

**Bakke  
Grinolds  
Wiederholt**

ATTORNEYS AT LAW

May 22, 2023

**Via Hand-Delivery**

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

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

Dear Mr. Kahl:

Enclosed for filing in Case No. PU-22-391, please find *Intervenor Warford's Motion to Compel Summit Carbon to Produce Written Discovery and to Attend Rule 30(b)(6) Deposition & Request for Expedited Decision, Affidavit of Randall J. Bakke, Affidavit of Bradley N. Wiederholt and Certificate of Service*, with seven copies of same.

Please do not hesitate to contact the undersigned if you have any questions about this filing.

Very Truly Yours,

/s/ *Randall J. Bakke*

Randall J. Bakke

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236 PU-22-391 Filed 05/22/2023 Pages: 44  
Motion to Compel Discovery and Attend Deposition & Request for Expedited Decision  
Intervenor John H. Warford, Jr., as Trustee of Revocable Trust  
Randall J. Bakke, Attorney

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**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 WARFORD’S MOTION TO COMPEL SUMMIT CARBON TO  
PRODUCE WRITTEN DISCOVERY AND TO ATTEND RULE 30(B)(6)  
DEPOSITION & REQUEST FOR EXPEDITED DECISION**

The Commission should compel Summit Carbon to answer and provide meaningful responses to Warford’s written discovery requests, and, to produce a witness or witnesses for a Rule 30(b)(6) (a/k/a corporate) deposition to address issues of critical importance to these proceedings.<sup>1</sup> Rather than providing substantive responses to narrowly tailored and entirely reasonable discovery requests for evidence that is both relevant and probative to its pending *Application*, Summit Carbon instead offers blanket objections and refuses to divulge any information whatsoever. Its actions here – in withholding life safety related and other evidence concerning a never-before-constructed supercritical phase carbon dioxide pipeline of this scale near population centers in Bismarck and Burleigh County – are unjustified and unreasonable, and are more of the same “hide the ball” tactics by a company that brands itself as open and transparent. Intervenors and the public have a right to know how safe this pipeline really is and who its owners are, and only Summit Carbon has the information that can shed light on these important issues. For these reasons and as more fully discussed below, Warford requests his motion to compel be

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<sup>1</sup> This motion is filed on behalf of Intervenor John H. Warford, Jr. as Trustee of the John H. Warford, Jr. Revocable Trust (hereinafter “Warford”) in relation to his efforts to discover evidence from Applicant SCS Carbon Transport LLC (“Summit” or “Summit Carbon”) that is relevant to and probative of the pending *Application* and the siting determination before the Commission.

granted and further requests an expedited ruling so that Summit's testimony and documentary evidence can be obtained in advance of the June 2, 2023 public hearing in Bismarck.

**A. Legal Standard**

North Dakota's Rules of Civil Procedure provide for liberal discovery, providing in part:

□ Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense, including the existence, description, nature, custody, condition, and location of any documents, electronically stored information, or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order the discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. [. . .]

N.D. R. Civ. P. 26(b)(1). A court has broad discretion to compel discovery, and if appropriate to impose sanctions for discovery abuses. *Vorachek v. Citizens Bank of Lankin*, 421 N.W.2d 45, 50 (N.D. 1988). When a party withholds discovery without a legal justification, an appropriate motion to compel may be filed pursuant to Rule 37 of the North Dakota Rules of Civil Procedure. N.D. R. Civ. P. 37. A party objecting to discovery requests seeking relevant evidence has the burden to show the objection is meritorious. *Id.* at 52–53 (citing 8 Wright & Miller, *supra*, at § 2173, stating, “on a motion to compel the objecting party has the burden of persuading the court that the interrogatory or request is improper.”).

