

March 4, 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:

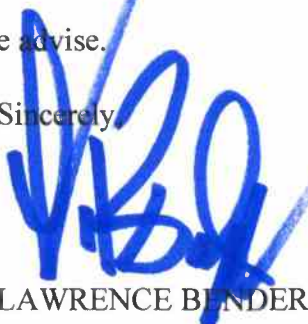
Enclosed herewith, please find the following documents for filing with the North Dakota Public Service Commission ("Commission") in the above-referenced case:

1. SCS Carbon Transport LLC's Response to Supplemental Filing Request 3.1.3;
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.

Should you have any questions, please advise.

Sincerely,



LAWRENCE BENDER

LB/tjg
Enclosures
#81750499v1

March 4, 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: Case No. PU-22-391
SCS Carbon Transport LLC
Midwest Carbon Express Project
Response to Supplemental Filing 3.1.3**

Dear Mr. Kahl:

On October 17, 2023, the North Dakota Public Service Commission (“Commission”) submitted certain supplemental filings (“Supplemental Filings”) and data requests (“Data Requests”) to SCS Carbon Transport LLC (“Summit”) in the above-referenced case. *See* Docket No. 409. Summit timely filed its response to the Data Requests on October 31, 2023. *See* Docket No. 411. The Commission requested Summit to provide the Supplemental Filings “at such time that it believes it has sufficient data and supporting documentation to adequately address the requested filings.” *See* Docket No. 409.

Summit believes it has sufficient data and supporting documentation in response to Supplemental Filing 3.1.3 which requests:

“Measures taken to address all landowners who testified regarding concerns during the hearings.”

Specifically, Summit responds to Supplemental Filing 3.1.3 as follows:

A. Landowner Concerns. Several landowners provided testimony to the Commission regarding concerns which were specific to each of their properties (the “Landowner Concerns”). Other landowners provided testimony regarding concerns related to the proximity of the pipeline to the City of Bismarck (the “Proximity Concerns”). In order to address the Landowner Concerns, Summit has adjusted the route of the pipeline to avoid these landowners’ properties. In order to address the Proximity Concerns, Summit implemented numerous re-routes, including a major re-route to the east and north of Bismarck. As a result of these route adjustments, Summit’s pipeline no longer crosses property owned by the following landowners:

1. David G. Esposito (Burleigh County)
2. Paul E. Kuetemeyer (Burleigh County)
3. James and Leah Wetch (Burleigh County)
4. Joseph E. Wetch (Burleigh County)

5. J R Land Co. (Burleigh County)
6. John H. Warford, Jr. Revocable Trust (Burleigh County)
7. Tony R. Hoge (Burleigh County)
8. Hoge Farm Limited Partnership (Burleigh County)
9. Tamara M. (Hoge) Scheid (Burleigh County)
10. Timothy J. Hoge (Burleigh County)
11. Todd I. Hoge (Burleigh County)
12. 8N2E Properties, LLP (Burleigh County)
13. Jerry Brown (Burleigh County)
14. SPLJ LLP (Burleigh County)
15. Linnea Ehli (Burleigh County)
16. Christopher and Rebekah Olson (Burleigh County)
17. Adam and Connie Erickson (Burleigh County)
18. Denise Andahl (Burleigh County)
19. Dean Twardowski (Burleigh County)
20. Verna I. Kreitel (Burleigh County)
21. Lori A. Klabunde (Burleigh County)
22. Brenda and Tim Kellar (Burleigh County)
23. Marc and Robin Kress (Burleigh County)
24. BRH LLLP (Burleigh County)
25. Larry and Peggy Hoge (Burleigh County)
26. Peggy L. Hoge (Burleigh County)
27. Janelle J. Ferderer (Emmons County)
28. Chris Leier (Emmons County)
29. Kevin and Ann Bernhardt (Emmons County)
30. JoAnn and Keith Humann (Emmons County)
31. Travis Humann (Emmons County)
32. Tyler Humann (Emmons County)
33. Laine Farms Management Group (Emmons County)
34. Steven J. Laine and Pamela M. Laine Family Trust (Emmons County)
35. Scott and Corrine Baumiller (Emmons County)
36. Bruce E. Doolittle (Emmons County)
37. Harry L. Doolittle (Emmons County)
38. Frances and Harold Robinson (Emmons County)
39. Cole Vculek (Dickey County)
40. Robert L. Brady (Dickey County)
41. Julie Vculek (Richland County)
42. Dan and Rose Dotzenrod (Richland County)

Summit has notified each of the foregoing landowners that their property is no longer crossed by the route. A redacted example of the notification letter which was mailed to each of the foregoing landowners is attached hereto as Exhibit A. To date, Summit has adjusted the route of its pipeline approximately 112 times to accommodate specific concerns of landowners along the route.

