

**STATE OF IOWA
IOWA UTILITIES BOARD**

IN RE:

DOCKET NO. HLP-2021-0001

SUMMIT CARBON SOLUTIONS, LLC

**REBUTTAL TESTIMONY OF
JAMES POWELL
ON BEHALF OF
SUMMIT CARBON SOLUTIONS, LLC**

AUGUST 21, 2023

1 **Q. ARE YOU THE SAME JAMES POWELL WHO FILED DIRECT TESTIMONY**
2 **ON MAY 25, 2023?**

3 A. I am.

4 **Q. HAVE YOUR EMPLOYER, EMPLOYMENT ADDRESS, OR JOB TITLE**
5 **CHANGED SINCE THAT TESTIMONY?**

6 A. No they have not.

7 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

8 A. The purpose of my rebuttal testimony is to respond to certain issues raised in testimony
9 filed by intervenor and/or OCA witnesses.

10 **Q. OCA WITNESS SCOTT BENTS' TESTIMONY REQUESTED INFORMATION**
11 **REGARDING SUMMIT'S FINANCIAL ABILITY TO PAY DAMAGES RELATED**
12 **TO OPERATING THE PIPELINE AND SUMMIT'S PLANS FOR HAVING**
13 **INSURANCE COVERAGE IN PLACE. CAN YOU RESPOND?**

14
15 A. Yes. As Mr. Bents mentions in his testimony, Summit has already provided proof of a
16 \$250,000 surety bond for the construction and operation of the pipeline in Iowa, which is
17 the amount set by Iowa Code Section 479B.13. Beyond that, prior to commencing
18 operations, Summit will have in place general liability insurance coverage consistent with
19 best industry practice. While Summit has not yet finalized its insurance program, it will
20 do so prior to commencing operations and will maintain at least \$35 million in general
21 liability insurance coverage for the duration of its operations. Summit does not object to
22 providing proof of such insurance to the Board prior to commencing operations.

1 **Q. SEVERAL INTERVENOR WITNESSES HAVE RAISED CONCERNS**
2 **REGARDING THE RELEASE THAT OCCURRED ON DENBURY GULF COAST**
3 **PIPELINE'S CARBON DIOXIDE PIPELINE IN FEBRUARY 2020 NEAR**
4 **SATARTIA, MISSISSIPPI. CAN YOU DESCRIBE THE ACTIONS THAT**
5 **SUMMIT HAS TAKEN AND IS TAKING TO AVOID A SIMILAR SITUATION?**
6

7 A. Yes. On May 26, 2022, the U.S. Department of Transportation's Pipeline and Hazardous
8 Materials Safety Administration ("PHMSA") published its Failure Investigation Report
9 regarding the Denbury pipeline failure that occurred near Satartia, MS in February 2020
10 (the "PHMSA Report"). The PHMSA Report determined that "[h]eavy rains are believed
11 to have led to a landslide, which created axial strain on the pipeline and resulted in a full
12 circumferential girth weld failure." The PHMSA Report identified five key contributing
13 factors which gave rise to the pipeline failure and subsequent impacts to people in the
14 Satartia area. Those five key contributing factors were:

15 (1) Denbury's Operations & Maintenance ("O&M") procedures did not appear to
16 address the potential for pipeline damage to soil instability despite prior experience
17 with and knowledge of land movement risks;

18 (2) Denbury's Integrity Management Program ("IMP") did not appear to address
19 integrity threat identification and/or assessment for geohazards or preventatives or
20 mitigative measures;

21 (3) Denbury's aerial patrols did not identify a geohazard at the failure location prior
22 to the accident;

23 (4) Denbury's CO2 dispersion model underestimated the potential affected area that
24 could be impacted by a release. As a result, the pipeline segment was not identified
25 as a "could affect" HCA and Satartia was not included in Denbury's Public
26 Awareness Program ("PAP"); and

1 (5) Denbury did not notify local responders advising them of a potential failure.

2 The first three contributing factors all related to geohazards, which Denbury failed to
3 identify and in turn, failed to incorporate into their O&M procedures and IMP. To avoid a
4 similar situation, Summit has undertaken extensive geohazard investigations. While
5 Summit witness Erik Schovanec can provide more detailed information, Summit has
6 conducted a geohazard analysis across the entire route of the pipeline and implemented all
7 mitigative measures identified by that analysis. Summit has also complied with PHMSA's
8 Advisory Bulletin issued on June 2, 2022 "Pipeline Safety: Potential for Damage to
9 Pipeline Facilities Caused by Earth Movement and Other Geological Hazards" that was
10 published following the Satartia incident. These activities are intended to identify and
11 mitigate geohazard risks and take account of them in Summit's O&M procedures and IMP.
12 In addition, while federal regulations require that the IMP apply to HCA areas, Summit has
13 committed to applying the IMP to every segment of its pipeline.

