

**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**

**SD PUC DOCKET NO. HP24-001**

PRE-FILED DIRECT TESTIMONY OF KYLIE LANGE  
ON BEHALF OF SCS CARBON TRANSPORT LLC

January 31, 2025

1 **Q. Please state your name, employer, and business address.**

2 A. My name is Kylie Lange. I am employed by SCS Carbon Transport, LLC (SCS), and my  
3 business address is 2321 N Loop Drive, Suite 221, Ames, IA 50010.

4 **Q. Briefly describe your educational and professional background.**

5 A. I have a Bachelor of Science in Civil Engineering from the University of Toledo and a  
6 Master of Business Administration from the University of Findlay. I have 7 years of experience  
7 working in the pipeline industry. Previously, I worked in the Pipeline and Engineering  
8 Department for Marathon Petroleum Company prior to SCS.

9 **Q. What is your role with respect to the Project?**

10 A. I am a Senior Project Manager for the Project. I am part of the team that oversees  
11 project development. I also manage County level permitting for the Project.

12 **Q. What exhibits are attached to your direct testimony?**

13 A. The following exhibits are attached to my Direct Testimony

14 Exhibit 1: Resume

15 Exhibit 2: Brown County Ordinance

16 Exhibit 3: Edmunds County Ordinance

17 Exhibit 4: McPherson County Ordinance

18 Exhibit 5: Minnehaha County Ordinance

19 Exhibit 6: Sanborn County Ordinance

20 Exhibit 7: Spink County Ordinance

21 Exhibit 8: Brown County Setback Map

22 Exhibit 9: Edmunds County Setback Map

23 Exhibit 10: McPherson County Setback Map

24 Exhibit 11: Minnehaha County Setback Map

25 Exhibit 12: Sanborn County Setback Map

26 Exhibit 13: Spink County Setback Map

27 Exhibit 14: Detailed Break-Down of Preemption Request per Ordinance

28 **Q. Has SCS worked with counties and other local governments regarding land use**  
29 **controls and routing?**

30 A. Yes. SCS has coordinated directly with county and municipal offices. An example of this  
31 would be in Minnehaha County, where SCS was requested to move further away from the City  
32 of Hartford. Following this request, the pipeline system was shifted approximately one-mile

33 further west from the City of Hartford. Another example would be the request from  
34 representatives in Codington County to avoid certain lands near the City of Watertown, which  
35 SCS accommodated.

36 More broadly, a universal request expressed by the counties was to find landowners  
37 which were willing to sign a voluntary easement. Since proposing the Project in 2021, major and  
38 minor route adjustments have been implemented to find favorable landowners across the entire  
39 pipeline system in South Dakota. The proposed route submitted in the pending Application  
40 before the Public Utility Commission (PUC), which was filed on November 19, 2024, is a result  
41 of multiple years of work, including meeting with county officials, landowners, business owners,  
42 development groups, and many others. Although there are many routing considerations such as  
43 constructability, environmental and cultural constraints, SCS has prioritized landowner  
44 preference when possible.

45 **Q. Have you been involved with the planning and discussions about SCS's request**  
46 **for the Commission to exercise its authority under SDCL 49-41B-28 to preempt and**  
47 **supersede unreasonably restrictive county ordinances?**

48 A. Yes, I have. SCS is requesting the PUC preempt and supersede portions of the  
49 ordinances in Brown, Edmunds, McPherson, Minnehaha, Sanborn, and Spink counties that are  
50 unreasonably restrictive. As illustrated in Exhibit 14, SCS intends to comply with county  
51 ordinances where they are not designed to preclude the pipeline from being constructed in the  
52 county.

