



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
www.attorneygeneral.nd.gov
(701) 328-2210

Drew H. Wrigley
ATTORNEY GENERAL

September 13, 2023

Brian Bitner, Vice-Chair
Burleigh County Commissioner
514 E. Thayer Ave.
Bismarck, ND 58506-4413

Erin Magrum, Chair
Emmons County Commissioner
100 N.W. 4th St.
Linton, ND 58552

Rowland Ehlert, Chair
Richland County Commissioner
418 2nd Ave N
Wahpeton, ND 58075

Dear County Commissioners:

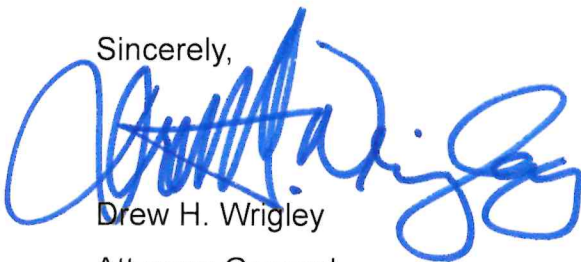
I received your recent requests for this office to conduct a civil review of Summit Carbon Solutions, LLC ("Summit") pursuant to N.D.C.C. § 47-01-09. The requests arose from Summit's application to the North Dakota Public Service Commission for a permit for a carbon dioxide pipeline. The Public Service Commission rejected the permit application on July 28, 2023. This office confirmed with Emmons County State's Attorney, Mr. Joe Hanson, that the rejection of the permit application rendered the Emmons County request for a civil review moot. To the extent any of your requests remain active, this office analyzed the information you provided and the relevant statutes.

The Legislative Assembly amended N.D.C.C. § 47-01-09 significantly during the 2023 legislative session. The amendments became effective on August 1, 2023, and provided new restrictions on the purchase and ownership of real property in North Dakota. The law now prohibits land purchases by (1) a foreign adversary, (2) a foreign business with a principal

executive office located in a country that is a foreign adversary, (3) a foreign business entity in which a foreign adversary owns more than 50 percent of the total controlling interests, or (4) a foreign business entity in which a foreign adversary owns 50 percent or less of the total controlling interests but directs the business entity's operations and affairs. Notably, the Legislative Assembly explicitly exempted certain foreign business entities from the reach of the amended statute, carving out businesses that were "operating lawfully in the United States on August 1, 2023" from prohibited categories (3) and (4). Accordingly, those businesses are not barred from purchasing property under those provisions and no ownership determination is legally appropriate.

N.D.C.C. § 47-01-09 also authorizes a city council or commission, county commission, or title agent to ask this office to conduct a civil review regarding a foreign adversary business entity that falls within prohibited category (3) or (4). For this office to conduct the civil review you requested, Summit would have to fit the legislative criteria for either of those categories. However, Summit was operating in the United States on August 1, 2023, and this office has neither received nor found any information indicating its operation was unlawful. As a result, pursuant to the clear legislative language in N.D.C.C. § 47-01-09, this office is unable to conduct a civil review of the company.

Sincerely,



Drew H. Wrigley
Attorney General