

**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**

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**STAFF RESPONSE TO NEW AND
DEFERRED APPLICATIONS FOR
PARTY STATUS**

HP22-001

Staff, by and through its undersigned attorney, hereby files this Response to New and Deferred Applications for Party Status. At the April 14 Commission Meeting, action was deferred on a number of Applications for Party Status in order to provide additional time for those applications to submit information. Also, since the April 14 Commission meeting, nineteen new Applications for Party Status have been received as of the date of this filing.

While other applicants for party status may yet submit information, Staff felt it was important to submit this filing in order to give those who timely provided additional information ample advanced notice of Staff's position.

I. Applications for Party Status Received after April 8 Deadline.

Upon receipt of the SCS Carbon Transport LLC's (SCS Carbon) Application for Permit to Construct a Carbon Dioxide Pipeline on February 7, 2022, the Commission issued a Notice of Application; Order for and Notice of Public Input Meetings; Notice of Opportunity to Apply for Party Status. This Notice established a deadline for receipt of Applications for Party Status "on or before 5:00 p.m., CDT, on April 8, 2022." This deadline is established pursuant to administrative rule. See, ARSD 20:10:40. Over 370 Applications for Party Status were timely received.

On April 8, 2022, SCS Carbon filed a letter and Project Overview Map depicting route changes. Due to this filing, at the April 14 Commission Meeting, Commissioner Hanson and Acting Commissioner Haeder stated that they would consider Applications for Party Status to the extent that there was a reroute of [the] area.¹ Commissioner Nelson noted that he wanted “to be very clear that extending the intervention deadline is not part of [the] motion. ... You need to make an argument as to why late intervention is appropriate, so there is an additional hurdle there.”²

With this guidance in mind, Staff considered late-filed Applications for Party Status, looking at whether they correlated to a reroute or otherwise provided information on good cause for the delay in filing. The following is a list of party status applications received on or after the date of the last commission meeting, April 14, 2022, and Staff’s recommendation on each.

Applicant Name	Filed By	Staff Recommendation
Sherwood Beek	Same as Applicant	Sherwood Beek is a property owner along the noticed pipeline route whose property is on or near a reroute in Lincoln County. Staff recommends granting party status.
Richard Lee Cahill	Same as Applicant	According to the notice list filed confidentially by SCS Carbon, Mr. Cahill was designated as the notice recipient for Alma Grace Feldmann Life Estate. Staff cannot determine the location of the parcel and, therefore, cannot determine if it was subject to a reroute. Staff recommends granting party status.
Mark & Mary Margaret Mack Trust	Karen (Mack) Jones	Ms. Mack stated this application was late due to being unaware of the deadline. The Mark & Mary Margaret Mack Trust was on the notice list, but Ms. Jones was not the recipient of the notice. It is unclear what the relationship is between Ms. Jones and the trust or if the trust property is near a reroute. Staff reached out to Karen Jones and confirmed that she is the power of attorney for Mary Margaret Mack. Staff recommends granting party status to the Trust.
Alvine Family Limited Partnership	Frank Alvine, MD	Dr. Alvine failed to complete the interest section of the application, however, he is listed with the Secretary of State as the agent for the Alvine Family Limited Partnership. Neither Dr. Alvine nor the Partnership are on

¹ See April 14, 2022, recording at approximately 1:38:30. <https://puc.sd.gov/commission/media/2022/puc04142022.mp3>.

² See recording at 1:39:20.

		the notice list. In addition, neither was located on a plat map available to Staff. Winfred is near a reroute. Staff contacted Dr. Alvine to learn more about his interest. Dr. Alvine confirmed that the Partnership is the registered owner and taxpayer of the Winfred, SD address listed on the application. Because the Partnership owns land on or near the proposed route, Staff recommends granting party status to Alvine Family Limited Partnership.
Wild Water West	Frank Alvine, MD	Wild Water West is approximately 1.5 miles from the proposed route in Minnehaha County. It is not affected by a reroute. Dr. Alvine did not complete the interest section of the application. Marilyn Alvine is listed as the agent with the Secretary of State. Staff spoke with Dr. Alvine to learn more about his interest. Dr. Alvine communicated a concern for the health and safety of the “thousands of people who gather outdoors” at the waterpark.
Phyllis Anliker	Same as applicant	Phyllis Anliker was not on the notice list. The address provided on the application for party status is in Forbes, North Dakota, which is a town on the border of South and North Dakota, northeast of Leola, SD. While the application state that Ms. Anliker has land within ten miles of the route, it is unclear if the land is in South Dakota. If the land subject to concern is located in North Dakota, North Dakota proceedings would be the appropriate forum in which to address those concerns.
Harvey Anlike	Same as applicant	See above.
Highmore Fire Department	Matt Kutz	Highmore Fire Department would likely be the first responders called if there was in incident in or near Hyde County. Staff recommends granting party status.
Chris and ReEtta Sich	Chris Sich	Chris and ReEtta Sich live in the Leola area near a reroute. Staff recommends granting party status.
Kristie J. Morrison	Same as applicant	Kristie J. Morrison lives in the Leola area near a reroute. Staff recommends granting party status.
ROAM Properties, LLC and Greg Alvine	Greg Alvine	Using plat maps, Staff confirmed ownership of the tract listed on the party status application. This property does not appear to be affected by a reroute.
Thomas Berheim and Joanne Berheim	Same as applicants	Neither applicant was not on the notice list. The address provided on the application for party status is in Forbes, North Dakota, which is a town on the border of South and North Dakota, northeast of Leola, SD. While the application state that the applicants have land within “a mile or two” of the route, it is unclear if the land is in South Dakota. If the land subject to concern is located in North Dakota, North Dakota proceedings would be the appropriate forum in which to address those concerns.
Prunty Farms Family Limited Partnership II	Dan Prunty	Prunty Farms Family Limited Partnership II was on the notice list. This landowner appears to be on or near the Hartford area reroute. Staff recommends granting party status.

