

May 19, 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. Objection of SCS Carbon Transport LLC to the Petition to Intervene by Chad Wachter and the Petition to Intervene by Chad Moldenhauer; 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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**Objection of SCS Carbon Transport LLC to the Petition to Intervene by Chad Wachter  
and the Petition to Intervene by Chad Moldenhauer**

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SCS Carbon Transport LLC (“SCS”), by and through its attorneys of record, objects to the Petition to Intervene by Chad Wachter and the Petition to Intervene by Chad Moldenhauer in the above-captioned proceeding (collectively, the “Petitions”). Section 69-02-02-05(2) of the North Dakota Administrative Code provides that “[a] petition to intervene in any proceeding must be filed at least ten days prior to the hearing, but not after except for good cause shown.” The North Dakota Public Service Commission (“Commission”) has set a continuation of the March 14, 2023 public hearing to be held on June 2, 2023 in Bismarck, North Dakota. The March 14, 2023 public hearing in Bismarck was held to focus on the portions of SCS’s proposed pipeline project (the “Project”) located in Oliver, Morton and Burleigh Counties. As set forth in the Petitions, Chad Wachter and Chad Moldenhauer each claim to have property interests in Burleigh County. Accordingly, the Petitions should be denied as untimely because the Petitions should have been filed not later than March 3, 2023, ten days prior to the March 14, 2023 hearing in Bismarck.

Furthermore, the Commission and the Administrative Law Judge (“ALJ”) presiding over these proceedings have allowed interested persons to provide testimony at any of the four (4) scheduled hearings, regardless of which county or counties such person’s interests pertain to.

Presumably, the ALJ would have granted Mr. Wachter and Mr. Moldenhauer intervenor status had the Petitions been submitted at least ten days prior to the March 28, 2023 hearing in Gwinner, or the April 11, 2023 hearing in Wahpeton, or the May 9, 2023 hearing in Linton; however, no such petitions were filed. It is also important to note that both Mr. Wachter and Mr. Moldenhauer were aware of the Project long in advance of the March 14, 2023 public hearing in Bismarck. Mr. Wachter admits that SCS contacted him “sometime in 2022” regarding an easement through one of his properties. *See* Petition to Intervene by Chad Wachter, ¶ 5. Mr. Moldenhauer admits that he was first contacted by SCS “sometime in the fall of 2021” regarding the route of the Project. *See* Petition to Intervene by Chad Moldenhauer, ¶ 7. Accordingly, Mr. Wachter and Mr. Moldenhauer had ample notice of the proposed Project and more than enough time to petition to intervene prior to the March 14, 2023 hearing in Bismarck, but each chose not to do so. For these reasons, the ALJ should rule against any argument that good cause exists to allow the petitioners to intervene at this late stage in the proceedings.

Dated this 19th day of May, 2023.

FREDRIKSON & BYRON, P.A.

By: 

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**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. Objection of SCS Carbon Transport LLC to the Petition to Intervene by Chad Wachter and the Petition to Intervene by Chad Moldenhauer.

were, on May 19, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

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Dated this 19th day of May, 2023.

FREDRIKSON & BYRON, P.A.

By: 

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