

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

IN THE MATTER OF THE APPLICATION BY)	ORDER GRANTING
SCS CARBON TRANSPORT LLC FOR A)	MOTION FOR
PERMIT TO CONSTRUCT A CARBON)	PROCEDURAL SCHEDULE;
DIOXIDE TRANSMISSION PIPELINE)	ORDER GRANTING
)	WITHDRAWAL OF PARTY
)	STATUS
)	
)	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 (CO₂) transmission pipeline (Project). The Project is approximately 2,000 miles of pipelines for the transportation of CO₂ 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 Iowa/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. On February 24, 2022, the Commission issued an Order Assessing Filing Fee; Order Authorizing Executive Director to Enter into Consulting Contracts. Public input meetings were held March 22 through March 25, 2022, at various locations in the Project's footprint.

On April 26, 2022, the Commission issued an Order Granting Party Status Applications. On May 5, 2022, the Commission issued an Order Granting Party Status; Order Denying Party Status; Order Granting Withdrawal. On May 13, 2022, the Commission issued an Order Granting Party Status; Order Denying Party Status. 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. The Commission has issued orders granting requests to withdraw party status to Daniel Hoey on behalf of Intervenor West Central School District, Greg Alvine, Hand County, and Jayne and Blaise Fogarty.

On November 4, 2022, Applicant filed a Motion for Scheduling Order. On November 8, 2022, Applicant filed a Motion for Protective Order. On November 10, 2022, Landowners filed its

Opposition to Summit's Motion for Scheduling Order. On November 29, 2022, the Commission issued an Order Granting Motion for Protective Order. The Commission further ordered the Parties to confer with each other on scheduling dates. If the Parties could not mutually agree on a Scheduling Order, each Party was required to submit its proposal by December 9, 2022.

On December 9, 2022, Commission Staff filed its Proposal for Procedural Schedule. On December 12, 2022, Landowners filed its Opposition to Summit's Motion for Scheduling Order and, in the alternative, Landowners' Proposed Scheduling Order. On December 13, 2022, Jody Eli-Ackerman filed a request to withdraw party status. On December 16, 2022, Landowners filed a Motion for Clarification and Modification of Protective Order. On December 19, 2022, Landowners filed a Motion to Continue Hearing on Proposed Scheduling Order and a Renewed Motion to Dismiss and Return Summit's Application, or in the alternative, a Motion for Stay. On December 19, 2022, SCS filed its Reply to Landowners' Opposition to Summit's Motion for Scheduling Order and, in the alternative, Landowners' Proposed Scheduling Order. On December 28, 2022, Ethanol Plants filed its Objection to Landowners' Motion to Continue Hearing on Proposed Scheduling Order and a Renewed Motion to Dismiss and Return Summit's Application, or in the alternative, a Motion for Stay.

On January 4, 2023, SCS filed its Objection to Landowners' Renewed Motion to Dismiss and Return Summit's Application, or in the Alternative, a Motion for Stay. On January 5, 2023, the Commission General Counsel held a prehearing scheduling conference with the parties and other interested persons to discuss the various motions and a draft procedural schedule. The parties agreed that the Landowners' Renewed Motion to Dismiss and Return Summit's Application, or in the alternative, a Motion for Stay will be heard at the Commission's January 17, 2023, meeting and that Landowners will file its Reply Brief no later than January 12, 2023.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 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.

At its regularly scheduled meeting on January 5, 2023, Landowners withdrew their Motion to Continue Hearing on Proposed Scheduling Order and its Motion for Clarification and Modification of Protective Order. Hearing no objection from the parties, the Commission unanimously voted to grant Jody Eli-Ackerman's request to withdraw party status. After hearing argument from the parties, the Commission voted unanimously to adopt the proposed procedural schedule discussed at the prehearing scheduling conference. It is therefore

ORDERED, that the procedural schedule shall be as follows:

First discovery requests:	March 1, 2023
Responses due:	March 31, 2023
Second discovery requests:	April 21, 2023
Responses due:	May 22, 2023
Intervenor testimony:	June 16, 2023
Staff testimony:	June 23, 2023
Rebuttal testimony:	July 7, 2023
Additional discovery raised by	
Rebuttal testimony:	July 17, 2023
Responses due:	August 17, 2023
Surrebuttal testimony:	August 31, 2023
Witness List and prefiled Exhibits:	Sept. 6, 2023

Hearing dates:

Sept. 11-22, 2023

Sept. 25-29, 2023, for overflow days if needed.

It is further

ORDERED, that Jody Eli-Ackerman's request to withdraw party status is hereby granted.

Dated at Pierre, South Dakota, this 11th day of January 2023.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u>Adam DetHueck</u>
Date: <u>1/11/23</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner

Josh Haeder
JOSH HAEDER, Acting Commissioner