

November 14, 2022

**VIA E-FILING**

Mr. William Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
1221 Seventh Place East, Suite 350  
Saint Paul, MN 55101-2147

**Re: Route Permit Application for the Summit Carbon Solutions Otter Tail to Wilkin Project in Wilkin and Otter Tail Counties, Minnesota  
MPUC Docket No. IP7093/PPL-22-422**

Dear Mr. Seuffert:

Summit Carbon Solutions, LLC (“Summit Carbon”) submits the enclosed reply comments in response to the *Notice of Comment Period on Application Completeness* in the above-referenced matter issued on September 26, 2022 as amended and extended by subsequent notices.

These reply comments have been e-filed through [www.edocket.state.mn.us](http://www.edocket.state.mn.us). A copy of this filing is also being served upon the persons on the Official Service List of record.

Please let me know if you have any questions regarding this filing.

Sincerely,

FREDRIKSON & BYRON, P.A.

*/s/ Christina K. Brusven*

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**STATE OF MINNESOTA  
BEFORE THE  
PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Valerie Means	Commissioner
Matthew Schuerger	Commissioner
Joseph Sullivan	Commissioner
John Tuma	Commissioner

**In the Matter of the Application of Summit Carbon Solutions, LLC for a Routing Permit for the Otter Tail to Wilkin Carbon Dioxide Pipeline Project in Otter Tail and Wilkin Counties, Minnesota**

PUC Docket No. IP-7093/PPL-22-422

**SUMMIT CARBON SOLUTIONS, LLC  
REPLY COMMENTS**

**INTRODUCTION**

Summit Carbon Solutions, LLC (“Summit Carbon”) submits these reply comments in response to the *Notice of Comment Period on Application Completeness* in the above-referenced matter issued on September 26, 2022 as amended and extended by subsequent notices.

Summit Carbon appreciates the interest in this docket and the opportunity to address comments dated on or before the October 31, 2022 deadline for initial comments. Initial comments were received from the Minnesota Department of Commerce, Energy Environmental Review and Analysis (“EERA”); Mille Lacs Band of Ojibwe (“MLBO”); Clean Up the River Environment (“CURE”); The Nature Conservancy in Minnesota, North Dakota, and South Dakota; Minnesota & North Dakota chapters of the Laborers’ International Union of North America (“LIUNA”); Public Employees for Environmental Responsibility (“PEER”); Minnesota Center for Environmental Advocacy and Sierra Club (together, “MCEA and SC”); International Union of Operating Engineers Local 49 (“IUOE Local 49”); Minnesota Interfaith Power & Light; Consumer Energy Alliance - Midwest; Minnesota Land and Liberty Coalition; American Coalition for Ethanol; Marshall Chamber of Commerce; Midwest Ag Future; and approximately

110 individuals.

These reply comments are organized following the four topics that the Minnesota Public Utilities Commission (“Commission” or “MPUC”) included in its initial Notice.

## **DISCUSSION**

### **I. DOES THE APPLICATION CONTAIN THE INFORMATION REQUIRED UNDER MINN. R. 7852.2100 TO 7852.3100?**

#### **Response to EERA’s Comments**

Summit Carbon appreciates the thorough completeness review and analysis conducted by EERA. EERA found that the Otter Tail to Wilkin Project Route Permit Application (“Application”) largely contains the information required under the applicable Minnesota Rules and recommended that Summit Carbon provide additional information on four items:

1. Minn. R. 7852.2200, subp. 2. Operating Pressure.

*EERA Comment: Footnote 11 does not have associated text. Staff requests the applicant provide this information in their reply comments.*

Response: Footnote 11 was inadvertently omitted from the Application. It should have read: The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulates CO<sub>2</sub> pipelines under 49 CFR 195 (Transportation of Hazardous Liquids by Pipeline), not 49 CFR 192 (Transportation of Natural and Other Gas by Pipeline). Accordingly, the term “maximum allowable operating pressure,” which is defined in 49 CFR 192.619, is not applicable to the Project. PHMSA’s regulations covering supercritical CO<sub>2</sub> pipelines has an equivalent term “maximum operating pressure,” which is defined under 49 CFR 195.406. Therefore, the pipeline’s “maximum operating pressure” is provided in place of the “maximum allowable operating pressure.”

