

BEFORE THE IOWA UTILITIES COMMISSION

IN RE:)
) Docket No. HLP-2021-0001, HLP-2023-
) 0004
SUMMIT CARBON SOLUTIONS LLC)

IN RE:)
) Docket Nos. HLP-2024-0001, HLP-2024-
SCS CARBON TRANSPORT LLC) 0002, HLP-2024-0003, HLP-2024-0004,
) HLP-2024-0005, HLP-2024-0006, HLP-
) 2024-0007, HLP-2024-0008, HLP-2024-
) 0009, HLP-2024-0010, HLP-2024-0011,
) HLP-2024-0012, HLP-2024-0013, HLP-
) 2024-0014

**SIERRA CLUB’S RESPONSE TO IUC’S MARCH 5, 2026 ORDER REGARDING
FURTHER PROCEEDINGS**

Comes now Sierra Club Iowa Chapter and pursuant to the Commission’s Order of March 5, 2026, submits the following Response:

BACKGROUND

On June 25, 2024, the Commission issued an order in HLP-2021-0001, granting Summit a permit to construct its initial project, referred to herein as Phase 1. Sierra Club and other intervenors sought judicial review of that decision in the Polk County District Court. On June 19, 2023, before the contested case hearing on Phase 1 had even begun, Summit initiated a new docket in HLP-2023-0004, for a lateral pipeline to Mitchell County. Sierra Club filed a motion to consolidate that docket with the Phase 1 docket, HLP-2021-0001. Summit resisted consolidation and the Commission denied Sierra Club’s motion. So HLP-2023-0004 has remained in suspended animation.

After the evidentiary hearing was concluded and the record closed in HLP-2021-0001, Summit opened 14 new dockets, HLP-2024-0001 through HLP-2024-0014. HLP-2023-0004 and HLP-2024-0001 – HLP-2024-0014 are referred to herein as Phase 2. After all briefs were submitted to the district court in the judicial review proceeding for Phase 1, Summit filed with the Commission on September 15, 2025, a petition to amend the permit the Commission had granted in Phase 1 and which was on review to the district court. So Summit asked the district court to remand Phase 1 back to the Commission. Summit also asked the Commission to consolidate all of the dockets, including all of the Phase 1 and Phase 2 dockets for hearing.

The district court granted Summit's request to remand Phase 1 back to the Commission. The court made it clear, however, that the only issue remanded was the condition in the permit prohibiting construction of the pipeline until, if ever, Summit obtained a permit in South Dakota. Summit's other amendment requests are not part of the remand.

THE COMMISSION'S ORDER REQUIRING RESPONSES

The Commission has requested responses from all the parties as to the best procedure going forward, in light of Summit's various motions. The Commission requested that the parties address the following four issues specifically, but invited discussion of any other points that the parties believe are relevant to further proceedings.:

- Determining the proper scope of remand.
- Determining whether an additional hearing is needed.
- If a hearing is needed, where it should be held.

- If a hearing is held, how long the parties anticipate the hearing will last.

On March 23, 2026, Summit filed its response to the Commission's order. This response by Sierra Club will respond directly to the Commission's order and also to Summit's response.

SIERRA CLUB'S RESPONSE

Scope of the Remand

It is clear from a reading of the district court's orders regarding remand and denying reconsideration of the initial remand order, that the only issue remanded was the condition in the Phase 1 permit prohibiting construction of the pipeline in Iowa until, if ever, a permit was obtained in South Dakota. The court was very clear in both orders that the proposed amendments to the Phase 1 permit regarding additional lateral routes and pipe size were not good cause for remand and were therefore not remanded.

The district court's orders do, however, raise the question as to how the Commission should address the proposed amendments regarding the new laterals and the pipe size. Logically, the laterals should have been a part of the Phase 2 dockets. After all, it is the Phase 2 project that is the basis for the laterals. Sierra Club contends that the new laterals should be part of the Phase 2 dockets and addressed there. And, as explained in the Counties' Motion to Dismiss Petition for Amendment, filed herein on October 1, 2025, Summit's Petition for Amendment must be dismissed by the Commission for the requested amendments not remanded by the district court.

With regard to the changes in pipe size in the Phase 1 docket, together with the request to remove the South Dakota condition from the Phase 1 permit, it is apparent that

Summit intends to abandon its original plan to transport the carbon dioxide from Iowa to North Dakota. In fact, besides the fact that the South Dakota legislature and the South Dakota Public Utility Commission have prohibited the use of eminent domain for Summit's pipeline, a court in North Dakota had held that Summit cannot sequester the carbon dioxide in North Dakota.

