

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>SUMMIT CARBON SOLUTIONS, LLC,</p> <p>Petitioner,</p> <p>v.</p> <p>IOWA UTILITIES BOARD,</p> <p>Respondent.</p> <p>and</p> <p>SIERRA CLUB IOWA CHAPTER and OFFICE OF CONSUMER ADVOCATE,</p> <p>Intervenors.</p>	<p>Case No. CVCV062900</p> <p>RESPONDENT IOWA UTILITIES BOARD'S ANSWER TO SIERRA CLUB'S MOTION FOR SUMMARY JUDGMENT</p>
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COMES NOW Respondent Iowa Utilities Board (Board), by and through its undersigned counsel, and in Answer to Sierra Club's Motion for Summary Judgment respectfully states:

1. The Motion for Summary Judgment of Sierra Club is premised upon an assertion that no issue of material fact remains as to whether the Board has a procedure requiring landowner lists to be submitted by applicants for permits for hazardous liquid pipelines or other permits required by law.

2. Sierra Club has failed to identify a statute or administrative rule requiring the submission of such landowner lists. Sierra Club cannot identify such statute or administrative rule as no such requirement has been adopted by law.

3. Without the existence of a duly adopted legal requirement for the submission of landowner lists to the Board, the determinations of whether such requirement exists is a factual determination in regard to the standard practices of the Board as acknowledged by the Court in

the Order Granting Motion for Temporary Injunction issued February 11, 2022 and admitted by Sierra Club in the Motion for Summary Judgment filed March 21, 2022.

4. Pursuant to the approved Trial Scheduling and Discovery Plan, the parties to this proceeding have until April 24, 2022 to serve discovery in this matter.

5. The Interrogatories thus far propounded by Sierra Club, the answer to which are provided as the sole basis for summary judgement, relate to dockets for which landowner lists were submitted. Information has neither been requested by nor provided to any party relating to dockets for which landowner lists were neither requested nor provided.

6. The Board asserts that a review of electric transmission line, natural gas pipeline, and hazardous liquid pipeline dockets will show, as supported by the affidavit filed with this Answer, that landowner information was not routinely requested by the Board prior to June of 2019 or after December of 2021 and that such information was not requested in all dockets during the period of June of 2019 to December of 2021.

7. As the deadline to make such requests has not yet passed, the opportunity for a complete record to present to the Court has not yet occurred.

8. Pursuant to the trial scheduling order, a motion for summary judgement must be filed prior to April 8, 2022, To the extent the Motion for Summary Judgement is required to be filed prior to the completion of discovery, the Board requests that hearing on the Motion for Summary Judgement be set for a date following the completion of discovery in this case and the parties be allowed to supplement their responses thereto as appropriate based upon the discovery propounded and responded to herein.

9. A genuine issue of material fact remains as to whether the Board has a procedure of requesting landowner information from petitioners for franchises and permits.

WHEREFORE Respondent respectfully requests that the Court set hearing on the Motion for Summary Judgment to occur after the completion of discovery herein and allow the parties to provide supplemental responses as may be warranted in the circumstances and make such determinations and issue such orders as may be just and equitable.

Respectfully submitted,

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ALL PARTIES SERVED ELECTRONICALLY