

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 30876
ORDER NO. 33536

IN THE MATTER OF A HEARING CALLED ON A MOTION OF THE COMMISSION TO CONSIDER ESTABLISHING THE FIELD AND POOL LIMITS FOR LANDS LOCATED IN SECTIONS 27, 28, 29, 32, 33, 34, AND 35, TOWNSHIP 143 NORTH, RANGE 88 WEST, SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, AND 36, TOWNSHIP 142 NORTH, RANGE 88 WEST, SECTIONS 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, AND 31, TOWNSHIP 142 NORTH, RANGE 87 WEST, AND SECTIONS 1, 2, AND 3, TOWNSHIP 141 NORTH, RANGE 88 WEST, MERCER AND OLIVER COUNTIES, ND, SUBJECT TO THE APPLICATION OF SUMMIT CARBON STORAGE #2, LLC FOR THE GEOLOGIC STORAGE OF CARBON DIOXIDE IN THE BROOM CREEK FORMATION, AND ENACT SUCH SPECIAL FIELD RULES AS MAY BE NECESSARY.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

(1) This cause came on for hearing at 9:00 a.m. on the 11th of June, 2024. The hearing ran June 11 through June 13, 2024.

(2) Case No. 30876, is a motion of the Commission to consider establishing the field and pool limits for lands located in Sections 27, 28, 29, 32, 33, 34, and 35, Township 143 North, Range 88 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, and 36, Township 142 North, Range 88 West; Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 31, Township 142 North, Range 87 West; and Sections 1, 2, and 3, Township 141 North, Range 88 West, Mercer and Oliver Counties, North Dakota, subject to the application of Summit Carbon Storage #2, LLC (SCS #2) for the geologic storage of carbon dioxide in the Broom Creek Formation, and enact such special field rules as may be necessary.

(3) Case Nos. 30876, 30869, 30870, 30871, 30872, 30873, 30874, 30875, 30877, 30878, 30879, and 30880 were combined for the purposes of hearing.

(4) Case No. 30869, also heard on the June 11, 2024 docket, is an application by Summit Carbon Storage #1, LLC (SCS #1) for an order requesting consideration for the geologic storage of carbon dioxide in the Broom Creek Formation from the Midwest Carbon Express Pipeline (MCE Pipeline) in the storage facility located in Sections 31, 32, 33, and 34, Township 142 North, Range 87 West; Sections 1, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 35, and 36, Township 141 North, Range 88 West; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 141 North, Range 87 West; Sections 1, 2, 3, and 12, Township 140 North, Range 88 West; and Sections 4, 5, 6, and 7, Township 140 North, Range 87 West, Mercer, Morton, and Oliver Counties, North Dakota, pursuant to North Dakota Administrative Code (NDAC) Chapter 43-05-01.

(5) Case No. 30870, also heard on the June 11, 2024 docket, is a motion of the Commission to consider the amalgamation of storage reservoir pore space, pursuant to a Storage Agreement by SCS #1 for use of pore space falling within portions of Sections 31, 32, 33, and 34, Township 142 North, Range 87 West; Sections 1, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 35, and 36, Township 141 North, Range 88 West; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 141 North, Range 87 West; Sections 1, 2, 3, and 12, Township 140 North, Range 88 West; and Sections 4, 5, 6, and 7, Township 140 North, Range 87 West, Mercer, Morton, and Oliver Counties, North Dakota, in the Broom Creek Formation, and to determine it has been signed, ratified, or approved by owners of interest owning at least sixty percent of the pore space interest within said lands, pursuant to North Dakota Century Code (NDCC) Section 38-22-10.

(6) Case No. 30871, also heard on the June 11, 2024 docket, is a motion of the Commission to determine the amount of financial responsibility required of SCS #1 for the geologic storage of carbon dioxide from the MCE Pipeline in the storage facility located in Sections 31, 32, 33, and 34, Township 142 North, Range 87 West; Sections 1, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 35, and 36, Township 141 North, Range 88 West; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 141 North, Range 87 West; Sections 1, 2, 3, and 12, Township 140 North, Range 88 West; and Sections 4, 5, 6, and 7, Township 140 North, Range 87 West, Mercer, Morton, and Oliver Counties, North Dakota, in the Broom Creek Formation, pursuant to NDAC Section 43-05-01-09.1.