The Commission indeed has the authority and the jurisdiction to require Summit Carbon to produce evidence and information relevant to its *Application for Certificate of Corridor Compatibility and Route Permit and Waiver*. *Env't L. & Pol'y Ctr. v. N. Dakota Pub. Serv. Comm'n*, 2020 ND 192, ¶¶ 11-13, 948 N.W.2d 838, 841–42 (citing jurisdictional authority provided in N.D.C.C. 49-02-01, and determining Commission has clear authority to issue or not to issue a “site compatibility certificate” in dispute concerning a refinery). The Commission's

administrative code allows for parties to serve interrogatories. N.D.A.C. § 69-02-05-12. Requests to produce documentary evidence and to compel witness attendance at hearings is also allowed under N.D.A.C. § 69-02-05-03; *see also* N.D.A.C. § 69-02-05-06 (allowing “All parties appearing at the hearing . . . an opportunity to examine [] document[s] and offer in evidence any portion found to be material and relevant.”). Oral depositions in lieu of live testimony are allowed for under N.D.A.C. § 69-02-05-02.<sup>2</sup> Summit Carbon recently advised it will not call any witnesses at the final public hearing in Bismarck. It is therefore appropriate for Warford to take Summit’s deposition in lieu of live testimony.

***B. Analysis and Discussion***

Warford’s written discovery<sup>3</sup> and request to take a corporate deposition<sup>4</sup> seek information that is highly relevant to the Commission’s decision on Summit Carbon’s *Application*, not the least of which is the determination whether the proposed pipeline route in close proximity to Bismarck and Burleigh County population centers is appropriate. The categories of information requested by Warford and their relevancy to these proceedings are summarized as follows:

1. **Dispersion Analysis / Plume Modeling Information** – highly relevant to siting the pipeline near Bismarck and population centers in Burleigh County;
2. **Summit Carbon Investor / Member Agreements and Payment Information** – relevant to the pipeline’s benefit to the citizens of ND; relevant to potential foreign

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<sup>2</sup> While N.D.A.C. § 69-02-05-04 providing for depositions was repealed, Section 69-02-05-02 continues to reference “deposition” and arguably allows for an oral deposition to the extent a Summit Carbon witness is not called to attend a public hearing.

<sup>3</sup> Warford served written discovery requests on Summit Carbon on May 3, 2023. (Docket #209). On May 17, 2023 Summit Carbon responded to Warford’s written discovery requests by making blanket objections but not providing any substantive responses at all. *See* SCS Responses [] (Wiederholt Aff., Exhibit A).

<sup>4</sup> Warford served a Rule 30(b)(6) Deposition Notice on Summit Carbon on May 16, 2023 (Wiederholt Aff., Exhibit B), along with a cover email of the same date. Bakke Email (Wiederholt Aff., Exhibit C). On May 19, counsel for Summit advised it would not produce a witness in response to the Rule 30(b)(6) Deposition Notice, and advised that it would provide a written objection by Wednesday, May 24, 2023. Wiederholt Aff., ¶ 8.

citizen / foreign country / foreign adversary ownership of real property interests in ND. Foreign ownership of real property is declared to be contrary to the State's policy through legislation effective in August of 2023 including S.B. 2371, Development by a Foreign Adversary – Prohibition and H.B. 1135 Relating to Exceptions to the Acquisition of Agriculture Land by Foreign Governments;

3. **Summit Carbon Pipeline Utilizers (Ethanol Plants, etc.)** – relevant to the pipeline's benefit to the people of ND who are asked to shoulder the burden of the industrial waste of industry in other states.

Summit makes essentially identical objections to each of Warford's discovery requests, which can be summarized as (1) the discovery is beyond the scope of the PSC's administrative code provisions (N.D.A.C. Chapter 69-02-05), (2) the discovery requested is vague and ambiguous, (3) the discovery seeks proprietary, confidential, and trade secret information, (4) Warford seeks to circumvent the PSC's rules allowing for sealing of document (N.D.A.C. Chapter 69-02-09), (5) the discovery is untimely and unduly burdensome, and (6) the discovery is disproportionate to the needs of this proceeding.