2. Minn. R. 7852.2300. Land Requirements.

*EERA Comment: The application indicates the project will be collocated with existing rights-of-way. Staff recommends the applicant provide information concerning the type of right-of-way beyond “underground” and “aboveground utility” in its reply comments.*

Response: The Project will be collocated with two underground utility rights-of-way (a natural gas pipeline in two locations) and four types of aboveground rights-of-way (powerline, road, trail, and railroad). The Project is collocated with existing rights-of-way for approximately 53 percent of its length, as follows:

- Approximately 4 percent (1.2 miles) is collocated with underground rights-of-way (an existing natural gas pipeline); and
- Approximately 50 percent (14 miles) is collocated with aboveground rights-of-way:
  - 48 percent (13.5 miles) is collocated with road and trail rights-of-way;
  - 1 percent (0.2 miles) is collocated with an existing 230 kV electric transmission line; and
  - 1 percent (0.3 miles) is collocated with a railroad right-of-way.

3. Minn. R. 7852.2400. Project Expansion.

*EERA Comment: This requirement is aimed at understanding if the project is designed in a way to accommodate future expansion, not whether future expansion is currently contemplated by the applicant. Staff recommends the applicant provide corrected information about this requirement in their reply comments. Staff notes “the maximum throughput of the capture facility is 0.19 MMTPA, which is based on the current theoretical Plant CO<sub>2</sub> emissions and capture potential. The maximum hydraulic throughput of the pipeline is 0.25 MMTPA, based on the pipeline maximum operating pressure and hydraulics.” This seems to indicate the project could accommodate increased emissions at the ethanol facility.*

Response: There are no additional facilities contemplated at this time for future expansion. However, the pipeline as proposed has approximately 0.06 MMTPA excess capacity beyond the maximum throughput capacity of the Green Plains Ethanol Plant (“the Plant”) capture facility. The Plant could use the excess pipeline capacity if other non-fermentation CO<sub>2</sub> emissions were captured or if the Plant were to expand its fermentation process. The Applicant’s voluntary right-of-way agreements with landowners allow the installation of only one CO<sub>2</sub> pipe, so laying additional pipelines in the right-of-way is not an available option to expand the system’s throughput. There are technical solutions to increase the hydraulic capacity of the pipeline system (e.g., installing pump stations in Minnesota or North Dakota) and installing tie-in locations after initial construction (e.g., hot taps), but such expansions are not contemplated at this time and would likely require additional land rights and regulatory approvals.

4. Minn. R. 7852.2700. Environmental Impact of Preferred Route. A. Human Settlement.

*EERA Comment: Staff believes more information could be provided concerning human health and safety. Human health and safety are components of human settlement. What types of construction related health and safety concerns exist? What types of operational health and safety concerns exist? While Appendix 6 recognizes that carbon dioxide at certain concentrations can cause serious health concerns, including death, and provides guidance on classifying incidents, the application text itself does not discuss these emergency and non-emergency situations. Staff believes these potential emergency and non-emergency situations should be better explained, especially given this concern has been raised in multiple public comments.*

Response: Summit Carbon has provided additional information regarding potential construction and operations impacts to human health and safety in Attachment A.

## **Response to other Comments on Completeness**

Beyond EERA's comments, few other commenters purported to identify content missing under Minn. R. 7852.2100 to 7852.3100. CURE raised two issues regarding completeness of the Application: (1) inclusion of field survey data at the application stage; and (2) a request for additional health and safety-related information. Additional health and safety information is provided in Attachment A.

Regarding inclusion of field survey data in the Application, CURE does not cite any authority for the proposition that field data must be included in a pipeline route permit application. In fact, field survey data is not required under Minn. R. Ch. 7852 for a complete application, nor would it be reasonable to require it. Field surveys depend on private landowner consent.<sup>1</sup> Landowners do not always grant survey access, regardless of whether they plan to grant an easement for the Project. Further, Summit Carbon does not have access to properties along the Collocation Alternative or any other alternatives that may be proposed during the process. Because it is typical that field data is not available for proposed alternatives during routing and siting proceedings, the Commission has relied on available desktop data to evaluate potential human and environmental impacts of pipeline and other infrastructure applications.