(7) Case No. 30872, also heard on the June 11, 2024 docket, is a motion of the Commission to consider establishing the field and pool limits for lands located in Sections 31, 32, 33, and 34, Township 142 North, Range 87 West; Sections 1, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 35, and 36, Township 141 North, Range 88 West; Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 141 North, Range 87 West; Sections 1, 2, 3, and 12, Township 140 North, Range 88 West; and Sections 4, 5, 6, and 7, Township 140 North, Range 87 West, Mercer, Morton, and Oliver Counties, North Dakota, subject to the application of SCS #1 for the geologic storage of carbon dioxide in the Broom Creek Formation, and enact such special field rules as may be necessary.

(8) Case No. 30873, also heard on the June 11, 2024 docket, is an application by SCS #2 for an order requesting consideration for the geologic storage of carbon dioxide in the Broom Creek Formation from the MCE Pipeline in the storage facility located in Sections 27, 28, 29, 32, 33, 34, and 35, Township 143 North, Range 88 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, and 36, Township 142 North, Range 88 West; Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 31, Township 142 North, Range 87 West; and Sections 1, 2, and 3, Township 141 North, Range 88 West, Mercer and Oliver Counties, North Dakota, pursuant to NDAC Chapter 43-05-01.

(9) Case No. 30874, also heard on the June 11, 2024 docket, is a motion of the Commission to consider the amalgamation of storage reservoir pore space, pursuant to a Storage Agreement by SCS #2 for use of pore space falling within portions of Sections 27, 28, 29, 32, 33, 34, and 35, Township 143 North, Range 88 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, and 36, Township 142 North, Range 88 West; Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 31, Township 142 North, Range 87 West; and Sections 1, 2, and 3, Township 141 North, Range 88 West, Mercer and Oliver Counties, North Dakota, in the Broom Creek Formation, and to determine it has been signed, ratified, or approved by owners of interest owning at least sixty percent of the pore space interest within said lands, pursuant to NDCC Section 38-22-10.

(10) Case No. 30875, also heard on the June 11, 2024 docket, is a motion of the Commission to determine the amount of financial responsibility required of SCS #2 for the geologic storage of carbon dioxide from the MCE Pipeline in the storage facility located in Sections 27, 28, 29, 32, 33, 34, and 35, Township 143 North, Range 88 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, and 36, Township 142 North, Range 88 West; Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 31, Township 142 North, Range 87 West; and Sections 1, 2, and 3, Township 141 North, Range 88 West, Mercer and Oliver Counties, North Dakota, in the Broom Creek Formation, pursuant to NDAC Section 43-05-01-09.1.

(11) Case No. 30877, also heard on the June 11, 2024 docket, is an application by Summit Carbon Storage #3, LLC (SCS #3) for an order requesting consideration for the geologic storage of carbon dioxide in the Broom Creek Formation from the MCE Pipeline in the storage facility located in Section 36, Township 143 North, Range 87 West; Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 143 North, Range 86 West; Sections 1, 2, 11, 12, 13, 14, and 24, Township 142 North, Range 87 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, and 35, Township 142 North, Range 86 West; and Sections 6, 7, 17, 18, 19, and 20, Township 142 North, Range 85 West, Oliver County, North Dakota, pursuant to NDAC Chapter 43-05-01.

(12) Case No. 30878, also heard on the June 11, 2024 docket, is a motion of the Commission to consider the amalgamation of storage reservoir pore space, pursuant to a Storage Agreement by SCS #3 for use of pore space falling within portions of Section 36, Township 143 North, Range 87 West; Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 143 North, Range 86 West; Sections 1, 2, 11, 12, 13, 14, and 24, Township 142 North, Range 87 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,

32, 33, 34, and 35, Township 142 North, Range 86 West; and Sections 6, 7, 17, 18, 19, and 20, Township 142 North, Range 85 West, Oliver County, North Dakota, in the Broom Creek Formation, and to determine it has been signed, ratified, or approved by owners of interest owning at least sixty percent of the pore space interest within said lands, pursuant to NDCC Section 38-22-10.