53 I have led the team for county outreach. The current route takes into account the  
54 Pipeline and Hazardous Material Safety Administration (PHMSA) regulations, environmental  
55 and cultural restrictions, landowner preference, county requests, and other routing  
56 considerations. When routing a linear pipeline, there is no perfect route, but SCS has been  
57 developing the proposed route since 2021. In addition, from September 2023 to November  
58 2024, SCS was able to re-evaluate the entire route and make adjustments, where appropriate,  
59 to further improve landowner preference. This resulted in major and minor route variances in 18  
60 counties in South Dakota.

61 As shown in Attachments 8-13, the setback requests from the six counties are unduly  
62 restrictive on their own, and especially when considering the other environmental constraints,  
63 such as grassland easements, protected wetlands, and cultural sites that must be considered in  
64 a linear infrastructure project. The setbacks are not based on research or scientific studies, are  
65 inconsistent from one county to another, do not account for the engineering design, integrity  
66 management and operations controls of SCS's particular pipeline, and have the effect of  
67 preventing the pipeline from being routed through the county. In many cases, the setbacks have  
68 unintended consequences, like making the length of the pipeline longer, requiring that the route  
69 be moved from a landowner who has signed an easement onto the property of an objecting  
70 landowner, or precluding the route based on the effects on an adjoining landowner who has no  
71 occupied structures in near proximity to the right of way.

72 Currently Lincoln County, Brookings County, and Hand County are all considering  
73 ordinances specific to their county that would address the Project. The content of these potential

74 ordinances are not known at this time. SCS was not able to account for these potential  
75 ordinances in routing the pipeline and is not able to change the route that has been submitted to  
76 the Commission for consideration in this docket.

77 **Q. What has the SCS done to work with counties and other local governments so**  
78 **far?**

79 A. SCS has reviewed zoning and comprehensive plans for counties where pipelines and  
80 aboveground facilities have been proposed. SCS has also been in contact with all of the  
81 counties since the inception of the Project. SCS has had over 1,000 contacts with counties,  
82 townships, and other governmental organizations in South Dakota.

83 **Q. Who are those individuals?**

84 A. SCS has employed TurnKey Logistics since February 2022 to interface with county  
85 permitting stakeholders. I oversee the work completed by TurnKey Logistics. SCS employees  
86 have been involved in attending meetings with TurnKey Logistics.

87 In September 2023 several project managers and the Director of Engineering moved to  
88 South Dakota to further build relations with both County officials and landowners on the Project.  
89 In the last 16 months members of the team, beyond those who moved to South Dakota, have  
90 also spent substantial time in the state. That list includes, but is not limited to, the CEO, the  
91 COO, and the V.P. of Pipeline.

92 I personally moved to Aberdeen, South Dakota.

93 **Q. Can you demonstrate how each county attempts to regulate the Project?**

94 A. Yes. I have attached each of the six ordinances as Exhibits 2-7 to my direct testimony.

95 **Q. For each county ordinance, can you provide specifics regarding what the Project**  
96 **simply is unable to comply with?**

97 A. Yes. I have attached specific details in Exhibit 14.

98 **Q. Has SCS met with the six counties to discuss their county ordinances?**

99 A. Yes. A group of individuals from SCS were diligent in attending county meetings, meeting  
100 with county officials, and answering questions from the public regarding the ordinances.

101 **Q. Can you describe the Minnehaha County ordinance generally?**

102 A. 330-foot setback from property line of dwellings, churches and businesses; 1 mile  
103 setback from municipal boundary with population of 5,000 or more; 3/4-mile setback from  
104 municipal boundary with a population between 500-5,000; 1/2 mile from municipal boundary  
105 with a population less than 500. Making the setback operative from the property boundary  
106 appears to have been the result of political compromise, creates unintended consequences, and  
107 does not serve the purpose of providing a reasonable setback from occupied structures.