14 The fourth contributing factor found by PHMSA in the Satartia incident was that
15 Denbury's CO2 dispersion model underestimated the potential affected area that could be
16 impacted by a release. As a result, the pipeline segment was not identified as a "could
17 affect" HCA and in turn, the village of Satartia was not included in Denbury's Public
18 Awareness Program ("PAP"). Unlike Denbury, Summit has undertaken a more robust
19 dispersion analysis, including additional steps to identify areas CO2 could potentially reach
20 in the unlikely event of an incident. Summit Witness Bryan Louque can speak to the
21 process in more detail, but in general terms, Summit had Audubon Field Services
22 ("Audubon") go a step further than a traditional analysis; Audubon modeled overland
23 spread of CO2 in critical valleys that could assist in the transport of a CO2 release to HCAs

1 and OPAs in order to identify any such additional areas. Based on those results, Summit
2 will incorporate all could affect HCAs identified in its Public Awareness Program,
3 avoiding a similar result to Denbury.

4 The fifth contributing factor was Denbury's failure to notify local responders
5 advising them of a potential failure. Because Denbury's dispersion analysis did not
6 identify the village of Sartaria as a could affect HCA, it was not included in Denbury's
7 public awareness program or its emergency response plan (ERP). Summit witness Rod
8 Dillon can speak in more detail about Summit's public awareness and emergency response
9 plans, but in general, due to the robust nature of the dispersion analysis performed by
10 Audubon, all communities which could be affected in the unlikely event of a release will
11 be included in Summit's PAP and local emergency response plans, so that first responders
12 are alerted at the earliest possible moment of a pipeline failure.

13 **Q. CERTAIN OBJECTORS HAVE SUGGESTED THAT THE NORTH DAKOTA**
14 **PSC'S ORDER OF AUGUST 4, 2023 DENYING SUMMIT'S PERMIT**
15 **APPLICATION PROVIDES A REASON FOR THE IOWA UTILITIES BOARD**
16 **TO DENY SUMMIT'S PERMIT APPLICATION. HOW DO YOU RESPOND?**

17
18 **A.** First, I note that Summit's Petition to the Board and Summit's Application to the
19 North Dakota PSC are separate applications to separate regulatory bodies covering separate
20 geographic and jurisdictional boundaries. Those distinct regulatory bodies also have
21 different rules, regulations, and considerations that determine whether to grant a permit. In
22 addition, there are other governmental and regulatory agencies that must consider whether
23 to grant various permits within their respective jurisdictions. The Board's consideration
24 of the Petition before it is not impacted by those other agencies' processes, which proceed
25 under different regulations, and on different timelines from the Board's.

1 Second, while the North Dakota PSC denied Summit’s initial application, Summit
2 has since submitted a Petition for Reconsideration that includes a revised route, and
3 Summit has every reason to believe the North Dakota PSC will grant a permit based on the
4 Petition for Reconsideration. The minor deficiencies in the record noted in the PSC’ Order
5 were remedied, and Summit has reason to believe that the denial was based primarily on
6 the location of the pipeline with respect to the City of Bismarck. Summit’s Petition for
7 Reconsideration incorporates a revised route which it believes addresses those concerns.
8 The reconsideration process is expedited and Summit believes its permit application could
9 be approved by yearend. I also note that recent public comments by public officials
10 demonstrate confidence in the project in North Dakota, including comment by Governor
11 Doug Burgum, who mentioned the reconsideration process and stated: “I have every
12 expectation that pipeline is going to get approved in North Dakota.”¹

13 **Q. CERTAIN INTERVENORS HAVE MENTIONED THE USE OF CO2 FOR**
14 **ENHANCED OIL RECOVERY (“EOR”). DOES SUMMIT INTEND TO SHIP CO2**
15 **FOR USE IN EOR?**
16

17 A. No. Summit does not intend to ship CO2 for use in EOR. At present, all parties intending
18 to ship on Summit’s pipeline system intend to permanently sequester the CO2 being
19 shipped.

20 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

21 A. Yes.
22

¹ See [Burgum confident Summit carbon pipeline will be built - Radio Iowa](#); [GOP candidate Doug Burgum touts energy prowess at Iowa State Fair \(desmoinesregister.com\)](#).