STATE OF IOWA
IOWA UTILITIES COMMISION

IN RE: **SUMMIT CARBON SOLUTIONS, LLC** **PETITION FOR HAZARDOUS LIQUID PIPELINE PERMIT**	**DOCKET NO. HLP-2021-0001** **JORDE LANDOWNERS' APPLICATION FOR RECONSIDERATION OR REHEARING** **&** **JOINDER**

This Application for Reconsideration or Rehearing is submitted on behalf of all Jorde Landowners, as defined prior to the outset of the Iowa Utilities Board ("Board") hearing in this matter, and on behalf of Exhibit H Landowners Julie Kaufman, Marvin Leaders, Kohles Family Farms, LLC, Allen and Christine Hayek, and Douglas and Jill Williamson, and Kathryn Josephine Byars, now all collectively referred to as Jorde Landowners. In addition, Jorde Landowners also now includes Carmen and Jamie Moser, previously represented by Robert Goodwin, and David and Kay Clark.

Jorde Landowners also join the Counties' Motion to Reconsider Final Decision and Order filed on July 12, 2024, as well as the Sierra Club's Motion to Reconsider, to the extent it files one, and specifically also adopt arguments therein relating to issues discussed below as well as the Board's failure to address the findings of fact as proposed by the Counties, Sierra Club, and Jorde Landowners.

INTRODUCTION

In its June 25, 2024, Order, the Board got the decision wrong. The Board erred in finding the entire proposed route and any of it is in the public convenience and necessity. The

Board erred in its analysis and conclusion of the negative impacts to landowners, and therefore to the State of Iowa, as well as regarding adverse impacts of routing and siting. The Board erred in its analysis and conclusion regarding public use. The Board erred in finding Summit is a common carrier, granting eminent domain powers generally, and granting specific eminent domain rights as to Jorde Landowners. The Board erred by not granting conditions requested by Jorde Landowners, the Counties, and the Sierra Club.

STANDARD FOR RECONSIDERATION OR REHEARING

Iowa Code sections 17A.16 and 476.12 allow any party to a contested case to file an application for rehearing. The Board's administrative rules similarly allow any party to file an application for rehearing or reconsideration. Iowa Administrative Code r. 199—7.27. "[A]n appropriate ground for rehearing or reconsideration of a final decision by the Board is an error of fact or law." *In Re: Coggon Solar LLC*, I.U.B. Docket No. GCU-2021-0001, 2023 WL 143211 (Jan. 6, 2023). "In a request for reconsideration or rehearing, a party may raise 'new or additional argument to correct legal error.'" *In re: MidAmerican Energy Company,* I.U.B. Docket No. E-22313, 2019 WL 7373083 (Dec. 20, 2019). A party seeking reconsideration may submit new evidence that has arisen since the final order by affidavit. Iowa Administrative Code r. 199— 7.27(2).

ARGUMENT

The Board's Final Decision and Order is premised upon factual and legal errors and should be reconsidered and a revised order entered finding Summit's pipeline is not publicly convenient nor is it necessary, Summit is not a common carrier, Summit is not granted eminent

domain rights generally, it is not granted the eminent domain rights specific to Jorde Landowners as described in the present order, and Summit' petition is denied.

To the extent filing an application for reconsideration or rehearing is later argued to be a prerequisite for an appeal of the Board's June 25, 2024, Final Decision and Order, Jorde Landowners here assert each and every finding of fact and conclusion of law of the Board in its decision and order that is inconsistent with the position, arguments, and/or evidence and testimony of Jorde Landowners are legal and factually incorrect and unsupported by competent evidence. The Board errors include, but are not limited to, the following specific areas also addressed by Jorde Landowners herein.

I. Evidence

The Board stated that if a piece of evidence or an argument is not discussed within the Order, that is because the Board concluded such evidence or argument was irrelevant or lacking in sufficient argument to warrant specific discussion. See Order pg. 13. Because significant amounts of evidence and arguments of Jorde Landowners, the Counties, and the Sierra Club are not specifically address, the Board therefore did not consider such evidence or argument persuasive, nor did it rely upon them for its analysis or conclusions. This was error.

The Board is reminded that Jorde Landowners and others' evidence on particular issues was sometimes in large part the cross-examination of Summit's witnesses. Much of the cross-examination is not referenced, thus not relied upon and should be reconsidered as it establishes Summit's lack of competent evidence on key factual issues. For Jorde Landowners and each of their parcel specific concerns the Board failed to consider evidence proving the proposed

pipeline route and location upon such parcels was neither convenient, necessary, nor intelligent and thus, should not have been approved.

II. Public Convenience and Necessity

a. National Issues

i. 45 Q Tax Credits

"…[t]he Board finds federal policy weighs heavily in favor of Summit Carbon's petition." "…[t]he 45Q tax credit is a bipartisan issue…" See Order pg. 239. Nowhere in 26 U.S. Code § 45Q - Credit for carbon oxide sequestration, does the word pipe or pipeline appear. The Board has fundamentally missed the mark and is focused on areas where it has no jurisdiction and on issues not before the Board. Neither capture nor sequestration of CO2 is before the Board for decision. That is not a proposed use of the pipeline as the pipeline neither captures nor does it sequester CO2. The Federal policy in the form of 45Q tax credits nowhere prioritizes, highlights, or even mentions the convenience, need, or use of pipelines to advance the policies underpinning 45Q tax credits. The Board has been asked to approve the location of and ultimate construction and operation of a hazardous CO2 pipeline. There is no evidence in the record that Federal policy supports Summit's proposed pipeline but more importantly its proposed route through Iowa. Board reliance upon Federal policy generally when what before it is a siting and routing petition is misplaced and error and should be reconsidered.

