

October 11, 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:

Enclosed herewith, please find the following documents for filing with the North Dakota Public Service Commission ("Commission") in the above-referenced case:

1. Objection to the Filing of Additional Responses to SCS Carbon Transport LLC's Renewal of its Motion to Declare Burleigh and Emmons County Ordinances Superseded and Preempted; and
2. Certificate of Service.

An original and seven (7) copies of the foregoing are enclosed herewith. Also enclosed is 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/tjg
Enclosures

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**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

**Objection to the Filing of Additional Responses to SCS Carbon Transport LLC's Renewal
of Its Motion to Declare Burleigh and Emmons County Ordinances Superseded and
Preempted**

SCS Carbon Transport LLC ("Summit") objects to the filing of additional responses to Summit's renewed Motion to Declare Burleigh and Emmons County Ordinances Superseded and Preempted ("Renewal Motion"). *See* Docket No. 401. The North Dakota Public Service Commission ("Commission") has been fully briefed on the law and issues surrounding Summit's original Motion to Declare Burleigh and Emmons County Ordinances Superseded and Preemption as a matter of law.

Summit filed its Renewal Motion in response to the comments made by the Commission at its September 15, 2023 special meeting regarding the issue of local ordinance preemption. In its Renewal Motion, Summit requests that the Commission render a decision on the issue of automatic preemption prior to the rehearing on Summit's Petition for Reconsideration. The issue is purely one of law and Summit's Renewal Motion does not make any new arguments (legal or otherwise) not already made or set forth in its original Preemption Motion. Accordingly, it is not proper for the Commission to allow the intervenors another opportunity to respond in opposition to the same.

Based on the foregoing, Summit respectfully requests that the Commission deny the intervenors an opportunity to file additional responses or pleadings on the issue of local ordinance preemption and requests that the Commission proceed to render a decision on Summit's request based on the pleadings already in the record.

Dated this 11th day of October, 2023.

FREDRIKSON & BYRON, P.A.



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Attorneys for SCS Carbon Transport LLC

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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, being of legal age, hereby certify that a true and correct copy of the following:

1. Letter to S. Kahl forwarding documents for filing; and
2. Objection to the Filing of Additional Responses to SCS Carbon Transport LLC's Renewal of Its Motion to Declare Burleigh and Emmons County Ordinances Superseded and Preempted.

were, on October 11, 2023, filed with the North Dakota Public Service Commission and served electronically to the following:

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Dated this 11th day of October, 2023.

FREDRIKSON & BYRON, P.A.

By: 

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