

May 17, 2023

**HAND DELIVERED**

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

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

Dear Mr. Kahl:

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

1. Response of SCS Carbon Transport LLC to the Interrogatories from Intervenor John H. Warford, Jr., as Trustee of the John H. Warford, Jr. Revocable Trust's Interrogatories and Requests for Production of Documents as to SCS Carbon Transport LLC; and
2. Certificate of Service.

Also enclosed herewith, please find a Compact Disc (CD) containing this letter and the above-referenced documents in PDF format.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/caj  
Enclosures

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

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

CASE NO. PU-22-391

OAH FILE NO. 20230002

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**Response of SCS Carbon Transport LLC to the Interrogatories from Intervenor John H. Warford, Jr., as Trustee of the John H. Warford, Jr. Revocable Trust's Interrogatories and Requests for Production of Documents as to SCS Carbon Transport LLC**

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SCS Carbon Transport LLC ("SCS"), by and through its attorneys of record, responds to Intervenor John H. Warford, Jr., as Trustee of the John H. Warford, Jr. Revocable Trust's ("Warford") Interrogatories and Requests for Production of Documents (the "Discovery Requests") dated May 3, 2023 in the above-captioned proceeding. These responses are made without waiving or intending to waive any objection as to relevance, privilege, or admissibility of any information provided in response to the Discovery Requests in any subsequent proceeding of this or any other action on any ground. A partial answer to any Discovery Request that has been objected to, in whole or in part, is not intended to be a waiver of the objection. By responding to the Discovery Requests, SCS is not admitting that any aspect of the Discover Requests is factually accurate or relevant to this proceeding.

**GLOBAL OBJECTIONS**

The following Global Objections apply to each of the Discovery Requests—even if not separately restated below in response to a particular Discovery Request.

SCS objects to all of the Discovery Requests to the extent, if any, they seek the discovery of documents which are privileged for the reasons that they (a) are subject to the attorney-client privilege; (b) are covered by the “work product” doctrine; and/or (c) were prepared in anticipation of litigation or for trial by or for Equinor or its representatives, including its employees, consultants, or agents.

SCS objects to all Discovery Requests to the extent they are beyond the scope of discovery allowed pursuant to Rules 26, 33, 34, and 36 of the North Dakota Rules of Civil Procedure.

SCS objects to all the Discovery Requests to the extent they seek identification or production of “all documents” of a particular description. It is impossible to guarantee that all such documents have been identified or located. SCS states, however, that in response to these requests, it has made a diligent search of records kept in the ordinary course of business in those locations likely to contain relevant information.

SCS objects to Intervenor Warford’s definitions and instructions to the extent such definitions and instructions exceed or are inconsistent with the requirements imposed upon SCS under the North Dakota Rules of Civil Procedure by Chapter 28-32 of the North Dakota Century Code.

SCS object to the Discovery Requests because they are unduly burdensome and disproportionate to the needs of this proceeding because they seek irrelevant information.

SCS objects inasmuch as the Discovery Requests seek information relating to anything other than SCS’s pipeline facilities in North Dakota. Only SCS’s North Dakota pipeline facilities are covered by its permit application in this proceeding.

SCS objects inasmuch as the Discovery Requests seek information that contains proprietary or confidential business information or is subject to trade-secret protections or that

contains information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to all Discovery Requests that seek, and disclaims any obligation to identify or furnish, documents or information that Warford actually or constructively possesses or to which Warford has access through alternative means.

SCS objects inasmuch as the Discovery Requests seek information from third parties and information that is not within SCS's possession, custody, control, or personal knowledge of SCS.

SCS objects and responds to the Discovery Requests based upon information and documents available as of the date hereof and reserves the right to supplement and amend the responses.

