

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

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

Court File No. 62-CV-19-4626
Judge John H. Guthmann

PROPOSED ORDER

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 the testimony under oath of Kevin Pierard, 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 testimony.

The above-captioned matter was further heard by the Court on January 10, 2020, and the Court was advised that all parties had agreed 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 requested by letter an order covering the method by which the parties have agreed that Mr. Pierard will provide his testimony.

IT IS THEREFORE ORDERED that Mr. 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 ____, 2020

BY THE COURT:

John H. Guthmann
Judge of District Court