

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 BRIEF IN 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 pursuant to Iowa Rule of Civil Procedure 1.981 submits this brief in Answer to Sierra Club's Motion for Summary Judgment.

STATEMENT OF ISSUE

As framed by the Court in the Order Granting Motion for Temporary Injunction issued on February 11, 2022 in this matter, the central issue pending is whether the submission of landowner information by Summit Carbon Solutions to the Board was "not required by law, rule, procedure, or contract" for purposes of Iowa Code § 22.7(18).

STANDARD FOR DETERMINING SUMMARY JUDGEMENT

Summary judgment is appropriate only when the record shows no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *Iowa R. Civ. P.*

I.981(3) “Even if the facts are undisputed, summary judgement is not proper if reasonable minds could draw different inferences from them and thereby reach different conclusions.” *Hedlund v. State*, 930 N.W.2d 707, 715 (Iowa 2019)

ARGUMENT

The Board acknowledges that the Court’s Order Granting Motion for Temporary Injunction makes clear that the central issue in this case is whether the Board has a procedure requiring entities petitioning for a permit to submit landowner information to the Board.

The submission of landowner information to the Board by parties seeking electric transmission line franchises, natural gas pipeline permits, or hazardous liquid pipeline permits is not required by statute or administrative rule.

The Board asserts that the full record will show that for most of the history of such proceedings, the Board did not request or require the filing of such information. The Board further asserts that from mid-2019 until December of 2021, the Board requested landowner information from most, but not all, petitioners for electric transmission line franchises, natural gas pipeline permits, or hazardous liquid pipeline permits. Lastly, the Board asserts that the evidence in this case will show that the Board has not requested or required landowner information to be provided in relation to such dockets since December of 2021.

The Board asserts that reasonable minds could draw different inferences from these facts and thereby reach different conclusions. As such, summary judgment is not appropriate at this time because a genuine issue of material fact remains. Summary Judgment may be appropriate after the completion of discovery and the development of such record as the parties deem appropriate.

CONCLUSION

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