

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF SOUTH DAKOTA

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

SD PUC DOCKET HP22-001

PRE-FILED DIRECT TESTIMONY OF RODRICK L. TOBIN

ON BEHALF OF WEB WATER DEVELOPMENT ASSOCIATION, INC.

June 16, 2023

1 **Q. What is your name?**

2 A. Rodrick L. Tobin

3 **Q. Provide your resume and qualifications.**

4 A. BS Business Administration – Finance Concentration, Southwest Minnesota State University

5 1989; Master of Business Administration, University of South Dakota 1992; Juris Doctorate

6 University of South Dakota 1992. Partner, Siegel, Barnett & Schutz, LLP. State Bar of South

7 Dakota Real Property, Probate, and Trust Committee Member, State Bar of South Dakota

8 Business Law Committee Member, State Bar of South Dakota Strategic Planning Committee

9 Member, former Chair of the South Dakota State Bar Title Standards Committee.

10 **Q. Provide your experience.**

11 A. Licensed to practice law in South Dakota for 30 years. Licensed to practice law in North

12 Dakota for over 10 years. Extensive experience transactional and real property law including

13 drafting, reviewing, and interpreting contracts, easements, and servitudes. Served as Legal

14 counsel for WEB Water Development Association, Inc. for 20 years.

15 **Q. On whose behalf are you testifying?**

16 A. WEB Water Development Association, Inc. (“WEB”)

17 **Q. Have you testified before?**

18 A. No

19 **Q. What is the purpose of the testimony?**

20 A. To ensure that Summit Carbon Transport, LLC (“Summit”) and its successors cannot prohibit

21 landowners from granting WEB easements to install new waterlines in the future.

22 **Q. Did you prepare Testimony?**

23 A. Yes

24 **Summarized testimony**

25 **Q. Describe WEB's water system.**

26 A. Currently, WEB's water system consists of a Lake Oahe intake, raw water pipelines, water
27 treatment plant, ductile iron main waterlines ("Mainline"), PVC waterlines ("Waterlines"), water
28 storage tanks, pumps, and various other appurtenances (collectively "System"). WEB has
29 undertaken several project to increase its system capacity including a new three mile long raw
30 waterline, treatment plant expansion, almost eleven mile long new treated water mainline, and
31 many miles of new Waterlines. The System currently provides potable water to over 8,200
32 services in 14 South Dakota counties and 3 North Dakota counties including 30 municipalities
33 and 4 ethanol plants within those counties. Future expansion will include a new 60 mile long
34 Mainline, numerous other Waterlines, and necessary appurtenances.

35 **Q. Give an overview of how Summit's pipeline could affect WEB's ability to serve and grow**
36 **its service area.**

37 A. Summit's CO₂ pipeline ("CO₂ Pipeline") cuts through the heart of WEB's System. The CO₂
38 pipeline will cross WEB Waterlines in 72 places ("Waterline Crossings") and its Mainline in 5
39 places ("Mainline Crossings"). This is greatest number of crossings of any South Dakota rural
40 water system. Summit's standard easement requires landowners to obtain Summit's written
41 permission granting an easement including waterline easements. This requirement gives Summit
42 the power to block WEB's expansion by denying a landowner's request to grant WEB an
43 easement.

44 **Q. Provide Summit's current easement language.**

45 A. Paragraph 5.b. of Summit's standard easement states:

46 Landowner may not use any part of the Easements in a way that may damage, destroy,
47 injure, and/or interfere with the Company's right to use said Easement for the purposes
48 set forth in this Agreement. Without limiting the generality of the previous statement,
49 Landowner is not permitted to conduct any of the following activities on the Easements
50 without the *written permission* of the Company: (1) construct or *permit the construction*
51 *or installation of* any temporary or permanent building or site improvements...(emphasis
52 added)

53 **Q. Provide WEB's proposal.**

54 A. WEB proposes that Summit be required to waive its right to prohibit a landowner from
55 granting WEB an easement if WEB, in installing a new Waterline that crosses the CO₂ Pipeline,
56 adheres to the crossing protocol it has submitted to Summit and the PUC in other pre-filed
57 testimony. This proposal is a practical solution that allows WEB to operate and grow its System
58 unimpeded. Numerous landowners have signed Summit's standard easement; therefore,
59 amending all those existing easement is not practical. The protocols WEB has submitted cover
60 both the Waterline Crossings and Mainline Crossings. For the Waterline
61 Crossings, this protocol entails WEB lowering its Waterlines seven feet below the CO₂ Pipeline
62 and casing those Waterlines for 100 feet on each side of the CO₂ Pipeline. This protocol will
63 ensure that any Waterline leak will not saturate the soil in the CO₂ Pipeline vicinity and will
64 allow WEB to make Waterline repairs without being near the CO₂ Pipeline. For the Mainline
65 Crossings, Summit will lower the CO₂ Pipeline to pass seven feet below the Mainline, install
66 thickened-wall pipe under the Mainline, install cathodic protect in such a manner that it will not
67 interfere with WEB's existing Mainline cathodic protection, and provide a means for monitoring
68 the cathodic protection of both the Mainline and the CO₂ Pipeline. These proposed crossing

69 protocols have been endorsed by the pre-filed testimony of others submitted by others on behalf
70 of WEB.

71 **Q. Does this conclude your testimony?**

72 A. Yes