. Hegseth	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00158</a>	SCS Carbon Transport LLC vs. Loren J. Hegseth	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00159</a>	SCS Carbon Transport LLC vs. Mary Beth Kuehn, et al.	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00160</a>	SCS Carbon Transport LLC vs. Lugert Land Limited Partnership	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00161</a>	SCS Carbon Transport LLC vs. Harlan N. Jordheim, et al.	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00162</a>	SCS Carbon Transport LLC vs. Phyllis J Jordheim, et al.	08/22/2022 -- Richland County Narum, Daniel D	Other Civil Open
<a href="#">41-2022-CV-00050</a>	SCS Carbon Transport LLC vs. Beverly B. Kelley	08/22/2022 -- Sargent County Narum, Daniel D	Other Civil Closed
<a href="#">41-2022-CV-00051</a>	SCS Carbon Transport LLC vs. Shirley Waloch	08/22/2022 -- Sargent County Narum, Daniel D	Other Civil Open
<a href="#">41-2022-CV-00052</a>	SCS Carbon Transport LLC vs. Valera A. Hayen	08/22/2022 -- Sargent County Narum, Daniel D	Other Civil Open
<a href="#">11-2022-CV-00050</a>	SCS Carbon Transport LLC vs. John M. Carrels	08/23/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">39-2022-CV-00164</a>	SCS Carbon Transport LLC vs. Loren E. Staroba, et al.	08/23/2022 -- Richland County Narum, Daniel D	Other Civil Open
<a href="#">39-2022-CV-00165</a>	SCS Carbon Transport LLC vs. Raymond Zajac, et al.	08/23/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">41-2022-CV-00054</a>	SCS Carbon Transport LLC vs. Randall Waloch, et al.	08/24/2022 -- Sargent County Narum, Daniel D	Other Civil Open
<a href="#">39-2022-CV-00173</a>	SCS Carbon Transport LLC vs. Paul J. Kuzel	08/31/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00176</a>	SCS Carbon Transport LLC vs. Donna Lekang, Trustee, et al.	09/01/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00187</a>	SCS Carbon Transport LLC vs. Irene Hager, et al.	09/20/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00188</a>	SCS Carbon Transport LLC vs. James O. Rockstad	09/20/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00189</a>	SCS Carbon Transport LLC vs. Roberta Maurer	09/21/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00190</a>	SCS Carbon Transport LLC vs. Jocelyn K. Haberman	09/21/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">39-2022-CV-00191</a>	SCS Carbon Transport LLC vs. Kevin Klosterman, et al.	09/21/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">11-2022-CV-00055</a>	SCS Carbon Transport LLC vs. Donald Rust	09/22/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Closed

<a href="#">41-2022-CV-00061</a>	SCS Carbon Transport LLC vs. Howard Huffman, et al.	09/22/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">41-2022-CV-00062</a>	SCS Carbon Transport LLC vs. Dunbar Trail, LLP	09/22/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">11-2022-CV-00057</a>	SCS Carbon Transport LLC vs. Chad Henningsen, et al.	09/23/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">11-2022-CV-00058</a>	SCS Carbon Transport LLC vs. Thomas Ray Pettibone	09/23/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">39-2022-CV-00195</a>	SCS Carbon Transport LLC vs. Lou Ann Scherer, Trustee	09/23/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">41-2022-CV-00063</a>	SCS Carbon Transport LLC vs. Leon Leroy Mallberg, et al.	09/23/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">41-2022-CV-00064</a>	SCS Carbon Transport LLC vs. Sharon Hayen	09/23/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">41-2022-CV-00065</a>	SCS Carbon Transport LLC vs. Paul H. Mathews, Personal Representative of the Estate of Nancy I. Mathews, et al.	09/23/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">41-2022-CV-00066</a>	SCS Carbon Transport LLC vs. Rust Family LP	09/23/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">41-2022-CV-00067</a>	SCS Carbon Transport LLC vs. Arlin Dean Schieve, et al.	09/23/2022 -- Sargent County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">11-2022-CV-00059</a>	SCS Carbon Transport LLC vs. Lovila M. Hanson, Trustee	09/26/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Closed
<a href="#">39-2022-CV-00197</a>	SCS Carbon Transport LLC vs. Paul Kuzel, et al.	09/26/2022 -- Richland County Narum, Daniel D	Other Civil Closed
<a href="#">11-2022-CV-00061</a>	SCS Carbon Transport LLC vs. David Locken, et al.	09/27/2022 -- Dickey County Narum, Daniel D	Condemnation / Eminent Domain Closed

# Civil, Family & Probate Case Records Search Results

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Record Count: 13

Search By: Party Exact Name: on Party Search Mode: Business Name Last Name: SCS Carbon Transport LLC All All Sort By: Filed Date

Case Number	Style	Filed/Location/Judicial Officer	Type/Status
<a href="#">15-2022-CV-00029</a>	SCS Carbon Transport LLC vs. Bruce E. Doolittle	08/22/2022 -- Emmons County Narum, Daniel D	Other Civil Open
<a href="#">08-2022-CV-02073</a>	SCS Carbon Transport LLC vs. Connie Erickson	09/01/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02075</a>	SCS Carbon Transport LLC vs. Larry R. Hoge	09/01/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02076</a>	SCS Carbon Transport LLC vs. Dean Twardowski	09/01/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02078</a>	SCS Carbon Transport LLC vs. BRH LLLP	09/01/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">30-2022-CV-00665</a>	SCS Carbon Transport LLC vs. Howard L. Malloy, Trustee of the Harry L. Malloy Trust No. 2 dated May 25, 2008	09/01/2022 -- Morton County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02097</a>	SCS Carbon Transport LLC vs. SPLJ, LLP	09/06/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02116</a>	SCS Carbon Transport LLC vs. 8N2E Properties LLP	09/07/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02161</a>	SCS Carbon Transport LLC vs. Paul E. Kuetemeyer	09/13/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02162</a>	SCS Carbon Transport LLC vs. Hoge Farm Limited Partnership	09/13/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">08-2022-CV-02163</a>	SCS Carbon Transport LLC vs. Timothy J. Hoge	09/13/2022 -- Burleigh County Narum, Daniel D	Condemnation / Eminent Domain Open
<a href="#">15-2022-CV-00032</a>	SCS Carbon Transport LLC vs. Mitchell Kertzman, Trustee	09/21/2022 -- Emmons County Hill, James S	Condemnation / Eminent Domain Closed
<a href="#">15-2022-CV-00034</a>	SCS Carbon Transport LLC vs. Kevin Bernhardt, et al.	09/23/2022 -- Emmons County Hill, James S	Condemnation / Eminent Domain Closed

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

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In the Matter SCS Carbon Transport LLC )  
Acceptance of Provisions of North Dakota )  
Century Code § 49-19-12 )

Case No. \_\_\_\_\_

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**ACCEPTANCE OF PROVISIONS OF  
NORTH DAKOTA CENTURY CODE § 49-19-12**

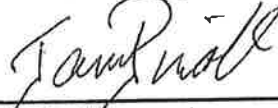
Upon approval by the North Dakota Public Service Commission (“Commission”) for construction of a proposed carbon dioxide (“CO<sub>2</sub>”) pipeline project, SCS Carbon Transport LLC (“SCS”) will own and operate a pipeline located within the State of North Dakota and will be engaged in the business of transporting CO<sub>2</sub> for others by such pipeline in accordance with the definition of a common carrier. *See* N.D.C.C. § 49-19-01.

North Dakota Century Code § 49-19-12 provides in relevant part that “[e]very common pipeline carrier which shall have filed with the commission its acceptance of the provisions of this chapter has, subject to chapter 32-15, the right and power of eminent domain in the exercise of which it may enter upon and condemn the land, right of way, easements, and property of any person necessary for the construction, maintenance, or authorization of its pipeline.”

SCS, pursuant to North Dakota Century Code § 49-19-12, as a common carrier, accepts the provisions of Chapter 49-19 of the North Dakota Century Code. This acceptance by SCS is hereby filed with the Commission.

Dated this 24th day of June, 2022.

SCS Carbon Transport LLC

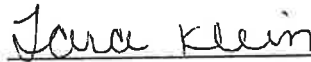


James Pirolli, Chief Commercial Officer

STATE OF IOWA )  
 )ss.  
COUNTY OF STORY )



The foregoing instrument was acknowledged before me this 24th day of June, 2022, by James Pirolli, Chief Commercial Officer of SCS Carbon Transport LLC, a limited liability company, on behalf of the company.



Notary Public

My Commission Expires: 1/28/2023

June 24, 2022

**HAND DELIVERED**

Mr. Steve Kahl  
Executive Secretary/Director of Administration  
North Dakota Public Service Commission  
600 E Blvd Ave Dept 408  
Bismarck, ND 58505-0480

**RE: SCS Carbon Transport LLC  
Acceptance under NDCC §49-19-12**

Dear Mr. Kahl:

Pursuant to the provisions of Section 49-19-12 of North Dakota Century Code, please find enclosed herewith an original and five (5) copies of the SCS Carbon Transport LLC Acceptance of Provisions of North Dakota Century Code §49-19-12.

Also enclosed herewith is a CD containing this letter and the above-referenced document in PDF format.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER


LB/kl  
Enclosures

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1 PU-22-260 Filed 06/24/2022 Pages: 3  
Acceptance of Provisions of N.D.C.C. Section 49-19-12  
SCS Carbon Transport LLC  
Lawrence Bender, Fredrikson&Byron, P.A.

Dated this 24th day of June, 2022.

SCS Carbon Transport LLC



James Pirolli, Chief Commercial Officer

STATE OF IOWA

)

)ss.

COUNTY OF STORY

)



The foregoing instrument was acknowledged before me this 24th day of June, 2022, by James Pirolli, Chief Commercial Officer of SCS Carbon Transport LLC, a limited liability company, on behalf of the company.



Notary Public

My Commission Expires: 1/28/2023

August 24, 2022

**VIA PERSONAL SERVICE**

Bruce E. Doolittle  
1245 68<sup>th</sup> St. SE  
Hazelton, ND 58544

**RE: Bruce E. Doolittle – Survey Access**

Dear Mr. Malm:

Please find enclosed herewith the following:

1. Summons in Petition for Entry to Survey;
2. Petition for Entry to Survey (“Petition”); and
3. Voluntary Access Agreement.

The Petition has been filed in Emmons County District Court and seeks authority from the court to access your property for the purpose of conducting certain surveys. After receipt of the Petition, if you desire to allow voluntary access, please sign the Voluntary Access Agreement and return it to the undersigned in the enclosed self-addressed, stamped envelope.

Please be advised that SCS Carbon Transport, LLC intends to request a hearing on its Petition and to proceed with its request for a court order unless it receives a signed Voluntary Access Agreement.

Should you have any questions, please contact Julie DiMeo at (701) 290-4682 or [jdimeo@summitcarbon.com](mailto:jdimeo@summitcarbon.com).

Sincerely,



LAWRENCE BENDER

LB/mlm  
Enclosures  
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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF EMMONS

SOUTH CENTRAL JUDICIAL DISTRICT

SCS Carbon Transport LLC,

Petitioner,

v.

Bruce E. Doolittle,

Respondent.

Case No. \_\_\_\_\_

**SUMMONS**

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED RESPONDENT:

[¶ 1] A Petition for Entry to Survey ("Petition") has been filed against you for the purpose of obtaining access to the real property located in Emmons County, North Dakota, more particularly described in the Petition.

[¶ 2] You are hereby summoned and required to appear and defend against the Petition by serving upon the undersigned an answer or other proper response within twenty-one (21) days after the service of this Summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition.

DATED this 23rd day of August, 2022.

FREDRIKSON & BYRON, P.A.

By: 

Lawrence Bender, ND Bar #03908  
1133 College Drive, Suite 1000  
Bismarck, ND 58501  
lbender@fredlaw.com  
(701) 221-8700  
*Attorneys for SCS Carbon Transport LLC*

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF EMMONS

SOUTH CENTRAL JUDICIAL DISTRICT

SCS Carbon Transport LLC, )  
 )  
 )  
 Petitioner, )  
 )  
 )  
 v. )  
 )  
 Bruce E. Doolittle, )  
 )  
 )  
 Respondent. )

Case No. \_\_\_\_\_

**PETITION FOR ENTRY TO SURVEY**

Petitioner SCS Carbon Transport LLC (“Summit”), by and through its counsel, Fredrikson & Byron P.A., 1133 College Drive, Suite 1000, Bismarck, ND, for its Petition for Entry to Survey lands owned by the above-named Respondent, states and alleges as follows:

**PARTIES**

1. Summit is a limited liability company organized and in good standing under the laws of the State of Delaware and authorized to do business as a foreign limited liability company in the State of North Dakota. (Affidavit of Micah Rorie (“Rorie Aff.”) ¶ 3).

2. Upon information and belief, Respondent Bruce E. Doolittle (“Doolittle”) is resident of the State of North Dakota.

3. Respondent is the record owner of the lands located in Emmons County, North Dakota more particularly described on **Exhibit A** attached hereto. (Rorie Aff. ¶ 4).

**JURISDICTION AND VENUE**

4. This court has jurisdiction over this matter pursuant to Sections 32-15-06 and 27-05-06 of the North Dakota Century Code.

5. Venue is proper in this Court pursuant to Section 28-04-01 of the North Dakota Century Code.

## STATEMENT OF CLAIM

### **I. The Summit Pipeline.**

6. Summit is proposing to construct the Midwest Carbon Express pipeline system (the "Pipeline"), an approximately 2,000-mile long carbon dioxide transmission pipeline system ranging from four (4) to twenty-four (24) inches in diameter. The Pipeline will provide capacity to transport as much as twelve (12) million tons of carbon dioxide per year from ethanol plants located in Iowa, Nebraska, Minnesota, South Dakota and North Dakota. The carbon dioxide will ultimately be injected into a secure, underground geologic storage facility located in North Dakota. (Rorie Aff. ¶ 5).

7. The Pipeline is necessary to reduce carbon dioxide emissions and offers ethanol and other industrial plants a viable option to capture and permanently store carbon dioxide emissions because, unlike North Dakota, most states do not have proven subsurface geologic formations capable of economically storing the volume of carbon dioxide produced by such plants. (Rorie Aff. ¶ 6).

8. The Pipeline also represents the safest mode for transporting carbon dioxide. As compared to rail and truck transportation, pipelines are the safest and most efficient means to transport hazardous liquids, according to statistics compiled by the United States Department of Transportation. Pipelines are heavily regulated and are subject to intense scrutiny and oversight. Time and time again, pipelines have proven to be the safest and most reliable form of transporting hazardous liquids. (Rorie Aff. ¶ 7).

### **II. The Need for Access to Doolittle's Land.**

9. Under Section 49-22.1-04 of the North Dakota Century Code, Summit may not begin constructing the Pipeline in North Dakota until it obtains a certificate of corridor

compatibility and route permit from the North Dakota Public Service Commission (“the PSC”). Summit intends to file its application with the PSC in October of 2022, and anticipates receiving a certificate of corridor compatibility and route permit sometime during the first quarter of 2023.

10. In order to obtain the certificate of corridor compatibility and route permit for the Pipeline, Summit must demonstrate to the PSC that the route is appropriate. The PSC’s decision with respect to the appropriateness of the route is guided by a nonexclusive list of statutorily enumerated factors, including, among others:

- Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.
- The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.
- The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species.

N.D.C.C. § 49-22.1-09.

11. In order to gather the information that both Summit and the PSC need to evaluate the suitability of the proposed route, Summit must conduct various field surveys, investigations, and examinations of the proposed route to gather necessary information. Specifically, Summit needs to conduct centerline route surveys; archeological surveys; environmental (e.g., wetlands, wildlife, plants) surveys; geotechnical surveys; and any other surveys necessary to assess the suitability of the route and present information to the PSC. (Rorie Aff. ¶ 8).

12. For the past several months, Summit, by and through its affiliate Summit Carbon Solutions, LLC, has been meeting with landowners whose property will be crossed by the Pipeline to explain the project, answer their questions, and request access to their property for surveys and examinations. The vast majority of landowners whose property will be impacted by

the Pipeline have voluntarily permitted Summit to enter onto their property for the purpose of completing the necessary surveys. (Rorie Aff. ¶ 9).

13. Doolittle's lands, described in Paragraph 3, above, are expected to be crossed by the Project. Despite Summit's good faith efforts to negotiate entry, Doolittle has refused to permit entry onto the lands for the purpose of conducting the surveys. Summit needs to enter onto the lands as soon as possible in order to complete the field surveys and obtain a certificate of corridor compatibility and route permit in the first quarter of 2023, as anticipated. If the surveys are delayed, issuance of the certificate and route permit will be delayed, and the remainder of the project will be delayed as well. (Rorie Aff. ¶ 10).

### **III. The Right to Enter and Survey.**

14. As operator of the Pipeline, Summit is a common carrier. In addition, Summit has filed its Acceptance of the Provisions of North Dakota's Energy Conversion and Transmission Facility Siting Act, N.D.C.C. ch. 49-19, with the PSC, which is attached as **Exhibit B** to this Petition. As a result, Summit "has, subject to chapter 32-15, the right and power of eminent domain in the exercise of which it may enter upon and condemn the land, right of way, easements, and property of any person necessary for the construction, maintenance, or authorization of its pipeline." N.D.C.C. § 49-19-12.

15. In addition, Chapter 32-15 of the North Dakota Century Code expressly permits the exercise of the right of eminent domain "in behalf of . . . public uses," including "[o]il, gas, coal, and carbon dioxide pipelines . . . together with lands, buildings, and all other improvements in or upon which to erect, install, place, maintain, use, or operate pumps, stations, tanks, and other machinery or apparatus, and buildings, works, and plants for the purpose of

generating, refining, regulating, compressing, transmitting, or distributing the same . . . .”  
N.D.C.C. § 32-15-02(10).

16. Because Summit has the statutory right and power of eminent domain to acquire property for the Pipeline, it also has the right to enter upon Doolittle’s land to conduct necessary examinations and surveys. Section 32-15-06 of the North Dakota Century Code authorizes those in the “category of persons entitled to seek eminent domain” to conduct pre-condemnation surveys and testing to determine whether the land is suitable for the proposed project. See *Alliance Pipeline L.P. v. Smith*, 2013 ND 17, ¶ 15, 833 N.W.2d 464; *Square Butte Elec. Coop. v. Dohn*, 219 N.W.2d 877, 883 (N.D. 1974).

17. Specifically, Section 32-15-06 provides such persons the right to “make examinations, surveys, and maps thereof, and such entry constitutes no claim for relief in favor of the owner of the land except for injuries resulting from negligence, wantonness, or malice.” N.D.C.C. § 32-15-06. In situations where a property owner refuses to permit entry for pre-condemnation surveys and testing, the person or entity in charge of the proposed project is entitled to an order from a district court confirming its right to enter the property to conduct such surveys. *Alliance Pipeline L.P.*, 2013 ND 17, ¶ 19, 833 N.W.2d 464; *Square Butte Elec. Coop.*, 219 N.W.2d at 883.

18. Under North Dakota Century Code Section 32-15-06 and the Supreme Court’s decisions in *Alliance Pipeline* and *Square Butte*, because Summit is in the category of persons authorized by law to seek eminent domain, it is entitled to an Order of the Court confirming its right to enter onto Doolittle’s property to “make examinations, surveys, and maps thereof, and such entry constitutes no claim for relief in favor of the owner of the land except for injuries

resulting from negligence, wantonness, or malice.” N.D.C.C. § 32-15-06; *Alliance Pipeline L.P.*, 2013 ND 17, ¶ 19, 833 N.W.2d 464.

19. The surveys and examinations to be conducted by Summit will have little, if any, impact on Doolittle’s property. However, Summit will proceed with the surveys in a manner that is compatible with the greatest public benefit and the least private injury, compensate landowners or tenants for damages caused by survey activities, and comply with other reasonable restrictions imposed by the Court. (Rorie Aff. ¶ 11).

WHEREFORE, Summit requests an order of this Court confirming its right to enter upon the land described in Paragraph 3, above, for the purpose of completing necessary surveys and examinations, including:

- a. centerline route surveys;
- b. archeological surveys;
- c. environmental (wetlands, wildlife, plants, etc.) surveys;
- d. geotechnical surveys; and
- e. any other surveys necessary for evaluating the suitability of the route and compiling the information required by the PSC for issuance of a certificate of site compatibility and route permit.

DATED this 19th day of August, 2022.

FREDRIKSON & BYRON, P.A.

By: 

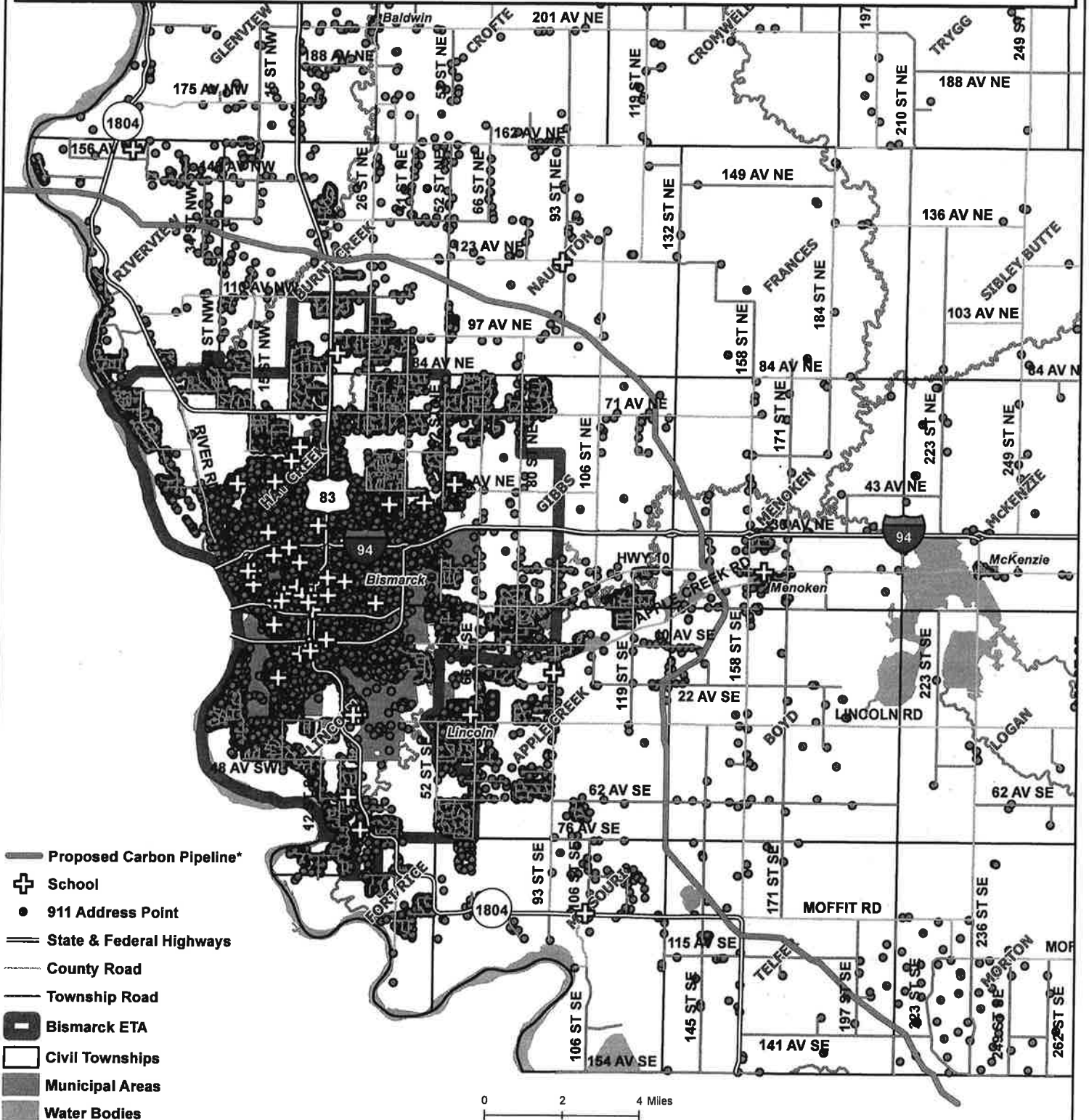
Lawrence Bender, ND Bar #03908  
1133 College Drive, Suite 1000  
Bismarck, ND 58501  
lbender@fredlaw.com  
(701) 221-8700

*Attorneys for SCS Carbon Transport LLC*

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# PROPOSED CARBON PIPELINE ROUTE AS OF 05/31/2022

\* The proposed carbon pipeline route was digitized off of a pdf map from Summit Carbon Solutions. The map was titled "40.28 Miles of Anticipated Pipeline Burleigh County North Dakota". The pdf map also listed that the "Pipeline centerline is based on the 05/31/2022 route." Due to the map scale used on the pdf map there could be up to a half mile location error in the drawn pipeline route on this map from the actual proposed location.



## ARTICLE I DECLARATION OF RIGHTS

**Section 1.** All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

**Section 2.** All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

**Section 3.** The free exercise and enjoyment of religious profession and worship, without discrimination or preference shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

**Section 4.** Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be a sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court as in other cases.

**Section 5.** The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

**Section 6.** Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

**Section 7.** Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

**Section 8.** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

**Section 9.** All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.

**Section 10.** Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval

## CHAPTER 49-19 COMMON PIPELINE CARRIERS

### **49-19-01. Definition of common pipeline carriers.**

Every person:

1. Owning, operating, or managing any pipeline or any part of any pipeline within this state for the transportation of crude petroleum, gas, coal, or carbon dioxide to or for the public for hire, or engaged in the business of transporting crude petroleum, gas, coal, or carbon dioxide by pipelines;
2. Owning, operating, managing, or participating in the ownership, operation, or management of, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline, or any part of any pipeline, for the transportation of crude petroleum, gas, or coal bought from others from any oil, gas, or coal field or place of production, to any distributing, refining, or marketing center or reshipping point;
3. Engaged in the business of producing, purchasing, transporting for hire or transporting for sale within this state of natural gas, which is transported through pipelines, or any part of a pipeline, the right of way for which is granted or secured under the provisions of this chapter or, subject to chapter 32-15, through the exercise of the right of eminent domain; or
4. Made a common carrier by or under the terms of a contract with or in pursuance of the laws of the United States, is a common carrier and is subject to the provisions of this chapter as a common pipeline carrier.

### **49-19-02. Pipeline carriers - Special powers of commission.**

The commission shall take reports from and may investigate the books and records kept by any pipeline carrier in connection with its business, and may require such company to make monthly reports duly verified under oath showing the total quantity of crude petroleum owned by such carrier and of that held by it in storage for others, and its unfilled storage capacity. No publicity shall be given by the commission to the reports as to stock of crude petroleum of any particular pipeline, but it may make public the aggregate amounts held by all the pipelines making such reports and their aggregate storage capacity.

### **49-19-03. Enforcement of orders by commission.**

The commission shall hear and determine complaints, require attendance of witnesses, and institute suits and sue out such writs and process as may be necessary for the enforcement of its orders.

### **49-19-04. Reservation in gas franchises.**

No city or other public corporation hereafter shall grant to any person a franchise to furnish natural gas to the public in this state without making a reservation therein that a percentage of native natural gas shall be used by such person if and when the same is produced in commercial quantities.

### **49-19-05. Percentage of native natural gas to be used.**

Whenever native natural gas is produced in this state in commercial quantities, any person having a franchise to furnish gas to the public, which franchise is dated after March 9, 1933, shall use fifty percent, or its equivalent, of native natural gas as developed if the source thereof is located not more than six miles [9.66 kilometers] from any established gas pipeline.

### **49-19-06. Gas in commercial quantities - What constitutes.**

Any gas well of two hundred fifty thousand cubic feet [7079.21 cubic meters] volume and two hundred pounds [90.72 kilograms] of rock pressure shall constitute a well producing native natural gas in commercial quantities under the provisions of this chapter.

## **ARTICLE I DECLARATION OF RIGHTS**

**Section 1.** All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed.

**Section 2.** All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

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**Section 8.** The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

**Section 9.** All courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts, and in such cases, as the legislative assembly may, by law, direct.

**Section 10.** Until otherwise provided by law, no person shall, for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval

forces, or in the militia when in actual service in time of war or public danger. In all other cases, offenses shall be prosecuted criminally by indictment or information. The legislative assembly may change, regulate or abolish the grand jury system.

**Section 11.** All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

**Section 12.** In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

**Section 13.** The right of trial by jury shall be secured to all, and remain inviolate. A person accused of a crime for which he may be confined for a period of more than one year has the right of trial by a jury of twelve. The legislative assembly may determine the size of the jury for all other cases, provided that the jury consists of at least six members. All verdicts must be unanimous.

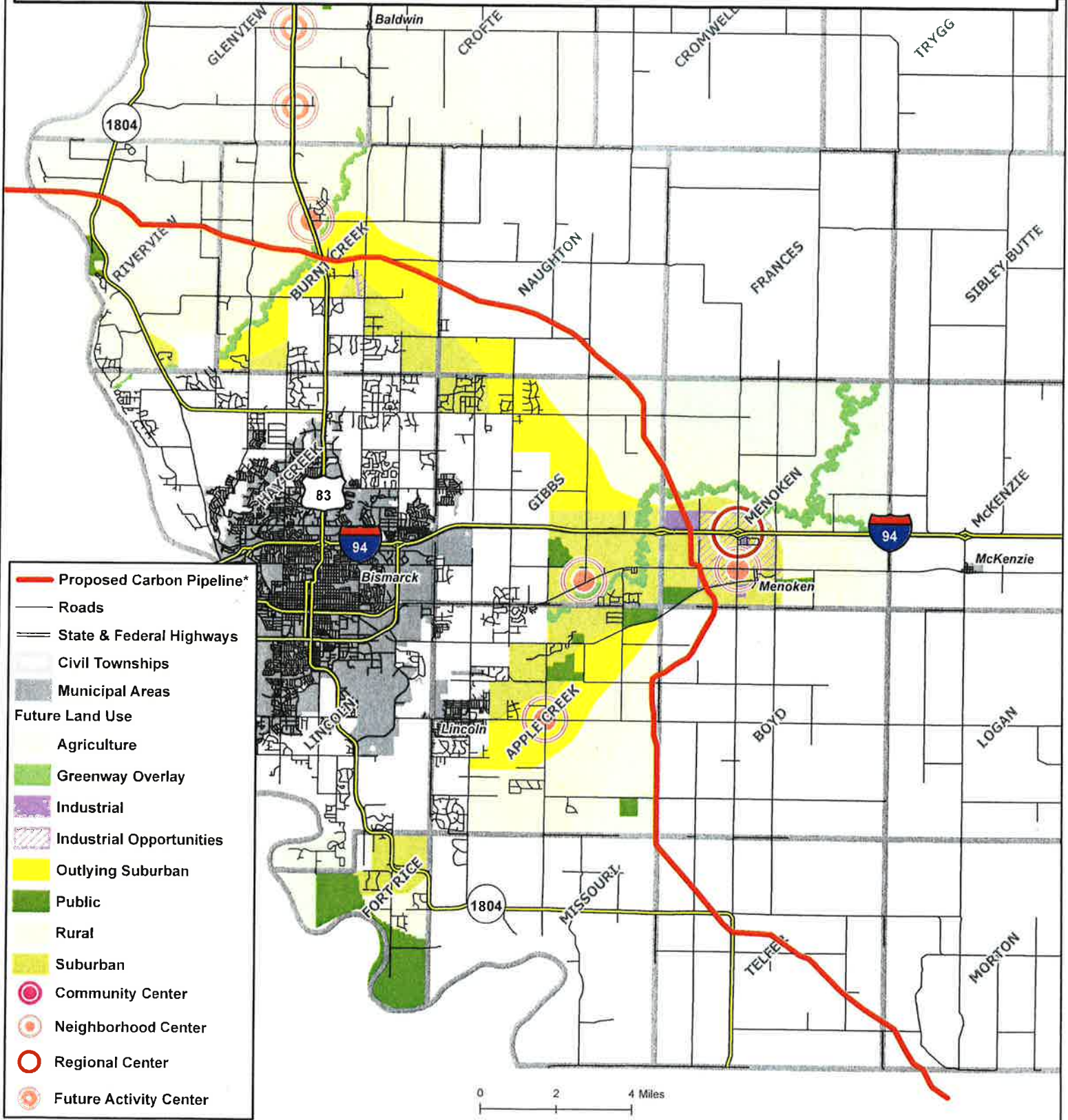
**Section 14.** The privilege of the writ of habeas corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

**Section 15.** No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

**Section 16.** Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner, unless the owner chooses to accept annual payments as may be provided for by law. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, unless the owner chooses annual payments as may be provided by law, irrespective of any benefit from any improvement proposed by such corporation. Compensation shall be ascertained by a jury, unless a jury be waived. When the state or any of its departments, agencies or political subdivisions seeks to acquire right of way, it may take possession upon making an offer to purchase and by depositing the amount of such offer with the clerk of the district court of the county wherein the right of way is located. The clerk shall immediately notify the owner of such deposit. The owner may thereupon appeal to the court in the manner provided by law, and may have a jury trial, unless a jury be waived, to determine the damages, which damages the owner may choose to accept in annual payments as may be provided for by law. Annual payments shall not be subject to escalator clauses but may be supplemented by interest earned.

For purposes of this section, a public use or a public purpose does not include public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health. Private property shall not be taken for the use of, or ownership by, any private individual or entity, unless that property is necessary for conducting a common carrier or utility business.

\* The proposed carbon pipeline route was digitized off of a pdf map from Summit Carbon Solutions. The map was titled "40.28 Miles of Anticipated Pipeline Burleigh County North Dakota". The pdf map also listed that the "Pipeline centerline is based on the 05/31/2022 route." Due to the map scale used on the pdf map there could be up to a half mile location error in the drawn pipeline route on this map from the actual proposed location.



- Proposed Carbon Pipeline\*
- Roads
- State & Federal Highways
- Civil Townships
- Municipal Areas
- Future Land Use
- Agriculture
- Greenway Overlay
- Industrial
- Industrial Opportunities
- Outlying Suburban
- Public
- Rural
- Suburban
- Community Center
- Neighborhood Center
- Regional Center
- Future Activity Center

0 2 4 Miles



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Executive Secretary/Director of Administration  
North Dakota Public Service Commission  
600 E Blvd. Ave. Department 408  
Bismarck, North Dakota 58505-0480

February 11, 2023

**RE: Consideration to ensure that State Land Survey rules, laws, and codes are followed**

Dear Chair,

The North Dakota Society of Professional Land Surveyors (NDSPLS) encourages that all utility corridor easements within the State of North Dakota be "Strip Easements" not "Blanket Easements" for all utilities, such as, but not limited to, overhead and underground electrical lines and water, oil and gas pipelines.

Blanket type easements create needless servitudes, or non-appurtenant restrictions on the Grantor's use of real property over aliquot parts of a section where a strip easement would satisfy the easement need of the Grantee.

ND State Department of Trust Lands and Federal Lands do not allow for the use of blanket easements on their land holdings. Furthermore, practicing professional land surveyors follow these guidelines:

The State of North Dakota already has requirements codified for licensed Land Surveyors to follow under North Dakota Century Code (NDCC) 47-05-02.1.

Land Surveyors are bound by North Dakota Administrative Code (NDAC) 28-02.1-13-01: Survey Requirements for preparation of legal descriptions and conveyance of property.

Land Surveyors are bound by the North Dakota Attorney General Opinion 2017-L-03, dated May 12, 2017, indicating that pursuant to NDCC 43-19.1-30, the items which need to be included as exhibits relevant to documents or attachments, as well as when they are the main documents being recorded. These documents must include the signature and seal of a North Dakota registered professional land surveyor, even if the document is part of an exhibit or an attachment to the easement.

NDSPLS encourages the use of the North Dakota State Plane Coordinate System, per NDCC 47-20.2, as the base coordinate system used for a universal survey mapping system.

We are requesting the Public Service Commission to review all aspects of all utility easements and to ensure that all current laws and rules for easements in North Dakota are followed as part of the review and permit process.

Respectfully submitted,

North Dakota Society of Professional Land Surveyors

Enclosures: NDCC 47-05-02.1, Administrative Code Chapter 28-02.1-13-01, ND AG Opinion 2017-L-3, NDCC 43-19.1-30, NDCC 47-20.1 and NDCC 47-20.2

**47-05-02.1. Requirements of easements, servitudes, or nonappurtenant restrictions on the use of real property.**

Real property easements, servitudes, or any nonappurtenant restrictions on the use of real property, which become binding after July 1, 1977, shall be subject to the requirements of this section. These requirements are deemed a part of any agreement for such interests in real property whether or not printed in a document of agreement.

1. The area of land covered by the easement, servitude, or nonappurtenant restriction on the use of real property shall be properly described and shall set out the area of land covered by the interest in real property.
2. The duration of the easement, servitude, or nonappurtenant restriction on the use of real property must be specifically set out, and in no case may the duration of any interest in real property regulated by this section exceed ninety-nine years. The duration of an easement for a waterfowl production area acquired by the federal government, and consented to by the governor or the appropriate state agency after July 1, 1985, may not exceed fifty years. A waterfowl production area easement that exceeds fifty years or which purports to be perpetual may be extended by negotiation between the owner of the easement and the owner of the servient tenement. A waterfowl production area easement that exceeds fifty years or which purports to be permanent and is not extended by negotiation is void. The duration of a wetlands reserve program easement acquired by the federal government pursuant to the Food, Agriculture, Conservation, and Trade Act of 1990 after July 1, 1991, may not exceed thirty years.
3. No increase in the area of real property subject to the easement, servitude, or nonappurtenant restriction shall be made except by negotiation between the owner of the easement, servitude, or nonappurtenant restriction and the owner of the servient tenement.

## **CHAPTER 28-02.1-13**

### **DOCUMENTS USED TO CONVEY REAL PROPERTY OR ANY INTEREST THEREIN**

#### Section

#### 28-02.1-13-01 Survey Requirements for Preparation of Legal Descriptions and Conveyance of Property

##### **28-02.1-13-01. Survey requirements for preparation of legal descriptions and conveyance of property.**

Any registrant preparing a description, including without limitation a legal, property, or boundary description for, or assisting in the filing of, a document that will, or may, be used to convey or acquire real property or any interest therein, other than easements, including without limitation an auditor's plat, outlot, deed, or conveyance of rights of way, must conduct a survey of the property being conveyed and comply with all the requirements related thereto contained in North Dakota Century Code sections 40-50.1-01 and 40-50.1-02.

Preliminary descriptions and documents used for negotiations for real property, interests in real property, rights of way, and easements are not subject to the requirements of this chapter; however, all such preliminary documents must bear a statement that the document is preliminary, it does not represent a complete boundary survey, and the document is not intended for construction, recording, or implementation. The statement must appear prominently on the face of the preliminary document. Descriptions prepared by a registrant which are, or may be used to acquire or convey rights of way in which possession of title is obtained may be prepared without the setting of all exterior monuments if all four of the following requirements are met:

1. The rights of way are retraceable by using established monuments;
2. Exterior monuments are set wherever there is a change of width to the rights of way;
3. Exterior monuments are set wherever there is a change in direction of the rights of way other than changes of direction at section corners; and
4. Monuments are set at intersections of rights of way with section lines or section line rights of way.

Descriptions prepared by a registrant which are, or may be used to acquire or convey easements having a term of five years or more must be retraceable in each section of land over which the easement crosses by using established subdivision or public land survey system monuments existing or placed at the time of the easement conveyance.

**History:** Effective October 1, 2004; amended effective July 1, 2009; October 1, 2021.

**General Authority:** NDCC 43-19.1-08

**Law Implemented:** NDCC 43-19.1-01, 43-19.1-08



Wayne Stenehjem  
ATTORNEY GENERAL

STATE OF NORTH DAKOTA  
**OFFICE OF ATTORNEY GENERAL**

STATE CAPITOL  
600 E BOULEVARD AVE DEPT 125  
BISMARCK, ND 58505-0040  
(701) 328-2210 FAX (701) 328-2226  
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**LETTER OPINION  
2017-L-03**

May 12, 2017

Mr. Roger Kluck, President  
State Board of Registration for Professional  
Engineers and Land Surveyors  
PO Box 1357  
Bismarck, ND 58502-1357

Dear Mr. Kluck:

Thank you for your letter requesting an Attorney General's opinion on whether N.D.C.C. § 43-19.1-30 makes it unlawful for a county recorder to file or record any map, plat, survey, or other document within the definition of land surveying, if the document does not include the personal signature and seal of a registered professional land surveyor who prepared it, even if the map, plat, survey, or other document is filed or recorded as an exhibit or attachment to another document being filed or recorded.

**ANALYSIS**

Section 43-19.1-30, N.D.C.C., provides:

**43-19.1-30. Duties of recorder.** It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying which does not have impressed thereon and affixed thereto the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.<sup>1</sup>

This law was originally passed by the Legislature in 1967.<sup>2</sup> Only minor changes have been made to the law since then.<sup>3</sup>

<sup>1</sup> N.D.C.C. § 43-19.1-30.

<sup>2</sup> See 1967 N.D. Sess. Laws ch. 352, § 30.

<sup>3</sup> "Register of deeds" was changed to "recorder" in 2001 (see 2001 N.D. Sess. Laws ch. 120, § 1) and the word "professional" was added in 2009 (see 2009 N.D. Sess. Laws ch. 368, § 29).

LETTER OPINION 2017-L-03

May 12, 2017

Page 2

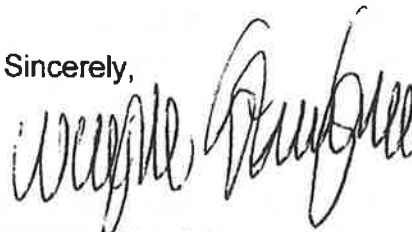
Recently, perhaps as the result of increased oil activity in the state, the North Dakota State Board of Registration for Professional Engineers and Land Surveyors became aware that some plats have been recorded, even though they did not include the signature and seal of a registered professional land surveyor. Some of these unsigned and unsealed survey plats were attached to easements as exhibits, with the plats providing land descriptions for the land covered by the easements.

The Board took its concern to the North Dakota County Recorders Association (Association). The response indicated that the Association felt N.D.C.C. § 43-19.1-30 did not apply to a map, plat, survey, or other land surveying document if it was filed or recorded as an exhibit or attachment to another document. The issue, therefore, is whether N.D.C.C. § 43-19.1-30 applies to the relevant documents when they are exhibits or attachments, as well as when they are the main documents being filed.

The plain language of N.D.C.C. § 43-19.1-30 states that it applies to "any map, plat, survey, or other document within the definition of land surveying." There is nothing to suggest that it applies only to the main document that is being filed and not to exhibits or attachments.

Therefore, it is my opinion that pursuant to N.D.C.C. § 43-19.1-30, a county recorder may not file or record a land surveying document unless it includes the personal signature and seal of a registered professional land surveyor, even if the document is just part of an exhibit or attachment.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Stenehjem", written in a cursive style.

Wayne Stenehjem  
Attorney General

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>4</sup>

---

<sup>4</sup> See *State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).

June 9, 2016

Office of Attorney General  
Attention: Liz Brocker  
600 E. Boulevard Avenue, Dept. 125  
Bismarck, ND 58505

This request for an Attorney General opinion is made by the North Dakota State Board of Registration of Professional Engineers and Land Surveyors (the "Board"). The Board is a state agency, whose members are appointed by the Governor, established to promote the public welfare by regulation of the practice of engineering and land surveying in the State of North Dakota. The Board requests an opinion that section 43-19.1-30, N.D.C.C., makes it unlawful for a recorder to file or record any map, plat, survey, or other documents within the definition of land surveying, if the document does not include the personal signature and seal of a registered professional land surveyor who prepared it, whether the map, plat, survey or other document within the definition of land surveying is filed alone or as an exhibit or attachment to another document being filed and recorded.

That statute reads as follows:

**43-19.1-30. Duties of recorder.**

It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying which does not have impressed thereon and affixed thereto the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

The Board believes, the plain language of the statute makes it the duty of a recorder to require the signature and seal of a registered professional land surveyor on "any map, plat, survey or other document within the definition of land surveying" (emphasis added) that are filed or recorded. There is no exception for maps, plats, surveys or other survey documents just because they are filed in combination with other documents. The Board believes "Any" means any, whether filed alone or with other documents.

The Board has been made aware of at least some plats that have been recorded, despite the fact they did not include the signature and seal of a registered professional land surveyor, as required by N.D.C.C. § 43-19.1-30. These included unsigned and unsealed survey plats attached to easements as exhibits, which plats provided the land descriptions for the land covered by the easements.

As a result of this issue being brought to the attention of the Board, the Executive Director of the Board raised this issue with the North Dakota County Recorder Association. The response from the North Dakota County Recorder Association was that N.D.C.C. § 43-19.1-30 did not apply to a map, plat, survey or other land surveying document if it was filed or recorded as an attachment or exhibit to another document. Attached is a copy of an email from Cyndy Kolle Gustafson, as President of the North Dakota County Recorder Association noting the difference in position and suggesting that the Board seek an Attorney General Opinion.

A document is "filed or recorded" whether it is filed by itself, or as an exhibit of another document being filed or recorded (e.g. an easement, deed, etc.). There is no basis for an exception to N.D.C.C. § 43-19.1-30, for a map, plat, survey or other land surveying document, simply because it is attached to another document. The public policy reason to require this certification by a registered professional land surveyor is as important for a map, survey or plat that is filed as an exhibit to another document, as it is for a map, survey or plat filed alone. The reason for this requirement is to protect the public from a document that has not been prepared in accordance with the standards established by the Board and law for such work; and to identify for the public who performed the relevant work, and when the document was prepared.

N.D.C.C. § 43-19.1-30 is consistent with N.D.C.C. § 43-19.1-21, which requires final maps, plats, or other documents prepared by a registered land surveyor to be signed, dated, and stamped. N.D.C.C. § 43-19.1-21 further provides that an unfinished document must include a statement that it is not for recording purposes. Allowing an unsigned, and unsealed, map, plat, survey or other land surveying document to be attached as an exhibit to another document, and then recorded, would allow surveyors, and others, to circumvent the statutory requirements of N.D.C.C. § 43-19.1-21.

We request an opinion as to whether the signature and seal of a registered professional land surveyor is required on any map, plat, survey or other document within the definition of land surveying that is filed or recorded with a county recorder, as stated in plain language of NDCC 43-19.1-30, whether filed or recorded individually or in combination with, or as an exhibit to, other documents.

NDPELS

By:   
Roger Kluck, President

**From:** Kolle, Cyndy  
**To:** Candie Robinson  
**Subject:** RE: Areas visited by Mr. Little  
**Date:** Thursday, October 01, 2015 3:22:07 PM  
**Attachments:** image001.png

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Candie:

This list is just fine. Thank you for the information today.

It was interesting to hear the different interpretation of NDCC 43-19.1-30. As I stated in our telephone conversation, we recorders feel we are in compliance with this century code. I'm wondering if you have considered seeking an AG Opinion? This might be something to bring before your board.

Again, thank you for all your information. I will send you information about our 2016 convention after the first of the year.

*Cyndy J. Kelle Gustafson*

Cyndy J Kelle Gustafson  
North Dakota County Recorder Association President  
Richland County Recorder  
418 2<sup>nd</sup> Ave N  
Wahpeton, North Dakota 58075  
701.642.7802  
701.642.7820 fax

We are providing this information under the open record laws and do not guarantee its sufficiency. This office takes no responsibility for accuracy, errors or omissions of documents.

*Practice of land  
Surveying -  
43-19.1-02  
Definition  
"Practice of  
land surveying"*

**43-19.1-30. Duties of recorder.**

It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying which does not have impressed thereon and affixed thereto the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

**CHAPTER 47-20.1**  
**SURVEY AND CORNER RECORDATION ACT**

**47-20.1-01. Purpose.**

It is the purpose of this chapter to protect and perpetuate public land survey corners and information concerning the location of such corners by requiring the systematic establishment of monuments and recording of information concerning the marking of the location of such public land survey corners and to allow the systematic location of other property corners, thereby providing for property security and a coherent system of property location and identification of ownerships, and thereby eliminating the repeated necessity for re-establishment and relocations of such corners where once they were established and located, and, to authorize any registered land surveyor to locate, erect, maintain, record and perpetuate landmarks, monuments, section corners, quarter corners, meander lines or boundary lines heretofore or hereafter established.

**47-20.1-02. Definitions.**

Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

1. "Accessory corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal filled bottles, steel or wooden stakes or other objects.
2. "Corner", unless otherwise qualified, means a property corner, or a property controlling corner, or a public land survey corner, or any combination of these.
3. "Monument" means an accessory that is presumed to occupy the exact position of a corner.
4. "Practice of land surveying" has the same meaning as in section 43-19.1-02.
5. "Property controlling corner" means a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.
6. "Property corner" means a geographic point on the surface of the earth, and is on, a part of, and controls a property line.
7. "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for land to a private person from the United States government.
8. "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner.
9. "Registered land surveyor" means a surveyor who is registered to practice land surveying under chapter 43-19.1 regulating the registration and practice of professional engineering and land surveyors, or who is authorized under said chapter to practice land surveying as defined herein.

**47-20.1-03. Filing of corner record required.**

A surveyor shall complete, sign, stamp with the surveyor's seal and file with the recorder of the county where the corner is situated a written record of corner establishment or restoration to be known as a "corner record" for every public land survey corner and accessory to such corner which is established, re-established, monumented, remonumented, restored, rehabilitated, perpetuated, or used as control in any survey by such surveyor, and within ninety days thereafter, unless the corner and its accessories are substantially as described in an existing corner record filed in accord with the provisions of this chapter.

**47-20.1-04. Filing permitted as to any property corner.**

A registered land surveyor may file such corner record as to any property corner, property controlling corner, reference monument, or accessory to a corner.

**47-20.1-05. Form to be prescribed by board.**

The state board of registration for professional engineers and land surveyors provided for in chapter 43-19.1 shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record. The board shall prescribe the form in which such corner record shall be presented and filed.

**47-20.1-06. Recorder to receive, file, and cross-index.**

1. The recorder of the county containing the corner shall receive the completed corner record and preserve it in a hardbound book. The books shall be numbered in numerical order as filled.
2. The recorder shall number the forms in numerical order as they are filed.
3. The book and page number in which the said corner record is filed shall be placed by the recorder near that same corner on a cross-index plat which the recorder shall provide for such purpose.
4. The recorder shall make these records available for public inspection during all usual office hours.

**47-20.1-07. Official corner record.**

When such a corner described herein has been established and filed, that corner record shall be the official record and shall be made available to all state and federal government agencies without cost; however, the recorder may charge a reasonable fee for furnishing certified copies of the official record to all other persons.

**47-20.1-08. Recorder may charge filing fee.**

The recorder of a county may charge a filing fee as provided by section 11-18-05 for the filing of each corner record as defined in section 47-20.1-02.

**47-20.1-09. Surveyor must rehabilitate monuments.**

In every case where a corner record of a public land survey corner is required to be filed under the provisions of this chapter, the surveyor must reconstruct or rehabilitate the monument of such corner and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

**47-20.1-10. Minimum corner requirements.**

The registered land surveyor establishing or rehabilitating corner markers shall place as a minimum acceptable marker, a durable ferromagnetic monument not less than eighteen inches [45.72 centimeters] in length and not less than one-half inch [12.7 millimeters] in sectional dimension driven to a survey elevation depth to which is affixed a cap bearing the center point and the registered land surveyor's certificate number firmly impressed thereon.

**47-20.1-11. Corner records to be certified.**

No corner record shall be filed unless the same is signed by a registered land surveyor and stamped with the surveyor's seal.

**47-20.1-12. Disturbance of survey corners - Penalty.**

No United States government survey corner nor any corner established by any registered land surveyor, monumented as herein prescribed, shall be disturbed, removed, or in any manner changed by any person in the prosecution of any public or private work. Whoever shall violate any of the provisions of this section shall be guilty of an infraction.

**47-20.1-13. Short title.**

This chapter may be cited as the Survey and Corner Recordation Act of North Dakota.

## **CHAPTER 47-20.2 PLANE COORDINATES**

### **47-20.2-01. North Dakota coordinate system zones defined.**

The systems of plane coordinates which have been established by the national oceanic and atmospheric administration national ocean survey/national geodetic survey or its successors for defining and stating the geographic positions or locations of points on the surface of the earth within this state are, as of July 1, 1989, to be known and designated as the North Dakota coordinate system of 1927 and the North Dakota coordinate system of 1983. For the purpose of the use of these systems, the state is divided into a north zone and a south zone:

1. The area now included in the following counties constitutes the north zone: Divide, Williams, McKenzie, Mountrail, Burke, Renville, Ward, McLean, Bottineau, McHenry, Sheridan, Pierce, Rolette, Towner, Benson, Wells, Foster, Eddy, Ramsey, Cavalier, Pembina, Walsh, Nelson, Grand Forks, Griggs, Steele, Traill.
2. The area now included in the following counties constitutes the south zone: Dunn, Golden Valley, Slope, Bowman, Adams, Hettinger, Stark, Mercer, Oliver, Morton, Grant, Sioux, Emmons, Burleigh, Kidder, Logan, McIntosh, Stutsman, Barnes, LaMoure, Dickey, Cass, Ransom, Sargent, Richland.

### **47-20.2-02. North Dakota coordinate system names defined.**

As established for use in the north zone, the North Dakota coordinate system of 1927 or the North Dakota coordinate system of 1983 is named, and in any land description in which it is used it must be designated the North Dakota coordinate system of 1927, north zone, or the North Dakota coordinate system of 1983, north zone. As established for use in the south zone, the North Dakota coordinate system of 1927 or the North Dakota coordinate system of 1983 is named, and in any land description in which it is used it must be designated the North Dakota coordinate system of 1927, south zone, or the North Dakota coordinate system of 1983, south zone.

### **47-20.2-03. North Dakota coordinate system defined.**

The plane coordinate values for a point on the earth's surface, used in expressing the geographic position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in United States survey feet [meters] and decimals of a foot [meter] when using the North Dakota coordinate system of 1927. One of these distances, to be known as the X-coordinate, shall give the position in an east-west direction; the other, to be known as the Y-coordinate, shall give the position in a north-south direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the North American horizontal geodetic control network as published by the national ocean survey/national geodetic survey, or its successors, and the plane coordinates which have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either North Dakota coordinate system. For the purposes of converting coordinates of the North Dakota coordinate system of 1983 from meters to feet, the international survey foot must be used. The conversion factor is: one foot equals 0.3048 meter exactly.

### **47-20.2-04. Federal and state coordinate description same tract - Federal precedence.**

Whenever coordinates based on the North Dakota coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States public land surveys, the description by coordinates must be construed as supplemental to the basic description of each subdivision, line, or corner contained in the official plats and field notes filed of record, and, in the event of any conflict, the description by reference to the subdivision, line, or corner of the United States public land surveys prevails over the description by coordinates, unless the coordinates are upheld by adjudication, at which time the coordinate description will prevail. This chapter does not require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the North

Dakota coordinate system, unless the description has been adjudicated as provided in this section.

**47-20.2-05. North Dakota coordinate system origins defined.**

1. For the purposes of more precisely defining the North Dakota coordinate system of 1927, the following definitions by the United States coast and geodetic survey are adopted:
  - a. The North Dakota coordinate system of 1927, north zone, is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitudes, forty-seven degrees twenty-six minutes and forty-eight degrees forty-four minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-seven degrees zero minutes north latitude. This origin is given the coordinates:  $x = 2,000,000$  feet [609.6 kilometers], and  $y = 0$  feet [0 kilometers].
  - b. The North Dakota coordinate system of 1927, south zone, is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitudes forty-six degrees eleven minutes and forty-seven degrees twenty-nine minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-five degrees forty minutes north latitude. This origin is given the coordinates:  $x = 2,000,000$  feet [609.6 kilometers], and  $y = 0$  feet [0 kilometers].
2. For the purposes of more precisely defining the North Dakota coordinate system of 1983, the following definition by the national ocean survey/national geodetic survey is adopted:
  - a. The North Dakota coordinate system of 1983, north zone, is a Lambert conformal conic projection of the North American datum of 1983, having standard parallels at north latitude of forty-seven degrees twenty-six minutes and forty-eight degrees forty-four minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-seven degrees zero minutes north latitude. This origin is given the coordinates:  $x = 600,000.0000$  meters, and  $y = 00.0000$  meters.
  - b. The North Dakota coordinate system of 1983, south zone, is a Lambert conformal conic projection of the North American datum of 1983, having standard parallels at north latitude of forty-six degrees eleven minutes and forty-seven degrees twenty-nine minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-five degrees forty minutes north latitude. This origin is given the coordinates:  $x = 600,000.0000$  meters, and  $y = 00.0000$  meters.

**47-20.2-06. North Dakota coordinate system - Use of term.**

The use of the North Dakota coordinate system of 1927 north zone or south zone or the North Dakota coordinate system of 1983 north zone or south zone on any map, report of survey, or other document must be limited to coordinates based on the North Dakota coordinate systems as defined in this chapter. The map, report, or document must include a statement describing the standard of accuracy, as defined by the national ocean survey/national geodetic survey, maintained in developing the coordinates shown therein. The coordinates must be established in conformity with these standards:

1. No coordinates based on the North Dakota coordinate system, purporting to define the position of a point on a land boundary, may be presented to be recorded in any public records or deed records unless the point is connected to a triangulation or traverse station established in conformity with the standards prescribed in this chapter.

2. Coordinate values used in land descriptions under this section must be certified by a duly registered land surveyor under the laws of this state.

**47-20.2-07. Use of the term North Dakota coordinate system - Limitation.**

Repealed by S.L. 1989, ch. 555, § 7.

**47-20.2-08. Federal and state coordinates describing same tracts - Federal precedence.**

Repealed by S.L. 1989, ch. 555, § 7.

**47-20.2-09. Reliance on description of North Dakota coordinate system.**

Repealed by S.L. 1989, ch. 555, § 7.

North Dakota Public Service Commission  
Midwest Carbon Express CO2 Pipeline Project Hearing  
Testimony by, Kandi White

(In Hidatsa – Hello relatives, my name is Eagle Woman), my English name is Kandi White: I'm a citizen of the Mandan, Hidatsa, Arikara Nations, a current resident of Bismarck and the Director of Programs with the Indigenous Environmental Network where I have been employed for 16 years since the completion of my Master of Science Degree in Environmental Management. Good afternoon to you Commissioners and members of the committee. Thank you for inviting me to speak today on the critical issue of CO2 pipelines and storage.

I'll begin by pointing out that the proposed Midwest Carbon Express CO2 pipeline project in its entirety is a \$5.5 billion project, which would transport carbon dioxide siphoned from 32+ ethanol processing facilities in five states including Minnesota, South Dakota, Iowa, Nebraska and Illinois, to be sent to and stored underground here in North Dakota with only 1 of those plants being located here in North Dakota. It's being proposed by this private corporation which is not based in our state of North Dakota even though we would be set to become the dumping grounds for the storage of the CO2.

The level of risk for North Dakota is essentially doubled as we not only have to worry about the safety of the CO2 pipelines and all of the associated infrastructure along the path of the pipelines; but we also have to worry about the scientifically unproven safety of the long-term storage of CO2.

According to the Intergovernmental Panel on Climate Change's report on carbon capture and storage there are concerns about the negative effects stored carbon dioxide can have on the geology of the storage site and the surrounding water quality with risks of contaminating our drinking water when proper precautions aren't taken. Storage leaks could contaminate groundwater and soil; and injection of CO2 could cause earthquakes, which have already been measured at injection sites. We have seen in Oklahoma, Arkansas, Illinois, and West Texas that even a very small increase in pressure in some sedimentary aquifers can lead to substantial earthquakes. The oil and gas companies have seen this when they dispose of wastewater. Well failure during injection or a blowout could result in a release of large amounts of CO2.

