



**KNOLL LEIBEL** <sup>LLP</sup>  
ATTORNEYS AT LAW

October 5, 2023

**VIA U.S. & E-MAIL ONLY:** [ndpsc@nd.gov](mailto:ndpsc@nd.gov)

Steve Kahl

Executive Secretary

North Dakota Public Service Commission

State Capitol

600 E Boulevard Ave, Dept 408

Bismarck, ND 58505-0480

RE: In the Matter of the Application of SCS Carbon Transport LLC for  
Certificate of Corridor Compatibility and Route Permit for the Midwest  
Carbon Express  
Case No.: PU-22-391

Dear Mr. Kahl:

Enclosed for filing please find the following documents:

1. Request for Hearing; and
2. Declaration of Service.

This Request is being filed with the North Dakota Public Service Commission (hereinafter "NDPSC") on behalf of the Intervenor represented by Knoll Leibel LLP. Intervenor has a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by NDPSC's findings and conclusions.

Sincerely,

KNOLL LEIBEL LLP

David M. Knoll

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DMK: rmo

Enclosures

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**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

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

**REQUEST FOR HEARING  
(Oral Argument)**

Intervenors represented by the undersigned counsel (hereinafter “Intervenors”), hereby respectfully submit this Request for Hearing (oral argument) pertaining to *SCS Carbon Transport LLC’s Renewal of its Motion to Declare Burleigh and Emmons County Ordinances Superseded and Preempted (Doc. # 401)* dated September 29, 2023. Intervenors respectfully state argument should be granted for the following reasons:

1. On June 1, 2023, SCS demanded that the Commission declare void any local regulations or ordinances that conflict with the route imparted by SCS’s computer. [Doc. 282] This motion was opposed by Emmons County, Burleigh County, and other intervenors. [Docs. 345, 348,

350, 361, 362] The motion was determined to be moot due to the denial of SCS's application. [Doc. 375]

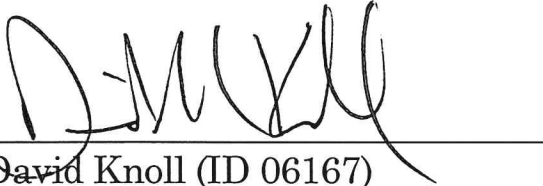
2. The Commission subsequently granted reconsideration. [Doc. 396] On September 29, 2023, SCS filed a motion to renew its motion to invalidate any county ordinances that apply to SCS. [Doc. 401] The time for response has not expired.

3. Intervenors request oral argument before the full Commission as permitted by N.D.A.C. § 69-02-04-09(2). Good cause exists to grant oral argument. *See* N.D.A.C. § 69-02-04-09. The relief sought by Summit has far-reaching implications and takes away express rights granted by statute to the counties and North Dakotan citizens. *See* N.D.C.C. § 11-33-01 (granting board of county commissioners the power to regulate the use of buildings and structures and the use, condition of use, or occupancy of land within county boundaries); N.D.C.C. § 11-33-17 (North Dakota Legislature granting every affected North Dakota citizen or property owner the right to bring suit to enforce any violation of county zoning regulations and restrictions). Intervenors submit that the relief sought by SCS is not what the legislature intended.

4. Furthermore, this is a matter of intense public interest, and the Commission's ruling will impact the powers and rights of the public's elected officials. Both the argument and the analysis should be public. Finally, a hearing is necessary to provide a full and complete record for any appeal by any interested party. *See* N.D.C.C. § 28-32-36. It is anticipated that the counties can provide testimony regarding these ordinances and regulations and SCS's various avenues for compliance. Taking away the right to defend these duly issued ordinances and regulations would be error.

5. For all these reasons, oral argument should be granted.

Respectfully submitted this 5<sup>th</sup> day of October, 2023.



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**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

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OF SCS CARBON TRANSPORT LLC FOR  
A CERTIFICATE OF CORRIDOR  
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MORTON, OLIVER, RICHLAND AND  
SARGENT COUNTIES, NORTH DAKOTA

Case No. PU-22-391

**DECLARATION OF SERVICE**

[1] Rosanne Ogden declares that I am of legal age and not a party to this action, and that I served the following document(s):

- 1. Request for Hearing; and**
- 2. Declaration of Service.**

[2] On October 5, 2023, by sending a true and correct copy thereof by electronic means only to the following email addresses, to wit:

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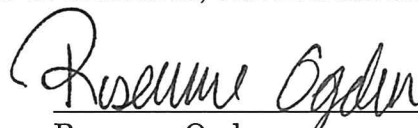
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

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

[4] The addresses of each party served are the last reasonably ascertainable e-mail address and post office address of such party.

[5] I declare, under penalty of perjury under the law of North Dakota, that the foregoing is true and correct.

Signed on the 5th day of October 2023 at Bismarck, North Dakota.

  
\_\_\_\_\_  
Rosanne Ogden