Similarly, MLBO raised a concern that historic and cultural surveys have been completed on only approximately 30 percent of the proposed route. Summit Carbon appreciates MLBO's participation in and assistance facilitating Tribal Monitor Training in association with the Project, and Summit Carbon remains committed to working with its Tribal partners to complete cultural and Tribal surveys prior to construction. Contrary to MLBO's assertion, however, historic and

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<sup>1</sup> Section 6.1.2 of the Application discusses the high percentage of field survey data for the Preferred Route that Summit Carbon completed and incorporated into the Application.

cultural surveys were complete on approximately 90 percent of the Preferred Route at the time of Application submittal.<sup>2</sup> In addition, as noted above, landowner access must be granted before surveys can be completed. The issue of whether field survey data was required as part of a Minnesota Environmental Policy Act (“MEPA”) environmental review was recently litigated, and the Minnesota Court of Appeals found that survey data is not required prior to determination that environmental review was adequate so long as the discussion of potential impacts is otherwise sufficient.<sup>3</sup> Accordingly, there is no basis for CURE’s or MLBO’s arguments that field survey data is required at the completeness stage.

PEER also suggests that the Application’s “total silence on the issue of environmental justice is significant and irresponsible”<sup>4</sup> and that “the applicant’s total failure to discuss environmental justice appears to be a glaring omission in the application, which might be viewed by the Commission as incomplete.”<sup>5</sup> PEER’s suggestion apparently ignores the relevant portions of the Application. The Table of Contents highlights that “Environmental Justice” is discussed in Application Section 6.2.3, beginning at page 43.<sup>6</sup> And, in fact, Application Section 6.2.3 does include a robust discussion of environmental justice, including the existing environment and construction and operations impacts and mitigation.<sup>7</sup>

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<sup>2</sup> Application Table 9, at 37.

<sup>3</sup> *In re Applications of Enbridge Energy, Limited Partnership, for a Certificate of Need and a Routing Permit for the Proposed Line 3 Replacement Project in Minnesota from the North Dakota Border to the Wisconsin Border*, No. A18-1283, at \*28, available at <https://mn.gov/law-library-stat/archive/ctappub/2019/OPa181283-060319.pdf> (June 3, 2019).

<sup>4</sup> PEER Initial Comments at 6 (October 31, 2022) (eDocket No. [202210-190278-01](https://mn.gov/law-library-stat/archive/ctappub/2022/202210-190278-01)).

<sup>5</sup> *Id.* at 7.

<sup>6</sup> Application, at p. iii (Table of Contents).

<sup>7</sup> *Id.* at pp. 43-47 (Section 6.2.3 – Environmental Justice).

With the additional information provided in these reply comments, Summit Carbon respectfully requests that the Commission accept the Application as complete under Minn. R. 7852.2000, subp. 4.

**II. ARE THERE ANY CONTESTED ISSUES OF FACT WITH RESPECT TO THE REPRESENTATIONS MADE IN THE APPLICATION?**

Numerous commenters requested that the Commission refer this matter to a contested case proceeding.<sup>8</sup> These requests are unnecessary here, because the full route permit process for pipelines under Minn. R. Ch. 7852 contemplates both public and evidentiary hearings conducted under Minn. R. Ch. 1405 as part of the standard process.<sup>9</sup> Summit Carbon has not requested an informal or expedited proceeding in this case.

That said, Summit Carbon did not identify any contested material facts raised in the initial comments. The burden is on the party requesting a contested case hearing to demonstrate the existence of material facts that would aid the agency in making a decision.<sup>10</sup> The Minnesota Court of Appeals has affirmed the MPUC's denial of a contested case where the facts that were identified as disputed related to issues that were not material to the Commission's decision.<sup>11</sup> Similarly, as

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<sup>8</sup> CURE Comments at 6 (November 1, 2022) (eDocket No. [202211-190295-02](#)); MN Interfaith Power & Light Comments at 2 (November 1, 2022) (eDocket No. [202211-190302-01](#)).