None of Summit's objections provides a proper legal basis for it to continue to be involved in these public proceedings without providing the relevant evidence that very likely erodes or contradicts the safety claims made in its *Application*. Although Summit argues Warford's discovery requests are untimely, lack relevancy, and are beyond the scope of these proceedings (among other objections), the reality is that the Commission has already requested all of these same types of documents and information from Summit during public hearings, and yet almost none of the requested information has been provided or Summit has simply stonewalled. Summit's hide the ball tactics and complete lack of transparency with the PSC and the public should not be allowed to continue.

For example, during the March 14, 2023 public hearing in Bismarck the Commission requested a copy of Summit's plume modeling, an issue highly relevant to the Commission's siting

determination. Although Summit has allegedly “provided” the plume modeling, it made sure to produce it to the PSC appended to its security system planning documents so that it could argue the plume modeling must be sealed and kept from Intervenors and from the public. (Docket #166). Not only has the Commission requested the plume modeling (and the Commission never requested it be sealed) but Warford has also requested testimony and evidence about the same plume modeling. The plume modeling would allow the public and Intervenors to determine how dangerous a leak may or may not be, including by being able to verify minimum distances the pipeline should be sited away from population centers, developments, homes, and schools. None of that information has been made available, and Summit has taken a “just trust us” attitude that the plume modeling it performed does not raise any unreasonable safety concerns. The Intervenors, the public, and the Commission should not simply trust Summit Carbon when lives and safety are potentially at stake. This is not transparent conduct in relation to a pipeline unlike any other constructed in the nation in size and scope, and which is claimed to be completely safe and completely appropriate to be sited close to the City of Bismarck.

All of this demonstrates the plume modeling is highly relevant to these proceedings. Moreover, Warford’s request for plume modeling is not untimely as the public has the right to know about and hear about it at the June 2nd hearing in Bismarck, especially since it was requested in front of the public at the last Bismarck hearing and Summit promised to provide it. It should also be noted that neither the Commission nor Warford requested Summit Carbon’s security system planning, but have simply requested the plume modeling itself. No doubt Summit can appropriately redact or provide just the plume modeling portion of its records, without giving away its internal security information. Summit’s objection to providing the plume modeling

information, allegedly because it would give away its security system planning, is not supported and has not been supported, and thus the plume modeling should be produced.

Like Warford, the Commission also previously requested Summit to provide the names of its investors, to which Summit provided a list of just the names and websites for five (5) companies. (Docket #199). It disclosed its investors as (1) Continental Resources, Inc., (2) TPG Rise Climate, (3) Summit Agricultural Group, (4) SK Group, and (5) Tiger Infrastructure Partners. *Id.* This disclosure of only five (5) alleged investors contradicts Mr. Powell's testimony before the Commission under oath that "hundreds of investors is a fair assumption" for the number of pipeline investors, and is more of the same secretive conduct. In fact, at the public hearing Mr. Powell was not forthcoming with the Commission's request for this information. He stated investor information is confidential and that if the Commission wished to be provided such information, it should be requested and then Summit would consider whether or not to provide it. Apparently, Summit has determined it is the gatekeeper of owner/investor information in these proceedings, not the PSC. The Commission should not allow a mere applicant to control the flow of information and evidence in a proceeding as important as this one.

Additionally, not only is a list of investors that does not contain a single ND citizen relevant to the benefit of this pipeline to ND (which is an issue for the PSC to determine), but Summit's investors is an issue that is also relevant to the *legality* of this pipeline being located in this State, North Dakota. Summit Carbon is fully aware the ND Legislature has passed and the Governor has signed legislation prohibiting foreign citizens or countries as well as foreign adversaries from owning an interest in real property in North Dakota.<sup>5</sup> How can Intervenors like Warford, the public