108 **Q. Specifically for Minnehaha County, can you describe who SCS has had**  
109 **communication with?**

110 A. County Commission, Deputy State's Attorney, and the Planning and Zoning Director.

111 **Q. Specifically for Minnehaha County, can you describe what types of**  
112 **communication SCS has with those officials?**

113 A. Communication with these officials covered many topics over a variety of types of  
114 communication. All of these listed individuals had at least one, and in most cases, many in  
115 person meetings. These meetings would be for us to better understand the desire of the county  
116 and the motivations for their ordinance. It also gave SCS an opportunity to educate these  
117 individuals on the Project, answer their questions and share concerns with their ordinance.

118 On December 9, 2024, SCS met with the Planning and Zoning Director, Scott Anderson  
119 to formally deliver the project's notice in accordance with Article 12.18, Section 1 of the  
120 Minnehaha County Zoning Ordinance, see Exhibit 5, and to provide Project updates. Per the  
121 ordinance, the Planning and Zoning Director will inform us of next steps in the Conditional Use  
122 Permit (CUP) process.

123 **Q. Can you describe the Brown County ordinance generally?**

124 A. 1,500-foot setback from property line of schools, daycares, churches, residential  
125 dwelling, or any structure that has residential living quarters within, as well as a requirement for  
126 a CUP.

127 **Q. Specifically for Brown County, can you describe who SCS has had communication**  
128 **with?**

129 A. SCS has been in contact with the Brown County Board of Commissioners, the Planning  
130 and Zoning Administrator and the Emergency Manager.

131 **Q. Specifically for Brown County, can you describe what types of communication**  
132 **SCS has had with those officials?**

133 A. SCS was attending regular Board of Commission meetings to discuss the project starting  
134 in early 2022. SCS had a representative attend the majority of Board of Commission meetings  
135 as the project progressed, to ensure we were available for any questions. The Board of  
136 Commission enacted a pipeline ordinance, effective May 23, 2023.

137 Following SCS moving personnel to South Dakota in September 2023, an SCS engineer  
138 began attending the Brown County Commission meetings regularly, with the intent to inform the  
139 County Commission on the Project, as the official CUP meeting would be short in comparison to  
140 the hearing put on by the PUC. SCS was then told, by the Board of Commissioners on October  
141 17, 2023, that SCS should be working directly with the Planning and Zoning Administrator, Scott  
142 Bader, rather than them.

143 SCS had already initiated discussions with the Planning and Zoning Administrator and  
144 continued those talks after receiving direction from the Commission. It became clear that there  
145 were no specific expectations for submitting a CUP, and the Planning and Zoning Board would  
146 decide what was necessary during the hearing, which would further delay the process. SCS was  
147 instructed to avoid communication with the Planning and Zoning Board to prevent any potential

148 conflict of interest. As a result, SCS wouldn't have received any guidance on the CUP  
149 requirements until the actual hearing.

150 The Planning and Zoning Administrator had several suggestions on what the Planning  
151 and Zoning Board may require, and SCS designed and submitted its CUP based on these  
152 comments. The Planning and Zoning Administrator was adamant that 100% of voluntary  
153 easements were going to be required for a CUP in Brown County.

154 On November 30, 2023, Brown County Commissioner Drew Dennert spoke on a panel  
155 at the Farmer's Union Annual Event. He was asked if the County would change its ordinance.  
156 He responded, "*our ordinance is 1-0, why would we change it now after the PUC denied the*  
157 *permit? So really I think in terms of Brown County we're really happy with our ordinance*  
158 *because and Spink County and the other Counties because it worked. They were critical with*  
159 *the PUCs decision to reject the permit. So I think we're pretty happy with where we are at.*" This  
160 was discouraging to hear and showed to SCS the County's unwillingness to work together.

161 With limited guidance, SCS submitted a CUP application on January 22, 2024, including  
162 a shapefile of the route, waivers, map demonstrating the setbacks with the pipeline overlaid,  
163 pipeline strip maps, pipe specifications, typical aboveground facility layouts, environmental  
164 construction plan (ECP), waterbody crossings, South Dakota Agricultural Impact Plan (SD  
165 AIMP), HDD Inadvertent Return Plan (or HDD Contingency Plan), South Dakota Noxious Weed  
166 Plan, PHMSA Exceedance table, valve locations, Control Center Management and Leak  
167 Detection Overview, draft Emergency Response Plan (ERP), Phase 1 Geohazard Assessment,  
168 road use maintenance agreement and an additional county permit.

