



KNOLL LEIBEL ^{LLP}
ATTORNEYS AT LAW

March 28, 2024

VIA U.S. & E-MAIL ONLY: 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:

Enclosed for filing please find the following documents:

1. Intervenor's Interrogatories, Request for Production, and Request for Admissions to SCS Carbon Transport, LLC (Set 3); and
2. Declaration of Service.

These Interrogatories and Requests to SCS Carbon Transport, LLC are being filed with the North Dakota Public Service Commission (hereinafter "NDPSC") on behalf of the Intervenor represented by Knoll Leibel LLP. Intervenor has a direct and substantial interest in these proceedings, as well as legal property rights which may be substantially affected by NDPSC's findings and conclusions.

Sincerely,

KNOLL LEIBEL LLP

Steven J. Leibel

steve@bismarck-attorneys.com

SJL: rmo

Enclosures

Steven J. Leibel, Partner

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Intervenor's Interrogatories, Request for Production, and Request for Admission to SCS Carbon Transport, LLC (Set 3)

Knoll Leibel, LLP, on behalf and at the request of Intervenor

Steven Leibel, Attorney

**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

**INTERVENORS'
INTERROGATORIES,
REQUEST FOR ADMISSIONS,
AND REQUEST FOR
PRODUCTION TO SCS
CARBON TRANSPORT LLC
(SET 3)**

**TO: SCS CARBON TRANSPORT, LLC, BY AND THROUGH ITS ATTORNEY
OF RECORD, LAWRENCE BENDER, FREDRIKSON & BYRON, P.A., 1133
COLLEGE DR., SUITE 1000, BISMARCK, ND 58501:**

YOU WILL PLEASE TAKE NOTICE that Intervenor¹ represented by the undersigned counsel, requests answers to the within Interrogatories, Request for Admissions, and Request for Production of Documents under oath within ten (10) days after service of this document, pursuant to the provisions of N.D.A.C. § 69-02-05-12 and North Dakota Century Code title 49, including information and knowledge possessed or obtainable by you, your attorneys, agents, employees and all others in privity with you. These interrogatories are deemed to be continuing in nature and, if information is discovered or becomes known to you, or to anyone acting on your behalf, after answering the same and before any final hearing, which would change or add to the answers previously given, you are hereby requested and directed to furnish such information to the undersigned, giving timely notice thereof.

¹ ¹ See Orders Granting Petition to Intervene (Docs. 82, 83, 159, 168, and 204).

INTERROGATORIES

INTERROGATORY NO. 1: Identify the Low Carbon Fuel Standard (LCFS) markets currently open to ethanol from North Dakota. For each market, identify the premium for which participating plants will be eligible when carbon dioxide is sequestered.

ANSWER:

INTERROGATORY NO. 2: For your answer to the immediately preceding Interrogatory, explain how any hypothetical ethanol produced in North Dakota and potentially suitable for sale in any LCFS market identified will physically get to such market location and specify the costs of such transportation and delivery.

ANSWER:

INTERROGATORY NO. 3: What was the Carbon Intensity Score as of the date of your Application filing with the PSC (October 17, 2022) for each North Dakota CO2 emitter presently under binding contract with you or any affiliate to contribute CO2 to your proposed hazardous pipeline. (This response here does not need to include facilities with whom you may have letters of intent which are non-binding).

ANSWER:

INTERROGATORY NO. 4: What do you project the CI Score(s) will be for the above identified CO2 emitters in North Dakota after your proposed pipeline would become operational, if it ever does.

ANSWER:

INTERROGATORY NO. 5: What is the total amount of North Dakota's current annual CO2 emissions.

ANSWER:

INTERROGATORY NO. 6: If your proposed hazardous pipeline was approved in North Dakota what do you project North Dakota's total annual CO2 emissions would be after your hazardous pipeline began operations in North Dakota, assuming only the Tharaldson Ethanol Plant is participating in North Dakota.

ANSWER:

INTERROGATORY NO. 7: For your proposed North Dakota hazardous pipeline route, Identify specific locations where personnel trained in maintenance and emergency response procures will be located. Will those personnel be at those locations around-the clock every day?