The Board relies upon former Summit employee James Piroli when he said the 45Q tax credit mechanism does not increase the national debt. Order at pg. 106. Logic refutes this claim. If a dollar of tax that would have been generated and paid to the US Treasury is not

generated and not paid, then there is one less dollar to fund the US Government. Given there was no evidence of federal budget cuts that would offset the approximate $18 billion in Summit tax credits, the absence of that tax revenue means the US has that much less tax revenue to run the county. The money to operate this county must then come from somewhere else, either a higher tax burden on the rest of us and/or deficit spending that increases the national debt. Either way, both are bad outcomes. Board reliance on Mr. Pirolli is misplaced, was error and should be reconsidered.

ii. Climate Change

Summit's entire premise for its project is based upon climate change via CO2 reduction whether specifically stated or not. Yet, Summit failed to prove its pipeline would result in a net reduction in greenhouse gas emissions. They provided claims of what CO2 would be removed but did not provide a net analysis factoring in getting the pipeline from ground zero to operation and then through the lifetime operation and maintenance of the pipeline. Importantly, Summit's claims of sequestering CO2 cannot be relieved upon and given Summit changes its tune on what exactly the purpose of their pipeline is depending upon who is asking questions or what state they are in, since the conclusion of the Board Hearing, Summit owners and officials have pivoted and stated what we suspected all along, that its CO2 will be used for enhanced oil recovery which eliminates reasonable reliance on sequestration claims. The North Dakota oil industry wants to use the Summit pipeline for enhanced oil recovery (EOR) with the North Dakota Petroleum Council seeing "…tremendous long-term opportunity…" Jorde Affidavit, Attachment #1. Summit's executive vice president, Wade Boeshans, said

when shippers want to ship CO2 for EOR, Summit "…will likely move it for that purpose…" *Id.* "And Bruce Rastetter, chair of Summit's parent company, Summit Agricultural Group, also said on a North Dakota radio show on Feb. 7 that the company is open to EOR." *Id.*

iii. Low Carbon Fuel Standards

The Boards reliance upon low carbon fuel markets is misplaced. See Order at pg. 114. No competent testimony was offered by Summit to prove such markets will exist in the future, will be able to be physically or economically accessed by Iowa ethanol producers, or if in fact such Iowa or other ethanol producers will in fact access and profit from such speculative markets, and in turn who will ultimately benefit or to what degree. The testimony around low carbon fuel markets was too speculative to be relieved upon and it is tangential to and not directly related to the proposed pipeline and given the carbon capture and equipment facilities and the proposed sequestration facilities are not in the Board's purview or jurisdiction, ascribing any benefit in a balancing analysis to theoretical potential low carbon fuel markets is not justified. There was not a shred of evidence that any Iowa ethanol plant nor any alleged partner plant in any of the five Summit proposed States does or has ever accessed these markets or attempted to access these markets is telling.

b. State Issues

i. Ethanol

The Board concluded Summit's proposed pipeline would have a positive impact on Iowa's ethanol and agricultural industry. See Order at pg. 125. The Board heavily relied upon

written testimony of James Broghammer as prepared by Summit's lawyers. The Board failed to consider admissions made by Mr. Broghammer in his deposition, in a setting where he had to supply answers and they were not crafted for him. His deposition illustrates the pure speculative nature and unreliability of his personal claims of benefits to ethanol. He further states there is no plan to pass along any profits or economic gains, if any, of his ethanol plant to farmers who supply corn to it. Mr. Powell's and Mr. Pirolli's written and oral testimony on the subject of ethanol lack credibility and is also too speculative to consider. There was no competent evidence that the lack of approval of Summit's petition would "apply the breaks"to the Iowa ethanol market nor what those consequences would be. See Order at pg. 240. Testimony related to any claimed detriment to the ethanol industry was speculative and not reliable and should not be considered.

The Board determined, "[T]he public is pushing the ethanol industry, and other industries, in the exact direction the Summit proposed hazardous liquid pipeline is heading." See Order at pg. 141. This conclusion by the Board is incorrect and underlies the complete factual misunderstanding by the Board of Summit's proposed pipeline. The Board has no role in carbon capture or carbon storage and more importantly, there is no requirement and thus no need to employ thousands of miles of hazardous pipeline to reduce CI scores. The entire premise is that reducing CI scores at ethanol plants is somehow good for everyone and therefore Summit's proposed intrusive, risky, 2000-plus-mile eminent domain hazardous pipeline is needed. Not so. As was proven, reduction of CI scores for industrial plants and ethanol plants can be achieved on-site or locally without a hazardous pipeline. To the extent the Board makes the leap, a 2000 plus mile long hazardous pipeline is needed to reduce CI

scores and/or access low carbon fuel markets, and there save ethanol and Iowans from the economic Armageddon that would have affected them unless the savior Summit came along, is misplaced, defies logic, and misses the mark. It is possible to buy into the argument that reducing CI scores is positive without also concluding the proposed hazardous pipeline is therefore publicly convenient and necessary. The pipeline itself is neither of those things and the Board has no jurisdiction or purview over the rest of the proposed "project" or "system." Every tangential and theoretical possible benefit flowing from reduction of CI scores and qualifying Iowa ethanol for low carbon fuel markets can be achieved without Summit's pipeline. What can't be achieved without Summit's pipeline is Summit can't itself then capture the 45Q tax credit financial benefits and that is ONLY a benefit to Summit's shareholders, not to the public.

ii. No Competent Net Economic Benefit Evidence

The entirety of the Board's reliance on economic benefits – of the pipeline – relies on the EY "Report" and other witnesses regurgitating that reposts speculative and disclaimed conclusions. The EY Report specifically states no third parties, i.e. the Board, should rely upon it. Just because other unreliable reports are received in evidence in other dockets doesn't justify this poor practice to continue here or to be relied upon. Lots of old garbage doesn't make new garbage smell better.

iii. Safety

The Board states "[W]hile the Board may consider safety as part of its analysis, the Board cannot impose safety criteria on Summit Carbon." See Order pg. 222. Whether as phrased this

is a correct or incorrect legal conclusion, what the Board can do and must do is determine intelligent routing of hazardous pipelines in cases where the Board is inclined to grant such permits. The Board failed to do that here. Summit's own cherrypicked, flawed, and non-worst-case risk modeling shows potential deadly results for the current proposed location of its hazardous pipeline. See Jorde Landowners Opening Brief at pages 69 through 86 showing 16 different Iowa communities unduly put at risk for significant adverse impacts.

It cannot be in the public convenience or necessity to place Iowa communities and their citizens directly in the path of CO2 plumes. Summit's "confidential" modeling in this regard was horrifying. This Board determination that Summit has "taken steps to reduce the potential to human health" must be reconsidered in light of evidence on the risks and distance toxic CO2 plumes can travel. The negative impact upon Iowan's and every other state where this pipeline is proposed has not been alleviated by Board conditions or by actions Summit proposes. The Board's reliance on analogy to non-CO2 pipelines should be reconsidered. PHMSA has no jurisdiction over routing and citing of CO2 pipelines, and the plume related and risk related information is squarely the Board's duty to consider and factor when determining intelligent location of hazardous infrastructure.

iv. Sequestration in Iowa

The Board gives the factor of sequestering CO2 in Iowa little weight. "The Board finds this argument to be based upon speculation, rather than proven facts." See Order at pg. 231. Given there was no evidence of an urgent need or rush for the proposed CO2 pipeline, given PHMSA rulemaking on CO2 pipelines is not complete, and given the 45Q Tax Credits don't

require commencement of a project for nearly seven more years, among other reasons, the Board should reconsider its approval of Summit's petition so CO2 can be sequestered and stored in Iowa.

v. Monopoly

Monopolies are frowned upon. Approving Summit's Petition and granting a permit for construction will create a monopoly in the area of carbon management in Iowa, and likely the Midwest. This factor weighs strongly against Summit's Petition and the Board should find as such. See also Opening Brief of Kerry Mulvania Hirth on the topic of monopoly which arguments and concerns are adopted here.

III. Public Use

a. Common Carrier

The Offtake Agreements, at page 258, tell the story and are dispositive as to the question of common carriage. What Pirolli says is irrelevant when the agreements themselves contradict his written testimony. There is no "for hire" evidence. Summit takes ownership of the CO2, therefore there is no shipper other than Summit – and you can't hire yourself to do something. Summit is so clearly not a common carrier and the Board erred in concluding otherwise. This error must be resolved, and the Board should ender a corrective order specifically finding Summit, under its unique business model as evidenced in every offtake agreement in evidence, is not a common carrier. In Summit's model the ethanol plants are irrelevant since the plants give CO2 to Summit. There is no hiring involved. It was proven through cross-examination of James Pirolli the concept of a walk-up shipper for this type of CO2 pipeline is fanciful and cannot practically occur and will not become reality.

b. Route Modifications Generally

Each and every denial of landowner requested route modifications where the route modification either a) entails a re-reroute on to land owned by a person or entity that has already executed an easement with Summit, or b) where the proposed re-route stay upon land owned by the person or entity requesting the re-route and is simply a better route through their land, or c) where are re-route was proposed through the county right-of-way, should all be reconsidered and granted as proposed by Jorde Landowners. Summit failed to produce evidence as to each of the Jorde Landowners re-route suggestions of why that was impossible or exceedingly expensive to accommodate.

c. Eminent Domain

The Board has the power to grant a route and issue a permit for a particular route but not grant eminent domain, meaning you do not need to grant eminent domain – which would solve this entire problem and force Summit to deal appropriately with landowners rathe than threatening them and providing misinformation. According to Summit, there is no need for eminent domain as surely, they can convince landowners to host their hazardous pipeline based on its merits alone.

If ever there has been a project where eminent domain was not appropriate or necessary given the testimony of Summit and its commitment to acquire 100% of easements it desires voluntarily. The Board should deny eminent domain powers.

IV. Motions

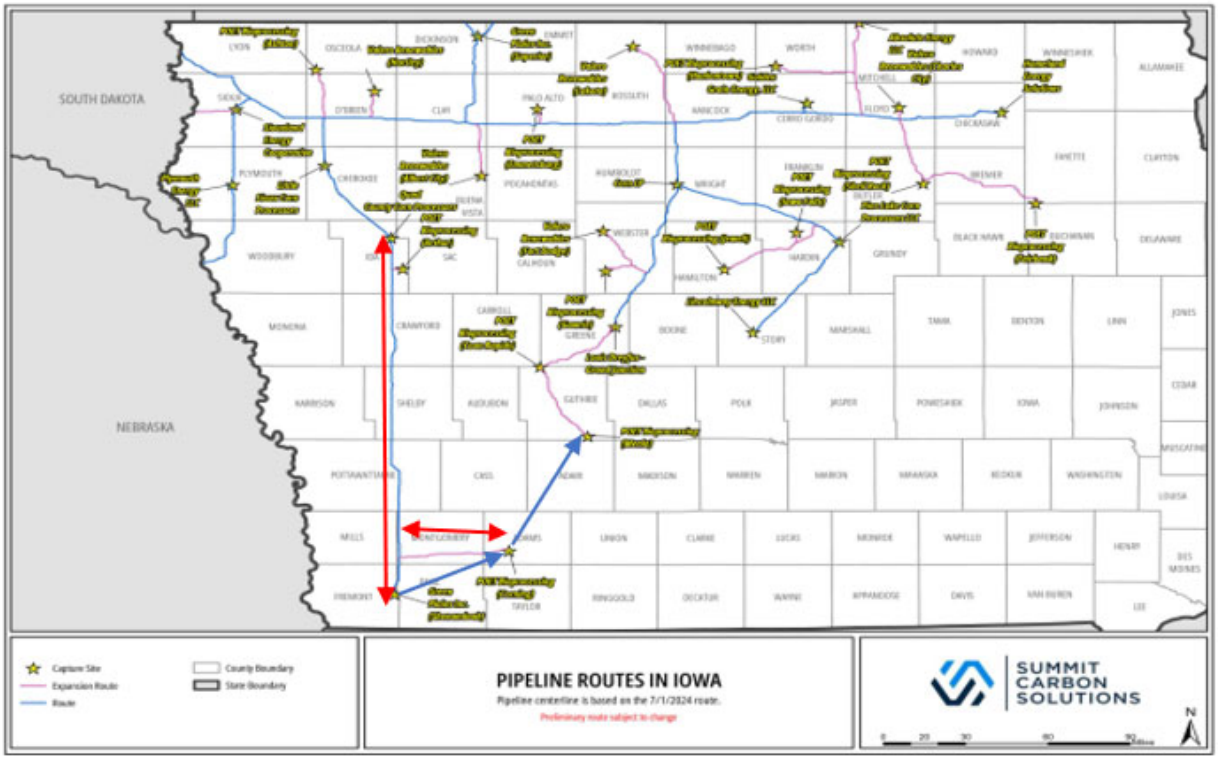
The Board should reconsider its denial of the motion and joinders to release the Offtake Agreements. The Board and Summit have used as justification for this project, the federal policy, state benefits, overall benefits to Iowans at large, tax credits that affect all of us, the concept of public use and common carriage – yet when it comes to the paperwork that is the foundation for this entire project's justification, the Offtake Agreements, those some how are private. You can't justify an alleged public benefit project where eminent domain rights are granted but keep the mechanics of the project a secret. The Board needs to release the Offtake Agreements by making them public.