If Summit does intend to abandon its plan to transport the carbon dioxide to North Dakota, it should first clearly state that in the record, and then the Phase 1 permit should be revoked and vacated, and Summit should be required to initiate a completely new proceeding pursuant to the provisions of Chapter 479B for its new project. Changing the ultimate destination of the carbon dioxide would be such a significant change in the project that it would be a completely new project and should be treated as such. And Summit's requested amendments to Phase 1 should therefore be denied.

In addition, Summit has recently stated that the carbon dioxide on its pipeline will be used for enhanced oil recovery. See, <https://insideclimatenews.org/news/28032026/summit-midwest-co2-pipeline/>. The Phase 1 permit, in determining that the project would promote public convenience and necessity, was based on the assurance that the carbon dioxide would be sequestered and not used for enhanced oil recovery and would therefore address the issue of climate change. Now, with Summit saying that the carbon dioxide will be used for enhanced oil recovery, the basis for the permit is no longer valid. Therefore, the permit is no longer valid.

In summary, the district court remanded only the South Dakota condition of the Phase 1 permit. But if Summit does not plan to construct any of its pipeline in South

Dakota, that condition is of no force and effect, and the permit should be revoked and vacated. If Summit is still planning to construct a portion of its pipeline in South Dakota, the condition is still valid and should not be removed as requested by Summit. Furthermore, the requested amendment for the new lateral lines to accommodate the Phase 2 project should not be amendments to Phase 1, but should be part of the Phase 2 project and addressed in any proceedings for Phase 2. And any proposed amendments to Phase 1, other than removal of the South Dakota condition, must be dismissed.

An additional hearing is not needed for Phase 1

As explained in the discussion above, if Summit still intends to construct a portion of its pipeline in South Dakota, that condition on the Phase 1 permit should remain. And if Summit no longer plans to construct a portion of its pipeline in South Dakota, it should initiate a new proceeding pursuant to Chapter 479B. In either case, a hearing is not necessary. Summit just needs to state on the record what its intentions are.

A hearing would be necessary, however, for the Phase 2 project. Summit has filed its Exhibit H for Phase 2, so that proceeding is ready for a scheduling conference. So the Commission should proceed with Phase 2 according to its usual procedures.

Venue for a hearing if one is held

Based on the discussion above, the only hearing needed would be on the Phase 2 project. And given that Summit has chosen to file the Phase 2 project in 15 separate dockets, there would have to be 15 separate hearings. Pursuant to Iowa Code 479B.6(2), those hearings would have to be held in the county which is at the midpoint of the pipeline segment at issue in each docket.

Summit suggested in its response that Phase 2 be conducted in a hybrid fashion, with the Commission members and attorneys at a central location and satellite locations in each docket pursuant to § 279B.6(2), with the satellite locations being connected virtually. Summit further suggested that the central location be at the same location in Fort Dodge where the hearing on Phase 1 was held. Summit ironically recommends the location in Fort Dodge because the “parties now have experience with the logistics of that location.” Indeed we do. The general public and the attorneys representing the intervenors opposing Summit were subjected to intrusive searches in order to enter the building, while Summit’s attorneys, employees, and parties and attorneys supporting Summit were allowed to come in through the back door without any searches. And members of the public and attorneys representing opposing intervenors were severely restricted in where we could go within the building, but Summit and its supporters were allowed to go anywhere in the building, including behind the black curtain back to the area where the Commission and its staff went when the hearing was not in session.

As explained above, however, there should be no need to have a central location. The only hearings necessary would be the 15 individual hearings for the Phase 2 project. Sierra Club has no objection to those hearings being held virtually, with the attorneys and the Commission at the Commission office in Des Moines.

Anticipated length of hearings

It is difficult to predict how long each of the 15 hearings would last without knowing how many witnesses there would be for each hearing. Contrary to Summit’s

accusation, Sierra Club is not trying to delay the proceedings, but rather to ensure that all parties have a fair hearing and an adequate opportunity to present their evidence.

Summit's response claims that one day of hearing for each Phase 2 docket would be sufficient. But Summit neglected to say how many witnesses to expect for each docket. At this point, Sierra Club is not in a position to speculate on that.

CONCLUSION

Summit is asking the Commission to extricate Summit from a mess of its own making. Summit could have moved to consolidate all of the dockets prior to the Commission's decision in HLP-2021-0001. Or Summit could have filed the Phase 2 projects in one docket. Summit should not be hiding whether it intends to change the destination of the pipeline and a revised route, which would necessitate an entirely new proceeding, not just amendments to the Phase 1 permit.

Sierra Club requests that the Commission conduct further proceedings as set forth in this response.

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