

HP 24-001

IN THE MATTER OF THE APPLICATION : **APPLICANT’S**
BY SCS CARBON TRANSPORT LLC FOR A : **INTERROGATORIES,**
PERMIT TO CONSTRUCT A CARBON : **REQUESTS FOR PRODUCTION**
DIOXIDE TRANSMISSION PIPELINE : **OF DOCUMENTS AND**
: **REQUESTS FOR ADMISSION**
: **(FIRST SET) TO SPINK COUNTY**
: **COMMISSION**

TO THE SPINK COUNTY COMMISSION:

You are requested to answer the following written Interrogatories, Requests for Production of Documents, and Requests for Admission which are to be answered by you within 15 business days as required by the Commission's order.

These Interrogatories and Requests are directed to you, but are likewise intended to obtain any pertinent information and documents possessed by your attorneys of record and any other agents or representatives you may have in this matter. These Interrogatories and Requests are to be deemed continuing and if you or your attorneys and agents obtain any information with respect to them after making the original answers, it is requested that supplemental answers be made.

INTERROGATORIES

1. Identify all persons not employed by Spink County with whom any employee or agent of Spink County, including any Commissioner or elected official, has communicated or consulted with or retained concerning any proposed ordinance to regulate the proposed Midwest Carbon Express Pipeline in Spink County, including the amendments to the Spink County

Zoning Ordinance adopted August 8, 2023, and effective August 23, 2023 (Ordinance 17.29) (“the Ordinance”).

2. Identify all persons employed by Spink County, including any Commissioner or elected official other than the State’s Attorney, who have been involved with the research or writing related to any proposed ordinance to regulate the proposed Midwest Carbon Express Pipeline in Spink County, including the Ordinance.

3. Identify all subject-matter experts with whom Spink County has consulted about any proposed ordinance to regulate the proposed Midwest Carbon Express Pipeline in Spink County, including the Ordinance.

4. State all facts establishing that the setbacks in the Ordinance are necessary to protect the public health, safety, or welfare.

5. State all facts, including any route you have identified, showing that it is possible for Summit to construct its proposed pipeline in Spink County with setbacks of 2,640 feet from schools, daycares, churches, residential dwelling, livestock facilities, or any structure that has residential living quarters within.

6. State all facts why a setback of 2,640 feet from occupied dwellings, churches, daycares, schools, and livestock facilities was included in the Ordinance.

7. State all facts why the 2,640-foot setback stated in the Ordinance is measured from the property line rather than from an occupied structure.

8. State all facts why a setback of two miles from High Consequence Areas as defined in the Ordinance was included in the Ordinance.

9. Identify the location of all High Consequence Areas in the County as defined in the Ordinance.

10. State all facts why the two-mile setback stated in the Ordinance is measured from the property line rather than from occupied structures defined as High Consequence Areas.

11. State the criteria by which the Spink County Board of Adjustment will decide whether to recommend allowing a variance of the setback distance less than 2,640 feet under the Ordinance, i.e., what about the project location, area, size, and property use will determine whether the setback variance is recommended.

12. State the criteria by which the Spink County Commission may approve or deny each variance recommended by the Zoning Board of Adjustment.

13. State the criteria by which the Spink County Board of Adjustment will decide whether to recommend allowing a waiver of the setback distance less than 2,640 feet under the Ordinance, i.e., what about the project location, area, size, and property use will determine whether the setback waiver is allowed or denied.

14. State the criteria by which the Spink County Commission may approve or deny each setback waiver recommended by the Zoning Board of Adjustment.

15. Explain why an HLP as defined in the Ordinance would seek setback waivers if the Zoning Board of Adjustment may deny each individual submittal of a setback waiver.

16. Explain how the setback waivers allowed by the Ordinance are consistent with the Ordinance's purpose to protect the health, safety, and welfare of the inhabitants of Spink County.

17. State the criteria by which the County will determine whether to permit a Pipeline Facility as a conditional use under the Ordinance and whether the criteria are part of the Ordinance.

18. State whether the County Commission or the Zoning Board of Adjustment will decide whether to grant a conditional use permit for a Pipeline Facility.

