

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

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

SIERRA CLUB’S MOTION TO PROTECT LANDOWNERS

Comes now Sierra Club Iowa Chapter and in support of this Motion to Protect Landowners, states as follows:

1. Summit Carbon Solutions LLC (Summit) has filed a petition to construct and operate a hazardous liquid pipeline in Iowa that would transport carbon dioxide.

2. Prior to the filing of the petition, Summit engaged in the informational meetings required by Iowa Code § 479B.4. After those meetings, which ended on October 15, 2021, Summit began contacting affected landowners in order to attempt to acquire easements for the pipeline project.

3. In a response to a data request from the Office of Consumer Advocate, Summit claimed that as of January 31, 2022, it had voluntary easements for 290 tracts out of 2,972 total tracts needed for easements. At a landowner meeting in Hardin County on March 11, 2022, Summit representatives said Summit had “over 300” voluntary easements.

4. It is clear, therefore, that Summit is having difficulty obtaining voluntary easements from landowners. In response, Summit representatives say that getting easements is a long-term process and that Summit will keep at the landowners until they sign easements. Attached are statements from three landowners, Dan Tronchetti, Kathy Carter, and Kathy Meyer describing the tactics being used by Summit land agents.

5. Iowa Code § 479B.1 expresses the purpose of Chapter 479B to grant the Board the authority “to implement certain controls over hazardous liquid pipelines to protect landowners and tenants.” That authority includes controls over a pipeline company’s contacts with landowners. For example, Iowa Code § 479B.4(6) states that a pipeline company shall not negotiate or purchase an easement until the informational meeting in that county is concluded. Likewise, Iowa Code § 479B.15 controls how a pipeline company can contact landowners to conduct surveys.

6. The Board’s control over a pipeline company’s contacts with landowners should therefore extend to limiting a pipeline company’s efforts to extract easements from landowners. As shown above, it is clear that affected landowners do not want to sign easements. In addition, the hundreds of comments and objections from landowners filed in the docket in this case confirm that landowners do not want to sign easements. In the face of that difficulty, Summit has sent a letter signed by former Governor Terry Branstad (attached) and a letter signed by Summit owner Bruce Rastetter (attached). In addition, Summit hosted a series of meetings (including a free meal) to which landowners were invited and during which Summit made a vigorous sales pitch to get landowners to sign easements.

7. These actions by Summit do not constitute negotiation. Negotiation involves a willing buyer and willing seller. The negotiation only involves the terms of the transaction. The Board’s rule, 199 I.A.C. § 13.1(3), defines “negotiating” as “contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is

restricted by Iowa Code section 479B.4(6).” Thus, it is the terms of the easement that can be negotiated, not whether a landowner wants to sign an easement.

8. There is also the appearance that the Board is telling landowners they have to negotiate with the pipeline company and sign an easement. During the informational meetings at the beginning of the permit process, Board representatives repeatedly tell landowners that at the conclusion of the meeting they should meet with the pipeline company’s land agents and negotiate easements. Furthermore, the Board’s attitude toward the filing of Exhibit H with the petition for a permit, is also revealing and prejudicial to landowners. The Board’s apparent attitude is that a “final” Exhibit H need not be filed until the pipeline company has somehow obtained enough signed easements to show that it has buy-in from landowners, no matter how long this takes or what the company has to do to get those easements.

9. Sierra Club proposes that the Board issue an order restricting a pipeline company’s representatives from contacting an affected landowner, directly or indirectly, no more than three times to try to persuade the landowner to negotiate the terms of an easement. The Board should also prohibit a pipeline company representative from mentioning the use of eminent domain. Finally, the Board’s order should provide that the Board will contact all landowners who will be impacted by the Summit pipeline and tell them that they do not have to sign easements and that they do not even have to talk to Summit representatives if they do not want to.

10. Summit has displayed its attitude toward landowners and the easement process as revealed in the Motion to Require Filing filed in this docket by the OCA on April 19, 2022, in which the OCA states that OCA ‘was dismayed to receive Summit’s response

that it views easement negotiations as irrelevant to its permit for a hazardous liquid pipeline permit.” That is the attitude this motion by Sierra Club is designed to address.

WHEREFORE, Sierra Club requests that the Board issue an order as set forth herein.

/s/ *Wallace L. Taylor*

WALLACE L. TAYLOR AT0007714
Law Offices of Wallace L. Taylor
4403 1st Ave. S.E., Suite 402
Cedar Rapids, Iowa 52402
319-366-2428;(Fax)319-366-3886
e-mail: wtaylorlaw@aol.com

ATTORNEY FOR SIERRA CLUB
IOWA CHAPTER