

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SUMMIT CARBON SOLUTIONS, LLC	DOCKET NO. HLP-2021-0001
--	--------------------------

BRIEF OF MARY MOSER, JAMIE AND CARMEN MOSER

Mary Moser and Jamie and Carmen Moser are in possession of land that they own and farm in Palo Alto County, Iowa. Summit Carbon Solutions, LLC (Summit) wants to acquire an easement over their farm ground for its Hazardous Liquid Pipeline.

The Mosers, pursuant to the Iowa Utilities Board October 7, 2022 Order Setting Oral Argument, submit this Brief.

The Mosers, their friends and neighbors, are very concerned about the damage that will be done to farm ground if this Hazardous Liquid Pipeline is allowed. But, they are also very concerned about the dangers of a Hazardous Liquid Pipeline. In their Objection filed September 22, 2022, they explained that their land floods. They take notice of the February 2020 pipeline leak in Satartia, Mississippi where flooding caused the ground to shift and break a weld in the pipeline releasing an explosion of ice and carbon dioxide, as reported in a news article in the Des Moines Register. See the attached reports of the Des Moines Register and WLBT, marked Exhibit 1 and Exhibit 2.

Attached are copies of pictures of the Moser land being flooded, marked Exhibits 3, 4, and 5. Also attached are copies of the county road adjacent to the Moser land being washed out by the flooding, marked Exhibit 6.

The Mosers' Objection requests that a very large bond, insurance policy, or the like, be put in place to pay for damages that might be suffered from this Hazardous Liquid Pipeline. Perhaps the State of Iowa should insure any damages if a bond or insurance policy is not large enough to cover the potential damages.

Carbon Summit Solutions, LLC does not want to provide Exhibits L1 and L2. Summit argues that the Exhibits L1 and L2 would be a guidebook for how to cause harm or damage to its proposed Hazardous Liquid Pipeline. The location of the Hazardous Liquid Pipeline will be well known. That argument of Carbon Summit Solutions, LLC only heightens peoples concern about the safety of the Hazardous Liquid Pipeline. Much of the population is concerned that the Hazardous Liquid Pipeline does impose an undue risk.

The Mosers, all landowners in the vicinity of the proposed Hazardous Liquid Pipeline, and the public in general should know all possible hazards. A risk assessment and consequence analysis, and a discharge plume model with risk assessment of Summit Carbon Solutions, LLC's proposed Hazardous Liquid Pipeline should be fully and clearly provided to the public and Iowa Utilities Board (IUB) for consideration of whether Summit Carbon Solutions, LLC should even proceed with its Hazardous Liquid Pipeline.

Summit Carbon Solutions, LLC argues that whether and/or where to locate a Hazardous Liquid Pipeline is federally preempted under 49 U.S.C. § 60104(c). It cites 49

CFR 195.402(e) which deals with how to operate a Hazardous Liquid Pipeline and what to do in case of an emergency when operating a Hazardous Liquid Pipeline.

49 CFR 195.402(e) does not pertain to the location nor routing of a Hazardous Liquid Pipeline. 49 CFR 195.402(e) pertains to the operation of a Hazardous Liquid Pipeline, not to whether and/or where to locate a Hazardous Liquid Pipeline.

Summit Carbon Solutions, LLC cites 49 U.S.C. § 60104(c), but ignores 49 U.S.C. § 60104(e).

Specifically, there is no federal preemption in regard to the location or routing of a Hazardous Liquid Pipeline. 49 U.S.C. § 60104(e) provides as follows:

“This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.”

The United States Court of Appeals in the Fourth Circuit has ruled as follows:

“Even if we were to find that the PSA has preemptive effect beyond the express preemption provision discussed in 49 U.S.C. § 60104(c), we would not conclude that Congress intended the PSA to occupy the field of natural gas facility siting. Specifically, the PSA expressly circumscribes the Secretary of Transportation’s role in this area, indicating, ‘[t]his chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility/’ 49 U.S.C. § 60104(e) (2006).” Washington Gas Light Company v. Prince George County Council, 711 F3d 412, 422 (4th Cir. 2013).

The question at hand is whether a Hazardous Liquid Pipeline should be allowed, let alone where it should be located. That decision is clearly within the jurisdiction of the Iowa Utilities Board.