Adam Prunty	Same as applicant	Adam Prunty was not on the notice list. Staff confirmed using a plat map that Adam Prunty is the owner of the address provided, which appear to be approximately one mile, or across the section from, the Hartford area reroute. Staff recommends granting party status.
Cheryl Prunty Trust	Cheryl Prunty	The Cheryl Prunty Trust was not on the notice list but appears to be a half mile from the Hartford area reroute. Staff recommends granting party status.
Charles David Prunty Jr. Trust	Dan Prunty	This Trust was on the notice list and is near the Hartford area reroute. Staff recommends granting party status.
Dorthea Prunty Trust	Dorthea Prunty by Adam Prunty, POA	This Trust was on the notice list and is near the Hartford area reroute. Staff recommends granting party status.
Scott and Sarah Siemonsma	Sarah Siemonsma	Scott and Sarah Siemonsma were not on the notice list but the property at the address provided in the application for party status appears to be on or directly adjacent to the Hartford area reroute. Staff recommends granting party status.
Caroline (Kelli) Waltman	Same as applicant	Ms. Waltman provided a Leola, SD address, within city limits. It does not appear that Ms. Waltman is a landowner on the route. The Leola area reroute moved the route further from the City of Leola. Staff takes no position.
Brooke Higgins	Same as applicant	This applicant states their interest as being an operator of land in the project area. The address provided is within the city limits of Leola. Like the previous applicant, it is unclear whether the reroute, which moved the Project further from the address provided, falls within those for which support to allow late filing was expressed. Therefore, Staff takes no position.
Casey Higgins	Same as applicant	This applicant states their interest as being an operator of land in the project area. The address provided is within the city limits of Leola. Like the previous applicant, it is unclear whether the reroute, which moved the Project further from the address provided, falls within those for which support to allow late filing was expressed. Therefore, Staff takes no position.

Due to time constraints, Staff will not include in this filing any applications received after noon on April 22, 2022 and does not plan to file additional updates. Unless justification for the delay in filing an application for party status is provided, as requested by Commissioner Nelson at the April 14 Commission Meeting, Staff would not recommend approval of those filed after today's date.

Staff attempted to analyze all late filed applications for party status against reroute maps, per comments made at the April 14 Commission meeting. There appear to be one or two reroutes from the April 8 SCS Carbon filing that do not correlate to routes under consideration filed with Appendix 4 of the original Application. To date, none of the party status applications received appear to be impacted by those reroutes.

II. Applications Needing Additional Information

Staff did not reach out to those applicants for party status whose applications were deferred for additional information, as the vast majority of the applicants are represented by an attorney, therefore, Staff does not have the ability to contact them individually. Addition information was received from the following:

1. Matthew DeMent – Mr. DeMent contacted Staff to confirm his address in Leola, SD and to state his interest as a tenant farming property on the route. Mr. DeMent resides in the project area. Staff recommends granting party status to Mr. DeMent.
2. International Union of Operating Engineers, Local 49 (Local 49) – Local 49 filed an Amended Application for Party Status in order to provide additional information. While Staff had originally recommended granting this application for party status in a previous filing, after thoughtful discussion at the April 14 Commission Meeting, Staff changed its position due to the potential for jobs for members of Local 49 being too speculative. In the Amended filing, Local 49 stated that 66 of its members live near the route. However, no additional information was provided to indicate the likelihood of employment for Local 49's members. Therefore, Staff does not recommend granting party status to Local 49.

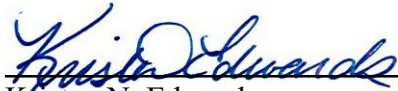
3. Tim and Mary Scherb – Staff received an email from Tim and Mary Scherb detailing the following interest in the proceeding: We are landowners in eastern Minnehaha County, just a mile west of Valley Springs, and would have been near the alternate route that Summit Carbon Solutions had proposed. I see that they have since dropped that alternate route for now. We have received notification that we would be on a proposed route for the Navigator carbon pipeline, but they have not filed their application yet. We are very concerned about and very much opposed to these hazardous pipelines coming through our communities and we want to show our support to other landowners who would be impacted by these types of projects. We feel that the decision made by the PUC to approve or deny the application of the SCS pipeline will open the door for other hazardous CO2 pipeline projects to come through our state and pose greater risks of serious injury to humans and animals, substantially impact our land and our property values for years to come and leave landowners with all of the liability. These are just a few of the reasons that we would like to have party status and be able to have a voice in regards to this project.

CONCLUSION

Staff lacks sufficient information and maps with enough detail to determine specifically, at a section or parcel level, whether some applicants for party status are on or near a proposed reroute. However, we performed very extensive analysis using all of the tools at our disposal, including plat maps from various counties. Therefore, for any future persons filing for party status, we would caution that the more detail that is provided, such as specific location of effected land and ownership interest in that land is helpful and appreciated.

Finally, because the deadline was not formally extended, Staff does not recommend approval of party status applications, unless otherwise provided above, who filed after the April 14 Commission meeting, unless sufficient information is provided to justify the delay.

Dated this 22nd day of April 2022.

A handwritten signature in blue ink that reads "Kristen Edwards". The signature is written in a cursive style and is positioned above a horizontal line.

Kristen N. Edwards

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