V. Byrnes Dissent

Board member Byrnes dissents from pages 501 to 507. His dissent is sound and logical. There simply is no possible justification for over 120 miles of hazardous pipeline to allegedly benefit exactly one private business. Board member Helland and Martz should reconsider their positions on this particular proposed leg and it should be denied. Summit can re-apply for a route to this location when it is justifiable.

On page 32 of the Order, the Board relies upon Summit's Exhibit L3 and Summit's statements that "alternative routes between the mainline and the ethanol plants that did not minimize the overall length of the proposed hazardous liquid pipeline were eliminated from consideration as they did not meet the need or purpose of the proposed project." Summit Carbon Exhibit L3, p. 2. This is not true and there are multiple alternatives, especially when considering plans Summit had in the works before June 25, 2024, that would shorten the route and impact less landowners.

Below is the new Summit map which includes the route in question and all additional proposed expansion routes currently docketed before the IUC. This clearly shows a much less intrusive route possibilities.



[1]

Summit Carbon Solutions can connect (see blue arrows above) the Green Plains Plant in Shenandoah (Fremont County) to the POET plant in Corning and then to connect the POET plant in Corning to the POET plant in Menlo. Doing so would eliminate the pipeline route (see red arrows above) through Montgomery, Pottawattamie, Shelby and Crawford counties in Iowa. Thus, eliminating over 126 miles of pipeline through those counties.

[1] https://summitcarbonsolutions.com/project-footprint/ then click on IOWA MAP

On page 65 of the IUB's Final Decision and Order it states related to Green Plains Plant in Shenandoah, IA, "[A]dditionally, adopting this approach would single out the Fremont County ethanol plant and dismiss the needs of the ethanol plant in Fremont County as well as any benefit derived from Summit Carbon's proposed hazardous liquid pipeline. This statement is untrue but worse, does nothing to consider all of the negative impacts for 126 miles that could be avoided – do those impacts and concerns not outweigh a single ethanol plant? In any event, as noted on the map above it is possible for Summit to connect the Green Plains Plant in Shenandoah (Fremont County) to the POET plant in Corning. By doing so, the Fremont County ethanol plant would not be singled out and the needs of that plant would not be dismissed.

VI. Conditions

The Board should reconsider and adopt Jorde Landowner proposed conditions as described on pages 17, 25, and 53 of their Reply Brief. Additionally, the Board should reconsider and adopt conditions proposed by the Counties. The Board only has the power to grant eminent domain rights "to the extent necessary" and any such authorized taking must be necessary for the uses proposed. Instead, the Board granted virtually every eminent domain request as proposed by Summit. The Board should prescribe and limit the scope of eminent domain to only what is necessary for the uses proposed as described by James Pirolli in his prefiled testimony as discussed by the Counties in its post-hearing briefing. Specifically, the Counties proposed six conditions design to prevent scope creep from what Summit testified was the proposed use. See generally Counties Opening Brief at 82-86.

VII. Permit

The Permit should not issue. The conditions listed in the Order are not sufficient or sufficiently stringent. Summit failed to satisfy its burden of proof and the Board should deny the permit.

VIII. Specific Parcel Reconsideration Issues

This section specifically highlights some Jorde Landowner evidence and requests reconsideration of Board findings and erroneous approval of Summit's proposed route location and eminent domain rights upon their property. The fact that not every specific parcel of each Jorde Landowner is mentioned again here is not a waiver of their opposition and disagreement and they reserve all their respective rights to challenge the Board's findings as to their parcels on appeal to the District Court, as well as request reconsideration of the reroutes and route modifications proposed previously.

a. Benita A. Schiltz Revocable Trust

The proposed pipeline through the Benita A. Schiltz Revocable Trust negatively impacts their present and future land use. As testified it would prohibit them from building a home on the targeted parcel (northeast corner) as they are not able to build on or near the easement. They would also lose the ability to tie any future home into their existing well. Additionally, they would take crop land out of production because of the presence of a hazardous carbon dioxide pipeline to avoid liability. On page 34 of the Order it states "[I]owa Code § 479B.5(7) requires a hazardous liquid pipeline company to describe the relationship of the proposed hazardous

liquid pipeline to the present and future land use and zoning ordinance." On page 36 of the Order it states "[I]n his rebuttal testimony, Mr. Schovanec asserts Mr. Hamilton misunderstands how the existence of an underground pipeline does not impact present and future land uses. Summit Carbon Schovanec Rebuttal, p. 7." On page 317 of the Order related to another landowner it states "[T]he Board has reviewed the evidence and will require Summit Carbon to move its route further to the north and east on H-CK-014. The Board finds moving the route further north and out of the driveway will reduce the impact to the property and Mr. Davis's future plans." The Board, in limited instances, rightly required Summit to move the pipeline to accommodate potential future plans of other landowner but ignored the Schiltz's potential future plans for building a home and being able to access their existing well. This should be reconsidered.

On the bottom of page 53 to page 54 of the Order it states "[O]bjections, comments, or letters of support filed after the close of the evidentiary record are not a part of the record and therefore will not be considered by the Board. However, the Benita A. Schiltz Revocable Trust did not learn about Summit's proposed alternate route on their property until reading it in Summit's Reply brief. After reading Summit's brief they filed an Objection with the IUB that was posted into the docket on January 25, 2024. The IUB did not give any consideration to their objection to the reroute stated in Summit's trial brief. Instead, the IUB chose a revised route that would now travel through the middle of their parcel, would more negatively impact their farming ability, and would cut off farming operations on the East side of the proposed pipeline. This should be reconsidered.