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<sup>5</sup> Two bills were passed by the ND Legislature during the 68th Legislative Assembly, and were signed by the Governor to protect agricultural land and real property from foreign ownership and development by foreign adversaries. The only foreign country excepted from the foreign

and the Commission itself, determine if Summit Carbon is actually owned / owned in part / controlled by a foreign citizen or country or foreign adversary, when Summit refuses to disclose its owners and investors, as well as its governing documents that will shed light on this critical statutory issue? There have been serious concerns in various articles raised to date about Summit Carbon's owners, including concerns about TPG Rise being owned or owned in part by a Chinese consortium (China Silk Road), an "anchor investor" in TPG Rise. The China Silk Road fund is owned and/or controlled by the Chinese government. A Saudi Arabian Public Investment Fund may also have an ownership stake in TPG Rise. Similar concerns have been raised about a South Korean company identified by Summit as a major investor, SK Group.

The only way to evaluate whether foreign country/citizen ownership of Summit Carbon is a real source of concern for ND's soon to be effective statutes is to force Summit Carbon to provide the governing documents so the Commission, the parties and the public can evaluate the ownership documents themselves. Summit Carbon "just trust us" attitude in relationship to its ownership structure needs to be challenged and scrutinized. Whether Summit's ownership would be a violation of ND law could not be more relevant to its Application and to these proceedings. Summit should be required to demonstrate that the construction and ownership of the pipeline in ND would not be expressly prohibited by ND law, and meaningful information about Summit Carbon's investors/owners is relevant and should be produced.

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ownership prohibition is Canada. 47-10.1-02(1). HB1135 was passed with a vote of 90-1 in the ND House and a unanimous vote of 47-0 in the ND Senate. SB2371 was passed with a vote of 83-8 in the ND House and a unanimous vote of 47-0 in the ND Senate. The new legislation will become effective in August of 2023. See [https://ndlegis.gov/assembly/68-2023/regular/bill-overview/bo2371.html?bill\\_year=2023&bill\\_number=2371](https://ndlegis.gov/assembly/68-2023/regular/bill-overview/bo2371.html?bill_year=2023&bill_number=2371)



There is also important information Summit needs to disclose and produce about Ethanol plants and facilities that have signed on with Summit. While Summit has identified the facilities that have signed on, James Powell testified at several PSC hearings that only a single ND Ethanol plant has signed up to utilize the pipeline and the other 32 ethanol facilities that signed on are all located in other states. As set forth in Warford's written discovery requests and in his Rule 30(b)(6) notice, he seeks information about the agreements and payment terms between Summit and those facilities, as well as other pertinent information. He also seeks information that would show what benefit there is to the ethanol plants in signing on to use the pipeline, including who "owns" the federal tax credits or other payment mechanisms that are implicated with this pipeline. He further seeks to know whether any of these out-of-state facilities are liable for pipeline leaks, repairs, or maintenance that are certain to occur over the life of this pipeline. All of this is directly relevant to the benefit of the pipeline for ND and the siting of the pipeline near Bismarck. To date, Summit has provided almost none of the details it alone knows about these issues.

Warford's discovery requests and corporate deposition seek only the very same information the Commission has requested and/or needs to evaluate, but which Summit to date has outright refused to produce, has stonewalled in producing, or has been less than forthcoming in producing. Surely written agreements and other documents outlining the terms of the agreements between Summit and the ethanol plants exist, which include terms such as payment, expected quantities of carbon dioxide to be contributed into the pipeline, and other pertinent information requested in Warford's written discovery requests.

For these reasons, Summit Carbon should be compelled to produce relevant and probative evidence related to all three of the categories of information already requested by the Commission and now requested by Warford.