169 The route submitted for the CUP required SCS to remove the Glacial Lakes Energy  
170 (GLE) – Aberdeen Ethanol Plant from the pipeline system (this was submitted prior to POET  
171 Groton Ethanol Plant becoming part of the Project), as there was no compliant route to their  
172 plant. After the South Dakota legislature passed Senate Bill 201, SCS and the Planning and  
173 Zoning Administrator agreed it was best not to move forward with the CUP at that time.

174 As SCS continued to develop the route, it was decided not to abandon both the GLE –  
175 Aberdeen Ethanol Plant and POET Groton Ethanol Plant, which would have placed them at an  
176 economic disadvantage. Once this decision was made, the mainline route that was submitted  
177 for the CUP was then changed, although not completely compliant to the ordinance, to  
178 accommodate additional voluntary landowners.

179 Prior to submission of the pipeline CUP, SCS had submitted a CUP application for a  
180 pump station to Brown County in 2023. After the submittal of the application, Brown County  
181 requested more information from SCS, including a more developed plan for electrical services to  
182 the site. The CUP was submitted in June 2023, with a hearing set for September 2023, and was  
183 ultimately tabled for a variety of reasons not specifically required within the zoning requirements,  
184 including wanting additional information on electrical utilities, which are outside the county's  
185 jurisdiction. This is an example of how not having the staff or the willingness to communicate  
186 outside of public meetings, such as is done with written testimony and staff questions, creates  
187 an unduly burdensome and slow process.

188           SCS has also presented the Dispersion Analysis three separate times in Brown County  
189 to the Emergency Manager and first responders, on September 26, 2023, November 1, 2023,  
190 and May 7, 2024.

191 **Q.     Can you describe the Edmunds County ordinance generally?**

192 A.     2,640-foot setback from structure of schools, daycares, churches, residential dwelling, or  
193 any structure that has residential living quarters within. The ordinance also includes a setback of  
194 one mile from county defined High Consequence Areas. There are also regulations on pipeline  
195 depth of cover.

196           High Consequence Areas as defined by Edmunds County are all municipalities as  
197 defined in SDCL 9-2-1, Lake Front Resident, and Town Districts.

198 A CUP is also required.

199 **Q.     Specifically for Edmunds County, can you describe who SCS has had**  
200 **communication with?**

201 A.     In Edmund's County we have communicated with the Board of Commissioners and the  
202 Emergency Manager.

203 **Q.     Specifically for Edmunds County, can you describe what types of communication**  
204 **SCS has had with those officials?**

205 A.     SCS has been actively involved in Edmunds County to discuss the Project since early  
206 2022. SCS shared detailed information about the Project during these meetings, often at the  
207 same meeting in which the County was discussing their ordinance. SCS provided dispersion  
208 models to the County Commissioners and Emergency Manager on November 21, 2023, offered  
209 tax information, and detailed maps. These maps outlined acquisition status (80%+) throughout  
210 the county, illustrated restrictions to pipeline routing (grassland easements and protected  
211 wetlands), as well as the complications created with the proposed setbacks.

212           SCS also shared data on what happens in the unlikely event of a CO<sub>2</sub> release, including  
213 potential impacts to water. GLE has also joined SCS at Commissioner Meetings to discuss how  
214 local regulations could affect their operations, emphasizing the project's importance in the  
215 context of global markets for ethanol and sustainable fuels.

216           In all of these commission meetings, few residents raised concerns, only attending a  
217 single meeting that SCS had been to, with just one question about water use. When SCS asked  
218 the County Commission about their specific concerns, their main issue was the pipeline's  
219 proximity to the lake. SCS suggested minor route changes to get further from the lake while  
220 maintaining voluntary easements. Additionally, we looked at options to move even further from  
221 the lake onto newly impacted landowners but had to put those discussions on hold due to the  
222 commission's continual talk of an ordinance. Ultimately, the County Commission's decision to  
223 enact an ordinance, effective May 7, 2024, conflicted with our effort to obtain voluntary  
224 easements.

225 Our efforts in adjusting the pipeline route and chasing additional options showed our  
226 commitment to addressing these concerns. However, the County Commission's approach,  
227 comparing our pipeline to CAFOs (Concentrated Animal Feeding Operations) and setting similar  
228 restrictions, doesn't work for linear infrastructure. This was highlighted when we discussed the  
229 ruling out of the Southern Iowa District Court that states federal law, not local ordinances,  
230 governs pipeline safety measures and setbacks.

231 We've tried to adjust our plans where possible and have shared extensive information to  
232 ensure safety and environmental protection. This ordinance, however, suggests a reluctance  
233 from the County Commission to engage in constructive dialogue.

234 **Q. Can you describe the Spink County ordinance generally?**

235 A. One half mile setback from the property lines of schools, daycares, churches, residential  
236 dwellings, livestock facilities, or any structure that has residential living quarters within. Two mile  
237 setback from the property lines of county designated High Consequence Areas.

238 County Designated High Consequence Areas: Structures containing 10 or more persons  
239 with limited mobility, such as nursing homes and hospitals, and for structures with permitted  
240 occupancies of 100 or more person, such as schools, churches, shopping, and entertainment  
241 facilities.

242 A CUP is also required.

243 **Q. Specifically for Spink County, can you describe who SCS has had communication  
244 with?**

245 A. SCS has been in contact with the Spink County Board of Commissioners (who also  
246 serves as the Planning and Zoning Board), the Planning and Zoning Administrator and the  
247 Emergency Manager.

248 **Q. Specifically for Spink County, can you describe what types of communication SCS  
249 has had had with those officials?**

250 A. SCS began attending Board of Commissioners meetings regularly to discuss various  
251 aspects of the Project, pipeline design, adhering to federal regulations and industry best  
252 practices in early 2022. These discussions were intended to provide the Board with valuable  
253 information to aid in their decision-making process regarding the Project. SCS proposed on  
254 October 3, 2023, for SCS to meet with the Board outside of Commissioner's meetings in order  
255 to better outline difficulties in adhering to specifics about the ordinance, specifically the  
256 setbacks, and share information related to the project more in depth, this request was declined.  
257 Following this, on October 17, 2023, SCS requested a single liaison from the board to meet with  
258 SCS in a more extended capacity to enable SCS to more efficiently move forward with finalizing  
259 other route options through the county with additional input from the board. This again would  
260 have included detailed discussions outside of the regular Commissioner meetings to walk  
261 through the full scope of pipeline construction, dispersion, and permitting, recognizing that this is  
262 a complex and lengthy process. However, this request was declined as well, and SCS was  
263 instructed to present all relevant information during the scheduled Commissioner meetings.



264           Given that the scope of the CUP encompassed many elements also reviewed by the  
265 PUC, SCS prepared a comprehensive presentation to begin sharing critical information. This  
266 effort aimed to address the limited time available during the formal Planning and Zoning  
267 hearing, which would be much shorter compared to the PUC hearing process.

268           To accommodate the length of the presentation, SCS intentionally placed itself last on  
269 the County's meeting agenda on November 7, 2023. Despite this effort, the Board stopped the  
270 presentation after 15 minutes, stating that this meeting was not the appropriate venue for such  
271 information—even though this had previously been indicated as the proper forum. SCS let the  
272 board know at this meeting it was their intention to submit a variance as is allowed in their  
273 ordinance in an attempt to comply with county regulations. After the presentation was shutdown,  
274 SCS once again requested a special meeting with the board in order to explain pipeline safety  
275 and routing in a further capacity to review why the setbacks were too restrictive and arbitrary.  
276 This request was again denied and SCS was told they should, "just follow the ordinance."

