

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

SCS Carbon Transport LLC
Midwest Carbon Express CO2 Pipeline Project
Siting Application

Case No. PU-22-391
OAH FILE No. 20230002

AMENDED ORDER GRANTING PETITION FOR INTERVENTION

[1] On February 28, 2023, the following parties collectively filed a Petition for Intervention in the above referenced case:

- SPLJ LLP – Pam Schonert and Susan Doppler , 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 – Marilyn Bryan, Lon and Roberta Klusmann, Gordon Morris, Jeffory Morris, Daniel Morris, and Teresa Yarlott, Burleigh County, ND;
- Larry Hoge, Burleigh County, ND;
- BRH LLLP, Burleigh County, ND;
- Kari Curran, Sargent County, ND;
- Brosowske Farms – Tom and Maxine Brosowske, Richland County, ND;
- Mary Kuehn, Richland County, ND;
- Dean Twardoski, Burleigh County, ND;
- Connie Erickson, Burleigh County, ND;
- Hoge Farm LP, Burleigh County, ND;
- Tim Hoge, Burleigh County, ND;
- Harry L. Malloy Trust, Howard Malloy, Trustee; Burleigh County, ND;
- John Carrels, Dickey County;
- Staroba Revocable Living Trust - Loren and Diane Staroba, Richland County;
- Verdell Jordheim and Phyllis Jordheim Living Trust, Richland County;
- Valera Hayen, Sargent County;
- Shirley Waloch, Sargent County;
- BRH LLLP, Brent and Rachelle Herbel, Burleigh County;
- Tony Hoge, Burleigh County;
- Leon Mallberg, Sargent County; and
- APH Farms, Arden Hagerott, Jonathan Hagerott, and Janel Olson, Morton County.

(hereinafter collectively referenced to as “Intervenors”).

[2] North Dakota Century Code § 28-32-28 addresses intervention in adjudicative proceedings and provides:

An administrative agency may grant intervention in an adjudicative proceeding to promote the interests of justice if intervention will not impair the orderly and prompt conduct of the proceeding and if the petitioning intervenor demonstrates that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of statute or rule. The agency may impose conditions and limitations upon intervention. The agency shall give reasonable notice of the intervention to all parties. An administrative agency may adopt rules relating to intervention in an adjudicative proceeding.

[3] The North Dakota Public Service Commission (“Commission”) has adopted its own rules relating to intervention. The Commission’s rule on intervention provides in part as follows:

Any person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and the intervention would not unduly broaden the issues or delay the proceeding. The commission may impose conditions and limitations on an intervention to promote the interests of justice.

1. Contents of petition to intervene. A petition to intervene must be in writing and must set forth the grounds for intervention, the position and interest of the petitioner in the proceeding, what the petitioner would contribute to the hearing, and whether the petitioner's position is in support of or in opposition to the relief sought.

....

N.D. Admin. Code § 69-02-02-05.

[4] A deadline of March 3, 2023 was set to file any objections or responses to the Petition. No objections were filed. Counsel for the Commission filed, by email, a response addressing the timeline for a petition to intervene for multi-day hearings. The Response indicates “that each hearing has a 10 day period prior to that noticed hearing in which a petition to intervene could be filed (absent “good cause,” as set forth in the code). To be clear, the Commission takes the position a petition to intervene could be filed 10 days before the hearing in Bismarck, 10 days

before the hearing in Wahpeton, 10 days before the hearing in Gwinner, 10 days before the hearing in Linton, 10 days before any potential subsequently scheduled hearing in this case.”

[5] The Petition sets forth the grounds for intervention, the position and interest of the Intervenors, what the Intervenors can contribute to the hearing and the Intervenor’s positions with respect to the relief sought by the applicant. The Intervenors have presented sufficient information to satisfy the statutory intervention requirements set forth in N.D.C.C. § 28-32-28 and N.D. Admin. Code § 69-02-02-05.

[6] Having considered the written submission of the Intervenors and the applicable statutory provisions and administrative rules, **IT IS HEREBY ORDERED:**

[7] The Petition to Intervene filed by Intervenors, is **GRANTED**.

[8] The Intervenors shall be permitted to appear as an Intervener in PSC Case No. PU-22-391.

Dated at Bismarck, North Dakota, this 30 day of March 2023.

State of North Dakota
Public Service Commission

By 

Hope L. Hogan
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, North Dakota 58503
Telephone: (701) 328-3200
hlhogan@nd.gov

STATE OF NORTH DAKOTA
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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the **AMENDED ORDER GRANTING PETITION FOR INTERVENTION** was sent by electronic mail and mailed, inside mail, at the State Capitol, on the 30 day of March 2023, to:

John Hamre
Public Service Commission
State Capitol
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480
jghamre@nd.gov

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

and that true and correct copies of the above document were sent by electronic mail, and mailed, regular mail, on the 30 day of March 2023, to:

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

Zachary Pelham
Special Assistant Attorney General
Pearce Durick PLLC
P.O. Box 460
Bismarck, ND 58502-0400
zep@pearce-durick.com

Randall J. Bakke
Bradley N. Wiederholt
Bakke Grinolds Wiederholt
P.O. Box 4247
Bismarck, ND 58502-4247
rbakke@bgwattorneys.com
bwiederhold@bgwattorneys.com

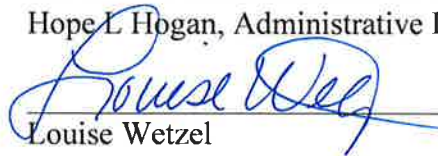
Steven Leibel
David Knoll
Knoll Leibel LLP
P.O. Box 858
Bismarck, ND 58501
steve@bismarck-attorneys.com
david@bismarck-attorneys.com

Brian E. Jorde
Domina Law Group
2425 S. 144th St.
Omaha, NE 68144
bjorde@dominalaw.com

Kevin Pranis
LIUNA Minnesota & North Dakota
81 E Little Canada Road
St. Paul, MN 55117
kpranis@liunagroc.com

Brant M. Leonard
Fredrikson & Byron, P.A.
111 E Grand Avenue, Ste. 301
Des Moines, IA 50309-1884
bleonard@fredlaw.com

OFFICE OF ADMINISTRATIVE HEARINGS
Hope L Hogan, Administrative Law Judge


Louise Wetzel