

**STATE OF IOWA
IOWA UTILITIES COMMISSION**

IN RE: SCS CARBON TRANSPORT, LLC PETITION FOR HAZARDOUS LIQUID PIPELINE PERMIT	DOCKET NO. HLP-2024-0001
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NOTICE OF ROAD CROSSING RESTRICTIONS

COMES NOW, the Board of Supervisors for the County of Bremer, State of Iowa (“Bremer County” or “the County”), by and through the undersigned attorney, and files this Notice of Road Crossing Restrictions. In support of its filing, the County states as follows.

Bremer County is a local highway authority and has a jurisdictional interest in the routing of pipelines. Pursuant to Iowa Code § 306.4(2), jurisdiction and control over the secondary roads in Bremer County are vested in the Board of Supervisors of Bremer County. Pursuant to Iowa Code § 318.8, a person cannot excavate, fill, or make a physical change in the highway right-of-way in Bremer County without first obtaining a permit from Bremer County. Pursuant to Iowa Code § 318.9, Bremer County has authority to locate the construction of, and to order the removal of, certain utility structures in the roads that are under Bremer County’s jurisdiction.

Iowa law gives the Iowa Utilities Commission (“Commission”) primary, but not exclusive, authority over the routing of pipelines in the state. Commission rule 199 IAC 13.12(1) expressly recognizes Bremer County’s jurisdictional interest in the routing of pipelines: “Iowa Code chapter 479B gives the commission primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained

prior to construction for crossings of highway or railroad right-of-way...” Pursuant to its statutory authority, Bremer County has established restrictions and conditions on the placement of infrastructure and other facilities in road and highway right-of-way under the County’s jurisdiction.

On April 17, 2023, Bremer County passed Ordinance No. 23-04, An Ordinance Setting Requirements for Installation and Maintenance of Utilities Within Secondary Roads Right of Way in Bremer County. On April 27, 2023, Ordinance No. 23-04 was published in the local newspaper.

On August 20, 2024, Bremer County held the first reading of Ordinance No. 24-09, An Ordinance Repealing and Replacing Bremer County Ordinance No. 23-04, Utility Work in Right of Way Ordinance, and Enacting a New Right-of-Way Control Ordinance to Regulate Certain Occupancies and Uses of County Right-of-Way. SCS Carbon Transport, LLC (“Summit”) attended the August 20, 2024 meeting and made comments on the first reading of Ordinance No. 24-09.

On September 3, 2024, Bremer County passed Ordinance No. 24-09, and on September 10, 2024, Ordinance No. 24-09 was published in the local newspaper.

Ordinance No. 24-09 contains several restrictions and conditions that apply to persons seeking to place or maintain certain facilities in the County’s public road rights-of-way, including pipeline companies and hazardous liquid pipelines. Among these restrictions and conditions are certain minimum separation distances for pipeline crossing points, including 495 feet from highway intersections and ingress/egress points, as well as 250 feet from bridges, culverts, and tile crossing points. A copy of Ordinance No. 24-09 is filed with this Notice as Exhibit A.

Pursuant to Commission rule 13.12(2), “The pipeline company shall file with the petition information that shows the pipeline company contacted the other necessary authorities in advance

of filing the petition to determine what restrictions or conditions may be placed on the crossing by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.”

On October 17, 2024, more than a month after Ordinance 24-09 took effect and two months after making public comments on the Ordinance, Summit filed a petition for hazardous liquid pipeline permit in this docket. With the petition, Summit filed an Exhibit F pursuant to Commission rule 199 13.3(1)(f). Summit’s Exhibit F does not specifically address the right-of-way and road crossing conditions and restrictions in Bremer County Ordinance 24-09. See Petition Exhibit F at page 7 (“The Applicant recognizes that Bremer and Butler counties have adopted ordinances that specifically address the siting of a hazardous liquid pipeline route or related survey work and will rely on the IUC to determine the location and route of the hazardous liquid pipeline as it deems just and proper as directed by state Iowa Code § 479B.9.”). The separation requirements in Ordinance 24-09 affect the proposed route of the pipeline through Bremer County.

On October 30, 2024, Bremer County sent a Notice of Compliance to Summit and requested that the company attend a November 19, 2024 meeting of the Board of Supervisors to discuss compliance with Ordinance No. 24-09. Summit did not respond to the County’s notice and did not attend the meeting on November 19, 2024. A copy of Bremer County’s October 30, 2024 Notice of Compliance is filed with this Notice as Exhibit B.

Summit’s petition includes an Exhibit B in three parts that shows the proposed route of the pipeline through Bremer County. Part 1 of Exhibit B contains a KMZ file with detailed topographical information suitable for mapping the pipeline’s road crossing points. Bremer County downloaded this KMZ file and calculated the distance of the proposed crossing points from intersections, ingress/egress points, bridges, culverts, and tile crossings in the county. According

to Bremer County's calculations, there are 12 road crossing points in the county at which Summit's pipeline is not in compliance with Bremer County's separation requirements, as established in Ordinance 24-09. A copy of Bremer County's map with the noncompliant crossing points is filed with this notice as Exhibit C.

Pursuant to Commission rule 199 IAC 13.3(1)(e), Summit must file an Exhibit E documenting that it has obtained consent from Bremer County, or a statement that it will do so, prior to commencing construction of a pipeline in the county. Summit's petition states that it will "provide all necessary consents and showings of right prior to construction..." As of the date of this filing, Summit has not sought, and Bremer County has not granted, consent or permission to cross any of the roads in the county.

Respectfully submitted,

By: /s/ Timothy J. Whipple

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