

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA UTILITIES BOARD**

<b>IN RE:</b>  <b>SUMMIT CARBON SOLUTIONS, LLC</b>	<b>DOCKET NO. HLP-2021-0001</b>  <b>JORDE LANDOWNERS' MOTION FOR TEMPORARY STAY OF EVIDENTIARY PROCEEDINGS</b>
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**MOTION FOR TEMPORARY STAY OF EVIDENTIARY PROCEEDINGS**

Jorde Landowners in support of their Motion state as follows:

**BACKGROUND AND ARGUMENT**

On June 16, 2023, the newly constituted Board set the evidentiary hearing in this matter to commence on August 22, 2023.

Jorde Landowners' counsel previously and repeatedly made known to the Board and Board Staff of the South Dakota Public Utilities Commission Order of January 11, 2023, in the Summit South Dakota docket of that evidentiary hearing already scheduled for September 11<sup>th</sup> through 29<sup>th</sup> in Fort Pierre, South Dakota.

See - <https://puc.sd.gov/commission/dockets/HydrocarbonPipeline/2022/HP22-001/HP22-001ProSch.pdf>

Well after the August 22, 2023, commencement of the IUB hearing, the Board announced a "Tentative Party Schedule" and posted that to <https://iub.iowa.gov/summit>.

Clearly, the Board would not schedule the two Summit hearings such that they would overlap, but despite repeated requests for dates certain and more clarity, Jorde Landowners and others have repeatedly been told to just look at the website

<https://iub.iowa.gov/summit>. It is hard to imagine the Board and Staff did not have a much better idea for scheduling that could have been shared throughout this process.

Interestingly, Summit's counsel knew the Board's non-published and non-spoken intention to run straight through to the end of September – something that still has not be shared with any other party to Jorde Landowners' knowledge. But surely this is just coincidence that Mr. Dublinkse's out of office email as early as August 21, 2023, at 11:06 PM stated:

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**From:** Dublinske, Bret <BDublinske@fredlaw.com>  
**Sent:** Monday, August 21, 2023 11:06 PM  
**To:** Brian Jorde <BJorde@dominalaw.com>  
**Subject:** Automatic reply: Discovery Docs - Summit IUB

I am out of the office in a hearing that is expected to run for six weeks, to roughly the end of September. I will have very little ability to respond during the days, and limited availability on evenings and weekends. For immediate assistance, please contact my colleague Kristy Rogers at [krogers@fredlaw.com](mailto:krogers@fredlaw.com) or 515-242-8922, or our paralegal, Sarah McCray, at [smccray@fredlaw.com](mailto:smccray@fredlaw.com) or 515-242-8941 and they can assist you or find someone who can.

Thanks!

Curious that no Landowners had such insight or expectation.

Then, in the afternoon of August 31, for the first time, the Board announced Summit could present its case to the Board starting first thing on September 5<sup>th</sup>. Further, the Board went on to accommodate Summit, its counsel, and Summit's witnesses, by changing the schedule again and extending the week for Summit testimony through Friday September 8, 2023. This was all done to accommodate Summit so its witness, counsel as needed, and interested persons could then conveniently travel to Fort Pierre, South Dakota for the start of the Summit South Dakota PUC proceedings beginning the morning of September 11, 2023, after completion of either all or the key Summit witness it has identified to testify in

Iowa so they could also participate in South Dakota from Monday September 11 through Saturday September 16, 2023.

Certainly, this means that the IUB hearings will pause after conclusion on September 8, 2023, and resume at some time after the South Dakota Summit hearings end which will be by September 29, 2023. Surely this is so obvious we need not even question this plan. Never has an announcement by the Board or Staff occurred contrary to this reasonable position. And certainly, because the Board will surely want to treat the parties fairly their will not be any further evidentiary proceedings, other than for non-intervening Exhibit H landowners, that would occur at any time between September 11 and September 29, 2023.

The Board is requested and should stay these proceedings after September 8, 2023, such that no further evidence is heard, and no hearings conducted until October 2023 or such time thereafter the Board and Staff are able to resume the hearings. Until the newly constituted Board did a significant about face and reversal, including going against Board Member Byrnes prior dissenting suggestions that the evidentiary hearing would not take place until 2024, there would have been no conflicts of scheduling between the Summit South Dakota proceedings and the Summit Iowa proceedings. No prejudice will be suffered by Summit, it is clear this Board is prepared to decide this matter prior to the end of 2023 which has been Summit's request and concluding the proceedings throughout dates in October, November, and December, especially with the ability for remote testimony, is doable, although none of these proceedings should have started until October 2023 or later.

To knowingly prevent Jorde Landowners' lead counsel, who has solely prepared for all remaining witnesses including all Jorde Landowner witnesses from participating in

proceedings held between September 11 and 29, would cause Jorde Landowners extreme hardship and prejudice. Counsel for Jorde Landowners would ordinarily file dual relief in the South Dakota proceedings but for the fact their evidentiary hearing dates were established on January 11, 2023, and made known to Board over six (6) months ago.

An additional disadvantage the apparent, yet not documented, schedule has is it allows no reasonable advance notice for expert travel and coordination. Unlike Summit's witnesses who are at its beck and call, Landowners' experts are not at Landowners' beck and call. Professional courtesy and reasonable advance planning should not be such an outrageous thing to request. Also, Mr. Jorde is the only Jorde Landowner counsel to have any contact with Jorde Landowner expert witnesses and Jorde Landowners would be prejudiced if Mr. Jorde is not able to present and defend said experts. There are many experts listed to testify from several intervening parties and it is impossible to coordinate and guarantee participation without weeks advance notice, yet another reason stay these proceedings at the end of September 8<sup>th</sup> and then actually list all the available dates for hearing in October, November, and December if needed and allow an organized and efficient schedule to develop informed by the parties AFTER knowing the potential dates for hearing.

In anticipation of Summit's worn-out argument that Mr. Jorde have considered any and all potential and theoretical scheduling conflicts when nearly two years ago accepting to represent targeted landowners in Iowa and in South Dakota, your undersigned states that he did and the only thing that changed, which could not have been predicted and drastically changed the course of these proceedings was the Governor's appointment of two (2) new Board members to the IUB. But for that unusual and unpredictable move midstream in

these proceedings, and the new Board's changing the scheduling and upending any reasonable scheduling expectations, there would have been no conflict.

**REQUEST FOR RELIEF**

WHEREFORE, Jorde Landowners request the Board enter an order staying these evidentiary proceedings once testimony concludes on September 8, 2023, and until after September 29, 2023, other than testimony provided by any non-intervening Exhibit H landowner.

Respectfully Submitted,  
Jorde Landowners

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