

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

IN THE MATTER OF THE APPLICATION BY)	ORDER GRANTING PARTY
SCS CARBON TRANSPORT LLC FOR A)	STATUS; ORDER DENYING
PERMIT TO CONSTRUCT A CARBON)	PARTY STATUS
DIOXIDE TRANSMISSION PIPELINE)	
)	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 Carbon), 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 5 states, including 7 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. Major components being built in South Dakota are expected to include 4 pump stations, 16 main line valves, 5 launcher-receiver sites, and approximately 5 miles of access roads as part of the Project. In addition to the main line and other components, the proposed Project includes lateral and trunk lines connecting ethanol plants throughout the eastern part of South Dakota to the main line. The proposed length of pipelines through South Dakota is approximately 469 miles and will cross the counties of Beadle, Brown, Clark, Codington, Edmunds, Hamlin, Hand, Hyde, Kingsbury, Lake, Lincoln, McCook, McPherson, Minnehaha, Miner, Spink, Sully, and Turner. The proposed pump stations are located in Kingsbury, McPherson, Minnehaha, and Spink counties. Applicant estimates the total cost of the proposed Project in South Dakota to be \$785 million.

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 is April 8, 2022.

On February 10, 2022, the Commission electronically transmitted notice of the filing and the intervention deadline of April 8, 2022, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. 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 a Filing Fee in the amount of \$592,500.

In accordance with SDCL 49-41B-16, the Commission published notice and thereafter held public input meetings in Onida on March 22, 2022, in Sioux Falls on March 23, 2022, in De Smet and Redfield on March 24, 2022, and in Aberdeen on March 25, 2022.

On April 8, 2022, Applicant filed a project overview map noting the adoption of alternate routes in Beadle, Edmunds, Lake, Lincoln, McPherson, Minnehaha, and Miner counties. On April 26, 2022, the Commission issued an Order Granting Party Status Applications. Between

April 14 and April 27, 2022, approximately 56 Applications for Party Status were filed. On April 28, 2022, a Motion for Approval of Party Status Applications Filed After April 8, 2022, and Motion for Extension of Intervention Deadline or in the Alternative Motion for Stay of All Proceedings was filed by Domina Law Group who represents numerous Intervenors.

At its regularly scheduled meeting on April 28, 2022, the Commission granted Party Status to all person and entities listed in Attachment B to that Order. The Commission voted unanimously to deny Party Status to those listed in Attachment C of that Order. As for the Applications for Party Status that were late-filed, the Commission voted unanimously to grant Party Status to all person and entities listed in Attachment D to that Order. The Commission further voted unanimously to grant the withdrawal of the Application for Party Status of Jane Ver Steeg and Winding Valley Farms. A decision on the remaining Applications for Party Status that were filed on or after April 25, 2022, was deferred to a later date.

On May 9, 2022, Staff filed its Review of Late-Filed Party Status Applications. On May 9, 2022, SCS Carbon filed a Motion to Extend Deadline to June 15, 2023, for a Scheduling Order and for Pre-Filed Testimony. On May 10, 2022, SCS Carbon filed a letter regarding re-routes that were not identified as alternate routes prior to April 8, along with Exhibits A-F.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B, specifically 49-41B-17, and ARSD Chapters 20:10:01 and 20:10:22, specifically 20:10:15:01.02 and 20:10:22:40.

At its regularly scheduled meeting on May 10, 2022, the Commission first considered Applications for Party Status that were timely filed by April 8, 2022 but overlooked in earlier proceedings. Finding that all applicants for Party Status residing within ten miles of the proposed pipeline route had complied with 49-41B-17(4) and that those with easements that had filed by April 8, 2022, are directly interested, the Commission voted unanimously to grant Party Status to James Fischbach, C & K Farm, and Ethan Javers. The Commission voted unanimously to deny Party Status to Crystal Page.

As for the Applications for Party Status that were late-filed, ARSD 20:10:01:15.02 addresses late-filed interventions. The Commission has the discretion to grant or deny late-filed petitions to intervene. Finding that the late-filed Applications for Party Status of those petitioners residing within ten miles of the proposed pipeline route and those with property that may be impacted by an easement that had filed by May 10, 2022, are directly interested, and further finding that the late-filed Applications for Party Status would not unduly prejudice the rights of other parties to the proceeding or be detrimental to the public interest, the Commission voted unanimously to grant Party Status to all person and entities listed in Attachment E to this Order and the Commission voted unanimously to deny Party Status to those listed in Attachment F of this Order. It is therefore

ORDERED, that Party Status is hereby granted to all persons and entities listed in Attachment E to this Order. It is further

ORDERED, that Party Status is hereby denied to all persons and entities listed in Attachment F to this Order.

Dated at Pierre, South Dakota, this 13th day of May 2022.

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.
By: <u>Adam DeHueck</u>
Date: <u>5/13/22</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson

CHRIS NELSON, Commissioner

Gary Hanson

GARY HANSON, Commissioner

Josh Haeder

JOSH HAEDER, Acting Commissioner