277           In addition to attending Board meetings, SCS held office hours within the County on  
278 three separate occasions to discuss the project with the public or any interested stakeholders.  
279 Unfortunately, no Board members attended these sessions. SCS continued to attend additional  
280 meetings but was informed that their allotted time for discussion would be limited.

281           On November 16, 2023, Spink County Commissioner Suzanne Smith spoke on a panel  
282 for South Dakotans First Virtual Call. In a statement referencing SCS joining her Commission  
283 Meetings, she said that she was sick of listening to SCS come to Commissioner meetings but  
284 she had to. Suzanne said "they had to make it look good or they would be sued."

285           Since September 2023, a significant route change was made in northern Spink County  
286 to better align with county requirements but prioritizing receptive landowners and landowner  
287 input for their properties South of the route change, the majority of landowners had already  
288 signed easements. To retain voluntary landowners, SCS chose to use the variance process  
289 outlined in Exhibit 7, requesting that easements signed prior to the ordinance's enactment be  
290 grandfathered in. SCS initiated the permitting process by submitting a variance request on  
291 December 19, 2023.

292           Additionally, SCS submitted a variance request to allow the Project to move forward with  
293 the CUP process in the County before obtaining a "verified petition" with the PUC, as required  
294 by Section 17.2904 of the county ordinance, as referenced in Exhibit 7. Waiting for the PUC  
295 permit could place us in a position where the conditions for the Spink permit conflict with the  
296 PUC's requirements or change an approved route. However, on February 6, 2024, SCS was  
297 informed that the variances would not be approved.

298           Since October 10, 2023, SCS has reached out to the Planning and Zoning Administrator,  
299 Tracey Millar, nine times via email and additionally in person, requesting clarification on which  
300 buildings in Spink County are considered High Consequence Areas, since their definition differs  
301 from the PHMSA definition. However, SCS has yet to receive a response. SCS believes this

302 information is appropriate for the County to provide, as it relates to the allowed occupancy of  
303 buildings. Without this information, SCS cannot fully understand the required setback  
304 guidelines. As shown in Exhibit 13, High Consequence Areas are not included because the list  
305 was never provided. We also presented the Dispersion Analysis to the Emergency Manager. We  
306 have requested the Emergency Manager multiple times to set up a broader meeting to present  
307 the Dispersion Analysis to his first responders but were told there is no interest at this time.

308 **Q. Can you describe the McPherson County ordinance generally?**

309 A. One mile setback from any occupied dwelling, mobile home, or manufactured home. The  
310 pipeline shall not pass within 500-feet from any adjoining property line of a non-participating  
311 landowner. The pipeline shall not pass within 1,000-feet of a water well that is documented  
312 and/or mapped with the South Dakota Department of Natural Resources Water Well Completion  
313 Reports.

314 The ordinance also requires quite a few County specific analyses (such as, county-wide water  
315 risk analysis, county carbon pollution estimate, county wide water testing schedule, county wide  
316 economic benefit analysis, etc.), large fees, additional depth of cover and several other topics.

317 A CUP is also required.

318 **Q. Specifically for McPherson County, can you describe who SCS has had  
319 communication with?**

320 A. SCS has been in contact with the McPherson County Board of Commissioners, the  
321 Planning and Zoning Administrator, the Planning and Zoning Board (who also serves as the  
322 Board of Adjustments), the Auditor and the Emergency Manager.

