



KNOLL LEIBEL^{LLP}
ATTORNEYS AT LAW

June 4, 2024

VIA U.S. MAIL & 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 Hearing Exhibit 58; and
2. Declaration of Service.

This Exhibit is being filed with the North Dakota Public Service Commission (hereinafter "NDPSC") on behalf of the Intervenor's represented by Knoll Leibel LLP. These Intervenor's have 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

PO Box 858 · 1915 N. Kavaney Drive, Suite 3 · Bismarck, ND 58502-0858
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617 PU-22-391 Filed 06/04/2024 Pages: 13
Prefiled Landowner Intervenor's Hearing Exhibit 58
Knoll Leibel, LLP, on behalf of the Intervenor's
David Knoll, Knoll Leibel, LLP

April 23, 2024

Lawrence Bender
Frederikson & Byron, P.A.
1133 College Drive, Ste. 1000
Bismarck, Nd 58501-1215

RE: C0₂ Pipeline – Kertzman Farm Trust (Mitch Kertzman and Julie Streamer)

**SCS Proposed Route Description: Township 135 North, Range 76 West
Section 26:
Emmons County, North Dakota**

Mr. Bender:

I have been trying to have a dialogue with you and your client for many months now and your client, Summit, has failed to engage in any meaningful way. Additionally, we have not heard from you – ever – as to working on re-routes around our client's land nor have you addressed their opposition to your proposed hazardous pipeline. Given you have had over a year to do this and you have not contacted us at all in this regard, we are at a loss how to proceed other than vigorously opposing your client's applications.

In any event, enclosed with this letter you will find our client's ongoing attempts to reach a palpable resolution to this controversy. However, if we continue to not hear from you and your client continues to refuse to engage on this matter, we will have to proceed to request denial of your client's Application for Certificate of Corridor Compatibility and its Application for Route Permit.

We are providing this information to you in the hope that Summit will start to show at least a minimum good-faith effort to engage with us to address the adverse effects upon landowners who do not want any part of this proposed hazardous pipeline. We respectfully request we hear from you soon.

Respectfully,



Brian E. Jorde

bjorde@dominalaw.com

Enclosures

Trial Practice. Not Just Talk.SM

This document prepared exclusively in the USA

**LO #58
PU-22-391**

KERTZMAN FARM TRUST
-and-
DWIGHT EDWIN KERTZMAN AND WANDA LEE KERTZMAN REVOCABLE LIVING TRUST

To:
Executive Vice President, Summit Carbon Solutions
Wade Boeshans
2321 North Loop Drive #221
Ames, IA 50010
701-400-8911
info@summitcarbon.com

CC:
Office of Governor, State of North Dakota
Douglas Burgum
600 East Boulevard Avenue
Bismarck ND, 58505-0001
701-328-2200
www.governor.nd.gov/contact

Brian Jorde
Domina Law Group pc llo
2425 S 144th St.
Omaha, NE 68144-3267
402-493-4100
BJorde@dominalaw.com

Dear Wade,

A few items of note:

If the SCS pipeline project were for the purpose of distributing power, comm, water, or other utilities that benefit the public, there would be an entirely different response to your project. However, your proposed project is a for-profit tax grab at the landowner's expense.

The Landowners along your proposed route have been treated as a nuisance to a money grab under the auspices of the 'Green Agenda', with the goal of banking millions in Federal Tax Credits, at the expense of the Landowners. Consider the millions already spent by private landowners to defend against your non-beneficial project.

It is clear, that while the SCS project claims to be pro-agriculture, the construction and operation of the project is counter to this claim. It destroys prime Ag land, and puts the people that care for it in peril when there is a rupture. A release of Carbon Dioxide is not the same as a release of petrochemical.

Since SCS began the planning of this project, landowners have been bullied, lied to, insulted with offers of pittance level 'compensation', and treated as fodder in the way of the SCS money grab. Indeed, if the purpose of the project is to make trainloads of money, then the very land you need to construct it through should be compensated as a fair percentage of the profits. This is the only way that a semblance of equity can be established. Or, alternately, a lump sum on the order of millions per parcel might be considered.