(13) Case No. 30879, also heard on the June 11, 2024 docket, is a motion of the Commission to determine the amount of financial responsibility required of SCS #3 for the geologic storage of carbon dioxide from the MCE Pipeline in the storage facility located in Section 36, Township 143 North, Range 87 West; Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 143 North, Range 86 West; Sections 1, 2, 11, 12, 13, 14, and 24, Township 142 North, Range 87 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, and 35, Township 142 North, Range 86 West; and Sections 6, 7, 17, 18, 19, and 20, Township 142 North, Range 85 West, Oliver County, North Dakota, in the Broom Creek Formation, pursuant to NDAC Section 43-05-01-09.1.

(14) Case No. 30880, also heard on the June 11, 2024 docket, is a motion of the Commission to consider establishing the field and pool limits for lands located in Section 36, Township 143 North, Range 87 West; Sections 19, 20, 21, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township 143 North, Range 86 West; Sections 1, 2, 11, 12, 13, 14, and 24, Township 142 North, Range 87 West; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, and 35, Township 142 North, Range 86 West; and Sections 6, 7, 17, 18, 19, and 20, Township 142 North, Range 85 West, Oliver County, North Dakota, subject to the application of SCS #3 for the geologic storage of carbon dioxide in the Broom Creek Formation, and enact such special field rules as may be necessary.

(15) The record in these matters was left open to receive additional information from SCS #1, SCS #2, and SCS #3. Such information was received on June 24, 2024 and the record was closed.

(16) Several landowners filed petitions to intervene in these combined matters and motions were also filed. The discussion of these is covered in Order Nos. 33529, 33533, and 33537 and are included herein by reference.

(17) Order No. 33533 entered in Case No. 30873 authorized and created the BK Fischer Broom Creek Storage Facility; and Order No. 33534 entered in Case No. 30874 determined said storage facility will become effective as provided by subsequent order of the Director of the North Dakota Oil and Gas Division.

(18) The Commission desires to establish field boundaries and pool limits for mapping purposes, to enable electronic reporting of the geologic storage of carbon dioxide in said facility, and to establish special field rules.

(19) Order No. 33533 established the BK Fischer Broom Creek Storage Facility to include the following lands in Mercer and Oliver Counties, North Dakota:

TOWNSHIP 143 NORTH, RANGE 88 WEST

ALL OF SECTION 33 AND 34, THE SW/4 NW/4, SW/4 AND S/2 SE/4 OF SECTION 27, THE S/2 N/2 AND S/2 OF SECTION 28, THE SE/4 NE/4 AND SE/4 OF SECTION 29, THE SW/4 AND E/2 OF SECTION 32, AND THE W/2 AND W/2 E/2 OF SECTION 35,

TOWNSHIP 142 NORTH, RANGE 88 WEST

ALL OF SECTIONS 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36, THE S/2 OF SECTION 1, THE W/2 NE/4, NW/4 AND S/2 OF SECTION 2, THE E/2 E/2 OF SECTION 6, THE E/2 OF SECTION 7, THE E/2, SE/4 NW/4 AND NE/4 SW/4 OF SECTION 18, THE E/2 OF SECTION 19, THE E/2 E/2 OF SECTION 30, AND THE NW/4 AND E/2 OF SECTION 32,

TOWNSHIP 142 NORTH, RANGE 87 WEST

ALL OF SECTIONS 7, 18, 19, 30, THE S/2 SW/4 OF SECTION 5, THE SW/4, W/2 SE/4 AND SE/4 SE/4 OF SECTION 6, THE W/2 OF SECTION 8, THE W/2 OF SECTION 17, THE W/2 OF SECTION 20, THE W/2 OF SECTION 29, AND THE NW/4 OF SECTION 31,

TOWNSHIP 141 NORTH, RANGE 88 WEST

ALL OF SECTION 2, THE NW/4 OF SECTION 1 AND THE N/2 AND SE/4 OF SECTION 3.