323 **Q. Specifically for McPherson County, can you describe what types of  
324 communication SCS has had with those officials?**

325 A. SCS has been in contact with McPherson County since inception. As early as April 5,  
326 2022, the McPherson County Commission indicated that until a PUC permit is finalized, they did  
327 not want SCS to contact McPherson County on this matter. They also stated that the County  
328 was working on a new zoning ordinance but that they only meet monthly so it would be a while  
329 before the ordinance was finalized. In September 2023, McPherson County enacted ordinance  
330 23-1. On October 11, 2023, SCS Project Management met with Hunter Heinrich, County  
331 Assessor, and Richard Kolb, Board of Adjustment, to review the ordinance and ask  
332 clarifications. Although the meeting was cordial, there were a number of outstanding concerns,  
333 and it was recommended that SCS work with Hunter to schedule a meeting with the entire  
334 Board of Adjustments as well as the States Attorney.

335 On November 7, 2023, SCS attended a McPherson County Commission meeting. In this  
336 meeting the commission was notified that the ordinance, as written, would force the pipeline  
337 onto landowners that are opposed to the project. An example was highlighted to the commission  
338 where SCS had roughly 18,000 feet of voluntary landowners but was blocked by a single non-  
339 affected landowner with a house just shy of 4,000 feet away. To comply with the mile setback  
340 would push this entire section of pipeline from voluntary landowners to opposed landowners.

341 Seven weeks after the initial meeting to get clarification on the McPherson County  
342 ordinance, a Board of Adjustments meeting was scheduled on November 29, 2023. SCS  
343 attended to ask clarification questions on the ordinance. During this meeting, SCS discussed  
344 the broad nature of the ordinance. An example being the request for “any (permit) applications  
345 submitted to counties immediately adjacent to McPherson County shall be included”. It was  
346 highlighted that this would equate to over 400 permit applications in just the adjacent counties  
347 for permits like road crossings.

348 **Q. Can you describe the Sanborn County ordinance generally?**

349 A. 1,500-foot setback from the structure of dwellings (livable per DOE standards),  
350 churches, businesses, public parks, and schools. 1,500-foot setback from all cities, towns, and  
351 unincorporated areas. 1,500-foot setback from animal confinement facilities of no less than 999  
352 animal units., as well as a requirement for a CUP.

353 **Q. Specifically for Sanborn County, can you describe who SCS has had  
354 communication with?**

355 A. SCS has been in contact with the Sanborn County Board of Commissioners (who also  
356 serve as the Planning and Zoning Commission), the Planning and Zoning Administrator, and  
357 Brian McGinnis who works for Planning and Development District III and advises the county on  
358 zoning.

359 **Q. Specifically for Sanborn County, can you describe what types of communication  
360 SCS has had with those officials?**

361 A. Sanborn County was not a part of the Project until POET Mitchell joined the Project in  
362 January 2024, so communication started later than with other counties that have ordinances.  
363 SCS originally met with several County Commissioners to introduce the Project. There was then  
364 a joint meeting with all County Commissioners and area townships to discuss the Project. There  
365 were other communications and meetings between the announcement and passing of the  
366 ordinance. Sanborn County was open to dialogue on how the ordinance would restrict the  
367 Project.

368 SCS submitted a CUP on December 18, 2024, to comply with an ordinance stipulation  
369 that required a CUP application to be submitted to the county within 30-days of submission of a  
370 permit request to the PUC, which is described in Exhibit 6. This also required a \$25,000  
371 application fee, which SCS paid. To date, the County has not negotiated the check because of  
372 timing concerns as discussed below. Before submitting the CUP, SCS met with the County's  
373 Planning and Zoning Administrator and a County Commissioner on December 9, 2024, to  
374 review the expectations and required deliverables for the CUP. This meeting was held to ensure  
375 that SCS's submission would be fully compliant.

376 Following the submission of the CUP, the County expressed uncertainty about their path  
377 forward due to conflicting zoning regulations. While there is a 30-day CUP submission window  
378 requirement to the County following submission to the PUC, this window introduces a risk of

379 SCS's county CUP expiring. This is due to specific county requirements to begin construction  
380 within 180 days of a permit being issued.