The Mosers respectfully request the Iowa Utilities Board require Summit Carbon Solutions, LLC to provide Exhibits L1 and L2, and to ultimately not approve Summit Carbon Solutions, LLC's proposed Hazardous Liquid Pipeline.

Additionally, the Mosers have not received proper notification in this matter. Mary Moser is the titleholder of the farm land in question. Jamie and Carmen Moser are the contract holders who are buying the farm land from Mary Moser. Mary Moser did not receive any notice because it had Jamie and Carmen's address on the notice. Jamie and Carmen Moser, as contract holders, have not received notification in this matter.

Dated: October 18, 2022

/s/ Mary Moser

/s/ Jamie Moser

/s/ Carmen Moser

/s/ Robert W. Goodwin

GOODWIN LAW OFFICE, P.C.

Robert W. Goodwin, AT0002986

2211 Philadelphia Street, Suite 101

Ames, Iowa 50010-8767

(515) 232-7390

(515) 232-7396 (Fax)

E-mail: goodwinlawoffice@fbx.com

**ATTORNEY FOR MARY, JAMIE AND
CARMEN MOSER**

AGRICULTURE

A carbon dioxide pipeline burst in Mississippi. Here's what happened next.

Des Moines Register

Nearly two years ago, a 24-inch pipeline carrying liquefied carbon dioxide ruptured near the village of Satartia, Mississippi.

The pipeline was built through hilly, rugged terrain. Saturated with rain over two months, soil around the pipeline slid, causing a pipe weld to break and releasing an explosion of ice

and carbon dioxide, according to the federal agency that investigated the accident.

A plume of carbon dioxide rolled toward the village of 50 people. Emergency personnel evacuated about 200 residents from there and the surrounding area, and 45 people sought medical attention, according to an investigation by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration. There were no deaths.

More: Builders vow CO2 pipelines will be safe. Worried Iowans point to a Mississippi rupture.

The agency is seeking nearly \$4 million in fines connected to the rupture from pipeline owner Denbury Gulf Coast Pipelines of Plano, Texas. Among the violations cited, federal investigators said the company "significantly underestimated the affected area that could be impacted by a release."

One noteworthy conclusion of the report: It took Denbury about two hours — double the requirement — to notify federal authorities of the rupture, although it knew within minutes of the breach that the pipeline had lost pressure. Local authorities, meanwhile, weren't aware of the leak's source for almost half an hour.

Opponents of three proposed carbon-capture pipelines in Iowa point to the Satartia rupture, expressing concern that residents along the Iowa pipeline routes could experience a similar emergency. The developers say their pipelines would exceed federal safety requirements and that the Satartia incident was an anomaly brought about by unique factors.

Here's a timeline of what investigators say occurred in Mississippi:

Feb. 22, 2020

7:06 p.m. Under pressure from a mudslide, Denbury's 24-inch pipeline ruptures.

7:07 p.m. The pipeline's supervisory control and data acquisition system alerts the company's control room of a drop in pipeline pressure.

7:14 p.m. The control room remotely closes three mainline block valves — one at Tinsley Station, which is upstream of the rupture site, and two valves at Satartia and Redwood, which are downstream of the rupture.

7:15 p.m. The control room receives confirmation from its computer sensing system that the mainline block valves are closed.

7:15 p.m. A Yazoo County Office of Emergency Management dispatcher receives an initial report of a “foul smell and green fog across the highway.” Based on that information, emergency personnel respond under the assumption there is a possible chlorine leak and began contacting people from the local water utility.

7:17 p.m. A Yazoo County dispatcher receives a call regarding a person possibly having a seizure.

7:19 p.m. Denbury dispatches workers to attempt to confirm the mainline block valves have closed successfully and to identify the location of the release.

7:26 p.m. Mississippi Highway 433 is ordered closed by local officials, who are still working under the assumption a chlorine leak is occurring.

7:30 p.m. A responder comments that it sounds like a gas line has erupted. It is around this same time that another responder fields a call from someone in the area who reports hearing a roaring sound. Additional reports from residents lead responders to conclude that the leak is a CO₂ and hydrogen sulfide release from the pipeline, not chlorine from the water system. A plume model generated by the National Weather Service correlating local meteorological data with the product type indicates the CO₂ will move from the release site directly toward Satartia, and an evacuation is ordered.

7:39 p.m. Yazoo County emergency management closes Mississippi Highway 3 to traffic at the intersection with Highway 433, about two-thirds of a mile northwest of the rupture site.