The Order fails to address concerns presented related to the safety of their drinking water, well, waterlines or tile lines. Summit should be required to bore under each of the effected of the tile lines and water lines and should be required to dig a new well or run new water lines, as requested by Ms. Powell in her testimony.

b. Gadsby Family Farm Company LLC / Winston Gatsby

The Board only incorporated the very minor, simple changes to the route requested, and denied the most important reroute to the edge of their property. During the hearing, Mr. Gadsby testified in great detail about an alternate route proposed in his prefiled testimony. Although the proposed pipeline, if built, would create a huge burden and hazard for the family and any individuals working on the Gadsby farm, the modifications proposed would have made the situation more bearable. In addition, it would have moved the pipeline an additional 150 feet away from a neighbor's occupied home across 290th Avenue. During the hearing there was no opposition to Mr. Gadsby's proposed reroute. The proposed modified route is still completely contained on the Gadsby property and has little to no effect on the overall pipeline according to Summit's witness. There is a considerable potential benefit for the Gadsbys, and their neighbors the Carpenters, whose house would be roughly 700 feet from the pipeline, instead of 550 feet from the original Summit proposed route. Given the potential benefits no downside to Summit, the Board should adopt the full reroute as proposed in Mr. Gadsby's prefiled testimony.

The implication in the Order is that because Mr. Gadsby did not contact Summit personally and request this new route, then their family farm is not deserving of this more appropriate route. Summit has an obligation to prove that its proposal meets the required criteria, and Summit and the Board have a mandate to minimize any disturbance to landowners, regardless of the voluntary and/or coerced participation level by those affected. The fact that the Gadsbys did not try to negotiate with someone attempting to take away their property rights against their will should have no bearing on the routing decision or on what is least negatively impactful.

c. Mary J. Woodward Trust dated July 21, 2009 / Craig Woodward

The Woodward Trust requests reconsideration of their proposed reroute where the proposed pipeline would be moved to the south side of 210th Street, also known as B-43 for approximately 1.5 miles. The proposed pipeline is actually on the south side of B-43 at the Tom Bahnsen farm at the intersection of Vine Avenue and B-43. It heads west along B-43. Tom Bahnsen has signed a voluntary easement with Summit for crossing his land. One mile west from Bahnsen, there are 3 landowners at the intersection of Ulm Avenue and B-43, whose land extends west for one-half mile on the south side of B-43. These farmland owners, Larry Schubert, Greg Busch, and Owen Farms are directly across from the one-half mile of affected Woodward farmland. Greg Busch has signed a Voluntary Easement prior, with Summit, on another parcel of farmland he owns. If re-routed to the south side of B-43, the proposed pipeline could then cross back to the north side of B-43 to Mark Taylor's farmland. Mark Taylor has also signed a voluntary easement with Summit. The overall point is that in areas where Summit has easements, what is the harm in granting the reroutes or at a minimum adding

a condition that Summit is required to seek the permission of the adjacent landowners who have already agreed to host this proposed pipeline and report to the IUC that those landowners have refused to grant additional easements on their land. It makes perfect sense to exhaust efforts to locate the pipeline on willing participants rather than increasing Summit's costs and expenses while at the same time forcing itself on unwilling landowners.

The farmland directly across from the Woodward farmland, and on the south side of B-43, has no drain tile at all. And the Woodward farmland has a lower elevation than the higher elevation farmland on the south side of B-43. As a result, rainwater and snow-melt from the south side farmland is diverted through a huge County culvert under B-43, to the Woodward farmland.

As a result, the Woodwards installed 30,428.9 feet of drain tile in order to keep their farmland tillable and productive. This drain tile installation cost over $26,000. If the Summit proposed pipeline were to be installed from 4-7 feet below grade, the destruction of our drain tile would be devastating. It could not be repaired as it was originally installed by our drain tile installer. This would dramatically impact the ecosystem we created to increase productivity of our land. A re-route of the proposed pipeline to already willing landowners makes sense.

d. Sharen F. Kleckner / Lance H. Kleckner

The Board should clarify or correct that the directed to Summit to bore under the Kleckner woodland is for parcel H-CR-013, where the woodland is located, as opposed to as the Order currently directs on parcel H-CR-012, which is not where the area of concern is found.

e. Cletus R. Elbert Revocable Trust / Maureen Elbert Bechard

In the Order at page 414 it states "[D]uring her cross-examination, Ms. Bechard testifies about conversations her brother had with Summit Carbon about moving the route near the southern boundary of her parcels. HT, p. 7186. On cross-examination, Mr. Schovanec states, in relation to the proposed route modification by Ms. Bechard, "a lot of these landowners [had not] mentioned these reroutes until easements were secured on both sides of their property. And that makes it very difficult to adjust at that point." Id. at 2301. To the extent the Board puts any weight on Mr. Schovanec's vague and unhelpful claim as to "very difficult to adjust" given this simply means Summit can't be bothered to try, this should be reconsidered. In fact it is also not true. Marte Elbert asked about rerouting to avoid extensive tile damage on the parcel in question at Summit's first informational meeting in Clay County and again several weeks later at the first informational meeting in Palo Alto County. The Elbert's made Summit aware of concerns and attempted dialogue with them long before any easement on either side had be acquired. But, even if easements were acquired somehow before the informational meetings, that fact is not persuasive when considering the burden on the unwilling landowner. Mr. Schovanec's statement does not apply to this parcel. Summit should be required to work with landowner reroutes as previously stated, and the Elbert's specifically.

f. Matthew Valen

Summit, in its Final Post-hearing Brief at page 59, offered to move the proposed route off Mr. Valen's land, however, the Board did not require that in its Order. "Matthew Valen,

Exhibit H-EM-008 (IA-EM-305-0004.500) – To avoid the corner clip on this property, Summit will shift the route to the northwest closer to an existing pipeline, provided it is able to obtain an amendment from an adjacent landowner to facilitate this modification. This will also require modification of the route on Exhibit H-015 (IA-EM-305-0004.000)." Instead, on page 351 of the Order, it says "The Board has reviewed the evidence and will require Summit Carbon to modify its route to more closely parallel the existing natural gas pipeline on the property."

