

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

**INTERVENOR JOHN H. WARD, JR. AS TRUSTEE OF THE JOHN H.
WARFORD, JR. REVOCABLE TRUST'S NOTICE TO TAKE VIDEO
RECORDED RULE 30(B)(6) DEPOSITION OF SCS CARBON TRANSPORT LLC**

TO: SCS Carbon Transport, and its attorney Lawrence Bender, Fredrikson & Byron P.A.,
1133 College Drive, Suite 1000, Bismarck, ND 58501-1215


PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the North Dakota Rules of Civil Procedure and other applicable law or rule, Intervenor John H. Warford, Jr. as Trustee of the John H. Warford, Jr. Revocable Trust (hereinafter "Warford"), will take the deposition of SCS Transport LLC, on May 23, 2023 at 9:00 a.m. Central Time, or such other time and date as is mutually agreeable, for the purposes of discovery and/or as evidence in this action. Said deposition shall be taken at the offices of Bakke Grinolds Wiederholt, 300 West Century Avenue, Bismarck, ND 58503. The deposition will be before a notary public, or some officer authorized to administer oaths and will be recorded by stenographic means and will be video recorded.

Pursuant to N.D. R. Civ. P. 30(b)(6), SCS Transport LLC is required to designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf, to appear and attend at the time and place specified above for the purpose of testifying to the following areas of inquiry in accordance with this Notice as set forth in the attached *Exhibit A*.

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Notice to Take Video Recorded Deposition
Intervenor John H. Warford, Jr., as Trustee of Revocable Trust
Randall J. Bakke, Attorney

Dated this 16th day of May, 2023.

BAKKE GRINOLDS WIEDERHOLT

By: 

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Attorneys for Intervenor

EXHIBIT A

Investors and Members in Summit Carbon Solutions¹

1. The governing documents² of Summit Carbon Solutions, LLC
2. The governing documents³ of SCS Carbon Transport LLC
3. The governing documents⁴ of SCS Carbon Removal LLC
4. The governing documents⁵ of SCS Permanent Carbon Storage LLC
5. The members and investors (collectively, “investors”) and the respective investments in and ownership share in each of the foregoing SCS entities, including but not limited to:
 - a. The name and contact information of each investor, whether a natural or corporate person or other entity, and the identity of the SCS entity each such person or entity is invested in
 - b. The place of residence or domicile of each such investor
 - c. The nationality, nation of residence, or nation of domicile of each such investor
 - d. The amount invested by each such investor, including the dollars or other consideration paid or invested, and including any amounts or consideration promised but not paid to date
 - e. The date(s) of each such investment or promise to invest in SCS
 - f. The percentage ownership in each SCS entity held by each such investor
 - g. The formula, calculation method, or other agreement setting forth the amount and timing of past or future payments, consideration, compensation, or other remuneration to each investor arising out of the operation of the pipeline and the source of and/or entity making any such payments⁶
 - h. The formula, calculation method, or other agreement setting forth the amount and timing of future payments, consideration, compensation, or other remuneration to each investor should the pipeline be constructed and is in operation
6. SCS’s due diligence or other processes or protocols in place to ensure no foreign adversary or foreign government is allowed to invest in and/or take a member share in SCS that includes real property ownership in North Dakota

¹ The companies identified in request numbers 1 – 4 are referred to collectively as “SCS”.

² The term “governing documents” includes but is not limited to any and all articles of organization, bylaws, operating agreements, member agreements, member management agreements, member distribution agreements, member ownership agreements, affiliate agreements, memoranda of understanding, minutes, addenda, exhibits, schedules, and other like and similar company documents and records of SCS.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ The term “pipeline” means the “Summit Carbon Solutions Midwest Carbon Express” pipeline at issue in these proceedings.

Payment for Utilization of Pipeline and Permanent Storage; Liability & Indemnity

7. The federal or state tax program, statute, regulation, or other like or similar program, incentive, or credit SCS anticipates applying for, taking advantage of, or requesting for the operation of the pipeline and/or “permanent storage” of carbon dioxide
8. The rates or other consideration payable⁷ by ethanol plants, utilities, other industry, political subdivisions, and/or states to utilize, rent, or purchase pipeline space and/or to reserve the rights to utilize, rent, or purchase pipeline space
9. The rates or other consideration payable by SCS to any ethanol plant, utilities, other industry, political subdivision, and/or state to utilize, rent, or purchase pipeline space and/or to reserve the rights to utilize, rent, or purchase pipeline space
10. The names, contact information of each such utilizer of pipeline space, the amounts paid to SCS to date by each utilizer of pipeline space, and any amounts paid to SCS to date for any reservation of the right for utilization of the pipeline in the future
11. The duration of SCS’s liability for the pipeline in North Dakota
12. Any defense and indemnity or similar hold-harmless agreement requiring any person, entity, political subdivision or state to assume liability or responsibility for the pipeline, abandonment of the pipeline, damages due to failures or leaks in the pipeline, or cessation of use of the pipeline for any reason
13. The identities of all ethanol plants or other industry that has signed on with SCS to utilize the pipeline, including but not limited to the following information:
 - a. The name, address, and contact information of the person or entity that owns each such ethanol plant or other industry
 - b. The date each such person or entity signed on with SCS
 - c. The terms of each such entity’s agreement with SCS, including but not limited to payment and consideration and the term or duration of the agreement
14. The identities of all ethanol plants or other industry that SCS has approached in an effort to sign them on with SCS to utilize the pipeline, including but not limited to the following information:
 - a. The name, address, and contact information of the person or entity that owns each such ethanol plant or other industry
 - b. The date(s) each such person or entity was approached to sign on with SCS
 - c. The terms of any proposed agreement with SCS, including but not limited to payment and consideration and the term or duration of the agreement

Plume Studies⁸

15. Any and all plume studies conducted by or on behalf of SCS, including but not limited to the following kinds of information:
 - a. The name, address, and contact information of all persons or entities that performed a plume study at any time
 - b. The education, training, and experience of each such person or entity

⁷ As used herein “payable” means the future obligation SCS anticipates it or others will have if the pipeline is approved in these proceedings, is constructed and is in operation.

⁸ The term “plume study” includes dispersion modeling as that term has been used by Summit Carbon in public hearings and in its briefing before the Commission in these proceedings.

- c. The total number of plume studies conducted for this pipeline
- d. The total number of plume studies conducted for sections of the pipeline any part of which is located within 50 miles of the City of Bismarck
- e. The assumptions and other information SCS provided to the persons or entities that performed each such plume study
- f. The date(s) each such plume study was conducted
- g. The legal description or other identifiable location of the portion or portions of pipeline analyzed in each such plume study
- h. The methodology utilized for each such plume study
- i. The findings and conclusions of each such plume study, as such findings and conclusions relate to negative consequences to or adverse impacts on human life, health and safety

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2023, a true and correct copy of **INTERVENOR JOHN H. WARD, JR. AS TRUSTEE OF THE JOHN H. WARFORD, JR. REVOCABLE TRUST'S NOTICE TO TAKE VIDEO RECORDED RULE 30(B)(6) DEPOSITION OF SCS CARBON TRANSPORT LLC** were mailed and emailed to the following:

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By: /s/Randall J. Bakke
RANDALL J. BAKKE