***C. Certification of Good Faith Attempt to Meet and Confer***

Warford served the written discovery requests and request for deposition at issue in this motion on May 3rd and May 16th respectively. Following up on the Rule 30(b)(6) deposition notice, counsel for Warford (Mr. Bakke) called counsel for Summit Carbon on May 17th and left a detailed telephone message requesting that counsel for Summit respond quickly to the Rule 30(b)(6) notice. Bakke advised that he presumed because Summit objected to the written discovery requests on the same topics described in the 30(b)(6) deposition, that Summit would likewise object to producing a witness(es) on the 30(b)(6) topics. Bakke Aff., ¶ 4. Counsel for Warford emailed counsel for Summit Carbon on May 19 requesting to meet and confer and a telephone discussion was conducted on May 19. *See* Email Chain (Wiederholt Aff., Exhibit D). Mr. Wiederholt reiterated the urgency of obtaining an objection from Summit Carbon during this call, explaining Warford needed to obtain Summit Carbon's deposition testimony and its written discovery responses prior to the June 2nd PSC hearing in Bismarck. Summit Carbon's counsel stated categorically that it would rely on its objections to Warford's written discovery and would not be producing any witness to respond to the Rule 30(b)(6) deposition notice.


***D. Conclusion***

For all of these reasons, Warford respectfully requests his motion to compel be granted, requiring Summit to produce forthcoming discovery answers and a witness or witnesses to provide testimony on the topics identified in the Rule 30(b)(6) notice. In the event the ALJ grants Warford's motion, he requests that Summit produce forthcoming answers to Warford's written discovery requests no later than May 29, 2023 and produce a witness to address the topics identified in Warford's 30(b)(6) deposition notice to Summit on May 31, 2023. **Warford**

respectfully seeks an expedited decision from the ALJ no later than May 26, 2023 on this motion.

Dated this 22<sup>nd</sup> day of May, 2023.

BAKKE GRINOLDS WIEDERHOLT

By: 

Randall J. Bakke (#03898)  
Bradley N. Wiederholt (#06354)  
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Attorneys for Intervenor

**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

**AFFIDAVIT OF RANDALL J. BAKKE**

STATE OF NORTH DAKOTA     )  
  ) SS.  
COUNTY OF BURLEIGH        )

Being duly sworn, Randall J. Bakke, testifies:

1. I am an attorney duly licensed to practice law in the State of North Dakota and am admitted to practice before this Court.
2. I am a member of the firm Bakke Grinolds Wiederholt, attorney for Intervenor John H. Warford, Jr. as Trustee of the John H. Warford, Jr. Revocable Trust.
3. This affidavit is submitted in support of *Intervenor Warford's Motion to Compel Summit Carbon to Produce Written Discovery and to Attend Rule 30(b)(6) Deposition*, filed herewith.
4. On May 16, 2023, counsel for Warford served a Rule 30(b)(6) Deposition Notice on Summit Carbon. Following up on the Rule 30(b)(6) deposition notice, the undersigned called counsel for Summit Carbon on May 17, 2023 and left a detailed telephone message requesting that counsel for Summit respond quickly to the Rule 30(b)(6) notice. The undersigned advised that he presumed because Summit objected to the written discovery requests on the same topics described in the 30(b)(6) deposition, that Summit would likewise object to producing a witness(es) on the

5. As of the date of this affidavit, the undersigned has not received a written reply or a return call from counsel for Summit Carbon.

BAKKE GRINOLDS WIEDERHOLT

Curtall Hall

Attorneys for Intervenor

On this 22 day of May, 2023 before me personally appeared Randall J. Bakke, known to me to be the person described in the within and foregoing instrument, and acknowledged to me that he executed the same.

Notary Public



**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

**AFFIDAVIT OF BRADLEY N. WIEDERHOLT**

STATE OF NORTH DAKOTA     )  
  ) SS.  
COUNTY OF BURLEIGH        )

Being duly sworn, Bradley N. Wiederholt, testifies:

1. I am an attorney duly licensed to practice law in the State of North Dakota and am admitted to practice before this Court.
2. I am a member of the firm Bakke Grinolds Wiederholt, attorney for Intervenor John H. Warford, Jr. as Trustee of the John H. Warford, Jr. Revocable Trust.
3. This affidavit is submitted in support of *Intervenor Warford's Motion to Compel Summit Carbon to Produce Written Discovery and to Attend Rule 30(b)(6) Deposition*, filed herewith.
4. Attached hereto as ***Exhibit A*** is a true and correct copy of *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* dated May 17, 2023.
5. Attached hereto as ***Exhibit B*** is a true and correct copy of *Intervenor John H. Warford, 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* dated May

16, 2023.