As we've already heard in testimony this morning, Summit Carbon Solutions chief operating officer, Jimmy Powell, has argued that the Pipeline and Hazardous Materials Safety Administration (PHMSA) would ensure Summit builds a pipeline that has a "very, very low probability" of dangerous failure. In regards to the concerns of the proximity of the pipeline to the silver ranch subdivision and elementary school in NW Bismarck and the potential for a pipeline failure Mr Powell's response here today was, "we feel comfortable with the risk." Which is a statement, I would point out, that is easily made by a person who lives in Texas representing a private company based in Iowa.

But I digress, In wanting to learn more about just how the PHMSA would ensure the safety of this pipeline outside of the words of a Summit Carbon Solutions employee and chief operating officer, I did some research and came across a man by the name of Bill Caram, Executive Director of Pipeline Safety Trust, which is an independent national watchdog organization over the pipeline industry and its regulators. It was created with money set aside by recommendations from the United States Justice Department after the Olympic Pipeline tragedy in Bellingham, Washington in 1999 which led to the death of 3 boys.

Mr Caram shares that since Congress passed the PIPES Act of 2020, there have been 1,300 reportable pipeline failures, more than one per day, 74 people have been either killed or injured to the point of in-patient hospitalization, and there has been nearly \$1 Billion in property damage. He points out that his organization looked at PHMSA's own data going back to 2010 for both all pipeline incidents and all significant pipeline incidents. Total incidents for gas and hazardous liquids show a trend line going down very slightly – a basically flat line with no real progress over the past twelve years. Worse yet, when filtering for only those incidents deemed “significant” by PHMSA, they saw a trend that is actually slightly increasing in incidents.

He also points out that of great concern is the fact that approximately two-thirds of all incidents and significant incidents are from causes that are under the operator's direct control such as corrosion, incorrect operations, equipment failures, and problems with materials, welds, and equipment.

So, we now dive back into the crux of making carbon capture and storage viable as a solution to the climate crisis we're facing, which is that we would have to scale up very, very quickly. Indeed, if approved The Midwest Carbon Express, with the capacity to carry 18 million tonnes of CO<sub>2</sub> a year, would outstrip the current biggest project, the natural gas Century Plant in Texas, which can capture some 8 million tons of CO<sub>2</sub> per year thus it would be become the largest project of its kind.

Summit Carbon Solutions points out in their website that we would need to multiply carbon capture storage by 125 times over current levels to achieve the goal of net zero emissions by 2050 needed to limit warming to 1.5 degrees Celsius. That is a massive acceleration from what at this point is still in many ways a science experiment and begs the question, how do we detect and prevent the potential issues as pointed out by the IPCC deep underground, especially when we are developing 100+ new sites every year?

It is critical to note that safety is and should be a huge concern considering that PHMSA, already a notoriously underfunded and understaffed agency, has had large increases in Congressional mandates without a corresponding increase in funding. For example, nearly 100,000 miles of gas gathering lines have finally come under PHMSA regulations and another approximately 300,000 miles are under new reporting requirements. Add to that this new generation of pipelines carrying carbon dioxide and hydrogen requiring new expertise and personnel and you can clearly see the problem.

State programs, responsible for oversight of more than 80% of the nation's pipeline mileage, are also feeling the squeeze on their capacity. PHMSA has long been considered underfunded and understaffed and therefore reliant on the industry it is tasked to regulate for technical expertise on rulemaking. A 2015 Politico investigation found that PHMSA is an agency "that lacks the manpower to inspect the nation's . . . oil and gas lines, that grants the industry it regulates significant power to influence the rule-making process, and that has stubbornly failed to take a more aggressive regulatory role, even when ordered by Congress to do so."

In addition, the current PHMSA safety regulations are inappropriate and insufficient, as described in the Pipeline Safety Trust report Accufacts, Inc., *Accufacts' Perspectives on the State of Federal Carbon Dioxide Transmission Pipeline Safety Regulations as it Relates to Carbon Capture, Utilization, and Sequestration within the U.S. (Mar. 23, 2022)* <https://pstrust.org/wp-content/uploads/2022/03/3-23-22-Final-Accufacts-CO2-Pipeline-Report2.pdf>

This report is critical in that it points out the following issues within the PHMSA including but not limited to:

1. The current definition of "carbon dioxide" in the federal pipeline safety regulation does not apply to all CO<sub>2</sub> pipelines that may be developed for CCS projects.
2. Currently, only CO<sub>2</sub> that is moved in a supercritical state is regulated under the current definition, meaning gaseous and liquid CO<sub>2</sub> pipelines are not currently regulated.
3. There is currently no defined safe distance or plume dispersion model for developing a potential impact radius (PIR) along CO<sub>2</sub> pipelines.
4. CO<sub>2</sub> has unique physical properties which warrant the development of a unique PIR zone to be promulgated into federal pipeline regulation.
5. There is currently no requirement to add an odorant to transported CO<sub>2</sub> even though carbon dioxide is odorless, colorless, doesn't burn, and is heavier than air meaning that releases are harder to observe and therefore avoid.
6. The unique physical properties of CO<sub>2</sub> moved at high pressures through pipelines can cause running ductile fractures upon rupturing. This essentially means that a pipe has a higher likelihood of opening up like a zipper when a rupture occurs, leading to more product being released over a shorter period of time and potentially violent and dangerous pipe shrapnel.
7. Contaminants within CO<sub>2</sub> products being transported can jeopardize the integrity of the pipeline. Water, when mixed with carbon dioxide, can form carbonic acid which can rapidly erode carbon steel and different industries can produce numerous other contaminants, including SO<sub>x</sub> and NO<sub>x</sub>, which can be toxic to public health, affect the temperature and pressure of the product and/or cause corrosion, potentially impacting the safe operation of the pipeline.

Added to these major shortcomings of the PHMSA are the very real concerns that carbon dioxide is an asphyxiant that displaces ambient oxygen, making it more difficult to breathe. Smaller exposures cause coughing, dizziness and a panicky feeling called "air hunger." As CO<sub>2</sub> concentrations get higher and exposure times longer, the gas causes a range of effects from

unconsciousness to coma to death. Even at lower levels, CO2 can act as an intoxicant, impairing cognitive performance and induce a confused, drunken-like state.

The bottom line is that CO2 in large quantities is deadly, we know this when taking a look at the horrific incident on Lake Nyos in Cameroon Africa on August 21, 1986 when the carbon dioxide that had been stored naturally under the lake suddenly exploded releasing a wave of concentrated carbon dioxide killing at least 400 head of cattle and essentially the entire village of 1,800 people who quite literally died where they stood. That incident was a natural disaster but here we are setting up conditions of storing all of this CO2 here in North Dakota for a process that is largely experimental with no scientific assurances that the CO2 will stay there. It's like willingly setting up our very own ticking carbon bomb which can lead to disastrous consequences.

Finally, despite its long history, carbon capture is a problematic technology. These pipeline projects do not address other emissions or forms of pollution from fossil fuel extraction and industrial agriculture. A study by the Institute for Energy Economics and Financial Analysis (IEEFA) reviewed the capacity and performance of 13 flagship projects and found that 10 of the 13 failed or underperformed against their designed capacities, mostly by large margins. After a half-century of research and development, carbon capture and storage projects are far more likely to fail than to succeed.

Additionally, running a carbon capture system is incredibly energy-intensive — it essentially requires building a new power plant to run the system, which would create another new source of air and carbon pollution. That undermines the whole goal of capturing carbon in the first place. While our country emits roughly 5 billion tons of carbon into the atmosphere every year, removing 1 billion tons of that through direct air capture would require nearly the entire electricity output of the United States. (Food & Water Watch)

The reality is that with the recent passing of the Inflation Reduction Act there are now increased expansions to the federal tax credit known as section 45Q which means companies, including Summit Carbon Solutions can now rake up to \$85 per ton of carbon dioxide captured and geologically stored and that money is given as a corporate giveaway. This means that Summit, Navigator and Wolf Carbon pipelines will now have access to a combined total of \$40 billion in taxpayer dollars over the next 12 years. As soon as the IRA passed with these assurances of substantial federal funding Summit Carbon Solutions began filing requests for eminent domain. Long story short, this company and its partners are not looking out for the best interest of North Dakotans but rather their own bottom line. (Food & Water Watch)

In conclusion, short-sited thinking about carbon capture isn't just an ineffective response to the climate crisis, it's extremely dangerous. We have a small window where we can take the bold action needed to avert runaway climate chaos; counting on carbon capture's effectiveness throws away the opportunity to enact actual emissions reductions in a phenomenon known as "mitigation deterrence."

As long as fossil fuel companies, government officials, and even some progressive advocates are being fooled by carbon capture and storage, there will be less pressure to actually stop climate pollution by putting an end to drilling and fracking and creating the political will needed for a rapid and just transition to 100% renewable energy; which just may be the only saving grace for the future of life on this planet as we know it.