



KNOLL LEIBEL ^{LLP}
ATTORNEYS AT LAW

April 10, 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. Landowner Intervenor's Motion for Technical Evidentiary Hearing; and
2. Declaration of Service.

This Motion is 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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Landowner Intervenor's Motion for Technical Evidentiary Hearing
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

**LANDOWNER INTERVENORS'
MOTION FOR
TECHNICAL EVIDENTIARY
HEARING**

COMES NOW Landowner Intervenor¹, represented by the undersigned counsel, respectfully submit this Motion for Technical Evidentiary Hearing, herein “technical hearing.”

1. On April 3, 2024, the PSC entered an Order permitting Landowner Intervenor to request a technical hearing consistent with the discussion during the April 3, 2024, special meeting of the PSC. During that special meeting, it was discussed that SCS witnesses who testify during the April 22 to 26, 2024 hearing dates would be made available virtually for cross-examination² and that Landowner Intervenor would be permitted to offer witnesses and evidence. As previously stated in the Motion to Continue—and again stated at the April 8, 2024 pre-hearing conference—Landowner Intervenor will not attend the April 22, 2024 hearing.

¹ See Order Granting Petition to Intervene (Doc. 82, 83, 159, 168, 204) and pending Petitions to Intervene (Docs. 464 and 476).

² See N.D.C.C. 28-32-24(5), N.D.C.C. 28-32-25, and N.D.C.C. 28-32-35

2. Landowner Intervenor's do intend to cross-examine each SCS witness who testifies during the April 22-26, 2024 hearing, as well as to present their own witnesses and evidence at the technical hearing. Landowner Intervenor's request that there be no requirement that the Intervenor's be required to request subpoenas for every witness called by SCS.

3. Landowner Intervenor's do not object to witnesses testifying remotely and will attempt to call some of their witnesses remotely. Landowner Intervenor's also do not object to any witness or counsel who may wish to appear in person in North Dakota for the technical hearing. Landowner Intervenor's request that any hearing be made publicly available via a link so the public can view and listen to the technical hearing as if they were physically present.

4. Landowner Intervenor's have previously identified witnesses that it may call. *See* [Doc. 502]. Currently, Landowner Intervenor's believes it can put on its case in 2 days plus cross-examination. Landowner Intervenor's are currently seeking discovery from SCS Carbon Transport LLC that may allow these intervenors to reduce this time.

5. Landowner Intervenor's and their counsel are available to participate in the technical hearings on May 14, 15, 16, and 21 should the PSC be looking for dates prior to the May 24, 2024, hearing. Landowner Intervenor's previously offered June 17-21, 2024, and are still holding those dates. Mr. Bakke and his client are also available on these May and June dates. Landowner Intervenor's request the technical hearings start with the cross-examination of SCS's witnesses by all parties and then proceed to Intervenor witnesses. Landowner Intervenor's will work with the other

Intervenors once the dates are set to coordinate a likely order of witnesses to follow the cross-examination of SCS's witnesses so we can proceed efficiently.

6. For these reasons, Landowner Intervenors respectfully request that the technical hearing be scheduled on a date suggested by counsel and the technical hearing be accessible for one-line viewing by the public.

Dated this 10th day of April, 2024.



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**STATE OF NORTH DAKOTA
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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. Landowner Intervenor's Motion for Technical Evidentiary Hearing; and**
- 2. Declaration of Service.**

[2] On April 10, 2024, by sending a true and correct copy thereof by electronic means only to the following email addresses, to wit:

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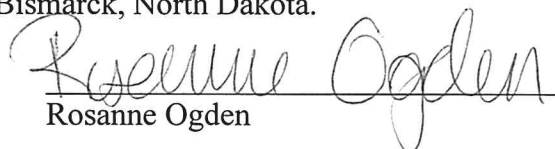
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

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 10th day of April, 2024 at Bismarck, North Dakota.


Rosanne Ogden