<sup>9</sup> See Minn. R. 7852.1700 (“The commission shall hold a public hearing for the purposes of collecting and verifying data, and establishing a complete record upon which to base a decision for designation of a route and issuance of a pipeline routing permit. The commission shall follow the hearing procedure prescribed in chapter 1405. The hearing will be conducted by an administrative law judge from the Office of Administrative Hearings.”).

<sup>10</sup> *In re Northern Power States Co.* 676 N.W.2d 326, 335 (Minn. Ct. App. 2004) (“The burden is on the relator, as the party requesting a contested case hearing, to demonstrate the existence of material facts that would aid the agency in making a decision.”).

<sup>11</sup> *In re Xcel Energy*, No. A14-0438, 2015 WL 506416, at \*3 (Minn. Ct. App. Feb. 9, 2015). See also *In re Minnesota Power for Approval of a Rider for Facilities Franchise Fee*, No. A12-0560, 2012 WL 5381895, at \*4 (Minn. Ct. App. Nov. 5, 2012) (“Because the material facts are not disputed and the city failed to establish what concrete facts it could submit that would

the Minnesota Supreme Court has explained, “it is not enough to raise questions, pose alternatives, or identify evidence of beneficial alternatives to merit a contested case hearing.”<sup>12</sup> As such, sweeping statements such as those made by CURE and others about the future of the ethanol industry fail to raise issues relevant to the routing proceedings, and bald statements regarding potential impacts of pipeline construction or operation of a CO<sub>2</sub> pipeline without evidence that contrary material facts exist do not raise to the level that would support a contested case hearing.

While the comments themselves do not necessarily reach the level of contested, material facts, Summit Carbon nevertheless agrees with EERA that to the extent contested issues of fact arise during the proceeding, they can be addressed through the contested case hearing process that is a part of a full route permit proceeding.

Finally, several comments were received from landowners who own property in the vicinity of the Proposed Route who withdrew survey permission.<sup>13</sup> To the extent shifts in the proposed alignment or route alternatives are necessary to avoid areas of potential impact or obtain

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support its position, MPUC did not err by refusing to hold a contested hearing.”); *In re Xcel's Request to Issue Renewable Dev. Fund Cycle 4 Requests for Proposals*, No. A14-1006, 2015 WL 2341257, at \*7 (Minn. Ct. App. May 18, 2015) (affirming the MPUC’s denial of a request for a contested case hearing, finding that “no disputed material facts warranted a contested case and that further factual development would not assist the agency in making its decision.”).

<sup>12</sup> *Matter of NorthMet Project Permit to Mine Application Dated Dec. 2017*, 959 N.W.2d 731, 746 (Minn. 2021), reh'g denied (June 15, 2021) (internal marks omitted). *See also Amendment No. 4 to Air Emission Facility Permit No. 2021-85-OT-1*, 454 N.W.2d 427, 429–30 (Minn. 1990) (affirming Commission’s denial of a contested case because “[i]t is simply not enough to raise questions or pose alternatives without some showing that evidence can be produced which is contrary to the action proposed by the agency.”).

<sup>13</sup> David William Leach Comments at 3 (October 14, 2022) (eDocket No. [202210-189761-01](#)); Larry Bruns Comments at 2 (October 17, 2022) (eDocket No. [202210-189828-02](#)); Sharon Leinen Comments at 1 (October 18, 2022) (eDocket No. [202210-189894-01](#)); Heidi Fossen Comments at 10 (October 24, 2022) (eDocket No. [202210-190081-01](#)); Eileen Sommer Comments at 3 (October 27, 2022) (eDocket No. [202210-190258-02](#)).

necessary land rights to construct the Project, Summit Carbon will propose route alternatives for further evaluation and study as part of the route proposal process under Minn. R. 7852.1400.

### **III. WHAT ADDITIONAL PROCEDURAL PROCESSES SHOULD BE APPLIED TO THE REVIEW OF THE APPLICATION?**

Summit Carbon has reviewed the modifications that EERA suggested to the application review process and has no objection to extending EERA's review of the proposed route alternatives by a modest amount of time and adding a scoping decision, draft comparative environmental analysis ("CEA"), and adequacy determination. These additional steps closely mirror steps the Commission has taken in other pipeline routing proceedings and integrate easily understood and recognized environmental review steps into the Commission's alternative environmental review process.