6. Attached hereto as ***Exhibit C*** is a true and correct copy of email from Randall Bakke to counsel for SCS Carbon Transport dated May 16, 2023.
7. Attached hereto as ***Exhibit D*** is a true and correct copy of an email from the undersigned to counsel for SCS Carbon Transport dated May 19, 2023.
8. During a call with Summit's counsel on May 19, 2023, the undersigned explained the urgency of obtaining Summit Carbon's deposition testimony and its written discovery, and Summit Carbon stated categorically that it would rely on its objections to Warford's written discovery and would not be producing any witness to respond to the Rule 30(b)(6) Notice.

Dated this 22<sup>nd</sup> day of May, 2023.

BAKKE GRINOLDS) WIEDERHOLT

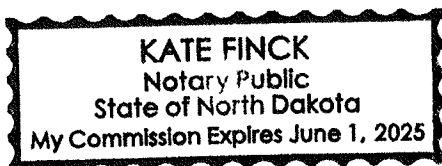
By:

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Attorneys for Intervenor

[illegible]

On this 22 day of May, 2023 before me personally appeared Bradley N. Wiederholt, known to me to be the person described in the within and foregoing instrument, and acknowledged to me that he executed the same.



Kate French  
Notary Public

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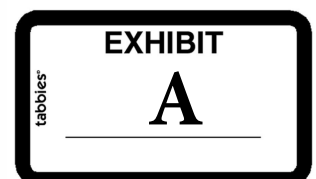
**Response of SCS Carbon Transport LLC to the Interrogatories from Intervenor John H. Warford, Jr., as Trustee of the John H. Warford, Jr. Revocable Trust's Interrogatories and Requests for Production of Documents as to SCS Carbon Transport LLC**

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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: 

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

*Attorneys for SCS Carbon Transport LLC*

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

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

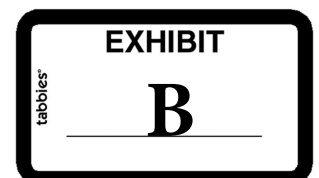
Case No: PU-22-391  
OAH File No: 20230002

**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*.





Dated this 16<sup>th</sup> day of May, 2023.

BAKKE GRINOLDS WIEDERHOLT

By: 

Randall J. Bakke (#03989)  
Bradley N. Wiederholt (#06354)  
300 West Century Avenue  
P.O. Box 4247  
Bismarck, ND 58502-4247  
(701) 751-8188  
[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)  
[bwiederholt@bgwattorneys.com](mailto:bwiederholt@bgwattorneys.com)

Attorneys for Intervenor

## **EXHIBIT A**

### **Investors and Members in Summit Carbon Solutions<sup>1</sup>**

1. The governing documents<sup>2</sup> of Summit Carbon Solutions, LLC
2. The governing documents<sup>3</sup> of SCS Carbon Transport LLC
3. The governing documents<sup>4</sup> of SCS Carbon Removal LLC
4. The governing documents<sup>5</sup> 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 payments<sup>6</sup>
  - 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

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

<sup>2</sup> 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.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> 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 payable<sup>7</sup> 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 Studies<sup>8</sup>**

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

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<sup>7</sup> 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.

<sup>8</sup> 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:

Lawrence Bender  
Fredrikson & Byron  
1133 College Dr. # 1000  
Bismarck, ND 58501  
[lbender@fredlaw.com](mailto:lbender@fredlaw.com)

Hope Hogan, Administrative Law Judge  
Office of Administrative Hearings  
2911 North 4<sup>th</sup> Street, Suite 303  
Bismarck, ND 58503  
[hlhogan@nd.gov](mailto:hlhogan@nd.gov)

Brian Jorde  
Domina Law Group  
2425 S. 144<sup>th</sup> Street  
Omaha, NE 68144  
[bjorde@dominalaw.com](mailto:bjorde@dominalaw.com)

