

July 6, 2023

VIA E-MAIL

Hope L. Hogan  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, ND 58503

**RE: SCS Carbon Transport LLC  
Midwest Carbon Express Project  
Case No. PU-22-391  
OAH File No. 20230002**

Dear Judge Hogan:

On June 1, 2023, SCS Carbon Transport LLC (“SCS”) filed a motion and supporting brief to declare Emmons County and Burleigh County ordinances superseded and preempted (the “Preemption Motion”). *See* Docket No. 282. SCS supplemented its Preemption Motion on June 14, 2023. *See* Docket No. 338. On June 23, 2023, Mr. Leibel, on behalf of certain landowner intervenors, filed a response to SCS’s Preemption Motion. *See* Docket No. 345. On June 29, 2023, Mr. Bakke, as counsel for intervenors Mr. Warford, Mr. Wachter and Mr. Moldenhauer, filed a response to SCS’s Preemption Motion. *See* Docket No. 348. Prior to receiving notice of Mr. Bakke’s response, SCS submitted a letter to the Administrative Law Judge indicating that it would file a single reply to all intervenor responses ten (10) business days after Mr. Bakke filed his response. Then, on June 30, 2023, Emmons County filed a Petition to Intervene which included a response to SCS’s Preemption Motion. *See* Docket No. 350. SCS has indicated that it has no objection to Emmons County intervening in this case for the limited purposes of filing a response to the Preemption Motion and participating in any hearings thereon. Accordingly, please be advised that SCS, in the interest of judicial economy, intends to file a single reply to all three (3) of the intervenor responses not later July 21, 2023.

Should you have any questions, please advise.

Sincerely,

/s/ Lawrence Bender  
LAWRENCE BENDER

LB/tjg  
79586649 v1

cc: All Parties of Record

**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

---

**Response of SCS Carbon Transport LLC to the Petition to Intervene by Emmons County**

---

On June 30, 2023, Emmons County, by and through its Board of Commissioners, filed a Petition to Intervene in the above-captioned case. *See* Docket No. 350. SCS Carbon Transport LLC (“Summit”) has no objection to Emmons County intervening in this case for the limited purpose of responding to Summit’s Motion to Declare Emmons County and Burleigh County Ordinances Superseded and Preempted (Docket No. 282) and participating in any hearings on such motion, should any be required.

Dated this 6th day of July, 2023.

FREDRIKSON & BYRON, P.A.

/s/ Lawrence Bender  
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 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;
2. Letter to Judge Hope L. Hogan; and
3. Response of SCS Carbon Transport LLC to the Petition to Intervene b  
Emmons County.

were, on July 6, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

Hope L. Hogan  
hlhogan@nd.gov

John Hamre  
jghamre@nd.gov

John Schuh  
jschuh@nd.gov

Zachary Pelham  
zep@pearce-durick.com

Randall J. Bakke  
rbakke@bgwattorneys.com

Bradley N. Wiederholt  
bwiederholt@bgwattorneys.com

Steven Leibel  
steve@bismarck-attorneys.com

David Knoll  
david@bismarck-attorneys.com

Brian E. Jorde  
bjorde@dominalaw.com

Kevin Pranis  
kpranis@liunagroc.com

Dated this 6th day of July, 2023.

FREDRIKSON & BYRON, P.A.

By: /s/Lawrence Bender

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

79587647 v1