KERTZMAN FARM TRUST
-and-

DWIGHT EDWIN KERTZMAN AND WANDA LEE KERTZMAN REVOCABLE LIVING TRUST

You now concede that the CO2 you propose to capture and pipe north will likely be re-sold to the oil extraction industry. It is not known by the affected landowners as to what other transmission lines will be added to the easements, once secured.

Subject Matter:

We provided a suggested route that does not bisect/ruin prime farm ground (copy of the exhibit attached), along sections lines. This was ignored.

You have publicly stated (December 20, 2023 <https://www.bek.news/programs/2023-12-20/>) that if a landowner wanted the route adjusted, that you would do so. This was also stated by Governor Burgum at the same event.

We, at a bare minimum, hereby request that you honor your promise to adjust your proposed pipeline route, as suggested on the attached exhibit, first presented to SCS in 2023, and provide an updated route graphic including the route adjustment.

Sincerely,

Kertzman Farm Trust -and- Dwight Edwin Kertzman and Wanda Lee Kertzman Revocable Living Trust
Mitchell B. Kertzman

Township 135 North, Range 76 West, Section 26: E2E2
Kertzman Farm Trust
22318 Lucky Lane, Rapid City, SD 57701
Mitchell B. Kertzman, Trustee
-and-
Township 135 North, Range 76 West, Section 26: W2E2
Dwight Edwin Kertzman and Wanda Lee Kertzman Revocable Living Trust

Attachments:

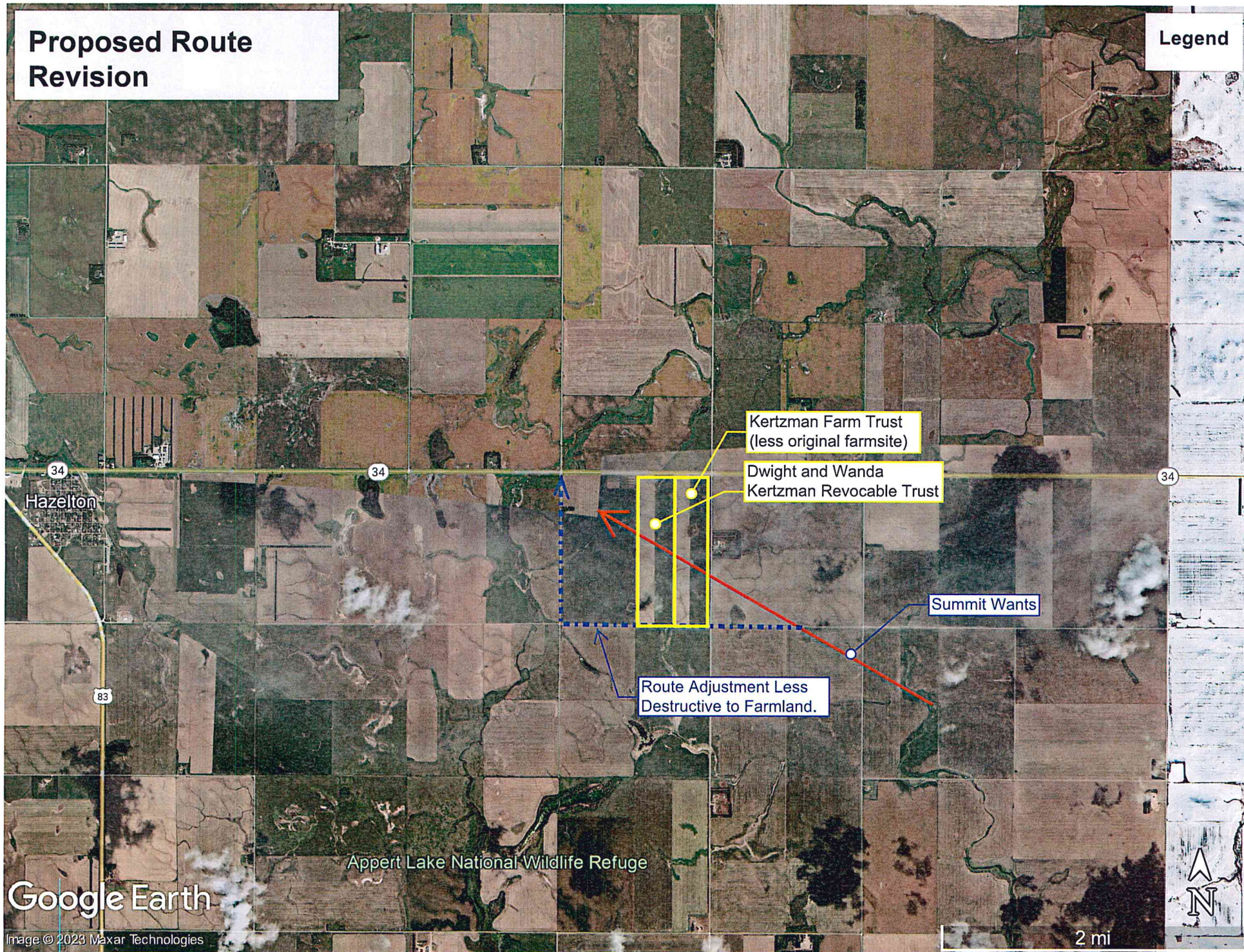
Pipeline Route Exhibit

Cc:

Governor Burgum
Attorney Brian Jorde
Trustors, Kertzman Farm Trust

Proposed Route Revision

Legend



Pipeline 2020

This map shows a piece of our farmland that is crossed by both the Dome and Alliance pipelines.

Attachment 1a

82nd St SE

Legend

I have outlined on this map our field boundary in yellow. The 2 pipelines' route in green. Also a wet pothole that was not there before the pipelines were dug in, in orange.

Google Earth

Image © 2024 CNES / Airbus

158th Ave SE

158th Ave SE



1000 ft

Pipeline 2020

This map shows a piece of our farmland that is crossed by both the Dome and Alliance pipelines.

Legend

Attachment1

82nd St SE

159th Ave SE

159th Ave SE

Google Earth

Image © 2024 CNES / Airbus



1000 ft

Pipeline 2023

This map shows a piece of our farmland that is crossed by both the Dome and Alliance pipelines.

Attachment 2a

Legend

This map was taken in the late summer of 2023. I have outlined on this map our field boundary in yellow. The 2 pipelines' route in green.

The pothole noted in the map from 2020 is not visible due to the growth of soybeans in the field.

Google Earth

Image © 2024 Airbus

1000 ft

Pipeline 2023

This map shows a piece of our farmland that is crossed by both the Dome and Alliance pipelines.

Attachment 2

Legend

82nd St SE

159th Ave SE

159th Ave SE

Google Earth

Image © 2024 Airbus



1000 ft

Attachment 3

VICINITY MAP



LEGEND

- HDD Installation
- Collector Manhole
- ◆ Water Well (Existing)
- Proposed Route
- Existing Road
- Access Road
- Landfill Deposit (Existing)
- Pump Station
- Abandoned Line
- FEM Station
- Stream
- Abandoned Water Conduit



REVISIONS

Date: 2024-01-28 Revised by: CW Checked by: RC
A - Issued for Review

Date: Revised by: Checked by:

Date: Revised by: Checked by:

PREPARED BY

Summit Carbon Solutions
2211 North Loop Drive, Suite 221
Arlene, ND 58210
United States of America
www.summitcarbon.com