B. Public Testimony Concerns. Summit has listened to the audio, and reviewed the transcripts, of each of the five (5) public hearings in this case in order to document each of the concerns raised by landowners, government officials, and other stakeholders and members of the public who testified during the public testimony portion of said hearings. These concerns generally fall within one of the following categories:

- Proximity to Bismarck
- Safety / PHMSA Regulations
- Emergency Response / Public Awareness
- Environmental and Cultural Impacts
- Property Values
- Future Development
- Eminent Domain / Survey Access
- Easement Acquisition / Negotiations
- Insurance / Liability
- Land Restoration and Tile Repair
- Carbon Dioxide (CO₂) Sequestration
- Investors / Foreign Ownership
- Policy Considerations & Need
- General Opposition / Not in My Backyard

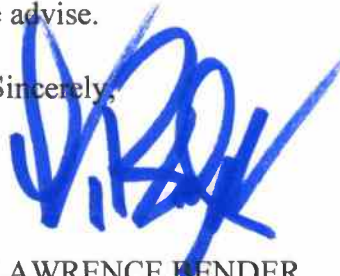
Some of these concerns are directly addressed by the re-routes discussed above. Furthermore, the Commission has acknowledged that many of these concerns are not within the scope of the Commission's jurisdiction, *i.e.*, eminent domain, safety compliance with PHMSA construction and operation, and permanent carbon dioxide sequestration and storage. However, Summit continues to address all of the foregoing concerns during its safety tour meetings and discussions with county emergency managers, first responders, county commissioners, and landowners along the pipeline route. In addition, Summit has mailed the letter attached hereto as Exhibit B to each individual that expressed concerns about Summit's project during the public testimony portion of the public hearings.

Mr. Steve Kahl
March 1, 2024
Page 4

An original and seven (7) copies of this letter and the exhibits referenced herein are enclosed herewith. This letter and the exhibits referenced herein were filed electronically by e-mailing the same to ndpsc@nd.gov.

Should you have any questions, please advise.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Bender", is written over the word "Sincerely,".

LAWRENCE BENDER

LB/tjg
Enclosures
#81740800v1

cc: SCS Carbon Transport LLC



February 15th, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

This letter is to notify you that Summit Carbon Solutions has modified the route of the proposed Midwest Carbon Express pipeline in Richland County and the proposed route of the pipeline does not cross your property previously cited as parcel ND [REDACTED]

[REDACTED] Please reach out should you have any questions associated with this notification.

Sincerely,

A handwritten signature in blue ink, appearing to read "Julie Dimeo", with a long horizontal flourish extending to the right.

Julie Dimeo
Summit Carbon Solutions



SUMMIT CARBON SOLUTIONS

James Powell
Chief Operating Officer
2321 N. Loop Dr., Suite 221 | Ames, IA 50010
Office: 515-531-2635
jpowell@summitcarbon.com
www.summitcarbonsolutions.com

March 1, 2024

Dear Sir / Madam:

After witnessing testimony from landowners and concerned citizens during the North Dakota Public Service Commission (ND PSC) hearings across the footprint of the proposed Summit Carbon Solutions (SCS) pipeline, we feel it is important to provide clarification around key topics. Much of this information has been conveyed via Safety Tour meetings, discussions with Emergency Managers and first responders, meetings with County Commissioners, and conversations with landowners along the pipeline route. Broadly, concerns were specific to the following areas:

- Why carbon capture and sequestration (CCS)
- Pipeline Proximity to Bismarck
- Safety / Emergency Response / Public Awareness
- Environmental and Cultural Impacts
- New PHMSA Regulations
- Property Values
- Easement Acquisition, Survey Access, and Insurance
- Land Restoration and Tile Repair
- Carbon Dioxide (CO₂) Sequestration

Information provided below is tailored to address these topics.

