

March 1, 2024

**VIA U.S. MAIL**

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:

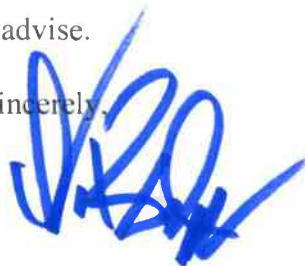
Enclosed herewith, please find the following documents for filing with the North Dakota Public Service Commission ("Commission") in the above-referenced case:

1. SCS Carbon Transport LLC's Response to Interrogatory No. 1 from the City of Bismarck; and
2. Certificate of Service.

An original and seven (7) copies of the foregoing are enclosed herewith. This letter and the above-described documents have been electronically filed with the Commission by e-mailing copies of the same to [ndpsc@nd.gov](mailto:ndpsc@nd.gov).

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/tjg  
Enclosures  
#81742477v1

**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

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**Response of SCS Carbon Transport LLC to Interrogatory No. 1 from the City of Bismarck**

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SCS Carbon Transport LLC (“Summit”), by and through its attorneys of record, responds to Interrogatory No. 1 submitted by the City of Bismarck (“Bismarck”) on February 20, 2024 in the above-captioned proceeding (the “Discovery Request”). *See* Docket No. 444. Summit’s response is made without waiving or intending to waive any objection as to relevance, privilege, or admissibility of any information provided in response to the Discovery Request in any subsequent proceeding of this or any other action on any ground. A partial answer to any Discovery Request that has been objected to, in whole or in part, is not intended to be a waiver of the objection. By responding to the Discovery Request, Summit is not admitting that any aspect of the Discover Request is factually accurate or relevant to this proceeding.

**GLOBAL OBJECTIONS**

The following Global Objections apply to the Discovery Request—even if not separately restated below in response to the Discovery Request.

Summit objects to the Discovery Request to the extent it seeks the discovery of documents which are privileged for the reasons that they (a) are subject to the attorney-client privilege; (b)

are covered by the “work product” doctrine; and/or (c) were prepared in anticipation of litigation or for trial by or for Summit or its representatives, including its employees, consultants, or agents.

Summit objects to the Discovery Request to the extent it is beyond the scope of discovery allowed pursuant to Rules 26, 33, 34, and 36 of the North Dakota Rules of Civil Procedure.

Summit objects to the Discovery Request to the extent it seeks identification or production of “all documents” of a particular description. It is impossible to guarantee that all such documents have been identified or located. Summit states, however, that in response to this request, it has made a diligent search of records kept in the ordinary course of business in those locations likely to contain relevant information.

Summit objects to Bismarck’s definitions and instructions to the extent such definitions and instructions exceed or are inconsistent with the requirements imposed upon Summit under the North Dakota Rules of Civil Procedure, Chapter 28-32 of the North Dakota Century Code, or Section 69-02-05-12 of the North Dakota Administrative Code.

Summit objects to the Discovery Request because it is unduly burdensome and disproportionate to the needs of this proceeding because it seeks irrelevant information.

Summit objects inasmuch as the Discovery Request seeks information that contains proprietary or confidential business information or is subject to trade-secret protections or that contains information for which Summit owes a third party an obligation of confidentiality or privacy, whether contractual or under any federal or state laws or regulations.

Summit objects to the Discovery Request inasmuch as it seeks documents or information that Bismarck actually or constructively possesses or to which Bismarck has access through alternative means.

Summit objects inasmuch as the Discovery Request seeks information from third parties and information that is not within Summit's possession, custody, control, or personal knowledge of Summit.

Summit objects and responds to the Discovery Request based upon information and documents available as of the date hereof and reserves the right to supplement and amend the responses.

Subject to the foregoing objections and conditions, and subject to the specific additional objections made with respect to the Discovery Request, Summit responds to Bismarck's Discovery Request as follows:

### **RESPONSE TO INTERROGATORIES**

**INTERROGATORY NO. 1:** *Please provide the GIS shapefiles associated with the Southern Alternative Route, the Preferred Route, Apple Creek Bottoms WMA, the City Limits and the Future Expansion Boundary for Figure 4 of Summit's January 24, 2024 filing in the above referenced proceeding. A copy of Figure 4 is provided below for reference.*



Figure 4: Overview Map of Preferred Route and Southern Alternative Route

*Please send the GIS shapefiles in their native format to the email address listed below. If files cannot be emailed, please contact Patrick Zomer to arrange for a secure file transfer.*

#### **RESPONSE:**

Summit incorporates by reference its Global Objections set forth above.

Summit objects to this Discovery Request because it is an attempt by Bismarck to gain access to Summit’s confidential information and to circumvent the procedures set forth in Chapter 69-02-09 of the North Dakota Administrative Code pertaining to the protection of information from public disclosure. On February 8, 2023, Summit filed an application to protect its GIS data (“Application to Protect Information”). *See* Docket No. 40. On February 21, 2023, staff for the North Dakota Public Service Commission (“Commission”) responded to Summit’s Application to Protect Information. *See* Docket No. 50. Commission staff recommended that Summit’s GIS data

be protected and that the Commission waive the requirement for Summit to produce a redacted public version of the protected information. *Id.* On February 28, 2023, the Administrative Law Judge (“ALJ”) issued an order granting Summit’s Application to Protect Information. *See* Docket No. 59. Specifically, the ALJ ordered that Summit’s GIS data is protected from public disclosure and “shall be available only to the undersigned [ALJ], the [Commission], [Commission] legal counsel, and [Commission] siting analysts.” *See* Docket No. 59. Furthermore, the ALJ waived the requirement for Summit to provide a redacted public version of its GIS data. *Id.* Accordingly, Bismarck’s attempt to gain access to such information through its Discovery Request is not appropriate.

Dated this 1st day of March, 2024.

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

1. SCS Carbon Transport LLC's Response to Interrogatory No. 1 from the City of Bismarck.

was, on March 1, 2024, filed with the North Dakota Public Service Commission and served electronically to the following:

Hope L. Hogan  
hlhogan@nd.gov

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Patrick Zomer  
Pat.Zomer@lawmoss.com

Dated this 1st day of March, 2024.

FREDRIKSON & BYRON, P.A.

By: 

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