381 SCS explained their confusion regarding these conflicting county regulations prior to submitting  
382 the CUP application, as SCS wanted to avoid submitting an application that might expire and  
383 result in forfeiting the associated fee. The County's zoning advisor acknowledged they are  
384 "learning a little as we go" and stated they would work on addressing issues around expiration  
385 dates. However, they noted that SCS would need to proceed at their own risk in light of these  
386 uncertainties.

387 SCS intends to continue through the CUP Process in Sanborn County. Two waivers will be  
388 required to comply with their ordinance, both of which are being requested.

389 **Q. What concerns have the counties stated about the Project?**

390 A. The counties have stated their concerns are the safety of the pipeline and property  
391 rights. Although economic development is sometimes discussed, the design of the setback does  
392 not align with that thought. Safety is governed by PHMSA, and the Commission is charged with  
393 determining whether the Project will substantially impair the health, safety, and welfare of the  
394 residents of the counties. In the instances where SCS challenges the county ordinances as  
395 unreasonably restrictive, these regulatory authorities overlap and in some instances conflict.

396 **Q. Do some provisions of the ordinances create unintended consequences?**

397 A. In certain cases, adhering to the ordinances can lead to unintended consequences. For  
398 example, a setback requirement might prevent a landowner from agreeing to host the pipeline  
399 on their property if a neighbor—sometimes nearly a mile away—opposes it. This could force  
400 SCS to route the pipeline through a landowner's property who may not want it there but is still  
401 within the restricted area defined by the ordinance. As shown in Exhibits 8-14, there is limited  
402 available space for pipeline placement, making it challenging to find landowners who are  
403 interested.

404 **Q. Did any of the counties take feedback from SCS and change their ordinance in any  
405 way?**

406 A. Yes, but only Sanborn County. During the ordinance creation process, Sanborn County  
407 adjusted their ordinance in part based on feedback from SCS.

408 **Q. Do you have any specific data about how often SCS has met with each of the six  
409 counties?**

410 A. Since September 2023, SCS has attended approximately 80 county level meetings.  
411 These meetings include Commissioner Meetings, Planning and Zoning Meetings, Emergency  
412 Management Meetings, Local Emergency Planning Committee (LEPC) meetings, and others.  
413 These meetings discussed many topics including emergency preparedness, dispersion  
414 analysis, safety, federal and state regulation, setback ordinances, county expectations and  
415 construction practices.

416 **Q. Has the discussion been productive?**

417 The productiveness of the discussions has varied. Emergency Management meetings  
418 and other LEPC meetings have been valuable for both parties. Working directly with Planning  
419 and Zoning administrators has also given SCS valuable information. When it comes to working  
420 with Boards of Commissioners, the conversations have been less productive. SCS was often  
421 constrained by time limitations for their presentations, which hindered their ability to fully convey  
422 the wide range of information necessary to enhance understanding of the project or to ask  
423 meaningful questions about the process.

424 Specific examples of this include Brown County Board of Commissioners asking us why  
425 we were even attending their meetings and telling us to work with the Planning and Zoning  
426 Administrator instead.

427 Another example, in Spink County, the board limited SCS to 15 minutes, every two  
428 weeks, to give details on the project. In McPherson County, the board only meets once a month,  
429 giving very little opportunity to present comprehensive information about the project.

430 The counties have in many cases stated or demonstrated that they have finite resources  
431 to review and regulate a complex interstate pipeline project.

432 **Q. Has SCS had any discussion with townships in South Dakota?**

433 SCS has had 328 contacts with 110 different South Dakota townships.

434 **Does this conclude your direct testimony?**

435 Yes.

436 **Dated this 31 day of January, 2025.**

437

438

439           /s/ Kylie Lange          

440 **Kylie Lange**

441