Summit Carbon notes, however, that the draft schedule that EERA provided on page 17 of its comments brings the proposed application timeline to 380 days, more than 100 days longer than the timeline contemplated in Minn. Stat. § 216G.02, subd. 3(5). Summit Carbon has also identified a few additional modifications to the duration of certain milestones proposed by EERA, for example preparation of the administrative law judge's report, that will likely further lengthen this process by 15-30 days. This extended timeline is stacked on a completeness process that itself has already been extended more than 80 days beyond the 21-day period contemplated in Minn. R. 7852.2000, subp. 4.

As such, Summit Carbon asks that the Commission direct the administrative law judge to adhere closely to the sequence of procedural steps set forth in Minn. R. Chs. 7852 and 1405, as

modified by EERA's proposal, and to set timeframes for each milestone that avoid unnecessary delays to the Commission's final decision in this docket.<sup>14</sup>

**IV. WHAT ACTION SHOULD THE COMMISSION TAKE ON THE OUTSTANDING PETITION FOR AN ENVIRONMENTAL ASSESSMENT WORKSHEET FOR THE MIDWEST CARBON EXPRESS PIPELINE PROJECT FILED IN DOCKETS 21-836 AND 21-879, INCLUDING WHETHER THE COMPARATIVE ENVIRONMENTAL REVIEW REQUIRED UNDER MINN. R. 7852.1500 IS THE APPROPRIATE FORM OF ENVIRONMENTAL REVIEW FOR THIS APPLICATION?**

The Commission should deny the citizen petition for an environmental assessment worksheet ("EAW") filed pursuant to Minn. R. 4410.1100 and direct Staff and EERA to proceed with preparation of a CEA for the Project under Minn. R. Ch. 7852. By rule, if the Minnesota Environmental Quality Board ("EQB") has accepted a governmental unit's alternative review procedure as adequate, then the Project is exempt from review under Minn. R. 4410.1100, among others.<sup>15</sup> The Commission's alternative form of environmental review in Minn. R. Ch. 7852 has been accepted by the EQB and affirmed by the Minnesota Court of Appeals on multiple occasions. Because the Project is exempt from review under Minn. R. 4410.1100, the Commission should dismiss the citizen petition.

**A. Projects Reviewed under an Alternative Form of Environmental Review are Exempt from the Citizen Petition Process under Minn. R. 4410.3600.**

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<sup>14</sup> In particular, the ALJ should avoid procedural irregularities, such as those suggested by PEER to bifurcate the environmental review process from the hearing proceeding by requiring an adequacy decision prior to the hearing process. *See* PEER Comments at 4 (October 31, 2022) (eDocket No. [202210-190278-01](#)).

<sup>15</sup> Minn. R. 4410.3600, subp. 2 ("Exemption. If the EQB accepts a governmental unit's process as an adequate alternative review procedure, projects reviewed under that alternative review procedure shall be exempt from environmental review under parts 4410.1100 to 4410.1700, and 4410.2100 to 4410.3000 but the EQB retains its authority under part 4410.2800 to determine the adequacy of the environmental documents that substitute for the EIS in the approved process.").

The Commission should deny and/or dismiss the citizen petition for an EAW filed by CURE on November 12, 2021 and refiled on October 21, 2022. The purpose of the citizen petition process under Minn. R. 4410.1100 is to provide a standard process by which citizens can request discretionary review of projects not otherwise subject to environmental review under MEPA.<sup>16</sup>

As noted in the letter from the EQB to the Commission dated October 28, 2022, the first step the Commission must take when making a decision on the need for an EAW is to examine the mandatory and exempt EAW and environmental impact statement (“EIS”) categories in Minn. R. 4410.4300, 4410.4400, and 4410.4600. If the project falls into one of these categories, then environmental review is automatically required or prohibited.

