

June 1, 2023

HAND DELIVERED

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

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

Dear Mr. Kahl:

On October 17, 2022, SCS Carbon Transport LLC ("SCS") filed with the North Dakota Public Service Commission ("Commission") its Consolidated Application for a Certificate of Corridor Compatibility and Route Permit in the above-referenced matter ("Application") concerning its Midwest Carbon Express Project ("Project"). The Commissioners and Commission staff have made certain requests for additional information concerning the Application and the Project. In response to said requests, SCS submits the following:

1. *Please provide an update regarding SCS's efforts to accommodate the re-route request made by Brian Vculek and Katie Vculek at the May 9, 2023 public hearing in Linton, North Dakota.*

RESPONSE: At the public hearings SCS objected to providing this sort of information on the grounds that it pertains to confidential private easement negotiations taking place between SCS and landowners. Subject to the foregoing, since the May 9, 2023 hearing, SCS has met with the Vculeks to discuss adjustments of the Project route on their tracts. Ellingson (SCS's drain tile contractor) was also present at the meeting with the Vculeks. SCS has agreed to adjust the route on Vculek's property and believes that a voluntary easement is possible based on these discussions.

2. *Please provide an update regarding SCS's efforts to accommodate the re-route request made by Bruce Doolittle and Stephanie Doolittle at the May 9, 2023 public hearing in Linton, North Dakota.*

RESPONSE: At the public hearings SCS objected to providing this sort of information on the grounds that it pertains to confidential private easement negotiations taking place between SCS and landowners. Subject to the foregoing, the public testimony provided by the Doolittles at the May 9, 2023 public hearing clearly indicated that they are not interested in the Project crossing their property in any manner. The Doolittles further indicated in their public testimony that they have denied all requests for surveys on their property. Finally, the Doolittles requested that the Commission deny SCS a permit. Accordingly, SCS has not had any direct communication with the Doolittles or their legal counsel since the May 9, 2023 public hearing; provided, however, that SCS is willing to work through legal counsel in an attempt to re-engage in route negotiations.

3. *Please provide an update regarding SCS's efforts to accommodate the re-route request made by Kevin Bernhardt and Ann Bernhardt at the May 9, 2023 public hearing in Linton, North Dakota.*

RESPONSE: At the public hearings SCS objected to providing this sort of information on the grounds that it pertains to confidential private easement negotiations taking place between SCS and landowners. Subject to the foregoing, the public testimony provided by the Bernhardts at the May 9, 2023 public hearing clearly indicated they are not interested in the Project crossing their property in any manner. Accordingly, SCS has not had any direct communication with the Bernhardts or their legal counsel since the May 9, 2023 public hearing; provided, however, that SCS is willing to work through legal counsel in an attempt to re-engage in route negotiations.

4. *Please provide an update regarding SCS's efforts to accommodate the re-route request made by Benjamin Dotzenrod at the March 28, 2023 public hearing in Gwinner, and at the April 11, 2023 public hearing in Wahpeton, North Dakota.*

RESPONSE: At the public hearings SCS objected to providing this sort of information on the grounds that it pertains to confidential private easement negotiations taking place between SCS and landowners. Subject to the foregoing, SCS has not had any direct communication with Mr. Dotzenrod since he retained legal counsel in this matter; provided, however, that SCS is willing to work through legal counsel in an attempt to re-engage in route negotiations.

5. *Please confirm that only one (1) five hundred (500) foot setback waiver is required on the current Project route.*

RESPONSE: Confirmed, and the setback waiver has been obtained.

6. *Please provide an update with respect to any communications SCS has received from the North Dakota Geological Survey regarding geologically unstable areas along the Project route.*

RESPONSE: SCS has not received any further communications from the North Dakota Geological Survey. As previously testified to, SCS is committed to working with the Geological Survey through the entirety of the Project and will submit to the Commission all correspondence received from the Geological Survey.

7. *Please provide an updated with respect to any conditional use permit (CUP) applications submitted by SCS.*

RESPONSE: SCS has submitted a CUP application to Logan County with respect to the portion of the proposed transmission line located in said county. SCS will submit CUP applications with respect to the planned pump station locations after SCS has secured all necessary property interests for such locations. SCS will continue to provide updates to the Commission regarding CUP application status.

8. *Please provide a status update with respect to the BNI Coal permit.*

RESPONSE: SCS continues to work with BNI Coal and the Commission concerning the permit. SCS will update the Commission concerning the status of the permit as information becomes available.

9. *Please provide a status update with respect to a concurrence letter from the State Historical Preservation Office (SHPO).*

RESPONSE: As previously testified to, SCS is in the process of preparing and submitting an updated cultural resource report to SHPO. As the Commission is aware, Summit has been denied survey access to many of the tracts along the Project route. Once SCS is able to survey said tracts for cultural resources, SCS will be in a position to finalize its report and submit to SHPO for concurrence.

10. *Please indicate SCS's position with respect to a potential re-route of the Project to the south of Bismarck.*

RESPONSE: SCS has indicated its position together with supporting information in the "Bismarck Route Analysis" separately filed with the Commission.

11. *Please provide an update regarding the current status of SCS's right-of-way acquisition efforts.*

RESPONSE: See Exhibit A attached hereto.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/tjg
Enclosures

cc: SCS Carbon Transport LLC

EXHIBIT A



SCS ROW Progress as of June 1st, 2023						
North Dakota	Parcels	ROW Miles	ROW Miles Executed	ROW Miles Executed %	Parcels Executed	Parcels Executed %
Burleigh	123	41.79	25.35	60.65%	68	55.28%
Cass	63	21.75	16.57	76.22%	48	76.19%
Dickey	91	36.76	27.08	73.67%	65	71.43%
Emmons	102	37.13	25.57	68.87%	69	67.65%
Logan	6	1.83	1.83	100.00%	5	83.33%
McIntosh	110	34.25	31.43	91.77%	99	90.00%
Morton	56	23.45	21.22	90.47%	50	89.29%
Oliver	51	18.41	16.99	92.26%	47	92.16%
Richland	170	65.09	40.41	62.09%	110	64.71%
Sargent	98	39.53	31.94	80.80%	74	75.51%
Grand Total	870	319.99	238.39	74.50%	635	72.99%