However, according to Dennis Valen, there is no natural gas pipeline on Matt's property. We believe the Board is confused about Summit's proposal, which would shift the pipeline off Matt's land and more fully onto the adjacent landowner's parcel where the natural gas pipeline is. We believe Summit was offering to seek an amendment to the easement signed by Roger and Eugene Helmich so that the Matt Valen corner cut could be eliminated completely. The Board should deny the route and eminent domain on Matt Valen's land and take Summit up on its reasonable offer.

g. Dennis Valen

The Order did not mention Mr. Valen's fen and the unique ecosystem it provides for the surrounding area. At over 8,780 years old, the Valen fen is among the most notable, well-established fens in the state. Iowa Code 479B.1 expressly states the Board has authority to implement control "to protect landowners and tenants from environmental or economic damages…" Mr. Valen offered a letter from a Drake University professor providing expert opinion[2] related to the fen into evidence. None of this was rebutted by Summit. Additionally,

[2] https://wcc.efs.iowa.gov/cs/idcplg?IdcService=GET_FILE&allowInterrupt=1&RevisionSelectionMethod=latest&noSaveAs=1&dDocName=2129843

the area where Summit would like to place the pipeline on Mr. Valen's property has experienced recent flooding so severe it washed out his fence as seen below:

This has raised additional concerns given the effect unstable soil can have on the integrity of a pipeline. The Board should reconsider its Order as to Mr. Valen and require Summit to maintain a great enough distance from route around this fragile land unique ecosystem to avoid irreparable damage.

h. Dr. Neil and Marcia Dahlquist

The Dahlquist land in question is adjacent to Summit Pork LLC in Great Oaks Township Palo Alto County. Summit avoided the Summit Pork property and zig-zagged on to the Dahlquist property instead. The Dahlquist's raised concerns about the proposed pipeline

on their land which is lower elevation. Recently, due to flooding, a "lake" developed upon their parcel where the pipeline would go. This is not the first time their land has had significant water issues. Their tile and the county tile could not handle the deluge. This excessive/deep water could lead to unstable soil conditions and create an unnecessary and preventable hazard that is dangerous to the integrity of the proposed pipeline. This picture demonstrates why this property should not be used for the proposed route for the Summit pipeline:

The Board should reconsider its Order as to the route crossing the Dahlquist's land and instead reroute the pipeline to avoid future damages.

i. **Maher Farms, Inc.**

Mr. Martin Maher provided multiple alternative routes to Summit, at least two of which kept the pipeline on his property. Contrary to testimony from Mr. Schovanec, Summit did not adjust the route at his request. Mr. Maher filed his first docket objection on October 3, 2021,

suggesting they use highway 59 ROW to avoid his land entirely. The current route was initiated and presented to Mr. Maher on approximately December 21, 2021, by Summit. At the time, unaware of the risks associated with carbon pipelines, Mr. Maher intended to pass the affected parcels onto his children. This incentivized him to find a compromise route that would have fewer consequences on the long-term development and profitability of the land. Landowner presented Summit with a route that kept the pipeline on his property, by shifting it to run east along 110th Street and then north along Avenue A. By doing so, his grain bins, his terraces, his tile, his well, and his home would be less impacted by any pipeline construction and maintenance. As Mr. Maher shared in his testimony, Summit refused this alternative route. Conceding even further, he provided an option to run the pipeline 100 feet west of the section line as was presented in his pre-filed testimony, testimony to the Board, and the initial post-hearing brief. Summit has not responded to his proposal despite Mr. Maher testifying that he remained open to further discussions with the company. Tr. Vol. 18 at 5058-59.

The route approved by the Board is not logical nor preferred by any party. In Staff Review Letter Regarding Exhibit H Filings in Docket No. HLP-2021-0001 for Fremont, Montgomery, Page, Pottawattamie, Shelby Counties, Board staff stated, “The pipeline turns in the southeast direction at this property. That turn is not justifiable from the preliminary review using Google Earth map. In this parcel, the pipeline can turn at a slight angle to the southeast and then cross the SW ¼ of the SE ¼, then cross 110th St. This route will cross two parcels owned by the same landowner instead of crossing three parcels, as shown in the current path.” (emphasis added) Mr. Schovanec, apparently of the same mind, testified, “As you can see, that [route] alignment does not make sense. There's no reason it needs to be that way.” Tr. Vol 8 at

2322: 24-25. Given this consensus, the Board should reconsider its Order deeming the route reasonable and require Summit to utilize one of the alternatives suggested by Mr. Maher.

j. RMT Family Real Estate, LLC

The Board mistakenly claimed no evidence was submitted on behalf of the two Wright County parcels owned by RMT Family Real Estate. Pre-filed testimony from the landowner was received into evidence on November 8th. Tr. Vol 25 at 7459-60. The parcels were also discussed in Jorde Landowners' Initial Post-Hearing Briefs (18 of 19). As this material was not considered before issuing a decision, The Board should reconsider the Order as it pertains to RMT Family Real Estate's parcels H-WR-081 and H-WR-092

k. **JCD Beyer Family Farm, LLC., Craig R. Beyer, Patricia A. Beyer**

When questioned on the viability of the alternative route proposed by the Beyers, Mr. Schovanec stated Summit does not accommodate requests to move the pipeline onto a different property. Tr. Vol. 9 at 2314-5. This not only begs the question of how they'll manage to complete the proposed project in a place like Minnesota where the threat of eminent domain does not exist, but it seems rather unbalanced to expect compromise from landowners when they themselves refuse to return such a courtesy. The risks and liability the Beyers are expected to take on against their will deserve that Summit provide a reason beyond 'Because I said so.'

The Beyers face serious detriments from the pipeline route as it currently stands. Routing across H-ID-050 without modification would result in damage to half a mile of crops any time Summit accessed the property for maintenance or inspection. Jorde Landowners' Initial Post-Hearing Briefs (4 of 19). The Beyers testified that when they became the owners

of the Ida county property in 2021, it set a record high price. When it would be relatively simple to move the pipeline closer to the northeast corner of the property, allowing Summit's pipeline to divide and devalue the prime farmland they rely upon for income can hardly qualify as protecting landowners from economic damages associated with pipeline construction, operation, and maintenance. Further, irrefutable evidence to suggest Summit's project would provide a greater economic benefit than the economic harm resulting from the destruction of 8,881 acres of productive ground critical to the survival of Iowa's agriculture economy does not exist.