19. Identify all subject matter experts, consultants, or other persons whom you have retained or otherwise asked to review Summit's application for a permit under SDCL Ch. 49-41B filed with the Public Utilities Commission.

20. Describe the efforts made by Spink County to regulate the natural gas, refined products, and crude oil transmission pipelines that currently cross Spink County.

21. State all facts establishing that the natural gas, refined products, and crude oil transmission pipelines that currently cross Spink County have jeopardized the public health, safety, and welfare or have threatened orderly development in the county.

22. Identify by date and location all meetings involving any Spink County employee or elected official and employees or agents of Summit.

23. Identify any request for information you have made to Summit that has not been answered.

24. Identify all instances in which Summit has refused to cooperate with Spink County with respect to any issue related to the Midwest Carbon Express Pipeline or the regulation thereof.

25. State any questions you have about Summit's Dispersion Analysis submitted as Attachment 9 to Summit's permit application filed with the Public Utilities Commission.

26. State the factual basis for any dispute you have with the methodology, inputs, or conclusions in Summit's Dispersion Analysis.
27. State all facts establishing that the Midwest Carbon Express Pipeline as presently routed through Spink County will threaten or hinder orderly development in the County.
28. Identify each Spink County employee who has experience routing an interstate transmission pipeline.
29. Identify each consultant retained by Spink County who has experience routing an interstate transmission pipeline.
30. Identify each person involved in drafting the Ordinance who has experience routing an interstate transmission pipeline.
31. State whether you discussed any specific routing issues with Summit that it refused to consider, and, if so, describe them.
32. State the annual taxes levied by Spink County from 2010 to the present against the natural gas, refined products, and crude oil transmission lines located in the County.
33. Identify all audio recordings, video recordings, photographs, drawings, or any other records in your possession that are from, include, or feature a Summit employee or contractor, and for each such recording, photograph, drawing, or other record, state the name of the person who made or prepared the recording, photograph, drawing, or other record, its location, and the purpose for which it was made.
34. State whether any Spink County Commissioner has publicly disavowed Commission Suzanne Smith's statement made on a panel for South Dakotans First that she was sick of listening to Summit at Commission meetings, but the Commission had to make it look

good or they would be sued, or words to that effect. If so, state which Commissioners have disavowed the statements, when, and in what forum.

35. If you contend that the setback map attached as Exhibit 13 to Kylie Lange's prefiled testimony dated January 31, 2025 is inaccurate, state the factual basis on which you dispute its accuracy.

36. State the current population of Spink County.

37. State the area of Spink County in square miles.

38. State the total budgeted expenses for Spink County for the fiscal years 2010 to present.

39. State all facts explaining how the setbacks established in the Ordinance are not unreasonably restrictive within the meaning of SDCL § 49-41B-23, given federal regulation by PHMSA, state regulation by the Public Utilities Commission, and the engineering design, pipeline integrity program, leak detection and monitoring capabilities, construction measures and oversight, and emergency response measures particular to the Midwest Carbon Express Pipeline.

40. Identify by name, address, email address, and telephone number each witness you intend to call to testify at the hearing in this docket and state generally the substance of each witness's testimony.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all written communications, including emails, between any person employed by, or any agent of, Spink County, including any Commissioner or elected official, and any person not employed by Spink County with whom Spink County has communicated or

consulted about any proposed ordinance to regulate the proposed Midwest Carbon Express Pipeline in Spink County, including the Ordinance.

2. Produce all communications, including emails between and among employees of Spink County, including any Commissioner or elected official other than the State's Attorney, related to any proposed ordinance to regulate the proposed Midwest Carbon Express Pipeline in Spink County, including the Ordinance.

3. Produce all documents or research on which you rely to establish that a setback of 2,640 feet as stated in the Ordinance is necessary to protect the public health, safety, or welfare.

4. Produce all documents or research on which you rely to establish that a setback of two miles as stated in the Ordinance is necessary to protect the public health, safety, or welfare.

5. Produce all documents or research on which you rely to establish that the Ordinance is necessary to protect public health, safety, or welfare.

