

**BEFORE THE PUBLIC SERVICE COMMISSION  
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, DICKY,  
EMMONS, LOGAN, MCINTOSH,  
MORTON, OLIVER, RICHLAND AND  
SARGENT COUNTIES, NORTH DAKOTA

CASE NO. PU-22-391

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**DIRECT TESTIMONY OF WADE BOESHANS**

**ON BEHALF OF**

**SCS CARBON TRANSPORT LLC**

**April 22, 2024**

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1   **Q.     Please state your name, business address, and present position.**

2   A.     My name is Wade Boeshans, I am the Executive Vice President of Summit Carbon  
3           Solutions, LLC (“Summit”) with a business address of 3442 E. Century Ave, Bismarck,  
4           ND 58503.

5   **Q.     What are your duties and responsibilities in your present position?**

6   A.     I am responsible for the CO<sub>2</sub> storage scope of Summit’s project. I oversee the North Dakota  
7           sequestration team, responsible for the development of the Class VI injection wells and  
8           associated facilities. As a member of the Summit executive leadership team, I am involved  
9           in the overall strategic and operational leadership of the company. Recently, I began  
10          overseeing the development of the “Bismarck Re-route”, which is the revised pipeline route  
11          north of Bismarck.

12  **Q.     Please describe your educational and professional background.**

13  A.     I received my Bachelor of Science degree in Civil Engineering from North Dakota State  
14          University in 1995 and completed the University of Minnesota, Carlson School of Business  
15          Executive Leadership program in 2011. Prior to my role with Summit, I was President and  
16          General Manager of BNI Coal, Ltd. (“BNI”) headquartered in Bismarck, North Dakota,  
17          operating as a subsidiary of ALLETE, a diversified, publicly-traded energy company with  
18          a market cap of more than \$3.5 billion. Prior to leading BNI, I held multiple operations  
19          roles across the company. Previously, I held engineering and operations roles with North  
20          American Coal Corporation and Washington Group International, an integrated  
21          engineering, construction, and management services firm. I have served on the North  
22          Dakota EmPower Commission since 2014, an energy policy commission appointed by the  
23          Governor of North Dakota. In 2018, I was named Chairman of the Lignite Energy Council.

1 I serve on the Bismarck State College Foundation Board and was appointed to the National  
2 Coal Council by the US Secretary of Energy in 2019.

3 **Q. Have you previously provided testimony before the North Dakota Public Service**  
4 **Commission (“Commission”)?**

5 A. No.

6 **Q. What is the purpose of your direct testimony in this proceeding?**

7 A. To provide the Commission a project overview with a focus on its contribution to North  
8 Dakota’s Agriculture and Energy Industries. Further to provide an update on the progress  
9 of the Class VI Storage Facility Permit. Also, to provide an update on the Bismarck re-  
10 route and its progress. Last, to address the issues raised in the Commission’s Findings of  
11 Fact, Conclusion of Land and Order dated August 8, 2023 (Docket No. 375).

12 **Q. How did you first get involved in carbon capture projects?**

13 A. While I was President of BNI, during the Obama administration, it became apparent to me  
14 that for coal mining to continue in North Dakota, we needed to develop carbon  
15 management solutions to survive. I invested a significant amount of my time working with  
16 other industry leaders to advance the science, engineering, legal and regulatory frameworks  
17 to commercialize carbon capture, storage, and utilization. It was at this point that BNI  
18 Coal, an ALLETE Company, started what is commonly known today as “Project Tundra”.  
19 In my role at BNI, I played an instrumental role in Project Tundra’s initial technical and  
20 economic feasibility and the formation of a joint development relationship with Minnkota  
21 Power Cooperative (“Minnkota”), a North Dakota-based electric generation and  
22 transmission cooperative. Minnkota assumed leadership of Project Tundra in 2017 and  
23 continues to develop the project today however, prior to that hand off, I had the opportunity  
24 to learn and start the development of one of North Dakota’s major carbon capture projects.

1 **Q. How did that experience impact your decision to go to work at Summit?**

2 A. I recognized that the ethanol industry was facing the same market and societal pressures to  
3 reduce carbon emissions as coal fired electrical generation and that the future of North  
4 Dakota's two largest industries was converging on carbon management. In the spring of  
5 2021, following discussions with Summit Ag, I made the decision to leave my role as  
6 President of BNI and join the newly formed Summit Carbon Solutions team to develop a  
7 carbon management project that is strategic to the future of North Dakota's two largest  
8 industries and would benefit the State of North Dakota.

