

## Hamre, John G.

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**From:** Brian Jorde <BJorde@dominalaw.com>  
**Sent:** Tuesday, May 30, 2023 3:50 PM  
**To:** Randall Bakke; Hogan, Hope L.  
**Cc:** Schuh, John M.; Lawrence Bender (lbender@fredlaw.com); Steve Leibel; Hamre, John G.; Zachary E. Pelham; david@bismarck-attorneys.com; Kevin Pranis; bleonard@fredlaw.com; bdublinkske@fredlaw.com; Brad Wiederholt; Lori Steckler; Sarah Martin  
**Subject:** RE: PU-22-391 / Summit Carbon Solutions

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Your Honor:

1. Landowner Intervenor represented by Mr. Leibel and myself join in and support Mr. Bakke's request below.
2. Unless the Commission has already decided to deny this Application, there certainly needs to be an additional hearing, given Summit is not participating on June 2<sup>nd</sup>, in order to develop the evidence necessary for the Commission to fully consider this Application and the fitness of the Applicant or lack thereof.
3. The Plume and dispersion modeling is also critical – it goes to every factor the Commission is supposed to consider.

Respectfully,  
Brian

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**From:** Randall Bakke <rbakke@bgwattorneys.com>  
**Sent:** Tuesday, May 30, 2023 1:13 PM  
**To:** Hogan, Hope L. <hlhogan@nd.gov>  
**Cc:** John Schuh (jschuh@nd.gov) <jschuh@nd.gov>; Lawrence Bender (lbender@fredlaw.com) <lbender@fredlaw.com>; Steve Leibel <Steve@Bismarck-attorneys.com>; Brian Jorde <BJorde@dominalaw.com>; jghamre@nd.gov; Zachary E. Pelham <zep@pearce-durick.com>; david@bismarck-attorneys.com; Kevin Pranis <kpranis@liunagroc.com>; bleonard@fredlaw.com; bdublinkske@fredlaw.com; Brad Wiederholt <bwiederholt@bgwattorneys.com>; Lori Steckler <lsteckler@bgwattorneys.com>; Sarah Martin <smartin@bgwattorneys.com>  
**Subject:** PU-22-391 / Summit Carbon Solutions

Dear Judge Hogan,

On May 22, 2023, my client served *Intervenor Warford's Motion to Compel Summit Carbon to Produce Written Discovery and to Attend Rule 30(b)(6) Deposition & Request for Expedited Decision* (doc. 236). In that motion we requested that Summit respond to our motion promptly and we requested an expedited decision from Your Honor by May 26, 2023. We, of course, understand this was short notice but our client has been trying to obtain information on the investors in the Summit pipeline and information on the Summit plume study (excluding any information that may implicate national security concerns) for some time to no avail. Summit has only provided an incomplete list of just the names of five investors and their website. (Exhibit W-164) Mr. Powell conceded at the Linton hearing under oath that "hundreds of investors is a fair assumption" in the Summit pipeline. In addition, the PSC has requested information on the investors in the Summit pipeline.

The motion to compel also requests information regarding the plume study, which we do not believe implicates any national security concerns.

To date, we have received no response from Mr. Bender on behalf of Summit to the motion to compel.

We are writing to inquire how the Court plans to handle this issue. Summit has advised it will not be producing any witnesses at the June 2, 2023, hearing in Bismarck, and thus we would be unable to question any Summit witness about the investors in the Summit pipeline and regarding the plume study details that do not implicate national security concerns.

Thus, we are requesting that Your Honor consider one of the following courses of action to address Warford's motion to compel:

1. Require Summit to produce a witness at the June 2, 2023, hearing in Bismarck who is knowledgeable and will provide the requested information on the investors and the plume study model, which are discussed in Warford's motion to compel.
2. Schedule an additional hearing date after June 2, 2023, for another hearing limited to the issues in the motion to compel also allow the requested 30(b)(6) deposition of Summit to be completed by us at least one week prior to the additional hearing date.

Our clients continue to be very concerned that some of the investors in the Summit pipeline appear to be the Chinese government, a Saudi Arabian company, and a South Korean company which may or does violate House Bill 1135 and Senate Bill 2371 precluding foreign adversaries (China) and foreign citizens (Saudi Arabia and South Korea) from developing, investing in or having an ownership interest in North Dakota developments or real estate. Given that only five investors have been identified by Summit, there could be many more foreign citizens and/or possibly foreign adversaries who currently are investors in the Summit pipeline. We believe the PSC, our clients, and the public are entitled to this information so that the PSC may be fully informed of the investors in the Summit pipeline, and to address Summit's application for the pipeline.

Warford and all intervenors should also be allowed to fully question a knowledgeable representative about the plume model, its validity, and other related issues. Summit should not be allowed to just say "trust us" and disclose no details in relation to the plume study.

Also, in the Order dated May 24, 2023 (Doc. 240) you advised that public comment would be provided throughout the day. For planning purposes for scheduling our witnesses to appear to testify, it would be helpful if we could know generally when those public comment time periods will be.

Thank you for your consideration. We look forward to hearing from you.

*Randall J. Bakke*

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*Fellow-Litigation Counsel of America*

*Board Certified Civil Practice Advocacy*



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