6. Produce all written communications, including emails, since the Ordinance was first proposed, between any employee, agent, or elected official of Spink County, and the Pipeline Hazardous Materials Safety Administration about PHMSA's regulation of pipelines transporting carbon dioxide.

7. Produce all written communications, including emails, sent by any employee or agent of Spink County, and any employee, agent, or elected official of any other South Dakota county about the Ordinance, the basis for the Ordinance, the regulation of the Midwest Carbon Express Pipeline, or carbon-capture pipelines in general, since the Ordinance was first proposed.

8. Produce the minutes and recordings of all County Commission meetings at which the Ordinance or the Midwest Carbon Express Pipeline was discussed.

9. Produce the minutes and recordings of all Zoning Board of Adjustment meetings at which the Ordinance or the Midwest Carbon Express Pipeline was discussed.
10. Produce all written communications, emails, research, published articles, or other documents on which you rely to dispute the methodology, inputs, or conclusions in Summit's Dispersion Analysis.
11. Produce all reports provided to you by any subject matter expert or consultant identified in your answers to the above interrogatories on which you intend to rely at the hearing before the Public Utilities Commission.
12. Produce all documents showing the annual taxes levied by Spink County from 2010 to the present against the natural gas, refined products, and crude oil transmission pipelines in the County.
13. Produce all documents on which you relied in answering the above interrogatories.
14. Produce all audio recordings, video recordings, photographs, drawings, or other records identified in your answer to Interrogatory No. 33.
15. Produce Spink County's official zoning map.

REQUEST FOR ADMISSIONS

1. Admit that Commissioner Suzanne Smith spoke on a panel for South Dakotans First on November 16, 2023.
2. Admit that when speaking on the panel, Commissioner Smith stated that she was tired of Summit coming to Spink County Commission meetings.

3. Admit that when speaking on the panel, Commissioner Smith stated that the Commission "had to make it look good or they would be sued," or words to that effect.
4. Admit that Summit has asked the Spink County Emergency Manager to present its Dispersion Analysis to first responders.
5. Admit that Summit has asked to present its Dispersion Analysis to first responders more than once.
6. Admit that Summit was told that there was no interest in the presentation.
7. Admit that Summit has asked the Spink County Planning and Zoning Administrator more than once by email to identify which buildings in Spink County are considered High Consequence Areas under the Zoning Ordinance.
8. Admit that Summit has asked the Spink County Planning and Zoning Administrator in person to identify which buildings in Spink County are considered High Consequence Areas under the Zoning Ordinance.
9. Admit that no one from Spink County has told Summit which buildings in Spink County are considered High Consequence Areas under the Zoning Ordinance.
10. Admit that in December 2023, Summit submitted variance requests under the Zoning Ordinance that pipeline easements that had been signed before the ordinance was enacted be grandfathered under the Ordinance.
11. Admit that on February 6, 2024, Tracey Millar sent an e-mail to Brent Niese that the variance applications Summit submitted in December 2023 were not being accepted on the advice of the State's Attorney because a variance was not appropriate for Summit's request.

12. Admit that at the County Commission meeting on November 7, 2023, Summit's opportunity to speak was limited to 15 minutes.

Dated this 12th day of February, 2025.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/ James E. Moore

James E. Moore
P.O. Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
James.Moore@woodsfuller.com

and

Brett Koenecke
Aaron P. Scheibe
Cody Honeywell
May, Adam, Gerdes & Thompson LLP
P.O. Box 160
503 S. Pierre St.
Pierre, SD 57501-0160
Phone: 605-224-8803
Brett@mayadam.net
aaron@mayadam.net
cody@mayadam.net

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2025, I served a true and correct copy of the foregoing Applicant's Interrogatories, Requests for Production of Documents and Requests for Admission (First Set) to Spink County Commission by e-mail transmission to the following:

Victor Fischbach
Spink County State's Attorney
210 E. 7th Ave., Suite 5
Redfield, SD 57469
vfischbach@nvc.net
(605) 472-4593

/s/ James E. Moore
One of the attorneys for Applicant