

IN THE SUPREME COURT OF IOWA

Supreme Court No. 22-1444
Polk County No. CVCV062900

SUMMIT CARBON SOLUTIONS, LLC,
Petitioner-Appellant,

v.

IOWA UTILITIES BOARD,
Respondent-Appellee,

and

SIERRA CLUB IOWA CHAPTER &
OFFICE OF CONSUMER ADVOCATE,
Intervenors-Appellees.

APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR POLK COUNTY
HONORABLE DAVID NELMARK, DISTRICT COURT JUDGE

FINAL BRIEF
IOWA UTILITIES BOARD

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES.....	2
STATEMENT OF THE ISSUES	3
ROUTING STATEMENT	3
STATEMENT OF THE CASE	4
STATEMENT OF THE FACTS.....	4
ARGUMENT	4
I. Whether the District Court Correctly Decided That the Landowner Information Is <u>Not</u> Protected From Disclosure as an Iowa Code section 22.7(18) Open Records’ Exception.....	4
II. Whether the District Court Correctly Decided That the Common-Law Balancing Test Does Not Apply to Protect the Landowner Information From Disclosure.....	5
CONCLUSION	5
REQUEST FOR NON-ORAL SUBMISSION	6
CERTIFICATE OF COMPLIANCE	7
CERTIFICATE OF FILING AND SERVICE.....	8

TABLE OF AUTHORITIES

STATUTES.	Page
Iowa Code § 22.7(18)(2021)	4

STATEMENT OF THE ISSUES

- I. Whether the District Court Correctly Decided That the Landowner Information Is Not Protected From Disclosure as an Iowa Code section 22.7(18) Open Records' Exception.**

Authorities

Iowa Code § 22.7(18)

- II. Whether the District Court Correctly Decided That the Common-Law Balancing Test Does Not Apply to Protect the Landowner Information from Disclosure.**

ROUTING STATEMENT

The Supreme Court should retain this case. The case presents the issue of whether certain Landowner Information is an exemption from the Open Records Act based on whether the Appellants would be discouraged from voluntarily providing the information to the Iowa Utilities Board (Board) if the information was available for general public examination. The information pertains to more than 10,000 landowners. As such, the case presents fundamental and urgent issues of broad public importance requiring prompt or ultimate determination by the Supreme Court. See Iowa R. App. P. 6.1101(2)(d).

STATEMENT OF THE CASE

The Board is satisfied with the Statement of the Case filed by the Petitioner-Appellant, Summit Carbon Solutions, LLC (Summit).

STATEMENT OF THE FACTS

The Board is satisfied with the Statement of Facts filed by Summit.

ARGUMENT

I. WHETHER THE DISTRICT COURT CORRECTLY DECIDED THAT THE LANDOWNER INFORMATION IS NOT PROTECTED FROM DISCLOSURE AS AN IOWA CODE SECTION 22.7(18) OPEN RECORDS' EXCEPTION.

The Board takes no position on whether the Landowner Information falls within Iowa Code section 22.7(18) as an exception to the Open Records Act. Therefore, the Board requests the Court to rule appropriately by either affirming or reversing the District Court. See Iowa Code § 22.7(18).

II. WHETHER THE DISTRICT COURT CORRECTLY DECIDED THAT THE COMMON-LAW BALANCING TEST DOES NOT APPLY TO PROTECT THE LANDOWNER INFORMATION FROM DISCLOSURE.

The Board takes no position on whether the Common-Law Balancing Test applies to protect the Landowner Information. Thus, the Board requests the Court to rule appropriately by either affirming or reversing the District Court.

CONCLUSION

The Utilities Board requests the Court to rule on the issues presented by Summit.

REQUEST FOR NON-ORAL SUBMISSION

Respondent-Appellee Iowa Utilities Board requests non-oral argument on the issues appealed in this case.

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE WITH TYPEFACE
REQUIREMENTS AND TYPE-VOLUME LIMITATION**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

This brief has been prepared in a proportionally spaced typeface using Microsoft Word in Bookman Old Style in size 14 font and contains 325 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Respectfully submitted this 6th day of July, 2023.

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CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that a true copy of the foregoing brief was electronically served on the Clerk of the Supreme Court using the Electronic Document Management System on July 6, 2023, which will serve a notice of electronic filing to all registered counsel of record.

Respectfully submitted this 6th day of July, 2023.

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