Pipelines subject to the “full route selection procedures under Minnesota Statutes, section 216G.02” fall within a mandatory EIS category, and the Commission is the responsible government unit (“RGU”).<sup>17</sup> The Commission has adopted, and the EQB has accepted as adequate, the environmental review conducted as part of the full route selection process as an alternative form of MEPA-compliant environmental review pursuant to Minn. R. 4410.3600. Pursuant to Minn. R. 4410.3600, subp. 2, if the EQB accepts an agency’s process as an adequate alternative review procedure, projects reviewed under that alternative review procedure shall be exempt from the environmental review under Minn. R. 4410.1100 (citizen petitions). As such, the Commission must deny the citizen petition and inform the petitioners, the EQB, and Summit Carbon that environmental review will proceed under Minn. R. Ch. 7852.

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<sup>16</sup> See Minn. R. 4410.1000 and 4410.1100; Minnesota Environmental Quality Board, *A Citizen’s Guide: The Petition Process* (2017), <https://www.eqb.state.mn.us/sites/default/files/documents/Citizen%27s%20Guide-Petitions%20%281%29.pdf>.

<sup>17</sup> Minn. R. 4410.4400, subp. 24.

**B. The Alternatives Considered in the CEA Must Reflect the Commission’s Authority in this Matter.**

The Commission must reject MCEA’s argument that the CEA will not be legally sufficient under MEPA if it does not include a no action alternative.<sup>18</sup> MCEA’s position is inconsistent with both the law and the Commission’s authority in this matter.

First, the Minnesota Court of Appeals has twice recognized that the full route selection process under the pipeline routing rules is a MEPA-compliant form of environmental review.<sup>19</sup>

The court stated,

For nearly two decades pipeline companies have been able to demonstrate compliance with the Minnesota Environmental Policy Act by filing an Environmental Assessment Supplement (EAS) [now CEA] with their applications for a Pipeline Routing Permit. In 1989 the EQB approved the pipeline routing rules as a substitute form of environmental review for pipelines. ... The Legislature subsequently transferred jurisdiction over these matters to the Commission and re-codified the rules at chapter 7852...

... [A CEA] provides much the same information as an environmental impact statement. It contains a thorough description of the proposed projects; a review of the proposed projects’ economic, employment and social consequences; an analytical review of potential impacts to the environment; mitigation plans to reduce those impacts; a discussion of alternatives, including comparative environmental assessments; and a list of other governmental approvals that the projects will require.<sup>20</sup>

Second, MCEA relies heavily on excerpts from the 1989 Statement of Need and Reasonableness (“SONAR”) adopting the Commission’s pipeline routing rules as an alternative

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<sup>18</sup> MCEA Comments at 1-3 (October 31, 2022) (eDocket No. [202210-190274-02](#)).

<sup>19</sup> *In the Matter of the Application of Enbridge Energy, L.P. and Enbridge Pipeline (Southern Lights) L.L.C. for a Routing Permit for the Alberta Clipper Pipeline Project and the Southern Lights Diluent Project*, Docket No. PL-9/PPL-07-361, 2008 WL 5598111, at \*8 (Minn. P.U.C. Dec. 29, 2008) and *Minn. Ctr. for Env’t Advocacy v. Minn. Pub. Util. Comm’n*, No. A10-812, 2010 WL 5071389, at \*3 (Minn. Ct. App. Dec. 14, 2010).

<sup>20</sup> *In the Matter of the Application of Enbridge Energy*, 2008 WL 5598111, at \*8.

review process under Minn. R. 4410.3600 that were *removed* from the proposed rule prior to its adoption. The redline of the adopted rule reads:<sup>21</sup>

10 4415.0080 ANALYSIS OF ~~ALTERNATIVES~~ ALTERNATIVE ROUTES.

11 ~~Subpart 1. Analysis of alternative routes.~~ A comparative  
12 environmental analysis of all of the pipeline routes accepted  
13 for consideration at public hearings shall be prepared by the  
14 board staff or by the applicant and reviewed by the board  
15 staff. ~~The~~ This comparative environmental analysis must be  
16 submitted as prefiled testimony as required by part 1405.1900.