9 **Q. Can you please provide an overview of the project for the Commission?**

10 A. Summit's project proposes to capture, compress, and transport carbon dioxide (CO<sub>2</sub>) from  
11 57 different ethanol plants across the States of Iowa, Minnesota, Nebraska, South Dakota,  
12 and North Dakota to our sequestration area located in Mercer, Oliver, and Morton Counties  
13 in North Dakota. Installing carbon capture and storage lowers the carbon intensity of the  
14 ethanol produced by these plants enabling them to sell low-carbon ethanol into low-carbon  
15 fuels market. In addition to the 57 ethanol plants, Summit has entered into an agreement to  
16 capture, transport, and store the CO<sub>2</sub> from GEVO's Lake Preston, South Dakota sustainable  
17 aviation fuel plant, currently under construction. Of course, our proposed pipeline in North  
18 Dakota is an integral part of the overall infrastructure system needed to successfully  
19 capture, transport, and store CO<sub>2</sub>.

20 **Q. Does Summit's project benefit the State of North Dakota?**

21 A. Yes, Summit's project definitely benefits both North Dakota's agricultural and energy  
22 industries.



1   **Q.     How does the project benefit North Dakota’s agricultural and energy industries?**

2   A.     Summit is partnering with 57 ethanol plants across the Midwest enabling these plants to  
3           access new low carbon fuels markets, sustain their facilities and grow their demand for  
4           corn.

5           The US ethanol industry supports 360,000 jobs and contributes \$45 billion annually  
6           to the US GDP. The plants that are part of Summit’s project produce approximately 5.7  
7           billion gallons of ethanol annually which is about one-third of the US ethanol industry.  
8           These plants purchase about 1.7 billion bushels of corn annually supporting about 30  
9           million acres of corn production in the United States. Additionally, Summit has an  
10          agreement to transport CO<sub>2</sub> from a proposed sustainable aviation fuels (SAF) facility in  
11          South Dakota that will produce jet fuel from corn. Sustainable aviation fuels is a rapidly  
12          growing new market for corn production. In 2022, global production of SAF was 80 million  
13          gallons. The US major airlines have commitments to use 3.3 billion gallons of SAF by  
14          2030. Summit’s approximately \$8 billion dollar investment will open critical new markets  
15          for ethanol producers, strengthen the agricultural marketplace for farmers, and help  
16          maintain strong land prices and commodity prices in the years to come.

17          In 2023, North Dakota’s farmers, planted over four million acres of corn.<sup>1</sup>  
18          Annually, North Dakota’s ethanol plants process approximately 160M to 180M bushels of  
19          corn, 80% of which is purchased from North Dakota farmers.<sup>2</sup> Summit’s project provides  
20          a carbon management solution for multiple Ethanol plants including the Tharaldson  
21          Ethanol Plant in Casselton, North Dakota, and Summit will continue to engage with other  
22          ethanol plants within the State. The Tharaldson Ethanol plant located in Cass County,

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<sup>1</sup> Source: [https://www.nass.usda.gov/Quick\\_Stats/Ag\\_Overview/stateOverview.php?state=NORTH%20DAKOTA](https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=NORTH%20DAKOTA)

<sup>2</sup> Source: <https://www.ndethanol.org/ndfacts>

1 purchases approximately 60 million bushels of corn annually which in turn produces 170  
2 million gallons of ethanol and about 450,000 tons of dried distillers grain each year.  
3 Summit's project allows Ethanol plants to access new low-carbon fuels markets, continue  
4 to operate in a carbon constrained world, purchasing corn from North Dakota and the  
5 Midwest, supporting corn prices. Lastly, Summit's project will provide royalty payments  
6 to landowners covering 89,527.97 acres of land in Mercer, Oliver and Morton Counties.

7 **Q. How does the project benefit North Dakota's energy industry?**

8 A. First, Minnkota and Summit have an agreement to jointly-develop CO<sub>2</sub> storage facilities  
9 near Center, North Dakota. The agreement provides Summit with access to Minnkota's  
10 already permitted Class VI storage facilities near Center, North Dakota. The collaboration  
11 between Minnkota and Summit is beneficial to both Minnkota's and Summit's projects, as  
12 it reduces risk, accelerates the timeline for financing and construction, and provides  
13 increased operational flexibility when CO<sub>2</sub> storage begins. In addition, Summit's project  
14 provides significant new electrical load to electric co-ops and utilities across the project  
15 footprint. Summit's proposed project includes three (3) mainline pump stations and one  
16 (1) trunkline pump station. We also have three sequestration site injection locations. We  
17 have completed a preliminary study of the anticipated power to be utilized for the project.  
18 As proposed, we are anticipating the following estimated annual utility cost using a  
19 \$0.75/kWh hour:

Facility	Utility Company	Estimated Running Load	Annual Estimated Running Load (kWh)	Estimated Annual Utility Costs
MPS-08	KEM	5.1 MW	44,819,533	\$ 3,361,465
MPS-09	Capital Electric	5.7 MW	49,899,443	\$ 3,742,458
MPS-10	Roughrider Electric	4.9 MW	43,197,373	\$ 3,239,803
TPS-04	Dakota Valley	0.4 MW	3,558,750	\$ 266,906
SS-01	Roughrider Electric	2.3 MW	19,606,632	\$ 1,470,497
SS-02	Roughrider Electric	1.9 MW	16,207,095	\$ 1,215,532
SS-03	Roughrider Electric	1.9 MW	16,207,095	\$ 1,215,532

The electrical load acquired from these CO<sub>2</sub> operations will supply income for the co-ops for continued maintenance and improvements to their facilities and infrastructure.

**Q. What is the status of your sequestration project?**

A. Summit has identified an approximately 170,000-acre area for development of its proposed Class VI injection wells. Summit has completed what is known as site characterization, collecting geophysical and geologic data within the proposed development area. Summit's site characterization includes the completion of three (3) stratigraphic wells with >99% core recovery from both the injection and confining zones in our target area. These cores provide us with knowledge of depth, thickness, and general characteristics such as permeability and porosity of the targeted injection and confining zones. Summit also completed one of the largest 3D seismic shoots in the Williston Basin, covering ~200 square miles. This allows Summit to verify the absence of faults or other anomalies that would impact any targeted area to ensure safe storage of the CO<sub>2</sub>. Last, Summit completed "step rate" injection tests into the three formations, gaining valuable additional knowledge on injectivity. By combining all this data, Summit with the help of the Energy & Environmental Research Center (EERC) was able to create injection simulation models that were used to determine injection rates, quantities, underground CO<sub>2</sub> plume extent, and



1 containment. The simulation model outputs determined the design basis for engineering  
2 design of the injection wells, surface facilities and monitoring and operating plans that  
3 informed the preparation of a Class VI storage facility applications. We submitted three (3)  
4 applications for Class VI storage facility permits to the North Dakota Industrial  
5 Commission ("NDIC"). The applications have been reviewed and deemed complete by  
6 the North Dakota Department of Environmental Quality and North Dakota Department of  
7 Mineral Resources. These applications are now docketed to be heard before the NDIC this  
8 summer. Summit has signed pore space agreements with over ninety percent of the  
9 landowners and 100% of the pipeline easements within the sequestration area.

10 **Q. Are you familiar with the Finding of Facts, Conclusions of Law, and Order issued in**  
11 **by the Commission on August 4<sup>th</sup>, 2023?**

12 A. Yes.

13 **Q. What is your understanding of the Commission's Order in general terms?**

14 A. The Order provided that Summit had failed to meet its burden of proof to show the Project's  
15 location will produce minimal adverse on the environment and welfare of the citizens of  
16 North Dakota with the existing record. Specifically, that Summit had not (1) appropriately  
17 addressed cultural resource impacts, (2) adequately minimized the effects on residential  
18 development and property values, (3) acceptably minimized impacts on game management  
19 areas, (4) properly addressed geologically unstable areas identified by North Dakota  
20 Geologic Survey, (5) taken steps to address outstanding legitimate impacts expressed by  
21 landowners during the public comment or demonstrated why a re-route is not feasible, and  
22 (6) adequately addressed (a) re-routes on the properties owned by the Vculeks, Doolittles,  
23 Bernhardts and Dotzenrods, (b) confirmation of the number of 500-foot setback waivers,  
24 (c) follow-up with the North Dakota Geologic Survey ("NDGS"), (d) BNI permit status,



1 (e) issued raised by the State Historical Preservation Office (“SHPO”), and (f) an analysis  
2 of an alternate route to the south of Bismarck.

3 **Q. What has Summit done to address those items since the time that Order was issued**  
4 **to address those impacts?**

5 A. We reviewed the Order and discussed internally how best to address the deficiencies  
6 identified therein. Furthermore, we reached out to some of the Bismarck area intervenors  
7 and held meetings to identify and align on specific concerns related to impacts on  
8 residential development and property values. We contacted Mr. Moldenhauer, Mr. Warford  
9 and Mr. Wachter and met with Mr. Warford and Mr. Watcher on several occasions.

10 **Q. What did you learn from those meetings?**

11 A. I learned that they are not opposed to Summit’s project, but they had concerns related to  
12 the location of the pipeline, impacts on the future growth of Bismarck and safety concerns.  
13 I received valuable input and advice that I included in our plan. I believe they were  
14 constructive meetings.