Steve Kahl, Executive Secretary  
John Schuh, General Counsel  
ND Public Service Commission  
600 East Boulevard Avenue, #408  
Bismarck, ND 58505  
[ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
[jschuh@nd.gov](mailto:jschuh@nd.gov)

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Pearce & Durick  
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[zep@pearce-durick.com](mailto:zep@pearce-durick.com)

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Bismarck, ND 58501  
[steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com)

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Des Moines, IA 50309-1884  
bleonard@fredlaw.com

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

---

**From:** Randall Bakke  
**Sent:** Tuesday, May 16, 2023 3:49 PM  
**To:** Lawrence Bender ([lbender@fredlaw.com](mailto:lbender@fredlaw.com)) <[lbender@fredlaw.com](mailto:lbender@fredlaw.com)>  
**Cc:** Brian Jorde <[bjorde@dominalaw.com](mailto:bjorde@dominalaw.com)>; Zachary E. Pelham <[zep@pearce-durick.com](mailto:zep@pearce-durick.com)>; Steve Leibel <[Steve@Bismarck-attorneys.com](mailto:Steve@Bismarck-attorneys.com)>; [david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com) <[david@bismarck-attorneys.com](mailto:david@bismarck-attorneys.com)>; Kevin Pranis <[kpranis@liunagroc.com](mailto:kpranis@liunagroc.com)>; [bdublinkske@fredlaw.com](mailto:bdublinkske@fredlaw.com) <[bdublinkske@fredlaw.com](mailto:bdublinkske@fredlaw.com)>; [bleonard@fredlaw.com](mailto:bleonard@fredlaw.com) <[bleonard@fredlaw.com](mailto:bleonard@fredlaw.com)>; Brad Wiederholt <[bwiederholt@bgwattorneys.com](mailto:bwiederholt@bgwattorneys.com)>; Lori Steckler <[lsteckler@bgwattorneys.com](mailto:lsteckler@bgwattorneys.com)>; Sarah Martin <[smartin@bgwattorneys.com](mailto:smartin@bgwattorneys.com)>  
**Subject:** PU-22-391 / Summit Carbon Solutions

Lawrence,

Attached with this email is a 30(b)(6) deposition notice requiring Summit to produce a witness or witnesses to testify on certain topics at issue in this case. We have arbitrarily selected May 23, 2023 as the date for the deposition in Bismarck, but have some flexibility with the date. Obviously, it is critical that we complete the deposition sufficiently in advance of the PSC hearing in Bismarck on June 2, 2023, to allow us to obtain a copy of the deposition transcript before the hearing. However, if it is Summit's intention to provide a wholesale objection to production of a witness(es) on any of the topics identified, we will want to maintain the May 23, 2023, deposition date so the matter can be addressed by Judge Hogan via motion.

Thus, we would appreciate hearing from you as soon as possible whether Summit will agree to provide a witness or witnesses in response to the limited topics identified in the Summit 30(b)(6) deposition notice, or whether it will object.

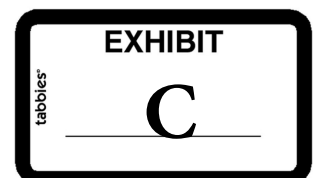
Please also note we have scheduled the deposition at our office in Bismarck, but are willing to consider another location in Bismarck, if Summit prefers.

Please do not hesitate to contact me should you wish to discuss this matter further.

*Randall J. Bakke*  
*Certified Civil Trial Specialist – National Board of Trial Advocacy*  
*Fellow-Litigation Counsel of America*  
*Board Certified Civil Practice Advocacy*



300 West Century Avenue



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\*\*\* CONFIDENTIALITY NOTE \*\*\*

This e-mail, including attachments, is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq., is confidential, and/or is legally privileged. It is intended for use only by the person to whom it is directed. If you are not the intended recipient and/or received it in error, you should (1) reply by e-mail to the sender; (2) delete this e-mail, including deletion of all associated text files from all storage locations including individual and network storage devices; and (3) refrain from disseminating or copying this communication. Thank you.