The Beyers noted additional concerns regarding the project's safety and liability. Tr. Vol. 19 at 5599-5602, 5615. If Summit cannot accurately label the roads on the Beyers' documentation for H-CK-063, how can they be trusted to implement the meticulous operating procedures necessary to safely oversee an unprecedented, risky carbon pipeline? For these reasons the Board should reconsider its Order and require Summit to adopt the Beyers' alternative route proposal.

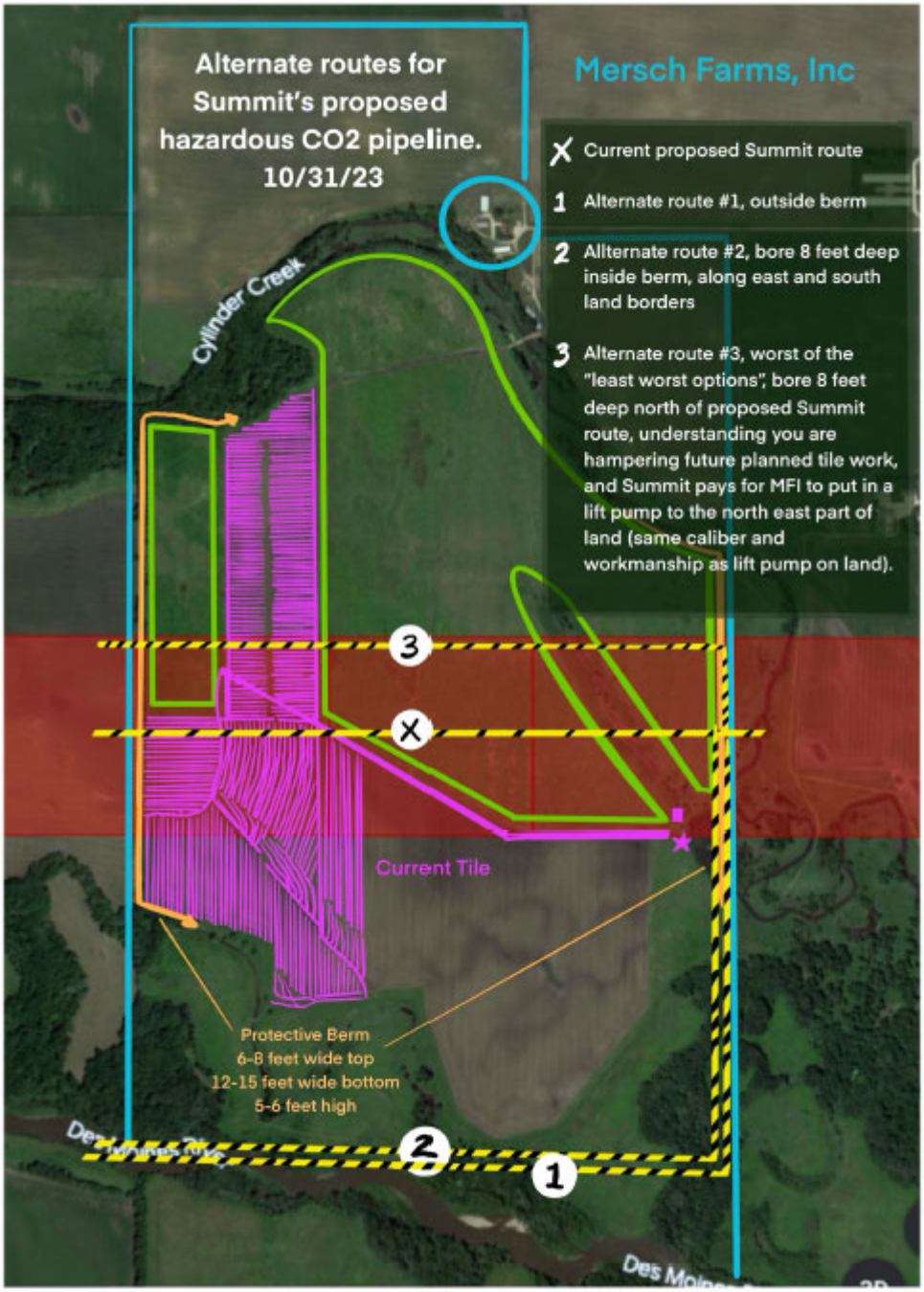
l. Debra Lavalle

Ms. Lavalle provided an alternative route option that would allow the pipeline to avoid her property without impacting a new landowner. The Board did designate a reroute on Ms. Lavell's parcel, but it, unfortunately, does not address the issues Ms. Lavalle raised to the Board. Ms. Lavalle testified that, under Summit's proposed route, she would not build the retirement home that had been planned for years. Tr. Vol. 16 at 4412-13. The route detailed in the Order does not change the circumstance as it would place the pipeline less than 300 feet from the house in addition to quadrupling the length of pipeline on the parcel. While it is

understood such a practice is not protocol, the Board did require Summit to shift entirely off the property of a Kossuth County landowner, similar to what Ms. Lavalle proposed with her alternative route. Final Order, p. 390. As such, Ms. Lavalle requests the Board reconsider the alternative route as provided in her testimony.

m. Mersch Farms, Inc. / Julie Goebel

Mersch Farms, Inc. has pattern tile and tile mains between three to fifteen feet deep through the proposed permanent easement area and therefore requests the Board order Summit to bore to eight feet deep unless the tile is deeper than eight feet. Further the Board order Summit bore under berms on parcels H-PA-052 and H-PA-053, however the parcels requiring such berm boring are actually H-PA-052 and **H-PA-054**. Mersch Farms, Inc. also requests the Board order Summit to provide it, and all landowners, detailed maps related to the areas to be bored under as they require additional workspace easements which should be provided in detailed maps to landowners prior to commencement of construction. Lastly, reconsideration is requested of JLO Ex. 651 which shows detailed alternative route options that are feasible and do not impact any other landowners and will avoid the most sensitive and tiled areas of the farm:



Reconsideration is requested of options 1 and 2 and if one of these is not ordered then option 3 above is the worst of the "least-worst" routes. None of these create any additional hardship to Summit. There was no showing of why this simply accommodation could not be done.