Subject to the foregoing objections and conditions, and subject to the specific additional objections made with respect to each request, SCS responds to Intervenor Warford's Discovery Requests as follows:

## **RESPONSE TO INTERROGATORIES**

### **INTERROGATORY NO. 1:**

*Please provide the following information in relation to each entity, consultant and/or person(s) involved in conducting any Model Outputs study, analysis or testing in relation to the Summit Pipeline:*

- a. Name of each entity, consultant and/or person(s);*
- b. Address of each entity, consultant and/or person(s);*
- c. Dates of any and all Model Outputs studies conducted;*
- d. Name and job title of each person from Summit that communicated with each entity, consultant and/or person in regard to the Model Outputs;*

- e. Fees and/or costs charges by each entity, consultant and/or person(s) for conducting the Model Outputs:*
- f. The exact location where the Model Output testing and/or study was conducted;*
- g. Describe in detail and not in summary fashion how the Model Output testing and/or study was conducted; and*
- h. Describe in detail and not in summary fashion the outcome and/or results of the Model Output testing and/or study that was conducted.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Interrogatory because it seeks information that is proprietary or confidential business information or is subject to trade-secret protections or that contains information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Interrogatory because it is an attempt by Intervenor Warford to gain access to SCS's confidential information and to circumvent the procedures set forth in Chapter 69-02-09 of the North Dakota Administrative Code pertaining to the protection of information from public disclosure. SCS has filed the information requested by Intervenor Warford in this Interrogatory with the North Dakota Public Service Commission (*See* Docket No. 194, Case No. PU-22-391) and Intervenor Warford's attempt to gain access to such information through its Interrogatories is not appropriate.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks information that is irrelevant and disproportionate to the needs of this proceeding.

**INTERROGATORY NO. 2:**

*Please provide the following information in relation to each entity, consultant and/or person(s) involved in conducting any Risk Assessment testing and/or study in relation to the Summit Pipeline:*

- a. Name of each entity, consultant and/or person(s);*
- b. Address of each entity, consultant and/or person(s);*
- c. Dates of any and all Risk Assessment studies conducted;*
- d. Name and job title of each person from Summit that communicated with each entity, consultant and/or person in regard to the Risk Assessment;*
- e. Fees and/or costs charges by each entity, consultant and/or person(s) for conducting the Model Outputs;*
- f. The exact location where the Risk Assessment testing and/or study was conducted;*
- g. Describe in detail and not in summary fashion how the Risk Assessment testing and/or study was conducted; and*
- h. Describe in detail and not in summary fashion the outcome and/or results of the Risk Assessment testing and/or study that was conducted.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Interrogatory as untimely.

SCS objects to this Interrogatory as vague and ambiguous because the term “Risk Assessment” is itself vague and ambiguous, and it is not specifically defined for purposes of these Discovery Requests.

SCS objects to this Interrogatory because it seeks information that is proprietary or confidential business information or is subject to trade-secret protections or that contains information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Interrogatory because it is an attempt by Intervenor Warford to gain access to SCS's confidential information and to circumvent the procedures set forth in Chapter 69-02-09 of the North Dakota Administrative Code pertaining to the protection of information from public disclosure. SCS has filed the information requested by Intervenor Warford in this Interrogatory with the North Dakota Public Service Commission (*See* Docket No. 194, Case No. PU-22-391) and Intervenor Warford's attempt to gain access to such information through its Interrogatories is not appropriate.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks information that is irrelevant and disproportionate to the needs of this proceeding.

**INTERROGATORY NO. 3:**

*In relation to each investor in Summit or any related business entity, please provide the following information:*

- a. The identity, including contact information, for each investor;*
- b. The monetary and/or non-monetary contribution to Summit from each investor;*
- c. [sic]*
- d. The date of each monetary and/or non-monetary contribution made to Summit from each investor; and*

*e. Identify and provide all details regarding any communications by and between Summit regarding the financial or any other benefit to any investor related to an investment in Summit.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Interrogatory as untimely.