(20) Order No. 33534 entered in Case No. 30874 approved the amalgamation of pore space in the BK Fischer Broom Creek Storage Facility and defined the stratigraphic interval of the storage reservoir containing the amalgamated pore space as the stratigraphic interval from below the top of the Spearfish/Opeche Formations (Upper Confining Zone), found at a depth of 5,587 feet below the Kelly Bushing, to above the base of the Amsden Formation (Lower Confining Zone), found at a depth of 6,421 feet below the Kelly Bushing, as identified by the Array Induction Gamma log run in the Milton Flemmer #1 well (File No. 38594), located in NW/4 NE/4 of Section 35, Township 141 North, Range 88 West, Mercer County, North Dakota.

(21) Commission staff testified the establishment of field rules would include a requirement that all wells not proposed as part of the BK Fischer Broom Creek Storage Facility would be permitted only after notice and hearing.

IT IS THEREFORE ORDERED:

(1) The Evans Carbon Dioxide Field is hereby created for the exclusive purpose of identifying an area that has been approved by the Commission allowing the injection of carbon dioxide into a subsurface stratum.

(2) The Evans Carbon Dioxide Field is hereby defined as the following described tracts of land in Mercer and Oliver Counties, North Dakota:

TOWNSHIP 143 NORTH, RANGE 88 WEST

ALL OF SECTION 33 AND 34, THE SW/4 NW/4, SW/4 AND S/2 SE/4 OF SECTION 27, THE S/2 N/2 AND S/2 OF SECTION 28, THE SE/4 NE/4 AND SE/4 OF SECTION 29, THE SW/4 AND E/2 OF SECTION 32, AND THE W/2 AND W/2 E/2 OF SECTION 35,

TOWNSHIP 142 NORTH, RANGE 88 WEST

ALL OF SECTIONS 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36, THE S/2 OF SECTION 1, THE W/2 NE/4, NW/4 AND S/2 OF SECTION 2, THE E/2 E/2 OF SECTION 6, THE E/2 OF SECTION 7, THE E/2, SE/4 NW/4 AND NE/4 SW/4 OF SECTION 18, THE E/2 OF SECTION 19, THE E/2 E/2 OF SECTION 30, AND THE NW/4 AND E/2 OF SECTION 32,

TOWNSHIP 142 NORTH, RANGE 87 WEST

ALL OF SECTIONS 7, 18, 19, 30, THE S/2 SW/4 OF SECTION 5, THE SW/4, W/2 SE/4 AND SE/4 SE/4 OF SECTION 6, THE W/2 OF SECTION 8, THE W/2 OF SECTION 17, THE W/2 OF SECTION 20, THE W/2 OF SECTION 29, AND THE NW/4 OF SECTION 31,

TOWNSHIP 141 NORTH, RANGE 88 WEST

ALL OF SECTION 2, THE NW/4 OF SECTION 1 AND THE N/2 AND SE/4 OF SECTION 3.

(3) The Evans-Broom Creek Carbon Dioxide Pool is hereby defined as the stratigraphic interval from below the top of the top of the Spearfish/Opeche Formations (Upper Confining Zone), found at a depth of 5,587 feet below the Kelly Bushing, to above the base of the Amsden Formation (Lower Confining Zone), found at a depth of 6,421 feet below the Kelly Bushing, as identified by the Array Induction Gamma log run in the Milton Flemmer #1 well (File No. 38594), located in NW/4 NE/4 of Section 35, Township 141 North, Range 88 West, Mercer County, North Dakota.

(4) All wells within the boundaries of the Evans Carbon Dioxide Field not proposed as part of the BK Fischer Broom Creek Storage Facility shall be permitted only after notice and hearing.

(5) This order shall remain in full force and effect until further order of the Commission.

Dated this 12th day of December, 2024.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

By the Assistant Director, on behalf of the Commission

/s/ Mark Bohrer, Assistant Director