

MINNEHAHA COUNTY OFFICE OF THE STATE'S ATTORNEY

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January 28, 2025

Hon. Gary Hanson, Chair
Hon. Chris Nelson, Vice Chair
Hon. Kristie Fiegen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 E. Capitol Ave.
Pierre, SD 57501-5070
VIA puc.sd.gov/EFillingOptions.aspx

Re: **Minnehaha County Application for Party Status**
In Re Application by SCS Carbon Transport LLC for a Permit to Construct a Carbon
Dioxide Transmission Pipeline, HP24-001

Mr. Chairman and Commissioners:

Attached please find the Application for Party Status from Minnehaha County, South Dakota (County). As set forth on the Application, the proposed pipeline (as currently shown) will cross Minnehaha County. In addition, this office was informed yesterday by Commission staff that a single sentence within SCS Carbon Transport LLC's (Applicant) application could be considered by the Commission as a request that the Commission supersede and preempt the County's planning ordinance.

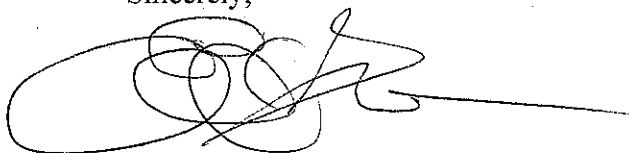
As the Commission may recall, the County has a documented history of resisting previous requests for preemption. (See In Re Application for a Permit to Construct a Carbon Dioxide Transmission Pipeline, HP22-001; and In Re Application of Navigator Heartland Greenway LLC for a Permit Under the South Dakota Energy Conversion and Transmission Facilities Act to Construct the Heartland Greenway Pipeline in South Dakota, HP 22-002). County has not received any motion for preemption nor any formal notice of such a request to the Commission from Applicant. The staff's advisement centered on the following sentence on page 19 of such application, to wit: "To the extent that waivers cannot be obtained, the Applicant asks the Commission to exercise its statutory authority under SDCL 49-41B-28 to supersede and preempt the county ordinances in part, meaning to the extent that the ordinance is unduly restrictive with respect to the routing in particular locations."

The Minnehaha County Board of County Commissioners (Board) and this office are aware that this Application for Party Status is being submitted after the posted deadline for such applications (i.e. January 24th). However, prior to the advisement yesterday, the Board was

unaware that any request for preemption had been made or that the aforementioned sentence could be considered as such. While it is the Board's position that such sentence merely indicates Applicant's conditional future intent to seek such preemption - not a present actual intent or notice, the Board, nonetheless, acted this morning to authorize the Board Chair to sign the Application for Party Status.

Given the significance of County's interest in this matter, as the proposed route of the pipeline crosses Minnehaha County, and the County's interest to preserve and enforce its duly-enacted ordinance, the County respectfully requests that the Commission accept the County's Application for Party Status and grant Minnehaha County party status in the above-entitled matter. In the alternative, if the Commission denies this request, the County respectfully requests an order granting the County the right to intervene and an opportunity to be heard in the above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric H. Bogue', with a long horizontal line extending to the right.

Eric H. Bogue

EHB/ehb

en:

cc: Kristen Edwards, Staff Attorney
Darren Kearney, Staff Analyst
Logan Schaeftbauer, Staff Analyst
Jon Thurber, Staff Analyst

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

*This form is **only** for persons who wish to be an active party in this docket. You do NOT need to be a party to submit comments.*

In the Matter of the Application by SCS Carbon)
Transport LLC for a Permit to Construct a Carbon)
Dioxide Transmission Pipeline)

APPLICATION FOR PARTY STATUS

HP24-001

Minnehaha County

Minnehaha County, petitions the Public Utilities Commission to be granted party status in this proceeding.
(Name of Applicant. This will be the person or entity named as a party.)

Place a check mark next to each item below that applies to you, adding a mileage number where requested.

I am a person or organization that received official notification of the project via U.S. mail from the siting permit applicant.

_____ I reside within _____ miles of the proposed project.

Residential address if different from your mailing address:

_____ I own land within _____ miles of the proposed project.

Legal description: _____

I officially represent a municipal, city, township, county or other affected governmental agency within 0 miles of the proposed project.

Explain your interest in applying for party status below.

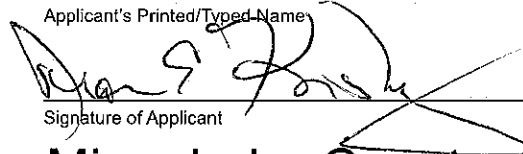
Applicant's proposed carbon dioxide transmission pipeline will cross through Minnehaha County. Additionally, a recent review of the application indicates that the applicant intends to request the Commission to supersede and preempt Minnehaha County's planning ordinance which deals with transmission pipelines.

Deadline: This application must be filed with the Public Utilities Commission on or before 5:00 p.m. CT, Jan. 24, 2025. File this completed form electronically at puc.sd.gov/EFilingOptions.aspx

This section is to be completed by the person requesting party status. **All fields are required.**

Dean Karsky

Applicant's Printed/Typed Name



1/28/2025

Signature of Applicant

Date Signed

Minnehaha County

Name of Applicant's Organization (if Applicable)

415 N. Dakota Ave.

Applicant's Address (PO Box/St/Ave/Road)

Sioux Falls, SD 57104

Applicant's Address (City, State, ZIP Code)

605.367.4206

Applicant's Phone Number or, if represented, Applicant's Attorney's Phone Number


ebogue@minnehahacounty.gov

Applicant's E-mail Address* or, if represented, Applicant's Attorney's E-mail Address*

The section below is to be completed by the Applicant's attorney, if represented. **All fields are required.**

Eric H. Bogue

Attorney's Printed/Typed Name



1/28/2025

Signature of Attorney

Date Signed

415 N. Dakota Ave.

Attorney's Address (PO Box/St/Ave/Road)

Sioux Falls, SD 57104

Attorney's Address (City, State, ZIP Code)

*The Commission processes its dockets electronically for time and cost efficiencies. Communication on the docket will be done via email to parties to this docket. Failure to provide an email address may result in documents being served upon the county auditor rather than sent directly to the party, pursuant to SDCL 49-41B-17.1.

If your submitted form is incomplete, you risk not being granted party status.