SCS objects to this Interrogatory because it seeks information that is proprietary or confidential business information or is subject to trade-secret protections or that contains information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Interrogatory because it is unreasonably cumulative, insofar as SCS has already provided to the Commission information about its investors, and that information is available to Warford.

SCS objects to this Interrogatory because information regarding the monetary contributions to SCS from its investors is irrelevant to the issues before the Commission in this proceeding, and thus gathering and providing such information is unduly burdensome and disproportionate to the needs of this proceeding.

SCS objects to this Interrogatory because its request for “all details regarding any communications by and between Summit regarding the financial or any other benefit to any investor related to an investment in Summit” is vague and ambiguous.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks information that is irrelevant and disproportionate to the needs of this proceeding.



**INTERROGATORY NO. 4:**

*Please state whether Summit or any third party on behalf of Summit has performed an analysis and/or study at any time in regards to relocating the current proposed route of the Summit Pipeline further away from the extra territorial boundaries of Bismarck? If so, please state the following:*

- a. Name of each entity, and/or third party;*
- b. Address of each entity, and/or third party;*
- c. Dates of any relocation analysis and/or study conducted;*
- d. Name and job title of each person from Summit that communicated with each entity, and/or third party in regard to any relocation analysis and/or study;*
- e. Fees and/or costs charges by each entity and/or third party for conducting any relocation analysis and/or study;*
- f. Describe in detail and not in summary fashion how the relocation analysis and/or study was conducted; and*
- g. Describe in detail and not in summary fashion the outcome and/or results of the relocation analysis and/or study that was conducted.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Interrogatory as untimely.

SCS objects to this Interrogatory because its references to “analysis and/or study” and “relocation analysis and/or study” are vague and ambiguous.

SCS objects to this Interrogatory because it seeks information that is proprietary or confidential business information or is subject to trade-secret protections or that contains

information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks information that is irrelevant and disproportionate to the needs of this proceeding.

### **RESPONSE TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

#### **REQUEST NO. 1:**

*Please produce copies of any and all documents related to any Model Output study and/or testing including but not limited to records, data, graphs, photographs, audio and visual presentations, video, schematic diagrams, surveys, recommendations, communications to and from Summit and any person or consultant, consultations, and any reports.*

#### **RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because it seeks documents that contain proprietary or confidential business information or are subject to trade-secret protections or that contain information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Request because it is an attempt by Intervenor Warford to gain access to SCS's confidential information and to circumvent the procedures set forth in Chapter 69-02-09 of the North Dakota Administrative Code pertaining to the protection of information from public disclosure. SCS has filed the information requested by Intervenor Warford in this Interrogatory with the North Dakota Public Service Commission (*See* Docket No. 194, Case No. PU-22-391)

and Intervenor Warford's attempt to gain access to such information through its Requests is not appropriate.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 2:**

*Please produce copies of any and all documents related to any Risk Assessment including but not limited to records, data, graphs, photographs, audio and visual presentations, video, schematic diagrams, surveys, recommendations, communications to and from Summit and any person or consultant, consultations, and any reports.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request as vague and ambiguous because the term "Risk Assessment" is itself vague and ambiguous, and it is not specifically defined for purposes of these Discovery Requests.

SCS objects to this Request because it seeks documents that contain proprietary or confidential business information or are subject to trade-secret protections or that contain information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Request because it is an attempt by Intervenor Warford to gain access to SCS's confidential information and to circumvent the procedures set forth in Chapter 69-02-09 of the North Dakota Administrative Code pertaining to the protection of information from public

disclosure. SCS has filed the information requested by Intervenor Warford in this Interrogatory with the North Dakota Public Service Commission (*See* Docket No. 194, Case No. PU-22-391) and Intervenor Warford's attempt to gain access to such information through its Requests is not appropriate.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 3:**

*Please produce copies of any and all documents pertaining to any communications involving the investors referenced in your answer to Interrogatory No. 3 above, including but not limited to documentation regarding monetary and non-monetary contributions from any investors.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because its reference to "any and all documents pertaining to communications involving" the matters described therein is vague, ambiguous, and overbroad on its face.