---

**From:** Brad Wiederholt <[bwiederholt@bgwattorneys.com](mailto:bwiederholt@bgwattorneys.com)>  
**Sent:** Friday, May 19, 2023 9:32 AM  
**To:** Jahner, Carrie <[CJahner@fredlaw.com](mailto:CJahner@fredlaw.com)>; Bender, Lawrence <[LBender@fredlaw.com](mailto:LBender@fredlaw.com)>  
**Cc:** Randall Bakke <[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)>; Etter, Mary <[MEtter@fredlaw.com](mailto:MEtter@fredlaw.com)>; Nagel, Kimberly <[KNagel@fredlaw.com](mailto:KNagel@fredlaw.com)>; Gludt, Tyler <[TGludt@fredlaw.com](mailto:TGludt@fredlaw.com)>; Lori Steckler <[lsteckler@bgwattorneys.com](mailto:lsteckler@bgwattorneys.com)>; Sarah Martin <[smartin@bgwattorneys.com](mailto:smartin@bgwattorneys.com)>; Lindsey Obrigewitch <[lobrigewitch@bgwattorneys.com](mailto:lobrigewitch@bgwattorneys.com)>  
**Subject:** RE: SCS Summit Carbon LLC Case PU-22-391

Good morning Mr. Bender,

As you may be aware, I am working with Mr. Bakke on this matter. Based on Summit Carbon's wholesale objections to Warford's discovery requests, we are requesting to meet and confer. Please advise if you would have a few minutes today to speak with me. As you are aware from Mr. Bakke's prior email related to the Rule 30(b)(6) Deposition Notice served on May 16<sup>th</sup>, time is of the essence for Warford to obtain responsive discovery from Summit Carbon prior to the June 2<sup>nd</sup> Bismarck hearing. This includes both written discovery and deposition discovery from Summit Carbon. I'd like to discuss both issues with you, the written discovery and the corporate deposition.

I look forward to hearing from you.

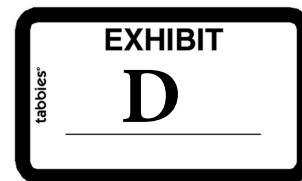
Brad

**Bradley N. Wiederholt**

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**From:** Jahner, Carrie <[CJahner@fredlaw.com](mailto:CJahner@fredlaw.com)>  
**Sent:** Wednesday, May 17, 2023 1:46 PM  
**To:** [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
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**Subject:** SCS Summit Carbon LLC Case PU-22-391

Please see the following, attached herewith, for filing in the above captioned matter:

1. Letter addressed to Mr. Steve Kahl;
2. Response of SCS Carbon Transport LLC to the Interrogatories of Intervenor John H. Warford Jr., as Trustee of the John H. Warford, Jr. Revacable Trust's Interrogatories and Requests for Production of Documents as to SCS Carbon Trasport LLC; and;
3. Certificate of Service.

Thank you!

**Carrie A. Jahner**  
**Legal Administrative Assistant**  
**Fredrikson & Byron P.A.**  
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**Fredrikson**

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**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

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the following documents:

1. *Intervenor Warford's Motion to Compel Summit Carbon to Produce Written Discovery and to Attend Rule 30(b)(6) Deposition & Request for Expedited Decision;*
2. *Affidavit of Bradley N. Wiederholt with Exhibits A – D; and*
3. *Affidavit of Randall J. Bakke.*

were on May 22, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

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[hlhogan@nd.gov](mailto:hlhogan@nd.gov)

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Dated this 22<sup>nd</sup> day of May, 2023.

BAKKE GRINOLDS WIEDERHOLT

By: /s/ Randall J. Bakke

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Attorneys for Intervenor John H. Warford,  
Jr. as Trustee of the John H. Warford, Jr.  
Revocable Trust