

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
BEFORE THE IOWA UTILITIES BOARD

IN RE: )  
 ) Docket No. HLP-2021-0001  
SUMMIT CARBON SOLUTIONS LLC)

**GEORGE G. CUMMINS MOTION AND RESPONSE TO SUMMIT’S  
DEFECTIVE FILING**

Mr. Cummins (“Affected Iowa Landowner”) states:

**INTRODUCTION**

On January 28, 2022, Summit Carbon Solutions LLC (“Summit”) filed a Petition for Hazardous Liquid Pipeline Permit. 199 I.A.C. § 13.3 sets forth the information required to be included in the Petition including required exhibits. Summit failed to include such “required” exhibits, most notably Exhibit H. Summit intentionally disregarded Board rules and Iowa law because they do not have landowner support for their proposed project, and they want to continue to induce unaware landowners that approval for such a project is a foregone conclusion. The law matters and even companies as wealthy and politically connected as Summit must still follow the law. They have not, therefore, their Petition is a “defective filing” under 199 I.A.C. 7.4(5) and is a nullity as it is incomplete on its face and as such the Board can take no action related to the Petition – including internal staff review of its contents.

Affected Iowa Landowner objects to the deficient Petition and motions the Board to set a hearing whereby said deficiency shall be argued and requests the

Board order that the Petition is deficient, find it a nullity, and stay any further proceedings until Summit files a complete Exhibit H if it intends to move forward.

### **ARGUMENT - EXHIBIT H**

Although Summit claims in its Petition, page 3 paragraph XI, “[S]pecific description of the lands sought to be condemned is shown on Exhibit “H,” attached and incorporated by reference” – no such attachment was made. 199 I.A.C. § 13.3 is not ambiguous:

- (1) A petition for a permit shall be filed with the board upon the form prescribed and **shall include all required exhibits** [emphasis added].

...

**h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, the exhibit must be in final form before a hearing is scheduled** [emphasis added].

The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each property:

- (1) The legal description of the property.
- (2) The legal description of the desired easement.
- (3) A specific description of the easement rights being sought.

(4) The names and addresses of all affected persons for the property over which eminent domain is requested based upon a good faith effort to identify all affected persons.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested, with the property identified as required by 199-Chapter 9.

(7) An updated KMZ file required by paragraph 13.3(1)"b" to show the locations of the property over which the pipeline company is seeking eminent domain.

199 I.A.C. § 13.3(h) states Exhibit H “is required only if the petition requests the right of eminent domain.” So, because Exhibit H was not filed by Summit, despite being required by law, any request by Summit for the right of eminent domain fails and they cannot be granted eminent domain powers. The rule goes on to state “[T]he extent of the eminent domain request may be uncertain at the time the petition is filed. However, the exhibit must be in final form before hearing is scheduled.” While Summit will argue the extent of the eminent domain powers they

desire are not yet fully known, there is no exception or carve out to simply fail to file Exhibit H and leave all affected Iowans in the dark mired in the lack of transparency which Summit uses as both a sword and a shield. Rather, the rule allows for amendment and modification to the Exhibit H required to accompany the Petition in that “the exhibit must be in final form before the hearing is scheduled.” The use of “final form” is consistent with the reality that the landowners who have held out and over which Summit will request eminent domain powers may change and if so, the originally filed Exhibit H must be amended – at that time - from its beginning contents as found in the Exhibit H that is required to accompany the Petition.


Because there is no Exhibit H at all, Summit has failed to follow the law as to all 199 I.A.C. § 13.3(h) requirements and this failure causes the Petition to be a defective filing under 199 I.A.C. 7.4(5). Because the Petition is thereby incomplete and deficient, there is no Petition for the Board to take action upon except to find and order the obvious as requested here. It is apparent Summit wants to hide in secret the identity of the Iowa landowners, taxpayers, and voters’ land that it seeks to take for its unnecessary, unsustainable, and rushed project, but its desire should not carry more weight than the laws of this State.

### **REQUEST FOR RELIEF**

Affected Iowa Landowner respectfully requests the Board enter an order finding the Petition incomplete and to require Summit to fully comply with 199 I.A.C. § 13.3(h) and stay these proceedings and all Board efforts related to reviewing

the incomplete Petition until such time Summit files an Exhibit H in full conformity with the law. Affected Iowa Landowner requests fees and costs to the extent the Board deems fair and reasonable under the circumstances of Summit's willful non-compliance with the law and deceiving the IUB with their claim they had included Exhibit H with their Petition.

George G. Cummins,  
Affected Iowa Landowner

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