7:43 p.m. The incident commander confirms Denbury’s CO₂ pipeline has ruptured; however, no one can get close to the site due to the ongoing release of CO₂.

7:48 p.m. The Incident commander contacts Denbury's Tinsley station manager, informing him that the pipeline has ruptured. The incident commander informs Denbury of the response measures being taken. Denbury informs the incident commander that company personnel have been dispatched to check whether the mainline block valves are closed.

7:57 p.m. Yazoo County emergency management blocks Mechanicsburg Road, about two miles southeast of the rupture site.

7:58 p.m. The Mississippi Department of Environmental Quality contacts the Center for Toxicology & Environmental Health, an environmental consulting firm that aids in emergency responses, requesting technicians be dispatched to the rupture site with air monitoring equipment.

8:06 p.m. The first Denbury representative arrives near the rupture site after confirming the mainline block closures.

8:24 p.m. Yazoo County emergency dispatch confirms a second Denbury representative has arrived near the rupture site.

9:06 p.m. A Denbury representative from the Plano, Texas, office calls the U.S. Environmental Protection Agency's National Response Center to report the pipeline rupture, saying it had released an estimated 222 barrels of liquid carbon dioxide.

9:25 p.m. Representatives from the Center for Toxicology & Environmental Health and Denbury's environmental contractor, E3 Environmental, arrive on scene to conduct air monitoring, beginning at 10:30 p.m.

Feb. 23, 2020

1:49 a.m. Incident command establishes a warming shelter for evacuees at a local middle school.

8 a.m.: Evacuees are allowed to return home. They are provided air monitoring services on request and are encouraged to vent their homes by opening doors and windows. The

closure of Highway 433 is lifted after heavy equipment clears mud deposited by the rupture.

11:34 a.m. Real-time air monitoring concludes.

Feb. 24, 2020

6:56 p.m. In a 48-hour update, Denbury tells the National Response Center that the breach released 21,873 barrels of liquid CO₂.

May 26, 2022

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration releases a report on the accident and issues \$3,866,734 in fines to Denbury.

Donnelle Eller covers agriculture, the environment and energy for the Register. Reach her at deller@registermedia.com or 515-284-8457.

LawCall Connect. Shop. Support Local. Careers Wendy's Giant of the Week Ask the Experts Power of Pink




87°
Jackson, MS

News Watch Live Traffic Weather Sports 3 On Your Side Investigates Mississippi Weekend What's On TV About Us

ADVERTISEMENT

Get cloud complexity out of your way.

See how




The night a gas line rupture wreaked havoc in a small Mississippi town



3 ON YOUR SIDE INVESTIGATES

THE SATARTIA GAS LEAK

TWO YEARS LATER

PART ONE

ADVERTISEMENT


All Under \$10

Free Shipping

30% off on your first order

TEMU

Come and check everything at a surprisingly low price, you'd never want to miss it.



By [Patrice Clark](#)

Published: Aug. 11, 2022 at 6:51 PM CDT



SATARTIA, Miss. (WLBT) - Imagine driving home from work or sitting and relaxing in your backyard with family or simply taking an evening stroll and, suddenly, you feel lightheaded, dizzy, and eventually collapse... sounds like a movie?

Residents of the small town of Satartia in Yazoo County say this is exactly what happened to them - and it is a nightmare they are still living every day.

"I thought we were going to die," said Linda Garrett.

It was February 2020, around 7 o'clock Saturday night in Satartia. Yazoo County EMA Director Jack Willingham and Volunteer Fire Chief Durward Pettis were driving home when they got an alarming and strange alert on their phones.

"It was a report of a green cloud," explained Pettis.

Jack Willingham said, "I heard dispatch say there was a foul odor, like rotten eggs and green gas."

"It had choked out a car and the car had stopped, and the woman had fainted," added Pettis.

Neighbors Linda Garrett and Michelle Douglas and her husband were home at the time.

"I heard three explosions," Linda said. "It was like a boom, boom, then a small boom."

"The closer I got to it I couldn't breathe," said Douglas. "I said, *I got to get back in the house because something is wrong.* So I got to the porch and fell out."

Garrett said, "I was getting more delirious from the smell, and my daughter was screaming, and grandbaby was on the floor."

The night a gas line rupture wreaked havoc in a small Mississippi town

Meanwhile, as first responders were trying to figure out what was making people sick, they decided to shut down roads and isolate the area.

It was a chaotic night.

Yazoo County Deputy Chief Simon Stubblefield started going door-to-door to quickly get residents out of the danger zone.

"Without the air packs the volunteer fire departments provided, breathing was impossible," he said.

Fire Chief Pettis and his team finally figured out it was a Co2 pipeline that ruptured, which runs through Satartia And other parts of the state.

Co2 is in the air that we breathe every day, but high concentrations of it in a confined space can be toxic.

"If you stay in it long enough, it can damage your lungs and other internal organs because you are depleting your body of oxygen in the Co2, so it's no joke," Pettis said. "It is something to be concerned about."

Denbury Inc. owns and operates the Co2 pipeline, which is used to unlock oil from oil fields.

"Apparently the ground had shifted which caused stress on the well right here and caused the pipe to rupture," said Willingham. "It freezes the ground and it's cold."

More than 4 dozen people ended up in the hospital from the small town and the surrounding area.

"It was a really heavy feeling on your chest," said Willingham. "Your lungs were squeezing."

Garrett said, "I said, *We are not going to make it.* Those are the last words I said to 911.

"Most of the community is elderly and they go to bed pretty early," said Douglas. "If they would have been in bed where they couldn't get them out, they said everyone would have been dead."

Linda Garrett and her neighbors in Satartia say thankfully no one died, but it doesn't take away from the severity and lack of communication that night when gas saturated her town.

"No warning, no warning," Garrett said.

According to an investigative report from the Pipeline and Hazardous Materials Safety Administration, Denbury never notified local emergency responders advising them of the potential failure. Instead, it was the other way around.

Local responders had to figure out what was in the air making residents sick and then they reached out to the company.

Willingham said, "They knew at 7:07 that we had a problem. We had started isolating the area before then, but we didn't know what we were dealing with, so you see why that's a big problem. When we called them and the guy said, 'Oh yes, we had a pressure drop on such and such line.' You think they would have called and said, 'We had a pressure drop on this line. You may have a problem.'"

Two years later, those who live and work in the Yazoo County town say the effects of that dangerous pipeline failure still linger mentally and physically among residents.

Douglas said, "Like my husband, he is taking three different migraine medications but he still has a headache every day. Myself, it affected me as being tired, I cannot get any energy to get up and go and I was not that way before the explosion."

So what's changed since the pipeline failure?

PHMSA announced new safety measures to protect Americans from carbon dioxide pipeline failures after the Satartia leak.

Willingham said, "Since we had this incident, the leak, our team has worked with federal investigators to make sure our citizens are safe. I want our citizens to be safe. This is a small community, but every community should be safe."

Chief Durward Pettis said, "We have been doing training with Denbury and drills. They purchased these gas monitors in the field. This is a five-gas monitor system. We have used them several times down in the Satartia area because they thought they smelled that odor in the area and they were worried."

The night a gas line rupture wreaked havoc in a small Mississippi town

Denbury also funded an emergency communication system, which communicates and notifies residents of any emergency situation that happens in Yazoo County.

Willingham said, "We can put in a message, and it will send a call, a text or phone call immediately."

But many Satartia residents are wondering just how effective this system will be in the time of trouble due to little to no broadband service in the rural area.

Douglas said, "We should still get the same things that a larger town would get."

Sally Doty is over that new program. She says her team is committed to helping the small town.

"So, over the next few years, there is federal money that is designated for unserved areas," she said, "and I believe Satartia is an unserved area. The people of Satartia are not forgotten about nor are the other unserved areas and underserved areas of the state."

Even with all the gadgets, warning systems and training, some residents admit what happened on February 22, 2020, is a pain they will live with for the rest of their lives.

Garrett said, "When I hear something, I think it is a gas line. That is the only thing we have had a problem with."

Douglas added, "It is scary. Everyone is on pens and needles because what if this happened again? Like, they said this has never happened anywhere else in the U.S."

Want more WLBT news in your inbox? [Click here](#) to subscribe to our newsletter.

Copyright 2022 WLBT. All rights reserved.



PERGAD-Bayonne, N. J.
EXHIBIT
3



PENGAD-Bayonne, N. J.
EXHIBIT
4



PENGAD-Bayonne, N. J.
EXHIBIT
5



PENGAD-Bayonne, N. J.
EXHIBIT
6