17 ~~Subp. 2. Other alternatives. If the proposed pipeline~~  
18 ~~does not meet the certificate of need requirement of Minnesota~~  
19 ~~Statutes, section 216B.243, the discussion of other alternatives~~  
20 ~~may include design and sizing options, energy alternatives, or~~  
21 ~~alternative means by which the purpose of the project could be~~  
22 ~~met. Alternatives that were considered but eliminated must be~~  
23 ~~discussed briefly and the reasons for their elimination must be~~  
24 ~~stated.~~

Finding No. 20 in the accompanying Report of the Administrative Law Judge *In the Matter of the Proposed Permanent Rules Relating to Pipeline Routing, Minn. R. Parts 4415.0010 to 4415.0215* (January 5, 1989), explains the reason for this change as follows:

20. Gene R. Sommers, Senior Attorney for Northern States Power, suggested that part 4415.0080 Subp. 2 was an inappropriate requirement for the Board, since the effect of the rule would be a "need" review. EQB Exhibit 67. This review requirement is governed by Minn. Stat. §216B.243. The Board agrees that it does not have the authority to impose this review when the statute does not. EQB Exhibit 74. Accordingly, the Board will delete Subpart 2. This change is not substantial.

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<sup>21</sup> A.R. 1316 (January 24, 1989).

As demonstrated here, the EQB (the predecessor to the Commission’s routing authority) specifically contemplated whether an alternative form of review without a no action alternatives analysis complied with MEPA and removed ‘no action’ language because it would have otherwise exceeded the authority granted to the agency by the Legislature.

MCEA also incorrectly states that the alternative form of environmental review under Minn. R. Ch. 7852 has not been used in a proceeding where only a pipeline route permit, without a certificate of need, was considered.<sup>22</sup> To the contrary, as recently as 2017, the Commission used the alternative form of environmental review process in Minn. R. Ch. 7852 for a 13.1 mile natural gas pipeline proposed by the Minnesota Energy Resources Corporation in Olmsted County and issued a route permit following the issuance of CEA.<sup>23</sup>

This proceeding is also easily distinguished from the cited *Sandpiper* decision,<sup>24</sup> given that the Sandpiper pipeline was a proposed approximately 300-mile crude oil pipeline that met the definition of a “large energy facility” under Minn. Stat. § 216B.2421, subd. 2(4) and, therefore, a certificate of need was required.<sup>25</sup> In *Sandpiper*, the court stated:

Under the routing permit requirements in Chapter 7852 of the Minnesota administrative rules, an applicant must conduct a comprehensive environmental assessment. *See* Minn. R. 7852.1500 (2013). The Minnesota Environmental Quality Board (EQB) has approved this environmental assessment as an acceptable

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<sup>22</sup> MCEA Comments at 3 (October 31, 2022) (eDocket No. [202210-190274-02](#)) (“Indeed, the undersigned are unaware of, and could not find, a situation where the Comparative Review in the pipeline rules has ever been used by the Commission to analyze a pipeline like this, where the pipeline is subject to the full route selection procedures, but the certificate of need statute is not also triggered.”).

<sup>23</sup> Order Issuing Route Permit, *In the Matter of the Application of Minnesota Energy Resources Corporation for a Route Permit for the Rochester Natural Gas Pipeline Project in Olmsted County*, MPUC Docket No. G0911/GP-15-858 (May 5, 2017).

<sup>24</sup> *See In re Application of North Dakota Pipeline Company, LLC for a Certificate of Need for the Sandpiper Pipeline Project*, 869 N.W.2d 693 (Minn. Ct. App. 2015).

<sup>25</sup> *See* Minn. Stat. §216B.243, subd. 2.

alternative to the formal EIS otherwise required by MEPA for large oil pipelines. *See* Minn. Stat. § 116D.04, subd. 4a (2014) (authorizing the EQB to “identify alternative forms of environmental review which will address the same issues and utilize similar procedures as an environmental impact statement”). While this alternative environmental review is associated with the routing permit process, because certificate of need and routing permit proceedings typically occurred simultaneously, the MPUC generally has effective access to a MEPA-compliant environmental review while considering both applications. Here the MPUC deviated from its usual practice and chose to conduct the certificate of need proceedings prior to the routing permit proceedings. As a result, the MEPA-compliant environmental review associated with the routing permit would not occur until after a decision was made on the certificate of need.<sup>26</sup>

The *Sandpiper* decision turned on the timing of the environmental review relative to the Commission’s final decision on a certificate of need, not on whether questions of need or a no action alternative were included in the environmental analysis.<sup>27</sup> To the extent that the *Sandpiper* offers the Commission any instruction here, it is that adhering to the required process, rather than setting a new and unusual course, ensures robust review and compliance with the applicable laws.