Why Carbon Capture and Sequestration (CCS)

SCS has partnered with 57 ethanol plants across Iowa, Minnesota, North Dakota, South Dakota, and Nebraska. This investment in the future of agriculture will capture CO₂ from the fermentation process of biorefineries, such as ethanol plants, compress the captured CO₂, and transport it via pipeline to North Dakota where it will be permanently and safely stored underground. Doing so will drastically reduce the carbon footprint of ethanol production, reducing each facility's Carbon Intensity (CI) score. Lowering the CI score allows ethanol producers to produce a lower carbon fuel and sell product into more profitable, low carbon fuel markets. This is a game changer for ethanol producers by providing a path to sustainability and potentially expansion. A stable demand for ethanol helps buoy corn prices which benefits the farmer and enhances the long-term economic viability of the ethanol and agriculture industries.

EXHIBIT B

As one of the largest investments in the region, SCS's project will generate thousands of jobs during construction and hundreds of full-time jobs once operational.

The Pipeline Proximity to Bismarck

The Pipeline and Hazardous Material Safety Administration (PHMSA) regulates pipelines, including CO₂, and have coexisted in municipalities across the United States for decades. Bismarck is not unique in that it has multiple high-pressure hazardous liquid pipelines bisecting the city. There are approximately 14,000 homes, businesses, schools and churches within 1 mile of existing PHMSA regulated pipelines in Burleigh County, the vast majority of which are within the city limits.

That said, SCS heard concerns expressed during the hearings and rerouted the pipeline approximately nine miles further north of Bismarck and the updated route is now under consideration by the ND PSC.

Safety / Emergency Response / Public Awareness

Ensuring the safety of landowners, their communities, and our employees and contractors is essential to maintain a license to operate. There are approximately 3.3 million miles of pipelines in the United States including more than 5,300 miles of CO₂ pipelines, all of which are regulated by PHMSA. PHMSA data shows that pipelines are the safest mode of transportation (99.999% safe), and CO₂ pipelines have the best record of all pipelines, regardless of what they are transporting. There have been zero fatalities and only a single injury associated with CO₂ pipelines in the last 25 years. See referenced data at: <https://www.phmsa.dot.gov/hazmat-program-management-data-and-statistics/data-operations/incident-statistics>.

For security reasons, we cannot share the dispersion analysis with the general public, but we are committed to sharing the analysis with Emergency Managers and first responders along the route. SCS has met with Emergency Managers and first responders in all 10 counties crossed by the project and, to date, SCS has reviewed the dispersion analysis in 6 counties. SCS will review the dispersion analysis with Emergency Managers and first responders in the remaining four counties during the first half of 2024.

Regarding Emergency Response (ER), SCS has drafted an ER plan that meets PHMSA requirements and will provide the basis for training first responder personnel; all training will be complete prior to the pipeline becoming operational. In fact, hands-on training has already begun across the project footprint as individuals have been invited and attended training at Texas A&M's TEEX facility.

As required by PHMSA, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's

(API) Recommended Practice (RP) 1162. This program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation-related activities. Program elements include:

- Use of the one-call (811) notification system prior to excavation;
- Possible hazards associated with unintended releases from hazardous liquid or CO₂ pipelines;
- Physical indications that such a release may have occurred;
- Steps that should be taken for public safety in the event of a hazardous liquid or CO₂ pipeline release; and
- Procedures to report such an event.

Environmental and Cultural Impacts

SCS will perform environmental surveys and cultural resource surveys on 100% of the Project footprint. Environmental studies include wetland and waterbody delineation, raptor nest surveys, and threatened and endangered species surveys. Cultural resource surveys incorporate Tribal monitors to identify Tribally-sensitive areas. Survey results have been used to modify both the route and workspace configuration, as well as our construction approach to minimize impacts.

SCS will comply with all federal, state, and/or local agency environmental regulations, authorizations, and associated permit conditions. SCS is working in cooperation, through on-going consultation, with federal, state, and local, agencies, including the US Army Corps of Engineers (USACE), the US Fish and Wildlife Service (USFWS), and the State Historical Society of North Dakota.

Regarding restoration, SCS has committed to replacing trees removed during construction in North Dakota at a 2:1 ratio. SCS has also submitted a North Dakota Noxious Weed Management Plan that outlines specific actions to prevent and/or control the spread of noxious weeds prior, during, and after construction.

New PHMSA Regulations

PHMSA and its predecessors have been regulating liquid pipeline safety since 1979. In 1994, Congress enacted the Pipeline Safety Act (PSA) to provide uniformity to the federal laws governing the construction of several types of pipelines, including CO₂ pipelines. Regulations are not static and are always evolving, but transportation does not stop. Operators have to comply with new and revised regulations, as well as any bulletins issued to address immediate safety issues. Neither PHMSA nor Congress are currently contemplating changes that would affect actual construction of SCS's pipeline system.