PROJECT INFORMATION

Figure Title:
ND PSC - Aerial Map Book - NDT-211

Figure Number:
Map Book 1

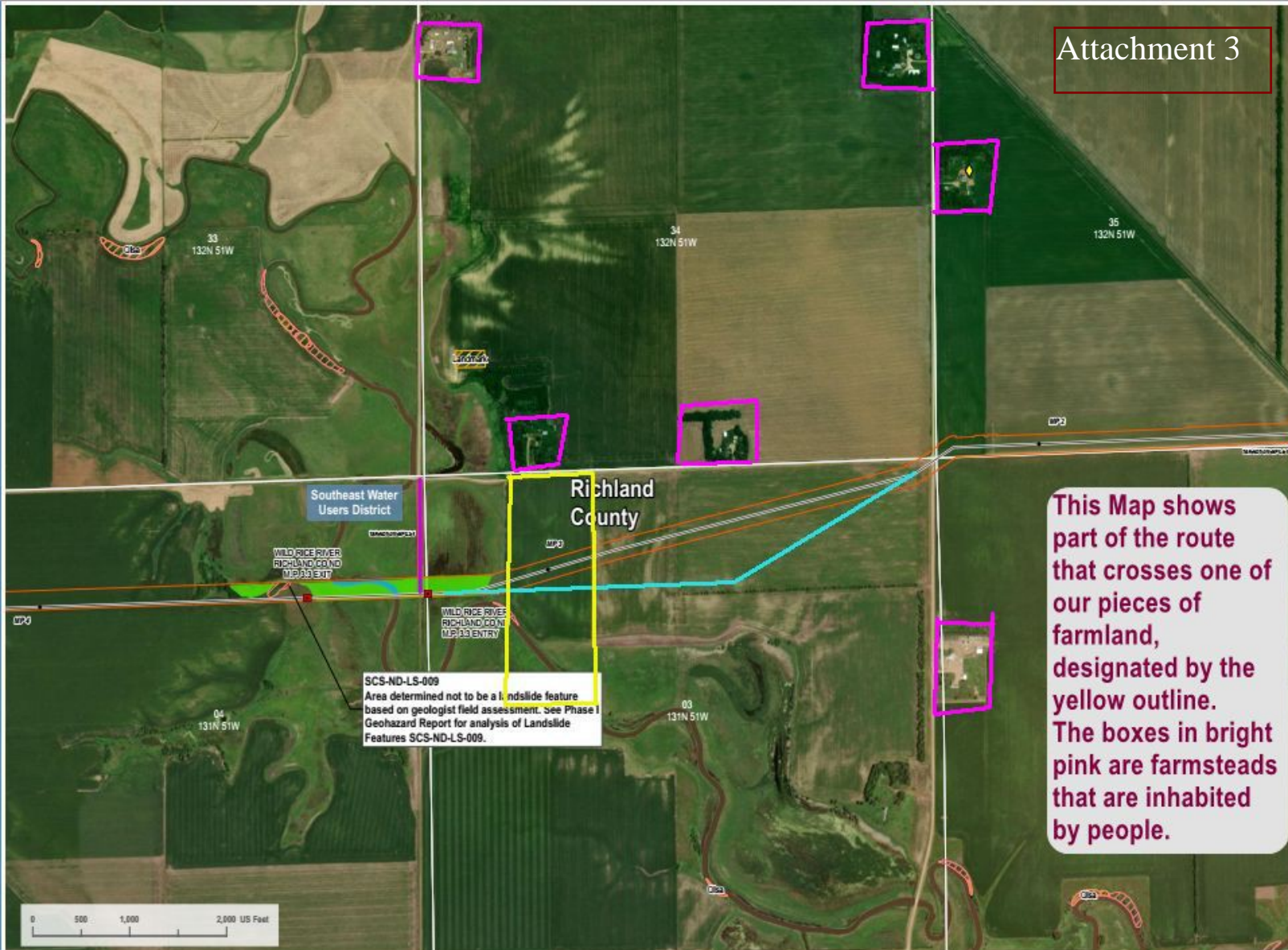
Scale:
1" = 12,000'
1 inch equals 1,000 feet

Projection:
Transverse Mercator
NAD 1983 UTM Zone 16N

Sheet:
86

Drawing Number:
1001-01-004
Revision A

This Map shows part of the route that crosses one of our pieces of farmland, designated by the yellow outline. The boxes in bright pink are farmsteads that are inhabited by people.



**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. Landowner Exhibit 58; and
2. Declaration of Service.

[2] On June 4, 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
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Hope Lisa Hogan Bar ID 05982
Administrative Law Judge
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Zachary Evan Pelham Bar ID 05904
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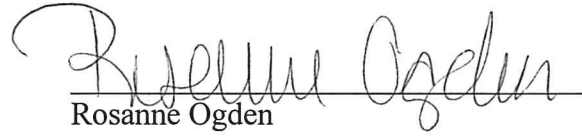
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

Steve Kahl
Executive Secretary
North Dakota Public Service Commission
State Capitol
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480

[5] The addresses of each party served are the last reasonably ascertainable e-mail address and post office address of such party.

[6] I declare, under penalty of perjury under the law of North Dakota, that the foregoing is true and correct.

Signed on the 4th day of June, 2024 at Bismarck, North Dakota.


Rosanne Ogden