15 **Q. What did you do with that information?**

16 A. We evaluated alternatives to route the pipeline further east and north of Bismarck;  
17 contacted landowners on potential route alternatives north of Bismarck and worked with  
18 landowners to educate them on Summit’s project, thereby gaining input on an acceptable  
19 route and obtaining landowner permission to survey their properties. After receiving  
20 landowner input on acceptable routes and receiving permission to survey from landowners  
21 on the route, we surveyed the proposed route. A Summit employee coordinated the survey  
22 activities with landowners and was in the field throughout the survey to oversee the surveys  
23 activities. Through this process we identified an alternate route that crosses ND Highway  
24 83 approximately nine (9) miles north of the Bismarck city limits, completed engineering

1 design of the pipeline system on the route, began purchasing options for easements from  
2 landowners on the route, and filed an updated route with the Commission.

3 **Q. Other than the re-route around Bismarck, what has Summit done to address other**  
4 **impacts identified in the order?**

5 A. While I was not directly involved, I am aware that we implemented numerous other  
6 changes to the route moving the pipeline off the Vculek, Doolittle, Barnhardt, Dotzenrod  
7 and other properties. Summit also clarified the route's impact on Game Management Areas  
8 and outlined its efforts to avoid all such areas either by re-routes or by utilizing horizontal  
9 direction drilling (HDD). James Powell was the lead on the route changes outside of  
10 Burleigh County and will provide additional details in his testimony. Further, we  
11 completed additional cultural resources surveys and filed updated cultural resource reports  
12 with the SHPO and we submitted an updated geo-hazard analysis and plan to avoid  
13 geologically unstable areas to the NDGS. Jon Schmidt will provide additional details  
14 regarding Game Management Areas and Summit's coordination with SHPO and the  
15 NDGS. We met with BNI and Reclamation Division of the Commission and confirmed the  
16 proposed route does not impact mineable coal reserves or BNI's mining plan. We updated  
17 the South Bismarck route analysis and filed it with the Commission. James Powell led the  
18 southern route analysis and will provide you with additional details in his testimony.

19 **Q. What was your level of involvement with the Bismarck Intervenors following that**  
20 **order?**

21 A. I lead the re-route around Bismarck and engagement with the Bismarck Area Intervenors  
22 and the City of Bismarck. I facilitated and attended many of the meetings with county  
23 emergency responders and participated in the meetings with NDGS.

1   **Q.     How did you determine the re-route?**

2   A.     We determined the route by working very closely with landowners to build a relationship  
3           with them, understand their concerns, educate them on the project, and get their input on  
4           an acceptable route. We often met with several landowners and or family members at the  
5           same time to gain additional insight and alignment on concerns and identify route  
6           alternatives that addressed concerns. Then with their permission we surveyed the route,  
7           shared our survey results, and obtained additional input from landowners when adjustments  
8           to the route were needed to address survey results.

9   **Q.     What was the level of landowner involvement in the Bismarck re-route?**

10  A.     Landowners were very involved in numerous landowner meetings we held throughout the  
11           re-route process. Meetings were had with landowners, family members and neighbors in  
12           small groups at our office. In some cases, I met with landowners at their farms, in their  
13           shops, or at their residences.

14  **Q.     What is your progress on the Bismarck re-route?**

15  A.     The re-route is approximate 25 miles and crosses what I would consider to be 28 landowner  
16           groups. By “landowner groups” I mean, for example, a family, or a named entity or  
17           company such as a “ranch”. At a minimum, we have established contact with every  
18           landowner group along the re-route. We have, through those contacts and conversations,  
19           secured survey permission from 25 out of 28 of the landowner groups. We were able to  
20           complete our surveys on 23 of the landowner groups. That number would be slightly higher  
21           however, due to some requested re-routes and the winter season, we still have some survey  
22           required on lands where we surveyed but the landowner group requested some changes  
23           that we were not able to complete prior to winter conditions. In terms of “miles” we have



1       secured survey permission on approximately 23½ miles out of the approximate 25 total  
2       miles. We completed our survey on over 21¾ miles and we have secured voluntary  
3       easements on over 10½ miles. In terms of tracts of land, our re-route contains  
4       approximately 61 tracts of land. We have secured survey permission on 56 tracts, and we  
5       have completed survey on 50 tracts. We have also acquired, at least in part, voluntary  
6       easements on 26 tracts of land.

