

**Response to SCS Carbon Transport LLC Renewal of Motion to Declare Burleigh and Emmons County Ordinance Superseded and Preempted for the Proposed Midwest Carbon Express Project (North Dakota Public Service Commission Case No. PU-22-391)**

October 6, 2023

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

Dear Mr. Kahl:

The Laborers District Council of Minnesota and North Dakota ("LIUNA") supports the request by Applicant SCS Carbon Transport LLC ("Summit") for a decision by the North Dakota Public Service Commission ("Commission") declaring ordinances adopted by Burleigh and Emmons County to be superseded and preempted under N.D.C.C. § 49-22-16(2) as it applies to the proposed SCS carbon dioxide pipeline.

LIUNA appreciates concerns raised by both counties regarding the potential environmental and human impact of the project. As other parties are aware, we too have raised concerns about whether the project will maximize benefits and minimize negative impacts based on Applicant's plan for execution. In our view, however, such concerns can and must be addressed through the Commission-governed routing process laid out in North Dakota statute and rule.

The North Dakota legislature has designated the Commission as the agency responsible for issuing permits for electric generation, transmission, and pipeline projects in order to ensure orderly development of energy infrastructure and consistent review of environmental and human impacts. Local units of government may and often do participate in the process by introducing evidence and suggesting decisions options, including conditions the Commission may impose, but they do not have authority to establish requirements that are inconsistent with those established by applicable state law, rule, and policies adopted by the Commission.

While the Commission should and does seriously consider the input of local governments, allowing local governments to set standards that are inconsistent and potentially conflict with those established by the Commission or neighboring jurisdictions is a recipe for energy development that is disorderly if it occurs at all. This is especially true for linear infrastructure such as pipelines and transmission lines that necessarily intersect with many jurisdictions. Such linear infrastructure is absolutely critical to the provision of essential services such as electricity and delivery of fuel. Allowing the routing of such infrastructure through a regulatory patchwork will increase costs, jeopardize deployment of infrastructure, and frustrate economic development.

Our organization works in states where significant elements of energy infrastructure permitting are delegated to local governments, and we have seen the resulting negative impact on local economies and orderly development of infrastructure. Not only does the regulatory patchwork from one jurisdiction to another deter investment and complicate development, but we have seen cases where the rules see-saw back and forth based on local elections. Allowing a Commission decision to be preempted by local ordinances in this case could send North Dakota on a slippery slope toward regulatory dysfunction.

There is a better option. The Commission has broad authority to weigh a wide range of environmental and human impacts, and to establish conditions designed to avoid or mitigate harms or maximize benefits, as long as parties to the proceeding provide a robust record supporting such decisions. Where local communities have legitimate concerns and well-reasoned proposals – whether for denial of a permit or special conditions – the Commission should strongly consider them. North Dakota lawmakers have appointed the Commission as the guardian of the public interest in the routing of energy infrastructure, and we urge the Commission to exercise rather than abdicate its authority to accomplish the task.

If you have any questions, please feel free to contact me at 612.224.6464 or [kpranis@liunagroc.com](mailto:kpranis@liunagroc.com).

Sincerely,

A handwritten signature in red ink, appearing to read 'Kevin Pranis', with a stylized flourish at the end.

Kevin Pranis  
Marketing Manager  
LIUNA Minnesota & North Dakota  
(612) 224-6464  
[kpranis@liunagroc.com](mailto:kpranis@liunagroc.com)

In the Matter of the Application by SCS  
Carbon Transport LLC for the Midwest  
Carbon Express CO2 Pipeline Project  
Siting Application

ND PSC Docket No. PU-22-391

OAH File No. 20230002

CERTIFICATE OF SERVICE

I, Kevin Pranis, hereby certify that I have this day filed the foregoing reply and motion with the North Dakota Public Service Commission and served the enclosed list of persons by electronic or paper correspondence to the addresses listed below

Dated this 6<sup>th</sup> day of October, 2023



---

Kevin Pranis

Hope Hogan, Administrative Law Judge  
Office of Administrative Hearings  
hlhogan@nd.gov

Zachary E. Pelham  
Pearce & Durick  
zep@pearce-durick.com

Lawrence Bender, Brett Dublinske and  
Brant Leonard  
Fredrikson & Byron  
lbender@fredlaw.com  
bdublinske@fredlaw.com  
bleonard@fredlaw.com

Steven Leibel and David Knoll  
Knoll Leibel LLP  
steve@bismarck-attorneys.com  
david@bismarck-attorneys.com

Randall Bakke and Bradley Wiederholt  
Bakke Grinolds Wiederholt  
rbakke@bgwattorneys.com  
bwiederholt@bgwattorneys.com

Brian Jorde  
Domina Law Group  
bjorde@dominalaw.com

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