



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

March 20, 2024

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:

This letter is in response to SCS Carbon Transport LLC's ("Summit") Response to Supplemental Filing Request 3.1.3 to the North Dakota Public Service Commission ("Commission") dated March 4, 2024 (PSC Doc. 452). The information provided in this Response is misleading.

As a beginning point, the original request from the Commission sought "[m]easures taken to address all landowners who testified regarding concerns during the hearings." Supplemental Filing 3.1.3 (emphasis added). Summit's letter suggests that it has addressed all of the Landowners who testified regarding concerns with the pipeline on their property. This would be an incorrect conclusion by the PSC.

I compared Judge Hogan's witness lists and my hearing notes to Summit's response. The following names are Landowner Intervenors who are listed on Judge Hogan's hearing sheets as having testified regarding their concerns with the proposed route and are still affected by the pipeline route based on our route comparisons:

1. Mary Jo Irmen<sup>i</sup> – Burleigh County (June 2, 2023 hearing)
2. Linda Gayman<sup>ii</sup> – Dickey County (May 9, 2023 hearing)
3. James Tiegs<sup>iii</sup> – Dickey County (April 11, 2023 hearing)
4. Valera Hayen<sup>iv</sup> – Sargent County (April 11, 2023 hearing)
5. Staroba Living Trust – Loren Staroba<sup>v</sup> – Richland County (April 11, 2023 hearing); *see also* PSC Doc. 188 (exhibits from Staroba testimony);

---

Steven J. Leibel, Partner

PO Box 858 · 1915 N. Kavaney Drive, Suite 3 · Bismarck, ND 58502-0858

Phone 701-255-2010 · Fax 701-255-1980 · Email [steve@bismarck-attorneys.com](mailto:steve@bismarck-attorneys.com) · [www.bismarck-attorneys.com](http://www.bismarck-attorneys.com)

463 PU-22-391 Filed 03/20/2024 Pages: 6

Response to Supplemental Filing Request 3.1.3 to the North Dakota Public Service Commission dated March 4, 2024  
Knoll Leibel, LLP, on behalf and at the request of Intervenors  
Steven Leibel, Attorney

6. Shirley Waloch<sup>vi</sup> – Sargent County (March 28, 2023 hearing)

Summit does not identify any measures it has taken to address these “landowners who testified regarding concerns during the hearings.”

In addition, James Rockstad<sup>vii</sup> and Diann Zajac<sup>viii</sup> provided written testimony to the PSC regarding their opposition to the pipeline on their property. *See* (PSC Doc. 272 (Rockstad) and PSC Doc. 296 (Zajac)). Summit does not identify any measures it has taken to address these “landowners who testified regarding concerns during the hearings.” Justin and Danielle Buckingham from Mandan also articulated objections to the pipeline on their property at the final Bismarck hearing. They are not my clients and I do not know of any discussions between Summit and the Buckinghams. However, the Buckinghams are also omitted from Summit’s March 4, 2024 letter (PSC Doc. 452). I do not know whether the concerns of any other landowners who provided sworn testimony before the PSC—but are unrepresented—remain similarly ignored.

Furthermore, Summit’s willingness to accommodate North Dakota citizens appears to extend only as far as the PSC requires. The following Landowner Intervenor has formally objected to this pipeline being placed on their property and Summit does not identify any measures taken to address their concerns:

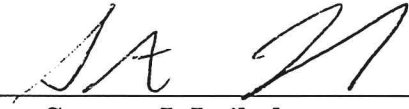
1. Howard Malloy – Morton County
2. Kevin Frederick – Burleigh County
3. APH Farms – Morton County
4. John Carrels – Dickey County
5. Dwight Kertzman – Emmons County
6. Browske Farms – Emmons County
7. Mary Kuehn – Richland County
8. Jeanne and Marvin Lugert - Richland County
9. Kari Curran – Sargent County
10. David Locken – Dickey County
11. Leon Mallberg – Richland County
12. Dorothy Borondeau – McIntosh County
13. Debora Mitchell – McIntosh County

Most of these people were unable to attend local hearings for various personal reasons or scheduling conflicts. Some of them did attend but were unable to testify due to the time limitations. If these people must testify live in order to receive any accommodations from Summit, we want the opportunity for them to do so.

I hope this information clarifies the record.

Respectfully yours,

KNOLL LEIBEL LLP

By:   
Steven J. Leibel

SJL:rmo

- 
- <sup>i</sup> The Irmen property is located in the Gibbs Township in Burleigh County.  
<sup>ii</sup> Township 129 N, Range 62 W, Sec. 30: E1/2 of SW1/4 and Gov. Lots 3 & 4 in Dickey County.  
<sup>iii</sup> The Tiegs property is located in Dickey County.  
<sup>iv</sup> Township 130 N, Range 58 W, Section 11: S1/2SW1/4, Section 14: NW1/4NW1/4, Section 15: NE1/4 in Sargent County  
<sup>v</sup> The Staroba property includes a metes and bounds description in Section 35, Township 132 N, Range 51 W in Richland County.  
<sup>vi</sup> Portions of Sections 12 and 14 in Township 131 N, Range 56 W in Sargent County  
<sup>vii</sup> Township 135 N, Range 51 W, Section 3: NE1/4, Section 14: SW1/4, Township 136 N, Range 51 W, Section 34 S1/2E1/4 in Richland County  
<sup>viii</sup> Township 131 N, Range 51 W, Section 4: NW1/4, Township 132 N, Range 51 W, Section 33: NW1/4 in Richland County

**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

**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. Response to Supplemental Filing Request 3.1.3 to the North Dakota Public Service Commission dated March 4, 2024; and**
- 2. Declaration of Service.**

[2] On March 20, 2024, by sending a true and correct copy thereof by electronic means only to the following email addresses, to wit:

John Maurice Schuh Bar ID 08138  
Special Assistant Attorney General  
North Dakota Public Service Commission  
600 E. Boulevard Ave, Dept. 408  
Bismarck, ND 58505-0480  
[jschuh@nd.gov](mailto:jschuh@nd.gov)

Lawrence Bender Bar ID 03908  
Fredrikson & Byron, P.A.  
1133 College Dr., Ste. 1000  
Bismarck, ND 58501-1215  
[lbender@fredlaw.com](mailto:lbender@fredlaw.com)

Hope Lisa Hogan Bar ID 05982  
Administrative Law Judge  
Office Of Administrative Hearings  
2911 N. 14th St., Ste. 303  
Bismarck, ND 58503  
[hlhogan@nd.gov](mailto:hlhogan@nd.gov)

Zachary Evan Pelham Bar ID 05904  
Pearce Durick PLLC  
314 E. Thayer Ave.  
P.O. Box 400  
Bismarck, ND 58502-0400  
[zep@pearce-durick.com](mailto:zep@pearce-durick.com)

John Hamre  
Public Service Commission  
State Capitol  
600 E Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480  
[jghamre@nd.gov](mailto:jghamre@nd.gov)

Brian E. Jorde  
Domina Law Group  
2425 S 144<sup>th</sup> St  
Omaha NE 68144  
[bjorde@dominalaw.com](mailto:bjorde@dominalaw.com)

Kevin Pranis  
LIUNA Minnesota & North Dakota  
81 E Little Canada Rd  
St. Paul MN 55117  
[kpranis@liunagroc.com](mailto:kpranis@liunagroc.com)

Randall J. Bakke Bar ID 03898  
Bradley N. Wiederholt Bar ID 06354  
Bakke Grinolds Wiederholt  
PO Box 4247  
Bismarck, ND 58502-4247  
[rbakke@bgwattorneys.com](mailto:rbakke@bgwattorneys.com)  
[bwiederholt@bgwattorneys.com](mailto:bwiederholt@bgwattorneys.com)

North Dakota Public Service Commission  
[ndpsc@nd.gov](mailto:ndpsc@nd.gov)

Bret A. Dublinske  
Fredrickson & Bryon, P.A.  
111 E. Grand Ave., Ste. 301  
Des Moines, IA 50309-1884  
[bdublinske@fredlaw.com](mailto:bdublinske@fredlaw.com)

James Curry  
Babst, Calland, Clements and Zomnir P.C.  
[jcurry@babstcalland.com](mailto:jcurry@babstcalland.com)

Derrick Braaten  
[derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com)

Julie Lawyer  
Burleigh County State's Attorney  
[bc08@nd.gov](mailto:bc08@nd.gov)

Brant Leonard  
Frederickson & Byron, P.A.  
[bleonard@fredlaw.com](mailto:bleonard@fredlaw.com)

Patrick T. Zomer  
Attorney for the City of Bismarck  
[pat.zomer@lawmoss.com](mailto:pat.zomer@lawmoss.com)

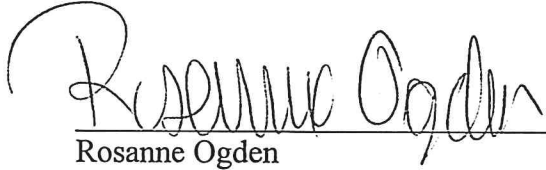
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

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 20th day of March, 2024 at Bismarck, North Dakota.

  
Rosanne Ogden