

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA UTILITIES BOARD**

|   |  |
|---|--|
| <b>IN RE:</b><br><br><b>SUMMIT CARBON SOLUTIONS<br/>LLC</b> | <b>DOCKET NO. HLP-2021-0001</b><br><br><b>GEORGE G. CUMMINS</b><br><br><b>RESPONSE TO SUMMIT’S<br/>RESISTANCE REGARDING ITS<br/>FAILURE TO FILE EXHIBIT H</b><br><br><b>&amp;</b><br><br><b>RESPONSE TO SUMMIT’S<br/>REQUEST FOR SCHEDULING<br/>AND PROCEDURAL ORDER</b> |
|---|--|

George G. Cummins states as follows:

**ARGUMENT**

As the board is aware, Summit has failed to comply with Board rules and Iowa code regarding required filings, specifically Exhibit H. Because Summit does not have a complete Petition on file, the Board should be taking no action and investing no resources in this docket other than to enter an order granting Mr. Cummins pending Motion for Stay related to Summit’s defective filing and grant a stay if and until Summit files an Exhibit H with a detailed list and maps of each and every owner and every property it presently believes would be directly affected should Summit be granted approval to construct its proposed CO2 pipeline in Iowa.

While it is understandable Exhibit H will likely change over the course of time and prior to the ultimate Hearing in this matter, failing to file Exhibit H now as this data currently exists and is well known and easily digitally accessed by Summit at any moment, guarantees due process violations for every affected landowner. It is impossible for an Iowa landowner to make an intelligent decision regarding the considerable investment of time and money it takes to fully exercise one's due process rights by participating and applying to become an intervenor in this docket, without being sure and specifically put on notice via a complete and current Exhibit H filing now.

A landowner's decision to intervene and the commitment of time and resources that go along with such a decision is not one to take lightly. Landowners have jobs, families, and lives and the last thing they want is to be confronted with potential eminent domain threats. Iowa voters, taxpayers, and landowners, deserve to know now and not have to guess whether Summit intends to take their land for its proposed project – without such notice via a detailed and accurate Exhibit H filing, it is impossible for a given Iowa landowner to know if intervention is an intelligent decision.

We understand that Summit does not want landowners to intervene and that their quickest path to billions of dollars is to keep landowners in the dark so that they cannot exercise their due process rights and thereby miss the opportunity to stand up for their families by intervening in this docket. Iowa landowners are at the mercy of the Board to think through this logically and rule in favor of Mr. Cummins

request for the protection of all affected Iowans. It is the right thing to do – without requiring Exhibit H to be filed prior to further Board action on the Petition and any further proceedings and certainly before any scheduling order is entered all would be affected landowners are prejudiced.

There has not been sufficient notice by Summit of who is in the path of this proposed project and who is safe from this intrusion sufficient to decide on intervention – this is what a complete Exhibit H will allow. It is not enough that Summit may have held a single meeting in a given county with vague maps that it did not supply copies to inquiring landowners. It is not sufficient intervention notice if Summit mailed out a letter or even enclosed a proposed easement to a given landowner because that alone is not definitive of anything – certainly not notice that one ought to exercise their due process rights and formally engage in this docket. Even if a landowner received a Summit mailing, that does not mean that the proposed easement is going to or is even likely to cross their land. From the date of such letter to today the route could have shifted or a willing neighbor may have signed an easement, however, because Summit has not filed an Exhibit H and has not been transparent with Iowans about the specific route they seek, there is simply no way to be sure due process rights are protected or able to be reasonably exercised vis-à-vis an informed decision on whether to intervene or not.

The entire purpose of Exhibit H to be transparent and not hide the ball regarding Summit's true intentions related to land acquisition and the potential future exercise of eminent domain. Everyone in the State of Iowa, other than Summit

employees, are in the dark as to which landowners this proposed carbon dioxide pipeline affects. Once the required Exhibit H is filed with sufficient detail listing each landowner who has land across which summit seeks an easement to construct and operate its proposed carbon dioxide pipeline and corresponding color aerial maps (which Summit has) showing the proposed easement areas, then and only then, will a scheduling and procedural order be appropriate.

Once the required Exhibit H with sufficient detail and there is a valid Petition on file, then appropriate deadlines can be established as a complete and transparent Petition is the prerequisite to set future deadlines. When and if Summit's Petition defect is corrected, Mr. Cummings will propose reasonable deadlines and a procedural schedule related to the Petition that if approved will forever negatively affect thousands of Iowa landowners and the generations that follow.

### **CONCLUSION**

Due process rights matter. Board Rule 13.3(1) and filing of "required exhibits" must be enforced. Summit suffers no prejudice in producing data it is required to produce and which is at its fingertips. Simply order them to file an Exhibit H with legal descriptions of each property affected by a proposed easement, the legal description of the easement sought, and the specific rights sought on each property, the names and address of all affected persons, a detailed map of each property, and an overview map of all affected properties. 199 I.A.C. 13.3(1)(h)(1-7)

Until this basic information sees the light of day in a transparent filing – as Exhibit H was intended to be – no action should be taken on the substance of the

Petition and certainly no scheduling or procedural order is appropriate as Iowans are in the dark as to basic elements and the details of this proposed project.

**REQUEST FOR RELIEF**

Wherefore, George G. Cummins respectfully requests the Board enter an order staying these proceedings until such time as Summit complies with 199 I.A.C. 13.3(1)(h)(1-7) as there is not a complete Petition on file. Mr. Cummins requests the Board deny Summit's request for scheduling or procedural order given this is premature at this time.

March 11, 2022

Respectfully Submitted,

By: /s/ Brian E. Jorde

Brian E. Jorde, AT0011638

By: /s/ Christian T. Williams, AT0011109

DOMINALAW Group

2425 S. 144th Street

Omaha, NE 68144

(402) 493-4100

[bjorde@dominalaw.com](mailto:bjorde@dominalaw.com)

[cwilliams@dominalaw.com](mailto:cwilliams@dominalaw.com)

*George G. Cummins' Lawyers*