



**KNOLL LEIBEL** <sup>LLP</sup>  
ATTORNEYS AT LAW

September 16, 2024

**VIA U.S. MAIL & E-MAIL ONLY:** [ndpsc@nd.gov](mailto: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. Objection to Lawrence Bender's Letter dated September 13, 2024;
2. Attachment 1 – CA Specialty Letter; and
3. Declaration of Service.

The enclosed Objection and Attachment are being filed with the North Dakota Public Service Commission (hereinafter "NDPSC") on behalf of the Intervenors represented by Knoll Leibel LLP. These Intervenors 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](mailto:steve@bismarck-attorneys.com)

SJL: rmo

Enclosures

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**Steven J. Leibel, Partner**

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769 PU-22-391 Filed 09/16/2024 Pages: 7

Objection to Lawrence Bender's Letter Dated September 13, 2024 and Attachment 1 - CAC Specialty Letter  
Knoll Leibel, LLP, on behalf of the Intervenors  
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

**OBJECTION TO LAWRENCE  
BENDER'S LETTER DATED  
SEPTEMBER 13, 2024**

Intervenors<sup>1</sup> represented by the undersigned counsel, hereby submit this Objection to Lawrence Bender's Letter dated September 13, 2024 regarding its general liability insurance policy.

**OBJECTION**

On September 13, 2024 SCS Carbon Transport, LLC ("Summit") through its attorney Mr. Bender submitted a letter stating "...Summit submits to the Commission that it will have not less than \$100,000,000.00 in general liability insurance in place prior to commencing construction of the Project." Summit submitted no evidence to support this claim.

On August 5, 2024, Summit filed an undated letter from a CAC Specialty with the Iowa Utilities Commission, a true and accurate copy is incorporated here as **Attachment #1**.

North Dakota landowners have read this letter and CAC Specialty is careful not make statements like Mr. Bender does and instead it states the conditional and

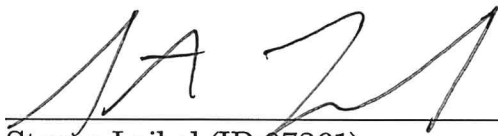
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<sup>1</sup> See Order Granting Petition to Intervene (Doc. 82, 83, 159, 168, 204, 511, and 512).

contingent nature of any commitment upon facts known as of July 1, 2024, without going on to disclose such material facts. The letter states that CAC Specialty “believes” securing \$100M of general liability limit insurance “is possible.” The letter also hedges by reminding us the “insurance marketplace is fluid and can materially fluctuate over time. This fluidity could negatively impact the placement of SCS’s general liability coverage.”

Summit tells the PSC that Summit “will have” \$100M of insurance in place. This is different than what Summit’s insurance broker says. This representation by Summit continues the multi-year theme of Summit’s witnesses or counsel claiming one thing but the evidence showing another.

Dated this 16th day of September, 2024.



Steven Leibel (ID 07361)  
David Knoll (ID 06167)  
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*Landowner/Intervenor Lawyers*



Cobbs Allen Capital, LLC dba CAC Specialty  
250 S Fillmore St, Suite 450  
Denver, CO 80210


To Whom This Concerns at the Iowa Utilities Commission,

On June 25, 2024, in Docket No. HLP-2021-001, the Iowa Utilities Commission approved Summit Carbon Solutions (SCS) petition for a hazardous liquid pipeline permit. As a condition for the issuance of a final permit SCS will be required to carry at least \$100M of general liability insurance and the policy should be reserved for damages that may occur within the state of Iowa. The policy is to be in place prior to commencing construction and shall cover damages related to the construction, operation, and maintenance of the hazardous liquid pipeline. As SCS's risk management and insurance advisor, and with the facts that are known to us as of July 1, 2024, CAC Specialty believes that securing \$100M of general liability aggregate limit insurance is possible, through a combination of primary and excess liability policies, and the placement of such policy(ies) is likely, based on current market conditions. This statement of confidence is based on discussions with underwriters and wholesale broker partners, and review of insurance market data.

Notwithstanding the foregoing, you understand and agree that the insurance marketplace is fluid and can materially fluctuate over time. This fluidity could negatively impact the placement of SCS's general liability coverage.

CAC Specialty is recognized domestically and internationally as an experienced insurance brokerage firm within the energy, power and renewable markets. CAC Specialty is in the market everyday placing liability insurance for carbon capture, oil and gas, power generation, and renewable power assets, including negotiating coverage compliant with lender and financing parties, and governmental agencies. CAC Specialty has helped position Summit Carbon Solutions to be successful in the future procurement of the required insurance.

Sincerely,

  
**Ross Hamann**  
*Executive Vice President*

**ATTACHMENT 1**  
**PU-22-391**



250 S Fillmore St  
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**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  
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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. Objection to Lawrence Bender's Letter dated September 13, 2024
2. Attachment 1 – CAC Specialty Letter; and
3. Declaration of Service.

[2] On September 16, 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  
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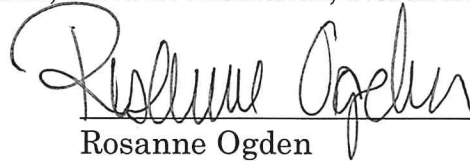
[3] and by sending the originals and seven (7) copies of said documents via U.S. Mail, at Bismarck, North Dakota with postage prepaid, to the following:

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 16th day of September, 2024 at Bismarck, North Dakota.

  
\_\_\_\_\_  
Rosanne Ogden