ANSWER:

INTERROGATORY NO. 8: Identify all existing structures by county, parcel identification number, and type (such as house, barn, school, etc.) located 100 feet or less from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 9: Identify all existing structures by county, parcel identification number, and type located between 101 to 250 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 10: Identify all existing structures by county, parcel identification number, and type located between 251 to 500 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 11: Identify all existing structures by county, parcel identification number, and type located between 501 to 750 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 12: Identify all existing structures by county, parcel identification number, and type located between 751 to 1,000 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 13: Identify all existing structures by county, parcel identification number, and type located between 1,001 to 1,500 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 14: Identify all existing structures by county, parcel identification number, and type located between 1,501 to 2,000 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 15: Identify all existing structures by county, parcel identification number, and type located between 2,001 to 2,500 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 16: Identify all existing structures by county, parcel identification number, and type located between 2,501 to 3,000 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 17: Identify all existing structures by county, parcel identification number, and type located between 3,001 to 3,500 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 18: Identify all existing structures by county, parcel identification number, and type located between 3,501 to 4,000 feet from your proposed hazardous pipeline route in North Dakota.

ANSWER:

INTERROGATORY NO. 19: Has Summit conducted any research to determine if appropriate geological formations for carbon sequestration exist in South Dakota, Minnesota, Iowa, Illinois, or Wyoming. If so, describe the research. If not, why not?

ANSWER:

INTERROGATORY NO. 20: Has Summit considered transporting carbon dioxide from ethanol plants to South Dakota, Minnesota, Iowa, Illinois, or Wyoming for sequestration? If so, why did Summit choose not to pursue that option. If not, why not?

ANSWER:

INTERROGATORY NO. 21: Provide the details of any tax equity financing Summit has used to secure funds for the construction of the proposed pipeline.

ANSWER:

INTERROGATORY NO. 22: Provide any workpapers showing the economic impact on Summit's revenue sources and business model after the conclusion of twelve years of 45Q eligibility.

ANSWER:

INTERROGATORY NO. 23: Explain how Summit and the Tharaldson ethanol plant will be eligible for and will share any applicable tax credits, including but not limited to 45Q, 45Z, and 40B.

ANSWER:

INTERROGATORY NO. 24: Describe your revenue sharing model between you and the Tharaldson ethanol plant.

ANSWER:

INTERROGATORY NO. 25: For any Request for Admission that you denied or conditionally denied, provide the factual information you rely upon for such denial or conditional denial.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce the GIS shapefiles with all metadata for your currently proposed North Dakota hazardous pipeline route.

RESPONSE:

REQUEST NO. 2: Produce a copy of any draft and any executed agreements, not limited to but including, Offtake Agreements or similar, with the Tharaldson Ethanol Plant and any other CO2 emitter located in North Dakota.

RESPONSE:

REQUEST NO. 3: Produce a true and accurate copy of any contract, agreement, understanding, letter of intent, or memorandum of understanding, or document of any kind presently in existence between you or any affiliated entity or person that in any way relate to the capture, sequestration, containment, or transportation of carbon dioxide emitted by or from any Ethanol plant or any other kind of carbon producing facility located in North Dakota, this should include but not be limited to “offtake” agreements. Note this also includes any such agreements, contracts, or understandings between you and any of you sister or affiliated entities.

RESPONSE:

REQUEST NO. 4: Produce a true and accurate copy of any contract, agreement, understanding, letter of intent, or memorandum of understanding, or document of any kind presently in existence between you or any affiliated entity or

person that in any way relate to the capture, sequestration, containment, or transportation of carbon dioxide emitted by or from any Ethanol plant or any other kind of carbon producing facility located in South Dakota, this should include but not be limited to “offtake” agreements. Note this also includes any such agreements, contracts, or understandings between you and any of your sister or affiliated entities.

RESPONSE:

REQUEST NO. 5: Produce a true and accurate copy of any contract, agreement, understanding, letter of intent, or memorandum of understanding, or document of any kind presently in existence between you or any affiliated entity or person that in any way relate to the capture, sequestration, containment, or transportation of carbon dioxide emitted by or from any Ethanol plant or any other kind of carbon producing facility located in Minnesota, this should include but not be limited to “offtake” agreements. Note this also includes any such agreements, contracts, or understandings between you and any of your sister or affiliated entities.

RESPONSE:

REQUEST NO. 6: Produce a true and accurate copy of any contract, agreement, understanding, letter of intent, or memorandum of understanding, or document of any kind presently in existence between you or any affiliated entity or person that in any way relate to the capture, sequestration, containment, or transportation of carbon dioxide emitted by or from any Ethanol plant or any other kind of carbon producing facility located in Nebraska, this should include but not be

limited to “offtake” agreements. Note this also includes any such agreements, contracts, or understandings between you and any of you sister or affiliated entities.

RESPONSE:

REQUEST NO. 7: Produce a true and accurate copy of any contract, agreement, understanding, letter of intent, or memorandum of understanding, or document of any kind presently in existence between you or any affiliated entity or person that in any way relate to the capture, sequestration, containment, or transportation of carbon dioxide emitted by or from any Ethanol plant or any other kind of carbon producing facility located in Iowa, this should include but not be limited to “offtake” agreements. Note this also includes any such agreements, contracts, or understandings between you and any of you sister or affiliated entities.

