

For Immediate Release:

October 17, 2019

Contact:

Adam Mason, adam@iowaccci.org, 515-282-0484

Jackie Filson, jfilson@fwwatch.org, 202-683-2538

Aidan O'Shea, aoshea@publicjustice.net, 202-861-5240

The State of Iowa Continues to Hamper Efforts for Clean Water

Groups File Opposition to the State's Attempt to Block Water Lawsuit

Des Moines, Iowa – Today, Iowa Citizens for Community Improvement (CCI) and Food & Water Watch filed their opposition to the State of Iowa's request to the Iowa Supreme Court for a rare "interlocutory appeal" of a decision from Polk County District Court Judge Robert Hanson, who recently ruled that the organizations' lawsuit against the State to restore the Raccoon River could proceed to trial.

The groups filed the lawsuit against the State of Iowa in March after failures by the Legislature to take Iowa's water pollution crisis seriously. The groups' lawsuit alleges that the state has violated its obligation under the Public Trust Doctrine to protect the Raccoon River for the use and benefit of all Iowans by failing to limit the pollution running off industrial agriculture operations into the state's waterways.

"We know farmers want to do the right thing. But like all Iowans, they are trapped in a system that favors big corporate agribusiness interests," said **Cherie Mortice, a retired teacher and CCI member from Des Moines, Iowa**. "This is the system the State is protecting when it should be protecting our constitutionally-enshrined right to clean water. With over 750 impaired waterways, we are in a clean water crisis. Now's the time for action, not more stalling."

"The State's obligation to protect the Raccoon River is not a 'political question' just because the General Assembly has allowed Big Ag to play politics with Iowans' right to clean water. The courts have the power to act where Iowa's legislators have failed, particularly where, as here, constitutional rights are at stake," said **Emma Schmit, Organizer for Food & Water Watch**.

"The State told the Supreme Court that it has the right to do whatever it wants regardless of the public's right to use the Raccoon River. Suggesting that Iowa courts just step aside when constitutionally protected rights of Iowans are on the line is an argument for tyranny," said **Brent Newell, lead counsel in the case and a senior attorney at Public Justice's Food Project**.

"The Public Trust Doctrine and the Iowa Constitution protect Iowans' right to clean water."

In addition to Public Justice, the groups are represented by Food & Water Watch, Roxanne Conlin & Associates, and Channing Dutton, of Lawyer, Lawyer, Dutton & Drake LLP.

"Protecting the constitutional rights of Iowans to clean water is firmly within the Court's mandate," said **Roxanne Conlin**. "We hope the Court denies this application and look forward to making our case at trial."

Background:

First, the Legislature passed a 2018 bill that made the voluntary and failing Iowa Nutrient Reduction Strategy the official policy of the state to control agricultural water pollution. Second, the only bill for clean water in the 2019 legislative session was blocked in committee by Rep. Dean Fisher.

In the request for an appeal to the Iowa Supreme Court, the State asserts that the Iowa General Assembly has a "right" to avoid being held accountable in court because its decisions to not limit agricultural water pollution are "political questions" that are only for the legislature to decide without judicial oversight. In his recent decision, Judge Hanson ruled that the court had the authority to order the State to adopt a mandatory clean-up plan and a moratorium on new and expanding animal feeding operations for the Raccoon River watershed, finding that "None of the proposed remedies encroach on the powers of the other branches of government."

The brief Iowa Citizens for Community Improvement and Food & Water Watch filed today explains that the constitutional questions at the heart of the case are well within Iowa courts' authority to protect Iowans' constitutional rights. The Supreme Court can grant or deny review at its discretion, and denial would allow the case to proceed before Judge Hanson in Polk County District Court.

The groups' opposition to the State's request to appeal Judge Hanson's decision notes that while the lawsuit calls for a mandatory clean-up plan to reduce agricultural water pollution, the organizations also call for technical assistance to support farmers' implementation of the plan, and measures to hold integrators accountable for implementation on operations where animals they own are raised. They also call for broader reforms to farm policy that increase the economic viability of independent farms while they implement the mandatory remedial plan, including commodity policy reform to ensure that farmers can receive a fair price for their crops and livestock.

Iowa Citizens for Community Improvement works to empower and unite grassroots people of all ethnic backgrounds to take control of their communities; involve them in identifying problems and needs and in taking action to address them; and be a vehicle for social, economic, and environmental justice.

Food & Water Watch mobilizes people to build political power to win bold and uncompromised solutions for the most pressing food, water and climate problems of our time. We work to protect our health, communities and democracy from destructive economic interests.

Public Justice pursues high impact lawsuits to combat social and economic injustice, protect the Earth's sustainability, and challenge predatory corporate conduct and government abuses. The Public Justice Food Project supports rural communities, farmers, workers, and allies to fight for a just, humane, sustainable, and regenerative animal agriculture system.