7       **Q.   What can you tell us about the remaining tracts where you have not yet acquired**  
8       **voluntary easements?**

9       A.   On October 31, 2023, Summit filed a “Response to Request Additional Information” at  
10       Docket No. 411. That document included the updated route and the names of landowners.  
11       Shortly thereafter, two of our land agents learned of a letter sent out by the “North Dakota  
12       Easement Team”. One landowner, who signed a voluntary easement, provided us with a  
13       copy of the letter. A copy of that letter is attached as **Exhibit A**. Apparently, this letter was  
14       intended to apply pressure on landowners to oppose the project and encourage them to join  
15       a larger opposition group. It included a “Professional Service Agreement” form from the  
16       Domina Law Group which solicited these landowners to retain the law firm to oppose  
17       Summit’s pipeline. While the letter is signed by Steve Laine and Paul Brown, a review of  
18       the North Dakota Easement Team’s website (<https://ndeasement.org>) shows Scott Skokos  
19       as the contact person. Scott Skokos is also the Executive Director of the Dakota Resource  
20       Council who testified in opposition to our project on June 2, 2023. We had landowners  
21       contact us directly after receiving the letter and asking us if we were invited to the  
22       informational meetings that were proposed. We explained we were unaware of the  
23       meetings; that they were not something Summit proposed; and Summit was not invited to  
24       participate. We also learned directly from landowners that certain North Dakota Legislators



1 who are opposed to the project, were going door-to-door encouraging landowners not to  
2 engage or discuss the pipeline with Summit. Nevertheless, we continued to engage in  
3 courteous and professional meetings and communications with the landowners on the re-  
4 route. Some of the remaining landowners expressed a desire to hold off until Summit had  
5 a permit for a pipeline before continuing to engage in discussions for voluntary easements.  
6 It is my opinion, and the opinion of others at Summit, that there was direct pressure applied  
7 to many landowners in the community to discontinue engagement with Summit. We feel  
8 strongly that we will be able to effectively re-engage if Summit obtains a certificate and  
9 route permit for the project. Regardless, we intend to continue our direct engagement with  
10 all impacted landowners.

11 **Q. What is the current distance of the proposed re-route from Bismarck city limits?**

12 A. Our closest location to city limits is just over 7 miles on the west side, measured from the  
13 corner of 15th St. NW and 64th Ave. NW (1 block south of 1804). We cross Highway 83  
14 approximately 9 miles north of 1804 commonly known as 71st Ave NE.

15 **Q. What is the current distance from the Bismarck Extra Territorial Jurisdiction?**

16 A. Our current route is over 4½ miles north of 110<sup>th</sup> Ave. NW which is the northern most  
17 extent of the Bismarck 2045 Future Land Use Plan. See **Exhibit B**. The location where we  
18 cross highway 1804 is also over 4½ miles north of the Bismarck 2045 Future Land Use  
19 Plan. See **Exhibit C**.

20 **Q. What can you tell us about the residential development around this re-routed**  
21 **pipeline?**

22 A. As part of our conversations with the Intervenors that are developers of residential  
23 property, we discussed known or anticipated developments which may be in the vicinity of  
24 the re-route around Bismarck. Based on those discussion, and discussions with others, I

1 am unaware of any current or planned developments in the vicinity of the re-route around  
2 Bismarck.

3 **Q. Does the project cross any lands which are subject to a coal mining permit issued by**  
4 **the Commission?**

5 A. Yes. Summit and BNI have come to an agreement whereby the project route will cross  
6 approximately 3,000 feet of the E/2NE/4 of Section 9, Township 141 North, Range 83  
7 West, which is currently within BNI's coal mining permit (BNCR-1101) on land owned  
8 by Minnkota Power Cooperative.

9 **Q. Will the pipeline cross areas located within BNI's disturbance plans associated with**  
10 **its permit?**

11 A. No. BNI has confirmed this in a letter dated August 17, 2023 addressed to the Commission  
12 wherein the General Manager for BNI confirms that the location of Summit's pipeline on  
13 BNI's permit lands "has virtually no impact on our current or future mining activities," and  
14 that "[a]ll other portions of [Summit's] route are outside of our existing mining permit  
15 boundaries in areas which do not contain minable coal or would otherwise be needed in  
16 support of nearby mining activities."

17 **Q. Has the letter from BNI been filed with the Commission?**

18 A. Yes. The letter was attached as Exhibit E to Summit's Petition for Reconsideration filed at  
19 Docket No. 371.

20 **Q. Is the Office of Surface Mining Reclamation and Enforcement ("OSMRE") aware of**  
21 **Summit's plans to cross lands covered by BNI's permit?**

22 A. Yes. As I previously mentioned, Summit reached out to the OSMRE in March of 2023.  
23 In an e-mail dated March 21, 2023, Mr. Guy Welch with the Reclamation Division  
24 confirmed that the OSMRE "is not involved with third party entities installing pipelines on  
25 lands permitted for surface coal mining activities," and that the "[m]ining companies would

1 need to update the permit to show where pipeline easements of record have been  
2 ascertained and take measures to avoid adverse impacts to pipelines.”

