

NORTH
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June 1, 2023

Via email

Randall J. Bakke
Bradley N. Widerholdt
rbakke@bgwattorneys.com

RE: SCS Carbon Transport LLC / PU-22-391
Midwest Carbon Express CO2 Pipeline Project Siting Application
June 2, 2023 hearing – Bismarck
OAH File No. 20230002

Dear Mr. Bakke:

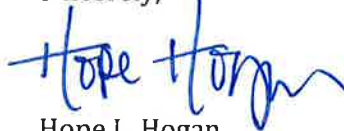
This morning at approximately 8:30 a.m. I received, by email, a motion for issuance of a hearing subpoena. Your motion requests a subpoena for a designated witness or witnesses from SCS Carbon Transport LLC (Summit) to provide testimony regarding approximately 50 listed topics you identified on an attachment to your request. First off, your subpoena fails to name the individual or individuals you wish to attend the hearing to address these topics. Second, since this hearing has been scheduled since March 30, 2023, it is unreasonable that a subpoena would be served less than 24 hours before the hearing as it does not appear there is an exigent circumstance. Third, the June 2nd hearing was scheduled to allow the Intervenor's time to present their witnesses as there was insufficient time at the previous Bismarck hearing for the taking of that testimony.

We had a prehearing conference to talk about the procedure for this hearing on May 12th and at that time Summit's counsel indicated it would not be providing further witness testimony but may call a few rebuttal witnesses. At my request, the parties submitted witness lists the following week. Summit's counsel indicated that Summit decided not to call any other witnesses and no rebuttal witnesses. The purpose of the prehearing conference and correspondence was to address these types of issues.

Finally, as you are aware, we have a limited amount of time to take testimony tomorrow with lots of witnesses scheduled to testify as well as further public testimony. It seems highly unlikely we will have time for a subpoenaed Summit witness or witnesses to offer testimony regarding 50 topics.

For all these reasons, I am declining your request for a subpoena. Thank you.

Sincerely,



Hope L. Hogan
Administrative Law Judge

287 PU-22-391 Filed 06/01/2023 Pages: 2
Letter declining Motion for Issuance of Hearing Subpoena
Hope Hogan, ALJ - Office of Administrative Hearings

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Mr. Bakke
June 1, 2023
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