May 31, 2019

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Press Conference 1:00 pm May 31, 2019,
Iowa Supreme Court Steps,
1111 E Court Ave, Des Moines, IA

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The Supreme Court ruling acknowledged that the Sierra Club had standing to intervene in the case. Carolyn Raffensperger, Chair of the Iowa Chapter of the Sierra Club, states, “Although the Supreme Court acknowledged that climate change is a serious threat, they still ruled against the Sierra Club. This shows how much work we still have to do to protect the climate in face of the fossil fuel extravaganza and its ecologically damaging existential threat to our planet.”

Iowa Supreme Court Issues Ruling on Dakota Access Pipeline Case:
Sierra Club is Disappointed in Decision

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Carolyn Raffensperger further states “A travesty was committed on the residents along the pipeline route. To date, the farmland has not been returned to full productivity. Yields are significantly lower in the
pipeline easement as compared to adjoining land. Wildlife habitat was destroyed without attempts to
determine what species were growing there. Trees were toppled, and will be permanently kept off the
easement. Biological assessments were never fully completed and the IUB members even turned their
backs on any request to complete an assessment.”

Landowners were subjected to eminent domain if they did not voluntarily give an easement to the pipeline
company. Ownership of property is one of our most fundamental rights in the United States. Yet
landowners had little recourse before the Utilities Board.

Carolyn Raffensperger emphasized that “Any spill that happens from the pipeline will destroy the true
public necessity - clean drinking water and a healthy environment.” Carolyn Raffensperger added “It is not
a matter of if a spill will happen, but when.”

From the Decision

“We recognize that a serious and warranted concern about climate change underlies some of the
opposition to the Dakota Access pipeline. Maybe, as a matter of policy, a broad-based carbon tax that
forced all players in the marketplace to bear the true cost of their carbon emissions should be imposed. The
revenues from this broad-based tax could be used to offset other taxes. But policy making is not our
function, and as a legal matter we are satisfied that the Dakota Access pipeline meets the characteristics of
a public use under the Iowa and United States Constitutions.” page 37

“We must first consider two threshold matters—standing and mootness. Dakota Access challenges the
standing of the Sierra Club. The Sierra Club is a nonprofit environmental organization. The Sierra Club is
asserting the interests of two of its members—Mark Edwards and Carolyn Raffensperger. Edwards lives in
Boone and worked for the Iowa Department of Natural Resources as a trail coordinator for thirty years. He
submitted an affidavit expressing concern that the pipeline will damage Iowa’s waterways, contribute to
climate change, and destroy Native American burial grounds and cultural sites.” Page 11

“Raffensperger lives in Ames. Her home sits about one mile from the pipeline. She submitted an affidavit
voicing concern for her own safety and the immediate environment around her property as well as her
belief that the pipeline will contribute to climate change, damage Native American cultural sites, and
pollute Iowa waterways.” Page 11

“Dakota Access does not dispute that the Sierra Club can assert the interests of its members for standing
purposes. See Citizens for Wash. Square v. City of Davenport, 277 N.W.2d 882, 886 (Iowa 1979). However,
Dakota Access points out that Sierra Club has not shown that any of its members owns property on the
pipeline route. Accordingly, Dakota Access maintains that the Sierra Club lacks standing. “ Page 12

“We disagree. In Bushby v. Washington County Conservation Board, we adopted the United States Supreme
Court’s standard for standing in environmental disputes. 654 N.W.2d 494, 496–97 (Iowa 2002) (“The United
States Supreme Court has held that plaintiffs in cases involving environmental concerns establish standing if
‘they aver that they use the affected area and are persons “for whom the aesthetic and recreational values
of the area will be lessened” by the challenged activity.’ ” (quoting Friends of the Earth, Inc. v. Laidlaw Envtl.

“Here, Sierra Club met the Bushby standard. Sierra Club members Raffensperger and Edwards submitted
affidavits describing their use and enjoyment of the rivers, streams, soil, and other natural areas and
aesthetics. They described their concerns that the construction and operation of the pipeline would have adverse environmental impacts on those areas that they use and enjoy.” Page 12

“Raffensperger’s and Edwards’s concerns are not entirely speculative, remote, and in the uncertain future as Dakota Access suggests. Sierra Club presented the IUB with actual evidence of pipeline accidents that have resulted in millions of dollars in cleanup and damages.” Page 12

Background

Iowa law says a permit for a pipeline can be granted by the IUB only if the pipeline promotes public convenience and necessity. Public convenience and necessity means that the service to be provided by the pipeline must be needed and will benefit the public. The IUB gave no consideration to the need or benefit for the service from the pipeline to the public, but instead based the permit on the temporary construction jobs and the alleged safety of pipelines over rail shipments.

Carolyn Raffensperger states, “The Iowa Utilities Board did not even discuss the need for, or benefits from, the service alleged to be provided by the Dakota Access pipeline. That is why the Sierra Club asked the Supreme Court to review the public convenience and necessity of the Dakota Access pipeline, in other words the public benefits of the pipeline. Unfortunately the Iowa Supreme Court will allow the IUB decision to stand.”

The Sierra Club has been involved in fighting the Dakota Access pipeline since its announcement in 2014. The Iowa Utilities Board (IUB) issued an Order on March 10, 2016, granting a permit to Dakota Access for the construction of a crude oil pipeline through 18 Iowa counties. Sierra Club filed a petition for judicial review of the IUB Order to the Iowa District Court for Polk County. The district court issued a Ruling on February 15, 2017, denying the Sierra Club’s Petition. The Sierra Club asked that the Supreme Court overturn the IUB’s decision and require that the IUB use the correct legal standard for “public convenience and necessity” in their decision.