



May 14, 2024

Via E-Mail

Steve Kahl, Executive Director
ND Public Service Commission
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

Re: SCS Carbon Transport LLC Midwest Carbon Express CO2 Pipeline Project Siting Application
Case No. PU-22-391

Dear Mr. Kahl:

Enclosed via e-Filing, please find the City of Bismarck's Motion for Admission into Evidence in the above-entitled docket.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Patrick T. Zomer
Attorney at Law
P: (612) 877-5278
Pat.Zomer@lawmoss.com

PTZ/keb

Attachment

cc: Parties of Record

9297582v1

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

SCS Carbon Transport LLC Midwest Carbon
Express CO2 Pipeline Project Siting
Application

CASE NO. PU-22-391

THE CITY OF BISMARCK'S MOTION FOR ADMISSION INTO EVIDENCE

The City of Bismarck, North Dakota (“Bismarck” or the “City”) by and through its undersigned counsel and pursuant to North Dakota Administrative Code § 69-02-02-08 moves Administrative Law Judge Hope Hogan to admit into evidence and make a part of the record in this case the Response of SCS Carbon Transport LLC (“Summit”) to the City’s Second Interrogatory.

On April 12, 2024, the City issued its second interrogatory to Summit, requesting that Summit admit the distances shown on an attached exhibit accurately depict the distances at certain identified locations between the Preferred Route and the City’s Future Expansion Boundary and the Southern Alternative Route and the City’s Future Expansion Boundary. On April 26, 2024, Summit filed a response to the City’s interrogatory (the “Response”).¹ In the Response, Summit admitted that the distances depicted on the exhibit to the City’s Second Interrogatory were accurate.

Summit’s Response is relevant evidence and should be admitted into the evidentiary record for this proceeding. North Dakota Administrative Code Section 69-02-05-01 defers to the North Dakota Rules of Evidence for admissibility of evidence. North Dakota Rules of Evidence,

¹ The Response was assigned docket number 547 in the above-captioned proceeding. A copy of the Response is provided as Attachment A to this Motion.

**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

Response of SCS Carbon Transport LLC to the City of Bismarck's Second Interrogatory

SCS Carbon Transport LLC (“Summit”), by and through its attorneys of record, responds to the Interrogatory No. 2 submitted by the City of Bismarck (“Bismarck”) on April 12, 2024 in the above-captioned proceeding (each a “Discovery Request” and collectively, the “Discovery Requests”). *See* Docket No. 515. 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 Requests 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 Requests, Summit is not admitting that any aspect of the Discover Requests is factually accurate or relevant to this proceeding.

GLOBAL OBJECTIONS

The following Global Objections apply to each of the Discovery Requests—even if not separately restated below in response to a particular Discovery Request.

Summit objects to all Discovery Requests to the extent they seek the discovery of documents and/or information 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 all Discovery Requests to the extent they are 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 all Discovery Requests to the extent they seek 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 these requests, 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 Intervenor’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 Requests because they are unduly burdensome and disproportionate to the needs of this proceeding because they seek irrelevant information.

Summit objects inasmuch as the Discovery Requests seek information relating to anything other than Summit’s pipeline facilities in North Dakota. Only Summit’s North Dakota pipeline facilities are covered by its permit application in this proceeding.

Summit objects inasmuch as the Discovery Requests seek 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 all Discovery Requests that seek, and disclaims any obligation to identify or furnish, documents or information that Intervenor actually or constructively possesses or to which Intervenor has access through alternative means.

Summit objects inasmuch as the Discovery Requests seek 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 Requests 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 each request, Summit responds to Intervenor's Discovery Requests as follows:

RESPONSE TO INTERROGATORIES

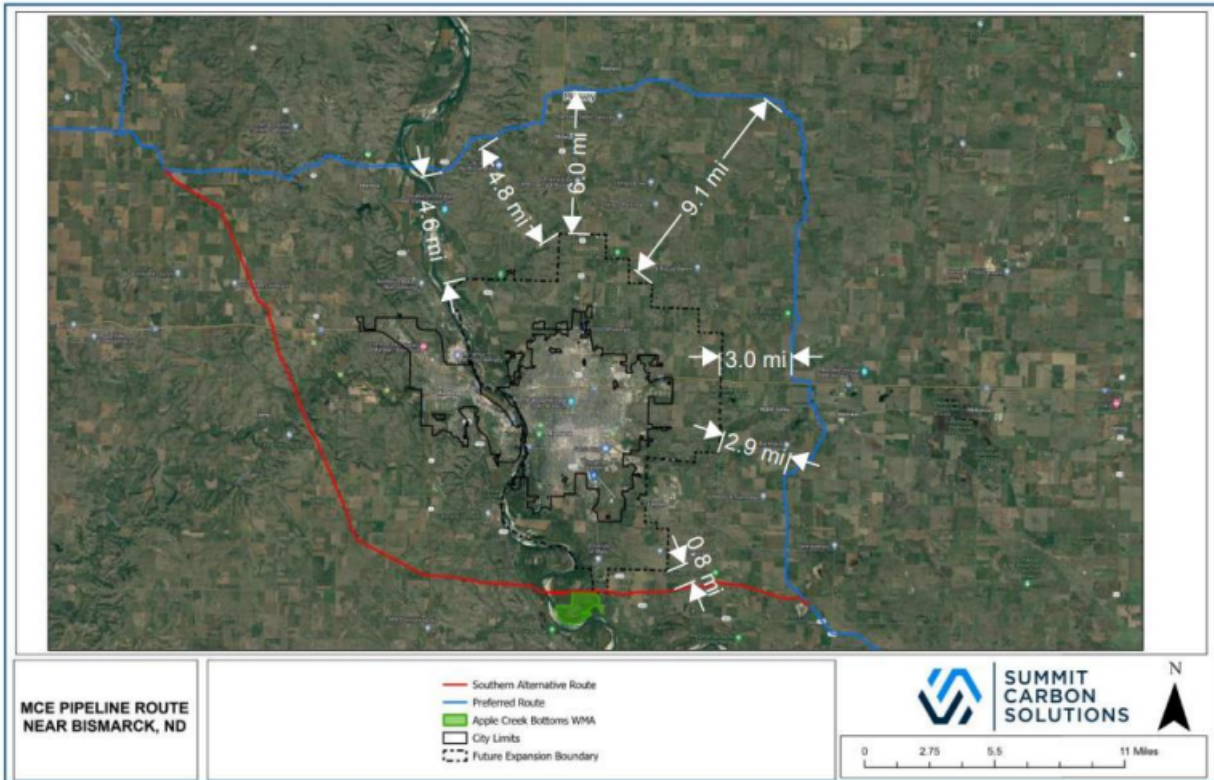
INTERROGATORY NO. 2:

Please admit that the attached Exhibit 1¹ to this interrogatory accurately depicts the distances at the identified locations between: (1) the Preferred Route and the City's Future Expansion Boundary; and (2) the Southern Alternative Route and the City's Future Expansion Boundary. If Summit does not so admit, please provide an equivalent map/figure that accurately identifies the distances between: (1) the Preferred Route and the City's Future Expansion

¹ Exhibit 1 is based in Figure 4 from Summit's January 19, 2024 Bismarck Route Analysis (Revision 2), filed as Docket No. 432 on January 24, 2024.

Boundary; and (2) the Southern Alternative Route and the City's Future Expansion Boundary at approximately these locations.

EXHIBIT 1



RESPONSE TO INTERROGATORY NO. 1:

Summit incorporates by reference its Global Objections set forth above. Subject to and without waiving the foregoing objections, Summit admits that the distances set forth on Exhibit 1 are accurate.

**AS TO THE ANSWER TO
INTERROGATORY NO. 2
FROM THE CITY OF BISMARCK:**

SCS CARBON TRANSPORT LLC

DocuSigned by:
James Powell
By: EBDE5E4B03C74A2...
James Powell
Its: Chief Operating Officer

Subscribed and sworn to before me
this ____ day of April, 2024.

My commission expires: _____

AS TO OBJECTIONS:

Dated this 26th day of April, 2024.

FREDRIKSON & BYRON, P.A.

By: 

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Attorneys for SCS Carbon Transport LLC

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

SCS Carbon Transport LLC Midwest Carbon
Express CO2 Pipeline Project Siting
Application

Case No. PU-22-391

DECLARATION OF SERVICE

1. Karen E. Berg declares that I am of legal age and not a party to this action, and that I served the following documents:

- a. The City of Bismarck's Motion for Admission into Evidence; and
- b. Declaration of Service.

2. On May 14, 2024, by sending a true and correct copy thereof by electronic means only to the following e-mail addresses, to-wit:

John Maurice Schuh (#08138)
Special Assistant Attorney General
North Dakota Public Service Commission
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Hope Lisa Hogan (#05982)
Administrative Law Judge
Office of Administrative Hearings
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Bismarck, ND 58503
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3. And by sending the originals and seven (7) copies of said documents via U.S. Mail, at Minneapolis, Minnesota, with postage prepaid, to the following:

Steve Kahl, Executive Director
North Dakota Public Service Commission
600 E. Boulevard Avenue, 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 14th day of May, 2024, at Minneapolis, Minnesota.

/s/ Karen E. Berg

Karen E. Berg