

June 22, 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. SCS Carbon Transport LLC's Response to the Laborers District of Minnesota and North Dakota's Meet and Confer Statement; 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/cj
Enclosures

**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

**SCS Carbon Transport LLC's Response to The Laborers District of Minnesota and North
Dakota's Meet and Confer Statement**

Intervenor The Laborers District of Minnesota and North Dakota ("LIUNA") filed a Meet and Confer Statement ("Confer Statement") with the North Dakota Public Service Commission (the "PSC") on June 16, 2023. The Confer Statement claims that LIUNA met and conferred with Applicant SCS Carbon Transport LLC's ("Summit") counsel on June 12, 2023; however, the meet and conferral requirement had lapsed, and the issue had become moot.

Summit admits that LIUNA met and conferred with SCS's counsel on June 12, 2023. However, the PSC entered an order on June 1, 2023, denying LIUNA's Motion to Compel for failure to comply with meet and confer requirements under Rule 37 of the North Dakota rules of Civil Procedure. *See* Docket No. 284. LIUNA has attempted to post hoc comply with the Rule 37 requirements, yet, that motion has already been denied. The PSC should determine the Confer Statement irrelevant as the PSC has already denied LUINA's motion to compel.

LUINA has submitted the Confer Statement; however, assuming the PSC applies and enforces Rule 7(b) of the North Dakota Rules of Civil Procedure, this is not sufficient. This rule requires that a request for a court order be made by motion. N.D.R.Civ.P. 7(b). Additionally, the motion must follow the following three requirements: be in writing; state with particularity the

grounds for seeking the order; and state the relief sought. *Id.* LUINA's Confer Statement makes no reference to a filed motion. Thus, the Confer Statement is not adequate to ask the PSC for a discovery order. Should LUINA prepare a motion to compel discovery, SCS would then respond. Currently, LUINA has submitted no pleading to which requires a response from either SCS or the PSC.

For the foregoing reasons, Summit respectfully requests that ALJ Hogan deny LIUNA's motion to compel.

Dated this 22nd day of June, 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. SCS Carbon Transport LLC's Response to the Laborers District of Minnesota and North Dakota's Meet and Confer Statement

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

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Dated this 22nd day of June, 2023.

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