Property Values

Historically, the installation of pipelines has not materially impacted property values. Today, there are approximately 26,000 houses, businesses, schools, and churches located in proximity to the existing 5,300 miles of CO₂ pipelines in the United States, the majority of which were built after the pipelines were installed. Impact to value is minimal because the presence of pipelines does not significantly alter the use or aesthetics of the land, and they are subject to rigorous safety and environmental regulations. Boulder Appraisal evaluated multiple development areas in the Bismarck area concluding that potential buyers of residential property exhibited little or no preference in choosing between properties, whether or not they were in proximity to pipelines. A national study¹ evaluating property values in different areas of the country generated similar results.

Easement Acquisition, Survey Access, and Insurance

SCS has participated in thousands of one-on-one meetings with landowners and hundreds of public meetings to interface with stakeholders, hear their concerns, and answer questions about our project. SCS has extended above-market offers for easements that still afford the landowner use of the right-of-way surface. As of January 2024, SCS has already secured mutually beneficial agreements with more than 80% of North Dakota landowners along the proposed route.

SCS has not filed eminent domain suits on any North Dakota landowners, and we remain committed to pursuing good faith negotiations with landowners in an attempt to reach agreements.

While landowners have voluntarily granted permission to survey the vast majority (>90%) of the pipeline route in North Dakota, there have been a limited number of instances where state law has been invoked to allow this critical work to continue. Our team is committed to delivering on our commitment to meet or exceed all regulatory, environmental, and safety requirements, and survey information is a critical piece of data that underpins that commitment.

Regarding liability insurance, there is no need for a landowner to secure insurance due to the pipeline's presence. Like any other pipeline in North Dakota, SCS, as the operator, is responsible for any and all liability associated with pipeline construction and operation. Each easement agreement includes a clause that indemnifies a landowner from this responsibility.

¹ Natural Gas Pipeline Impact Study. Conducted by Allen, Williford & Seale of Houston, Texas, for the INGAA Foundation. 2001. <http://www.ingaa.org/File.aspx?id=5597>

Land Restoration, Tile Repair, and Washouts

SCS will restore the right-of-way equal to or better than the pre-construction condition. Restoration includes returning contours to maintain the hydrology and stabilize areas as needed until final revegetation occurs.

While in operation, SCS will monitor the right-of-way using aerial patrols and walking surveys to identify washouts, erosion, or other restoration issues that may require deployment of a pipeline contractor to address.

SCS understands the importance of drain tile, and experts testified how drain tile would be repaired or replaced. Ultimately, the risk is on SCS as we warranty drain tile for the life of the pipeline operation.

CO2 Sequestration

The US Geological Survey estimates the potential for Geologic Storage in North Dakota at over 150 billion tons. This is the capacity to store all the CO₂ currently emitted in North Dakota for over 4,000 years. North Dakotans have the opportunity to utilize this geologic storage resource, monetize its value, expand North Dakota's two largest industries, agriculture and energy, and thrive in a low carbon economy.

North Dakota has ideal geology for geologic storage in one of the most geologically stable areas of North America. The Williston Basin geology is well understood from decades of oil and gas drilling and production. Additionally, the Williston Basin has been highly researched, studied and field tested through the US Department of Energy's Carbon Safe Program and Plains CO₂ Reduction Partnership to verify its ability to store CO₂ permanently and safely. North Dakota's geology is ideal for CO₂ storage and differs greatly from other areas with seismic activity. A deep porous rock layer thousands of feet below freshwater formations will hold the CO₂ and overlying cap rock layers will seal the CO₂ in the storage zone. The oil industry has safely injected salt water in these formations without induced seismicity since the 1930's. Subsurface exploration conducted on SCS's sequestration area by two North Dakota organizations, the Energy and Environmental Research Center and Nessel Consulting in 2022, identified three porous rock layers with good cap rocks above and below the targeted zones. Injection of CO₂ is also highly regulated by the North Dakota Industrial Commission (NDIC) which is responsible for review and evaluation of SCS's development plan to ensure compliance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'James Powell', written over a horizontal line.

James Powell

**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 Supplemental Filing Request 3.1.3.
was, on March 4, 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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jschuh@nd.gov

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Dated this 4th day of March, 2024.

FREDRIKSON & BYRON, P.A.

By: 

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#81750528v1