SCS objects to this Request because it seeks documents that contain proprietary or confidential business information or are subject to trade-secret protections or that contain information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Request because it is unreasonably cumulative, insofar as SCS has already provided to the Commission information about its investors, and that information is available to Warford.

SCS objects to this Request because, to the extent it seeks documents containing information beyond that already made available to Warford, it is unduly burdensome and disproportionate to the needs of this proceeding and seeks irrelevant documents.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 4:**

*Please produce copies of any and all documents and communications exchanged between Summit and any investor referenced in your answer to Interrogatory No. 3 above, including but not limited to the financial or any other benefit that any investor received or will receive as a result of any investment in Summit.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because its reference to “any and all documents pertaining to communications involving” the matters described therein is vague, ambiguous, and overbroad on its face.

SCS objects to this Request because it is unreasonably cumulative or duplicative of Request No. 3.

SCS objects to this Request because it seeks documents that contain proprietary or confidential business information or are subject to trade-secret protections or that contain information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Request because it is unreasonably cumulative, insofar as SCS has already provided to the Commission information about its investors, and that information is available to Warford.

SCS objects to this Request because, to the extent it seeks documents containing information beyond that already made available to Warford, it is unduly burdensome and disproportionate to the needs of this proceeding and seeks irrelevant documents.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 5:**

*Please produce copies of any emails, notes, memos, correspondence, analysis and/or studies or study performed by Summit or any third parties at any time in regard to relocating the current proposed route of the Summit Pipeline further away from the extra territorial boundaries of Bismarck.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 6:**

*Please produce copies of any cost analysis or study performed by Summit or any third parties as to the costs associated with moving the Summit Pipeline location further away from the extra territorial boundaries of Bismarck.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because the phrase “cost analysis or study” as used therein is vague and ambiguous.

SCS objects to this Request because it seeks documents that contain proprietary or confidential business information or are subject to trade-secret protections or that contain information for which SCS owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 7:**

*Please produce copies of any emails, notes, memos, correspondence, or any documentation regarding communications between Summit and the U.S. Army Corps of Engineers at any time in regard to obtaining a permit to locate and/or relocate the Summit Pipeline under the Missouri River.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because federal permitting matters are plainly beyond the scope of this proceeding.

SCS objects to this Request because it seeks documents that are available to Warford through other, less burdensome means.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.

**REQUEST NO. 8:**

*Please provide a copy of any Class VI Underground Injection Control permit obtained and/or applied for by Summit from the U.S. Environmental Protection Agency, allowing Summit to store carbon dioxide underground.*

**RESPONSE:**

SCS incorporates by reference its Global Objections set forth above.

SCS objects to this Request as beyond the scope of discovery allowed by N.D.A.C. § 69-02-05-12, which contemplates discovery by interrogatory only.

SCS objects to this Request because federal permitting matters are plainly beyond the scope of this proceeding.

SCS objects to this Interrogatory because it is untimely and unduly burdensome and seeks documents that are irrelevant and disproportionate to the needs of this proceeding.



Dated this 17th day of May, 2023.

FREDRIKSON & BYRON, P.A.

By: 

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*Attorneys for SCS Carbon Transport LLC*

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**SCS Carbon Transport LLC  
Midwest Carbon Express CO2 Project  
Sitting Application**

**CASE NO. PU-22-391**

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the following:

1. Letter to S. Kahl forwarding documents for filing; and
2. Response of SCS Carbon Transport LLC to the Interrogatories from Intervenor John H. Warford, Jr., as Trustee of the John H. Warford, Jr. Revocable Trust's Interrogatories and Requests for Production of Documents as to SCS Carbon Transport LLC.

were, on May 17, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

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Dated this 17th day of May, 2023.

FREDRIKSON & BYRON, P.A.

By: 

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