

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

APH Farms, Arden Hagerott, Jonathan Harerott,
Janel Olson, Valera Hayen, Kari Curran, Scott
Irmen, Mary Jo Irmen, Leon Mallberg, Staroba
Revocable Living Trust, Loren Staroba, Diane
Staroba, James Tiegs,

Appellants,

vs.

North Dakota Public Service Commission, SCS
Carbon Transport LLC, John H. Warford, Jr.
Revocable Trust, Chad Wachter, Chad
Moldenhauer, City of Bismarck, Laborers District
Council of Minnesota, and North Dakota, Emmons
County, and Burleigh County,

Appellees.

Case No. 08-2024-CV-03622

**ORDER GRANTING ORAL
ARGUMENT**

[¶1] This matter came before the Court pursuant to a *Notice of Appeal and Specifications of Error* filed by the Appellants, APH Farms, Arden Hagerott, Jonathan Harerott, Janel Olson, Valera Hayen, Kari Curran, Scott Irmen, Mary Jo Irmen, Leon Mallberg, Staroba Revocable Living Trust, Loren Staroba, Diane Staroba, James Tiegs (collectively “Landowners”), on December 13, 2024. (R:1). The North Dakota Public Service Commission (“Commission”) filed *Certificate of Record* and accompanying exhibits with the clerk of district court. (R:122-146, 149-476, 493-912).

[¶2] On July 16, 2025, the Honorable Pamela Nesvig issued an *Order to Consolidate* the administrative appeal identified as *Burleigh County vs. North Dakota Public Service Commission and SCS Carbon Transport LCC (Case No. 08-2024-CV-03614)* with the present case. (R:114).

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[¶3] On February 19, 2026, Emmons County, though listed as an appellee above, filed its *Brief of Emmons County* requesting the Court reverse or remand the decision of the Commission. (R:913:15).

[¶4] On February 20, 2026, the Landowners filed their *Brief* and requested oral argument. (R:915-916). The Landowners requested three hours for oral argument. (R:916).

[¶5] On February 23, 2026, Appellant, Burleigh County, filed its *Brief* and requested oral argument. (R:918-919). Burleigh County requested two hours be set aside for oral argument. (R:919).

[¶6] On March 19, 2026, the Court issued an *Order for Supplemental Briefing Regarding Oral Argument*. (R:925). The Court allowed the parties fourteen days to submit supplemental briefing regarding whether oral argument should be held, address the length of the hearing, and how time shall be allocated. *Id.*

[¶7] On March 20, 2026, SCS Carbon Transport LLC (“Summit”) filed its *Response Brief* and requested the Court affirm the decision of the Commission. (R:930). On the same day, the Commission filed its *Response Brief* and also requested the Court affirm its decision. (R:930).

[¶8] Emmons County did not request a hearing initially but on March 23, 2026, filed *Emmon’s County Brief Regarding Oral Argument* wherein it stated it does not need any time allocated for oral argument but will be available should the Court have any questions. (R:932).

[¶9] On March 25, 2026, Burleigh County filed its *Brief* regarding the request for oral argument. (R:934). Burleigh County requested four hours to be aside for oral argument, with each side having two hours to be divided among the attorneys on each side. (R:934:2:2). In the alternative, Burleigh County proposed time be equally divided among all four parties, that is, one hour per party. *Id.*

The Landowners concurred with Burleigh County's proposed time and allocation for oral argument. (R:936).

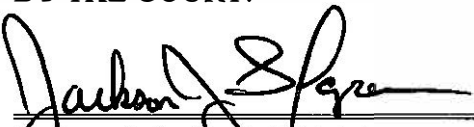
[¶10] On March 30, 2026, Summit filed its *Brief* regarding the request for oral argument. (R:938). Summit argues that due to many of the arguments having been already briefed and argued before the Commission, an oral argument would not assist the Court but rather lead to repetitive briefing, and increase burden and delay. *Id.* Accordingly, Summit requests the Court deny the request for oral argument. *Id.* The Commission did not request oral argument and concurred with Summit that oral argument is unnecessary. (R:940). Alternatively, the Commission asserts if oral argument is ordered, appellants be given a combined total of 30 minutes and appellees a combined total of 20 minutes for oral argument. *Id.* The Commission requests that it be given 10 minutes for its oral argument. *Id.*

[¶11] As stated in the Court's *Order for Supplemental Briefing Regarding Oral Argument*, oral argument is permissible but discretionary under N.D.R.Ct. 9.1. (R:925). Here, the Court, under its discretion, will allow oral argument. The Appellants shall have sixty minutes to present their argument. The Appellants may reserve up to twenty minutes for rebuttal. The Appellees shall have forty minutes to present their argument. The Appellants and Appellees wishing to participate in oral argument should confer regarding how to allocate their time. If the parties cannot agree, the time will be divided equally between the participating Appellants and Appellees.

[¶12] IT IS SO ORDERED.

Dated on this 15th day of April, 2026.

BY THE COURT:


Jackson J. Lofgren, District Judge
South Central Judicial District