

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United Food and Commercial Workers
Union, Local No. 663; United Food and
Commercial Workers Union, Local No.
440; United Food and Commercial
Workers Union, Local No. 2; and United
Food and Commercial Workers Union,
AFL-CIO, CLC,

Plaintiffs,

v.

Case No. 19-cv-2660 (JNE/TNL)
ORDER

United States Department of Agriculture,

Defendant.

On March 31, 2021, the Court granted summary judgment to Plaintiffs and vacated part of a challenged USDA action that eliminated line speed limits in certain pork plants. The Court stayed entry of judgment for 90 days. Four pork plant operators moved to intervene. Seaboard Foods moved to intervene to extend the stay. Clemens Food Group, Quality Pork Processors, and WholeStone Farms Cooperative (“Pilot Participants”) moved to intervene to seek clarification from the Court. The Court denied both motions as untimely. Seaboard and the Pilot Participants appealed. Now, they seek a stay of the Court’s March 31 order, pending appeal of the intervention order.

“[A]s part of its traditional equipment for the administration of justice, a federal court can stay the enforcement of a judgment pending the outcome of an appeal.”

Scripps-Howard Radio v. FCC, 316 U.S. 4, 9–10 (1942); *see Nken v. Holder*, 556 U.S. 418, 426 (2009); Fed. R. App. P. 8(a). The Eighth Circuit considers four factors when

determining whether to issue a stay pending appeal: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether the issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Brakebill v. Jaeger*, 905 F.3d 553, 557 (8th Cir. 2018) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)). “The most important factor is likelihood of success on the merits, although a showing of irreparable injury without a stay is also required.” *Id.*

The first factor, likelihood of success on the merits, may be satisfied by demonstrating “serious and substantial legal issues” on appeal. *Ark. Peace Ctr. v. Ark. Dep’t of Pollution Control*, 992 F.2d 145, 147 (8th Cir. 1993). Neither Seaboard nor the Pilot Participants have made a strong showing of a likelihood of success on appeal or raised difficult legal issues. Based on Seaboard’s and the Pilot Participants’ arguments on their original intervention motions,¹ they are unlikely to succeed on the merits of their appeals for the reasons already stated by this Court. *See Minn. Milk Producers Ass’n v. Glickman*, 153 F.3d 632, 646–47 (8th Cir. 1998) (upholding denial of intervention on timeliness grounds where regulated parties sought to intervene after entry of judgment).

The second and third factors weigh the relative harms “likely to arise from this court’s grant or denial of the motion for a stay.” *See Brady v. NFL*, 640 F.3d 785, 792

¹ Mindful that it lacks jurisdiction over issues on appeal, the Court will not address new arguments related to timeliness. *See State ex rel. Nixon v. Coeur D’Alene Tribe*, 164 F.3d 1102, 1106 (8th Cir. 1999) (“[T]he district court may not reexamine or supplement the order being appealed.”).

(8th Cir. 2011). Seaboard and the Pilot Participants claim they will suffer economic and reputational harms without a stay. Plaintiffs dispute the extent of those harms and claim that their members will suffer injuries. The Court’s summary judgment order left these policy considerations for USDA to weigh because USDA “is in a better position than the Court to assess the disruptive effect” of a vacatur. *Chamber of Com. v. SEC*, 443 F.3d 890, 909 (D.C. Cir. 2006). Accordingly, the Court will assume without deciding that Seaboard and the Pilot Participants will suffer irreparable injury absent a stay.

Fourth, the public interest is not served by staying entry of judgment because it would simply delay any appeal. USDA may choose to pursue its policy prerogatives by appealing the summary judgment order or by other means. The longer the Court delays entry of judgment, the longer USDA and other parties must wait to pursue that option.

Balancing the four factors, and giving the most weight to the first, the Court finds that a stay pending appeal is not warranted for either Seaboard or the Pilot Participants.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Seaboard Foods, LLC’s Motion to Stay Pending Appeal [ECF No. 175] is DENIED.
2. Quality Pork Processors, Inc., WholeStone Farms Cooperative, Inc., and Clemens Food Group, LLC’s Motion to Stay Pending Appeal [ECF No. 165] is DENIED.

Dated: June 16, 2021

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge