

**STATE OF IOWA  
DEPARTMENT OF COMMERCE  
IOWA UTILITIES BOARD**

**IN RE:**

**SUMMIT CARBON SOLUTIONS LLC**

**DOCKET NO. HLP-2021-0001**

**RESPONSE TO ISG MEMORANDUM REGARDING  
DEFINITION OF WET CONDITIONS**

On April 20, 2022, ISG filed a letter (the “ISG Letter”) in the above-captioned docket proposing certain changes to the Board’s Rules and the Board’s Instruction Manual for County Inspectors regarding construction work in wet conditions. Summit Carbon Solutions, LLC (“Summit Carbon”) hereby submits its response to the ISG Letter.

As a threshold matter, Summit Carbon notes that the Board’s Chapter 9 Rules cannot be amended based upon a letter filed in an existing pipeline docket. Rather, as a legal matter, changes to the Board’s Administrative Rules must be made through the administrative rulemaking process provided for in Iowa Code Section 17A.4. That process ensures broad stakeholder involvement that is not provided by letter filed in an existing docket. Should the Board decide to open a rulemaking docket regarding ISG’s proposed revisions, Summit Carbon will participate in that docket.

Further, while Summit Carbon supports the establishment of uniform, consistent standards for the protection of drain tile and the avoidance of soil compaction, those uniform, consistent standards already exist within Chapter 9 of the Board’s rules and the Agricultural Impact Mitigation Plan (“AIMP”). The primary concerns regarding work in wet conditions – potential compaction and potential damage to drain tile – are already addressed extensively in the

Board's Chapter 9 rules. The addition of an arbitrary rutting depth restriction is no more protective of agricultural land, is overly redundant, and could have unintended consequences that actually diminish reclamation results. Attached hereto is a letter from Aaron DeJoia, CPSS, CPAg, CCA of Soil and Ecological Solutions providing a more detailed explanation of the reasons that ISG's proposed revision is unnecessary and should not be adopted.

WHEREFORE, Summit Carbon Solutions respectfully requests that the Board decline to amend Chapter 9 of the Board's rules to incorporate the amendments proposed by ISG.

Respectfully submitted this 18<sup>th</sup> day of May, 2022.

By: /s/ Brant M. Leonard

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**ATTORNEYS FOR SUMMIT CARBON  
SOLUTIONS LLC**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 18th day of May, 2022, he had the foregoing documents electronically filed with the Iowa Utilities Board using the EFS system which will send notifications of such filing (electronically) to the appropriate persons.

/s/ *Brant M. Leonard*