RESPONSE:

REQUEST NO. 8: Produce a corporate tree or organizational chart for you and all affiliated companies or corporations.

RESPONSE:

REQUEST NO. 9: Produce a true and accurate copy of any document of any kind that specifically describes the details of your business plan.

RESPONSE:

REQUEST NO. 10: Produce a true and accurate copy of any prospectus, private placement memorandum, proformas or similar that in any way describe your business model or business plan.

REQUEST NO. 11: Produce all documents and data that you believe prove or tend to prove that you will permanently store and sequester all carbon oxide transported on your pipeline.

RESPONSE:

REQUEST NO. 12: Produce all documents and data that you believe prove or tend to prove that any successor or assignee of yours will permanently store and sequester all carbon oxide transported on your pipeline.

REQUEST NO. 13: Provide all workpapers and underlying assumptions used to determine that Summit's proposed project will have the capacity to capture, transport, and store 18 million metric tons of CO₂ per year.

RESPONSE:

REQUEST NO. 14: Produce true and accurate electronic copies of all emails, electronic communications, data, and documents of any kind, exchanged between any Summit employee or agent, including any legal counsel or employees or agents of any law firm, between or with, or sent to, or received from, any non-Summit employee who has previously testified or offered pre-filed testimony in this matter and for those you anticipate will testify in the future either live or by written testimony.

RESPONSE:

REQUEST NO. 15: Produce true and accurate electronic copies of all emails, electronic communications, data, and documents of any kind, exchanged between any Summit employee or agent, including any legal counsel or employees or

agents of any law firm, between or with, or sent to, or received from, any third-party who prepared any reports or studies or similar related in any way to plume modeling, CO2 air dispersion, risk modeling, or risk analysis.

RESPONSE:

REQUEST NO. 16: Produce a true and accurate copy of any and all correspondence and communications between you and any of your agents and employees and any agent or employee of any CO2 emitter located in North Dakota, such as Ethanol Plants. This includes any and all correspondence between your lawyers to and from any such entity or its agents and or employees.

RESPONSE:

REQUEST NO. 17: Produce a true and accurate copy of any Insurance Polic(ies) held by you or any of your related entities that may in any way provide coverage for any damages to person or property that could occur by your desired surveys, examinations, and any damage or injury related to the construction, maintenance, and operation of your proposed hazardous pipeline that you believe would provide liability coverage for any claims or losses made by or incurred by any North Dakota landowner owning land targeted for your proposed hazardous pipeline.

RESPONSE:

REQUEST NO. 18: Produce the most current color aerial map or documentation showing your proposed route and all easements for each of the following persons or landowners, all who are clients of the undersigned lawyers.

(Note, the map produced can be the version you typically send with Easement offers so long as it represents you most current proposed hazardous pipeline route across the land in question, often described by you as Exhibit “B” Preliminary Route.)

- a. Scott & Mary Jo Irmen
- b. Paul & Debra Andahl
- c. Howard Malloy Trust
- d. APH Farms
- e. James, Jess, and Gary Tiegs
- f. Carol Lee & William Carruth
- g. Gary & Linda Visto
- h. James Rockstad
- i. Staroba Revocable Living Trust
- j. Mary Kuehn
- k. Diane Zajac
- l. Lugert Land Limited Partnership
- m. Shirley Waloch
- n. Randall & Karla Waloch
- o. Valera Hayen & Kari Curran
- p. Leon Mallberg
- q. Kertzman Farm Trust
- r. JOCO Farms, LLP

RESPONSE:

REQUESTS FOR ADMISSIONS

REQUEST NO. 1: Admit you or an affiliated entity will own the CO2 molecules proposed to be transported from the Tharaldson Ethanol Plant on your proposed hazardous pipeline.

RESPONSE:

REQUEST NO. 1: Admit you or an affiliated entity will own the CO2 molecules proposed to be transported from the Iowa Ethanol Plants on your proposed hazardous pipeline.

RESPONSE:

REQUEST NO. 2: Admit you or an affiliated entity will own the CO2 molecules proposed to be transported from the South Dakota Ethanol Plants on your proposed hazardous pipeline.

RESPONSE:

REQUEST NO. 3: Admit you or an affiliated entity will own the CO2 molecules proposed to be transported from the Nebraska Ethanol Plants on your proposed hazardous pipeline.

