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In the Matter of the Denial of Contested Case  
Hearing Requests and Issuance of National  
Pollutant Discharge Elimination System/State  
Disposal System Permit No. MN0071013 for  
the Proposed NorthMet Project, St. Louis  
County, Hoyt Lakes and Babbitt, Minnesota

Case Type: Civil Other/Misc.  
Court File No. 62-CV-19-4626  
Judge John H. Guthmann

**ORDER**

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The above-captioned matter was heard by the court on December 6, 2019 pursuant to Minn. R. Gen. Prac. 115.04(d) and 115.09. One of the issues was relators' motion to compel Kevin Pierard's hearing testimony under oath. Mr. Pierard is a former employee of the United States Environmental Protection Agency. Relators seek Mr. Pierard's testimony concerning the issues in this proceeding, including occurrences in which Mr. Pierard personally participated both as a fact witness and as a person familiar with the NPDES permitting process, in order to assist the court in determining what constitutes regular and irregular procedure. Appearances were stated on the record. After considering that motion, any responses thereto, and the record of the case, the court **GRANTED** the motion ordering Mr. Pierard's hearing testimony.

The above-captioned matter was further considered by the court on January 10, 2020, and the court was advised that all parties agree that Mr. Pierard's testimony would be provided at the evidentiary hearing on January 21, 2020 by live stream testimony. On January 14, 2020, relators formally submitted a letter requesting an order providing for enforcement of the agreed-upon method for arranging Mr. Pierard's hearing testimony.

**IT IS THEREFORE ORDERED** that Kevin Pierard shall appear and give his sworn testimony in this case pursuant to a subpoena issued in accordance with New Mexico Rules

Annotated 1-045, by appearing in New Mexico, where he resides, on January 21, 2020 at 8:00 a.m. Mountain Standard Time (9:00 am Central Standard Time) for live stream testimony that will allow Mr. Pierard's testimony to be presented during the evidentiary hearing set for January 21, 2020 in St. Paul, Minnesota. All parties, Mr. Pierard, and the U.S. Environmental Protection Agency, are entitled to have counsel present in New Mexico at the time and location of Mr. Pierard's testimony. Relators shall issue and serve a subpoena pursuant to this Order.

The basis for the court's decision to grant this motion was stated in the record of the December 6, 2019 hearing, which record is incorporated herein by reference.

Dated: January 15, 2020

BY THE COURT:

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John H. Guthmann  
Judge of District Court