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United States Senate

WASHINGTON, DC 20510

September 26, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Administrator McCarthy,

I write to urge you to promptly consider and approve the application for North Dakota primacy regulatory authority over Class VI injection wells as established under section 1422 of the Safe Drinking Water Act. It is my understanding this application has been with your office since July 14, 2014, and it is crucial to approve this application to fully enable the utilization of carbon capture and storage technology (CCS).

As governor of North Dakota, I worked to implement a regulatory framework that provides certainty and encourages innovation to produce more energy with better environmental stewardship. In 2008, I created the North Dakota CO₂ Storage Workgroup, tasked to develop regulatory framework for the long term storage of CO₂. The result of this workgroup was Senate Bill 2095, which I signed into law in 2009. This legislation granted regulatory authority over geologic sequestration of CO₂ to the North Dakota Industrial Commission and established trust funds for state oversight and long-term liability. In 2013, the state passed an amendment to S.B. 2095 to meet new EPA standards. On June 21, 2013, the primacy application to regulate Class VI wells was submitted. Currently it is with your office for approval, where it has been waiting for consideration for over two years.

CCS technology is an important tool to reduce carbon emissions, not only for traditional energy sources, but for renewable energy as well. Red Trail Energy operates a fossil fuel-fired ethanol facility near Richardton, ND. Partnering with the Energy and Environmental Research Center at the University of North Dakota, the North Dakota Renewable Energy Council, and others, Red Trail Energy is working to implement commercial CCS technology which will help to maintain production rates while meeting emissions regulations. A critical element of this project's success is the ability to obtain a Certificate of Project Completion after 10 years, which enables the transfer of the title, long-term monitoring, and management responsibility to the state. This transfer of liability is permissible in the North Dakota Class VI program, but not addressed in the EPA Class VI Underground Injection Control Program.

Administrator McCarthy

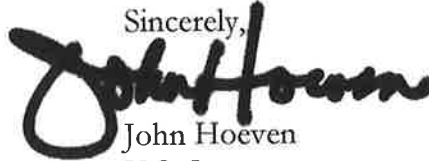
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Red Trail Energy's CCS endeavor is a commercial project on an aggressive time schedule. In turn, it is critical that the EPA approve North Dakota's primacy application so innovative projects like Red Trail Energy's can move forward. North Dakota primacy regulatory authority over Class VI wells will not only provide certainty for our energy producers, but will also better enable the utilization of tax credits, so CCS technology can become more economically feasible for energy producers of all shapes and sizes.

I appreciate your attention to this matter and look forward to your timely consideration and approval of North Dakota's Class VI Well Primacy Application.

Sincerely,

A handwritten signature in black ink, reading "John Hoeven". The signature is written in a cursive style with a large, looping initial "J".

John Hoeven
U.S. Senator