3 **Q. Has the e-mail from Mr. Welch been filed with the Commission?**

4 A. Yes. The e-mail was attached as Exhibit F to Summit’s Petition for Reconsideration filed  
5 at Docket No. 371.

6 **Q. What measures will be taken by Summit and BNI to avoid adverse impacts to that**  
7 **portion of Summit’s pipeline located on permitted surface mining lands?**

8 A. As noted above, Summit’s pipeline does not cross any mineable coal and is located in an  
9 area where no disturbance or supporting activities are necessary or anticipated.  
10 Nevertheless, Summit is committed to working with BNI through construction and  
11 operation of the project to ensure surface mining activities do not interfere with either  
12 party’s operations or result in damage to Summit’s pipeline.

13 **Q. Does this conclude your prepared direct testimony?**

14 A. Yes, it does.

15  
16 **Dated this 17<sup>th</sup> day of April 2024.**

17  
18  
19 

20 **Wade Boeshans**

## EXHIBIT A

(page 1)



Dear Affected Landowner,

We are writing to you today because you likely received an inquiry from Summit Carbon Solutions seeking a 99 year easement on your property. Please know that:

**If you received a letter, phone call, or knock on the door from a Summit Carbon Solutions land agent, you should know that you DO NOT have to sign an easement.**

Since this project was announced there have been many concerns raised by local governments across the state. Burleigh and Emmons County have passed new zoning laws and six county's have passed resolutions opposing eminent domain. Summit is actively trying to get these county ordinances thrown out by the North Dakota Public Service Commission (ND PSC)—evidence that the developers behind this project don't believe in local control. You also may have read that the ND PSC denied Summit's permit on August 4, 2023, after five lengthy and well attended public hearings. Despite being denied in August, Summit is still attempting to receive state approval and additional public hearings will be taking place within the next few months.

The truth is this project is about a hazardous carbon pipeline being pushed by out of state and foreign interests. This company wants to take our land by eminent domain to generate billions in private profits through federal tax credits and carbon markets. When a carbon pipeline ruptures, it could suffocate or intoxicate anyone in the area. We saw this happen in a town in Mississippi as recently as 2020. In Satartia, Mississippi, dozens were sent to the hospital and many had seizures, cars were made inoperable, and residents are still suffering chronic fatigue and lung dysfunction. Chief Jerry Briggs, a first responder in Satartia, testified in front of the ND PSC that he found people passed out 3 miles away from the CO2 rupture. If built, this project will be all risk for us and all reward for out of state investors. Some of our largest concerns include:

- Eminent domain should not be used for private projects and private profits
- Under NDCC: Summit will not pay any property taxes during construction or the first 10 years of the pipeline's existence.
- These projects are only possible with massive amounts of public money through the federal 45Q tax credit and carbon markets.
- CO2 pipelines are dangerous—several Bismarck area property developers have expressed serious concerns about property values and insurance companies have expressed an unwillingness to insure CO2 pipelines.



## EXHIBIT A

(page 2)

We will not be signing 99 year permanent easements for this project. Instead, we have joined together with affected North Dakota families across the state to create the North Dakota Easement Team: [North Dakota Easement Team \(ndeasement.org\)](http://NorthDakotaEasementTeam.ndeasement.org) with Domina Law Group ([www.dominalaw.com](http://www.dominalaw.com)). We have done this to ensure there is a united legal strategy to best protect ourselves from eminent domain abuse and easement language that allows the pipeline company to skirt liability. Your support and contribution allows us to have the resources necessary to support things like yard signs, community meetings, billboards, staff resources, and more.

We have to work together as North Dakota landowners and fellow citizens. We hope you join us and spread the word to anyone else who could benefit from information sharing and unified legal representation. If you're interested in additional information, please visit our website.

Sincerely,

Steve Laine  
Emmons County

Paul Brown  
Burleigh County

## **EXHIBIT A**

(page 3)