RESPONSE:

REQUEST NO. 4: Admit that you take title to CO2 proposed to be transported on your proposed hazardous pipeline at the “title transfer point” which is the intersection of the ethanol plant and your carbon capture equipment.

RESPONSE:

REQUEST NO. 5: Admit that you or your affiliate will own the carbon capture equipment proposed to be utilized by you or your affiliate at the Tharaldson Ethanol Plant.

RESPONSE:

REQUEST NO. 6: Admit that you or your affiliate will own your proposed pipeline.

RESPONSE:

REQUEST NO. 7: Admit PHMSA does not require your Plume Models, dispersion analysis, risk assessment or analysis, or similar be confidential.

RESPONSE:

REQUEST NO. 8: Admit no federal agency requires your Plume Models, dispersion analysis, risk assessment or analysis, or similar be deemed confidential.

RESPONSE:

REQUEST NO. 9: Admit your former competitor, Navigator Heartland Greenway, made publicly available in the South Dakota PUC proceedings a copy of its plume modeling and/or risk analysis.

REQUEST NO. 10: Admit that in your Iowa Utility Board proceedings in 2023, you or your affiliate were ordered to produce to parties a copy of your “Iowa Dispersion Buffers” data, IUB Exhibit LO 583.

RESPONSE:

REQUEST NO. 11: Admit that your “Iowa Dispersion Buffers” data, IUB Exhibit LO 583, was offered and received into evidence during the Iowa Utility Board proceedings on your Iowa application.

RESPONSE:

REQUEST NO. 12: Admit that in your Iowa Utility Board proceedings in 2023, you or your affiliate were ordered to produce to parties a copy of your “Dispersion Analysis Summit Carbon Solutions CO2 Pipeline System” data, IUB Exhibit LO 562.

RESPONSE:

REQUEST NO. 13: Admit that your “Dispersion Analysis Summit Carbon Solutions CO2 Pipeline System” data, IUB Exhibit LO 562, was offered and

received into evidence during the Iowa Utility Board proceedings on your Iowa application.

RESPONSE:

REQUEST NO. 14: Admit that a rupture from an 8-inch diameter CO2 pipeline, as you intend to construct in North Dakota, could produce CO2 at 40,000 ppm concentration levels at least as far as 1,855 feet from the rupture site.

REQUEST NO. 15: Admit that a 24-inch diameter pipeline can transport 15 times as much CO2 by volume than an 8-inch diameter pipeline of similar length.

RESPONSE:

REQUEST NO. 16: Admit that a rupture from a 24-inch diameter CO2 pipeline, as you intend to construct in North Dakota, could produce CO2 at 40,000 ppm concentration levels at least as far as 3,800 feet from the rupture site.

RESPONSE:

REQUEST NO. 17: Admit that a rupture from a 24-inch diameter CO2 pipeline, as you intend to construct in North Dakota, could produce CO2 at 40,000 ppm concentration levels at least as far as 4,500 feet from the rupture site.

REQUEST NO. 18: Admit that if an Ethanol Plant were to process only corn produced from farms utilizing a winter cover crop, it could reduce its CI Score between an average of 20.4 to 39.1 points.

RESPONSE:

REQUEST NO. 19: Admit that if an Ethanol Plant were to process only corn produced from farms utilizing manure application, it could reduce its CI Score between average of 5.5 to 28.0 points.

RESPONSE:

REQUEST NO. 20: Admit that if an Ethanol Plant were to process only corn produced from farms implementing no-till practices, it could reduce its CI Score between an average of 3.4 to 6.5 points.

RESPONSE:

REQUEST NO. 21: Admit that if an Ethanol Plant were to utilize renewable natural gas (RNG) for 40% of the plant's natural gas needs, it could reduce its CI Score by on average 21 points.

RESPONSE:

Dated this 28th day of March, 2024.

/s/ Brian E. Jorde

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Attorneys for Intervenors

**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. Intervenor's Interrogatories, Request for Production, and Request for Admissions to SCS Carbon Transport, LLC (Set 3); and**
- 2. Declaration of Service.**

[2] On March 28, 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

Lawrence Bender Bar ID 03908
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Hope Lisa Hogan Bar ID 05982
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Office Of Administrative Hearings
2911 N. 14th St., Ste. 303
Bismarck, ND 58503
hlhogan@nd.gov

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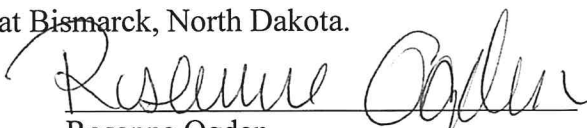
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

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 28th day of March, 2024 at Bismarck, North Dakota.


Rosanne Ogden