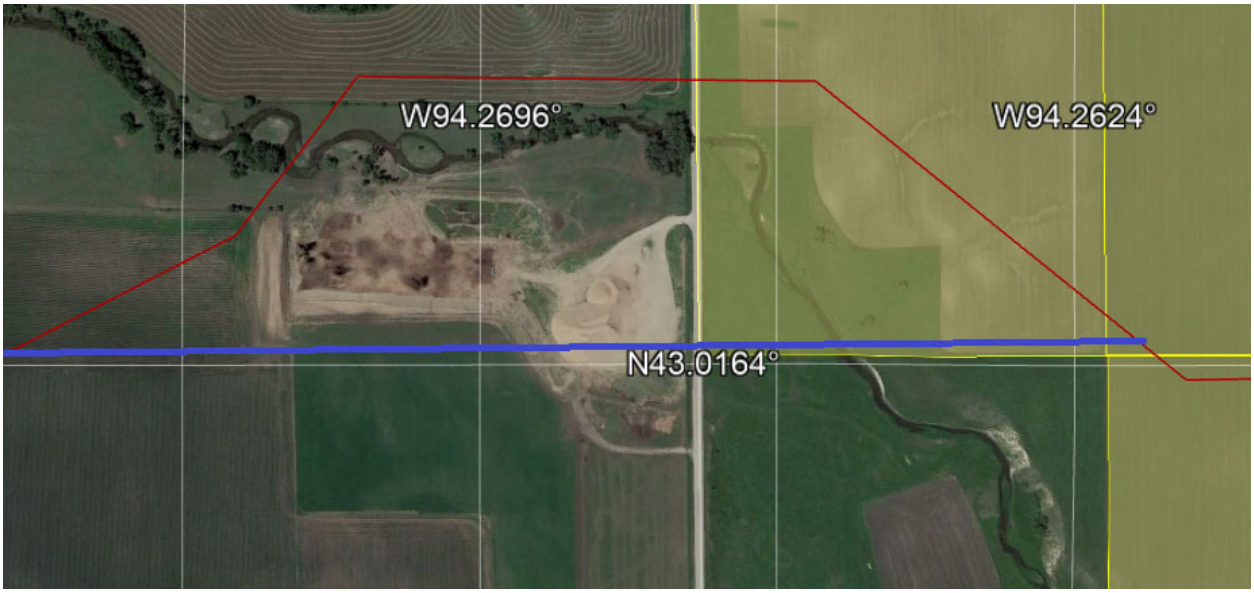
n. Leo Moser / Jamie and Carmen Moser

The Moser land is in the flood plain of Palo Alto County and is among the worst locations to place a hazardous 24-inch pipeline. As testified to, destructive flooding occurs frequently on their farm and in the area of the proposed permanent easement. The Board should order Summit to reroute around this area to prevent a Sataria-like incident of soil instability leading to a pipeline rupture (Carmen Moser Prefiled Testimony, Ex. 17):

The Board should order Summit to reroute off the Moser land to avoid future disasters.

o. Nancy Erickson

The Board should order Summit to reroute on the Erickson property as shown below in blue. The red line is the current proposed pipeline route. During testimony Eric Schovanec, for Summit, claimed that to accommodate Ms. Erickson's request Summit would have to cross the stream twice. This is not true; it would only be once as it is already the case. Instead of crossing the stream on her neighbor's property, it would cross the stream on her property just once and not at all on the neighbors. Mr. Schovanec testified there are hydrological concerns when paralleling a stream due to the potential movement of the stream – which if true makes Ms. Erickson's blue line reroute superior as it eliminates the extensive paralleling in Summit's current route as the Board approved. The Board's reliance upon the Schovanec testimony was misplaced and the Board should order Summit to reroute along or as near as possible to the blue line shown below:



p. Don Johannsen

The Board did order a slight modification by moving the route one hundred feet further south of the residence of Mrs. Bobolz, which is a major concern of Mr. Johannsen. However, the Board should do more and reconsider the alternative and improved route at Attachment 26 of Mr. Johannsen's prefiled testimony. The Board should order Summit to do hydrostatic testing to 400% of the maximum operating pressure. Testing only to 125% is inadequate for a dynamically operating high-pressure pipeline as proposed. Further any inspections of welds and otherwise should be performed by independent inspectors not by Summit. Summit should also be ordered to report to the Board and make filing of any rework and rewelding. While the Board ordered Summit to use thicker walled pipe and fracture arrestors where appropriate (Ordering clause #17) Mr. Johanssen, a design engineer with over 50 years of experience, urges reconsideration. In his pre-filed testimony on pages 45-47, attachments 28-32, he went into detail why sequestration pipelines are a much different application than existing petroleum or natural gas pipelines and why they pose a much higher risk of having massive ruptures. They operate at 2-3 times the pressure; the escaping CO2 will have a temperature far below typical steel null ductility transition temperatures and with the presence of water they will operate in a corrosive environment (carbonic acid). Just specifying thicker wall does nothing to address the brittle fracture mode, hydrogen embrittlement or internal corrosion due to carbonic acid. The clause should add provisions for the specifications of the steel to meet the required brittle fracture, hydrogen embrittlement and corrosion requirements. In addition, the IUB should require Summit to obtain and maintain records of the material certifications of each lot of steel pipe. And require Summit to monitor and maintain traceability records of the pipe for when and where it was placed in the pipeline. This is common procedure in industry, it should be a must for a hazardous pipeline affecting the safety of tens of thousands of people.

The integrity of the pipeline must be obtained not just with fracture arrestors but with proper stress and fatigue analysis, proper material selection, proper welding techniques, internal corrosion protection and relentless inspection performed and monitored by independent inspectors.

IX. Joinder

To the extent Jorde Landowners did not include the areas of reconsideration suggested by the Counties and the Sierra Club, Jorde Landowners join in their requests here.

Respectfully submitted,

Jorde Landowners,

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