## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY SCS CARBON TRANSPORT LLC FOR A PERMIT TO CONSTRUCT A CARBON DIOXIDE TRANSMISSION PIPELINE

ORDER GRANTING REQUEST TO WITHDRAW PARTY STATUS; ORDER GRANTING LIMITED INTERVENTION; ORDER ESTABLISHING DEADLINES FOR COUNTY PREFILED TESTIMONY, WITNESS LISTS, AND EXHIBITS

HP22-001

On February 7, 2022, the South Dakota Public Utilities Commission (Commission) received an Application for a Permit to Construct a Carbon Dioxide Transmission Pipeline (Application) from SCS Carbon Transport LLC (Applicant or SCS), a limited liability company owned by Summit Carbon Solutions, LLC. Applicant proposes to construct and operate a carbon dioxide (CO<sub>2</sub>) transmission pipeline (Project). The Project is approximately 2,000 miles of pipelines for the transportation of CO<sub>2</sub> from more than 30 ethanol plants across five states, including seven ethanol plants in South Dakota, to underground injection control facilities in North Dakota. The proposed route of the main line enters South Dakota in Lincoln County at the lowa/South Dakota border and extends in a northwesterly direction, exiting the state at the South Dakota/North Dakota border in McPherson County. In addition to the main line, the proposed Project includes lateral and trunk lines connecting ethanol plants to the main line. The proposed length of pipelines through South Dakota is approximately 477 miles and would cross the counties of Beadle, Brown, Clark, Codington, Edmunds, Hamlin, Hand, Hyde, Kingsbury, Lake, Lincoln, McCook, McPherson, Minnehaha, Miner, Spink, Sully, and Turner.

On February 9, 2022, Vice Chairperson Kristie Fiegen filed a letter delivered to Governor Kristi Noem advising of a conflict of interest under SDCL 49-1-9 after learning of family ownership of land on the proposed Project route. On February 10, 2022, the Commission issued a Notice of Application; Order for and Notice of Public Input Meetings; Notice of Opportunity to Apply for Party Status. Pursuant to ARSD 20:10:22:40, the deadline for persons to file an application for party status was April 8, 2022. On February 16, 2022, Josh Haeder, State Treasurer, was appointed by Governor Noem to serve as an Acting Commissioner in this docket. Public input meetings were held March 22 through March 25, 2022, at various locations in the Project's footprint. Party status has been granted to numerous individuals, entities, and governmental units.

On June 13, 2022, the Commission issued an Order Granting, in part, Motion to Extend Final Decision Deadline; Order Denying Landowners' Motion to Dismiss and, in the alternative, Motion for Stay.

On January 11, 2023, the Commission issued an Order Granting Motion for Procedural Schedule; Order Granting Withdrawal of Party Status. On January 19, 2023, the Commission issued an Order Denying Renewed Motion to Dismiss and Return Summit's Application, or in the Alternative, a Motion for Stay. On February 15, 2023, the Commission issued an Order Denying Motion to Reconsider Procedural Schedule; Order Setting Date for Final Decision and Order and established a procedural schedule with an evidentiary hearing to commence September 11, 2023, and established November 15, 2023, as the deadline for a final decision. On August 3, 2023, the Commission issued an Order Granting Motion for Time Certain for Witness Testimony for certain

Staff witnesses to testify beginning on September 19, 2023, and into September 20, 2023. On August 14, 2023, the Commission issued an Order for and Notice of Evidentiary Hearing. On August 21, 2023, the Commission issued an Order for and Notice of Motion Hearing on Less Than 10 Days' Notice. On August 21, 2023, Applicant filed a Motion for Order Preempting County Ordinances. On August 28, 2023, Staff filed a Motion for Time Certain for Evidence on the Issue of County Preemption. On August 28, 2023, Pente Farms, LLC filed a request to withdraw as an intervenor. On August 31, 2023. Minnehaha County filed a Motion to Intervene for Limited Purpose and Motion for Time Certain to Present Evidence on County Preemption. On September 1, 2023, the Commission issued an Order Denying Motion to Return Application; Order Granting Motion to Adopt Substitute Witness Testimony; Order Granting motion for Time Certain for Certain Witnesses.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 15-6, and 49-41B, and ARSD Chapters 20:10:01 and 20:10:22. The Commission may rely upon any or all of these or other laws of this state in making its determination.

On September 6, 2023, at its regularly scheduled meeting, the Commission considered these matters.

With no objection from other Parties, the Commission voted unanimously to grant Pente Farms, LLC's request to withdraw as an intervenor. The Commission then voted unanimously to grant Minnehaha County's Motion to Intervene for Limited Purpose. The Commission then voted to establish September 17, 2023, as the deadline for parties with limited intervention status to file prefiled testimony, witness lists and hearing exhibits. The Commission did not act on the Motion for Time Certain to Present Evidence on County Preemption. It is therefore

ORDERED, that Pente Farms, LLC's request to withdraw as an intervenor is granted. It is further

ORDERED that Minnehaha County's Motion to Intervene for Limited Purpose is granted. It is further

ORDERED that parties with limited intervention status shall file pre-filed testimony, witness lists and hearing exhibits by 5:00 p.m. CDT, September 17, 2023.

Dated at Pierre, South Dakota, this 2th day of September 2023.

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BY ORDER OF THE COMMISSION:

GARY HANSON, Commissioner

CHRIS NELSON, Commissioner

JOSH HAEDER, Acting Commissioner