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Environmental Group Stands Firm Against Farm Bureau Intimidation Tactic

Lawyers for the Iowa Environmental Council (IEC) are requesting a Court Order to deny Farm Bureau's request to examine the internal communications of IEC in the ongoing battle over clean water rules the state approved last year. The request was filed on Tuesday in the Iowa District Court for Polk County.

"Farm Bureau's continued legal maneuvers are meant to intimidate us and keep us from our work and are a misuse of the legal system," said Marian Riggs Gelb, executive director for Iowa Environmental Council, a non-profit environmental advocacy group.

Riggs Gelb was referring to a subpoena served on the IEC in October of 2010 by the Iowa Farm Bureau, stemming from a lawsuit the Farm Bureau filed against the Department of Natural Resources (DNR) and the Environmental Protection Commission (EPC) in a last ditch attempt to overturn clean water protections in Iowa.

Iowa's Antidegradation Rules, intended to stem further pollution of Iowa's drinking water sources and recreational waters, were given final approval by the US Environmental Protection Agency on September 30, 2010. This federal approval came after over three years of a state process that included dozens of workshops, meetings and public hearings where nearly 1000 people or groups provided oral or written comments. The rules were developed by DNR professional staff, voted on and approved by the EPC and reviewed and approved by a bipartisan legislative committee at the Statehouse.

However, on October 4, 2010, the Iowa Farm Bureau Federation, Iowa Renewable Fuels Association, and Iowa Water Environment Association, having failed to stop the progression of the rules through the customary state process, filed suit against the State in an attempt to halt implementation of the rules.

Susan Heathcote, who is the water program director for the Iowa Environmental Council, was serving as a private citizen volunteer commissioner on the EPC at the time the Antidegradation Rules were brought before the Commission. The Farm Bureau suit alleges that Heathcote had a "conflict of interest" that should have disqualified her from voting on the Antidegradation Rules in December of 2009.

“If the Farm Bureau truly believed their own claims in their lawsuit, they had ample opportunity to bring their concerns to the Iowa Ethics and Campaign Disclosure Board. The rules were under consideration by the EPC for three years and Susan served the entire time, yet the Farm Bureau never objected through the conventional channels available to them at that time,” said Riggs Gelb.

The Iowa Ethics and Campaign Disclosure Board has jurisdiction over Iowa public officials and conflicts of interest. Prior to accepting appointment to the EPC and during her service on the Commission, Heathcote conferred with the Board staff and the Iowa DNR’s legal team to determine her voting eligibility and followed their advice, which was that she did not have a conflict of interest and could vote on the Antidegradation Rules.

On October 28, 2010, the Farm Bureau served a subpoena on the Iowa Environmental Council requesting “any and all records, correspondence, memoranda, writings or other documents or information” relating to Heathcote’s employment at IEC and IEC’s work on clean water antidegradation policy.

In an effort to be responsive to the subpoena, the IEC provided Farm Bureau with all public documents relating to its work on antidegradation policies. Additionally, the DNR provided Iowa Farm Bureau lawyers with thousands of documents, including every email sent or received by Susan Heathcote regarding antidegradation in her role as EPC Commissioner and every communication between Susan Heathcote and DNR staff regarding antidegradation.

This was not enough for Farm Bureau, and on May 6, 2011, they filed a Motion to Compel the IEC to provide additional information requested in the subpoena, and are standing firm on their assertion that they have a right to examine the Council’s internal emails and other strategic and confidential communications between Council staff and their attorneys, donors, members and partner organizations.

“We’ve spent a huge amount of staff time trying to comply with their requests for documents, at the expense of using our staff and resources. They seem to be on some kind of fishing expedition to get confidential information about our internal strategies on policymaking endeavors and are using the legal system to harass and intimidate us,” said Marian Riggs Gelb, IEC’s executive director.

“Our biggest concern is that the Farm Bureau’s actions could deter other qualified people from volunteering to serve on state boards and commissions for fear of harassment like this, added Riggs Gelb.

A hearing on Farm Bureau’s Motion to Compel further disclosure of IEC’s confidential communications is scheduled for August 23, in the Iowa District Court for Polk County, 500 Mulberry Street, Des Moines.

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