### **Summit Carbon Solutions Fact-Sheet:**

- This would be the largest CO2 pipeline in North America ( approx 2060 miles) the route north of Bismarck would consist of a 24 inch pipeline. The SCS pipeline has a maximum flow rate of 936 million cubic feet per day and a capacity of 18 million metric tons of CO2 each year. Summit has never built a pipeline before.
- Dozens of landowners in North Dakota have been sued by Summit for survey access and seven county commissions have been sued project wide— 150+ landowners in South Dakota were previously sued for eminent domain. Summit only dropped the eminent domain lawsuits upon being denied a permit by the South Dakota Public Utilities Commission.
- Summit will pay **ZERO** dollars in property taxes for the first 10 years due to a “payment in lieu of taxes” provision written into NDCC. This means that County's will still receive the assessed tax revenue— but it will 100 percent come from the ND Treasury— IE our tax dollars.
- There is foreign investment and ties to foreign companies in Summit, including the China Silk Road Fund. The China Silk Road Fund is an anchor investor in TPG Rise— TPG Rise is the largest reported investor in Summit. As a result: Burleigh, Emmons, Richland and 32 North Dakota legislators requested an attorney general's investigation into the investors of the company.
- In 2020, a CO2 pipeline ruptured in Satartia, Mississippi. Hundreds were evacuated and dozens were sent to the hospital. Residents still report symptoms of brain fog and chronic fatigue. In response—PHMSA is **currently** updating regulations for CO2 pipelines: [PHMSA Announces New Safety Measures to Protect Americans From Carbon Dioxide Pipeline Failures After Satartia, MS Leak | PHMSA \(dot.gov\)](#)

## EXHIBIT A

(page 4)

**DOMINALAW Group pc llc**

dominalaw.com

### Professional Services Agreement 2023 North Dakota PSC Litigation & Related Matters

This Agreement is effective \_\_\_\_\_, 2023 by and between \_\_\_\_\_  
\_\_\_\_\_ ("Client"), and DOMINALAW Group pc llc (DLGpc), Omaha, Nebraska, ("Lawyers"). The Parties agree:

1. Client either owns directly or indirectly through an entity or Trust or is otherwise responsible for land in North Dakota located at [Insert here County Name & Sec/Twp/Range or Address of Affected Lands] and potentially subject to Condemnation proceedings by Summit, ("Pipeline Company"). Pipeline Company will likely seek ND Public Service Commission ("PSC") project approval. Client engages Lawyers to represent them in the PSC proceedings and other related litigation and Easement/Lease negotiations, if/when necessary.
2. Legal efforts will occur in Phases: 1<sup>st</sup> Client education and organizing, 2<sup>nd</sup> PSC Client testimony and expert witness development, and 3<sup>rd</sup> the PSC proceedings. In parallel to these phases additional litigation to protect Client's interest may occur such as a constitutional challenge or other litigation. 4<sup>th</sup>, if Client is unsuccessful at the PSC there may be an appeal. 5<sup>th</sup> Easement negotiations, if/when necessary.
3. **Litigation Expenses:** Lawyers will represent multiple persons and/or entities in the PSC case preparation and intervention such that all other clients and Client here shall be responsible only for their individual pro-rata share of the total expenses actually incurred. Pro-rated expenses may for example include shared expert witness fees, filing fees, deposition fees, and other expenses as necessary to advance the Client's interests and group litigation.
4. **Legal Fees:** Similar to the Litigation Expenses above, Client here shall only be responsible for Client's pro-rata share of legal fees. Lawyers work related to the PSC efforts will be billed monthly at the actually incurred rate of \$350.00/hr., which shall be pro-rated across all PSC Clients. For example, if there are ten (10) total Clients whether named as Intervenor or simply supporting the Intervenor's case, each such client shall be allocated 1/10<sup>th</sup> of the total fees, or \$35.00/hr. per Client. The total legal fees are divided by the total number of Clients. For easement/Lease negotiation, other than price, if necessary, this effort will also be billed hourly and are capped at \$2,900.00 per Client. The intent is to cap Client's worst-case individual legal fees and keep legal fees as low as possible by prorating legal fees across a larger group of similarly situated individuals. The more property owners involved, the lower Client's individual fees. Condemnation representation is not part of this Agreement and would occur on an individual basis and a new Professional Services Agreement would be entered into per Client at the time condemnation starts, if ever. Settlement of Client's claims must be authorized by Client. Client's failure to perform under the terms of paragraph 3 or 4 may be deemed a discharge of Lawyers representation at the Lawyers discretion. Lawyers shall have an attorney's lien as allowed by law for their unpaid fees and costs, if any, and are authorized by Client to file notice of said lien against the real property in question in these proceedings at Lawyers discretion. Unpaid expenses and fees shall accrue on an individual Client basis at 10.0% interest per annum.
5. Group representation offers Client legal services at a fraction of the cost; however, theoretical conflicts may exist or actual conflicts may arise between one or more persons in group and related litigation when all are represented by the same Lawyers. Client hereby expressly waives any known or unknown conflict that now exists or may arise regarding Client and any other landowner, client, or group also represented by Lawyers before or during the course of Lawyers representation of Client. Lawyers are not obligated to advance arguments they believe are without merit or cannot be made in good faith. This Agreement binds the Parties and their successors and assigns, is governed by North Dakota law, and contains the Parties entire understanding.
6. By signing this Agreement Client warrants that he/she or it is a taxpayer and/or landowner in the State of North Dakota with such real property reasonably likely to be affected by Pipeline Company which seeks to construct its proposed pipeline and/or Client has interest in preventing Pipeline Company from taking land in North Dakota.

Client Phone #: \_\_\_\_\_

DOMINALAW Group pc llc (DLGpc):

Client Signature: \_\_\_\_\_

Authorized Lawyer

Print Name: \_\_\_\_\_

Client Signature: \_\_\_\_\_

Client Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

RETURN TO: [CO2@dominalaw.com](mailto:CO2@dominalaw.com) FAX: 402-493-9782 OR  
MAIL: Domina Law 2425 S. 144<sup>th</sup> St. Omaha, NE 68144

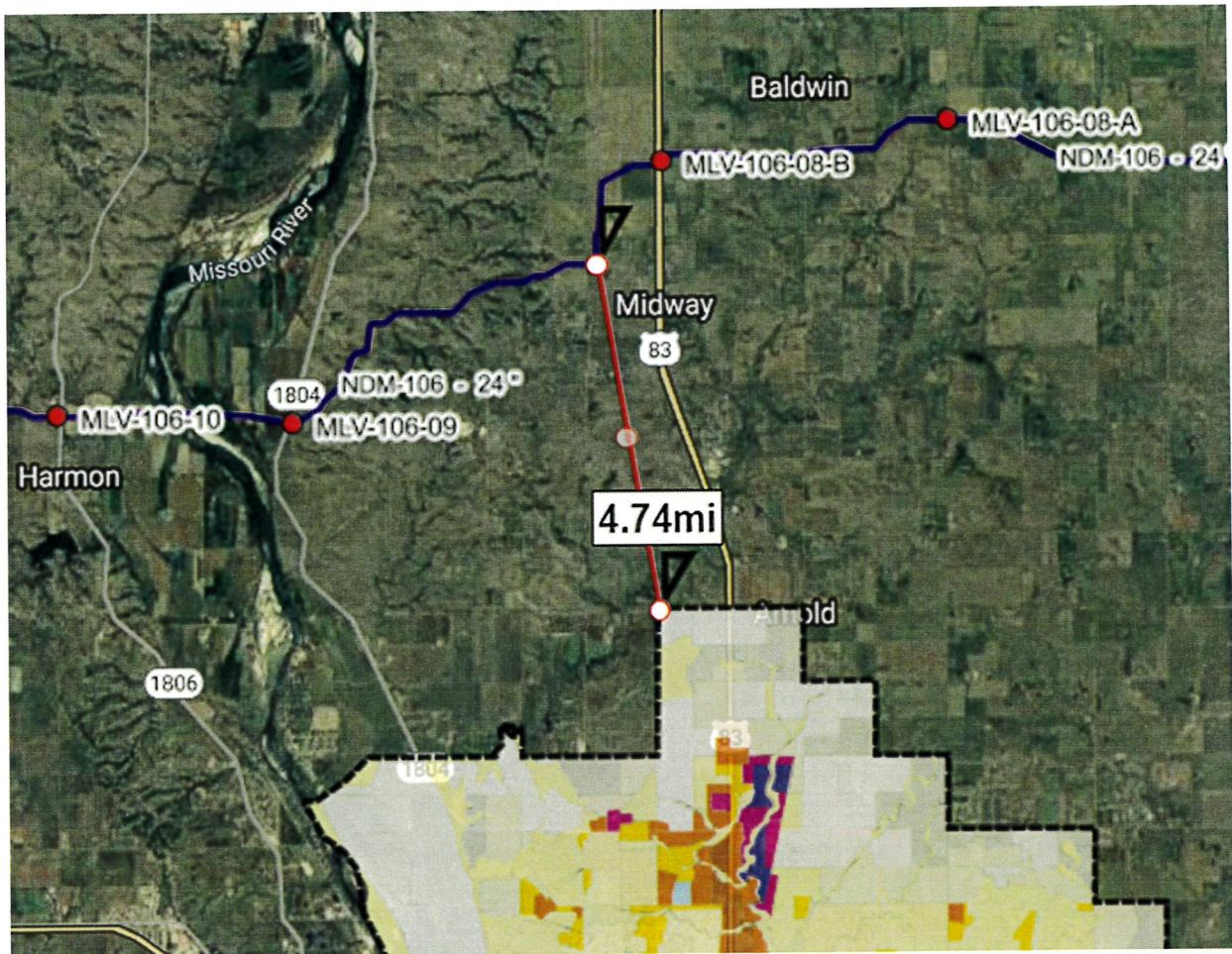
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Trial Practice. Not Just Talk. <sup>SM</sup>

January 2023



## EXHIBIT B





## EXHIBIT C