### **C. The CEA Should Evaluate the Present Route Permit Proposal.**

CURE and numerous individual commenters have suggested that the Commission should expand the scope of the environmental review in this matter to consider all Minnesota portions of Summit Carbon’s Midwest Carbon Express Project.<sup>28</sup> This position is inconsistent with Minn. R. Ch. 7852 and Minn. R. Ch. 4410.

First, the CEA prepared under Minn. R. 7852.1500 considers “all of the pipeline routes accepted for consideration at public hearings.” A “route” is defined as “the proposed location of

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<sup>26</sup> *Id.* at 696-97.

<sup>27</sup> *Id.*, at 698 (“The unambiguous language of those provisions mandates that in a situation such as this, when the MEPA-compliant environmental review would not occur until after a certificate of need was issued, an EIS must be completed as part of the certificate of need proceedings.”).

<sup>28</sup> CURE Comments at 8-9 (November 1, 2022) (eDocket No. [202211-190295-02](#)).

a pipeline between two end points. A route may have a variable width from the minimum required for the pipeline right-of-way up to 1.25 miles.”<sup>29</sup> None of the other Minnesota portions of Summit Carbon’s Midwest Carbon Express Project connect to the two end points (or any points) along the Otter Tail to Wilkin Project. The closest location between an Otter Tail to Wilkin Project end point and other contemplated Summit Carbon pipelines in Minnesota is separated by approximately 100 miles. Accordingly, there is little to no practical value in comparing route alternatives for the Project to the other Summit Carbon pipelines in Minnesota in one document, when none of those route alternatives would connect to or be relevant to the other Summit Carbon pipelines in Minnesota.

Similarly, Minn. R. 4410.2000, subp. 4 specifically contemplates that for segments of pipeline projects that are part of a larger “planned network, ... the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration...” Here, Summit Carbon has not divided the larger network into smaller segments in an attempt to avoid environmental review – each project will be subject to the Commission’s full route permit proceeding, and therefore, MEPA-compliant environmental review. Instead, the Project reflects a logical presentation of the full route proposal contemplated in Otter Tail and Wilkin Counties.

Additionally, the Project does not meet the definition of a “connected action” as it relates to the other portions of the Midwest Carbon Express Project. Under Minn. R. 4410.0200, subp. 9c, two projects are connected actions if they are related in any of the following ways:

- A. one project would directly induce the other;

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<sup>29</sup> Minn. R. 7852.0100, subp. 31.

- B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or
- C. neither project is justified by itself.

In this case, the Project enables the Green Plains Ethanol Plant to connect to the larger planned CO<sub>2</sub> pipeline network and to permanent sequestration facilities in North Dakota regardless of whether the other portions of the Midwest Carbon Express Project are constructed in Minnesota. Given the planned network in North Dakota, no other Minnesota facilities are prerequisites for this Project, and the Project is justified on its own.

The Project is also not a phased action with other portions of the multi-state Midwest Carbon Express Project under the definition in Minn. R. 4410.0200, subp. 60. Two projects proposed by the same proposer are phased actions if they (1) will have environmental effects on the same geographic area; and (2) are substantially certain to be undertaken sequentially over a limited period of time. Here, the Project is separated by over 100 miles from the closest portion of any other contemplated Summit Carbon pipeline in Minnesota, and the timing of construction of those portions of the Project is still uncertain. While Summit Carbon plans to advance the Martin County portion of the Midwest Carbon Express Project in the coming months, it is located over 200 miles from the Otter Tail to Wilkin Project. The timing of filing of a route permit application and construction of the remaining portions of the Midwest Carbon Express Project will be dependent on land acquisition and other project development-related tasks.

When evaluating a similar question of whether various pipeline projects proposed by the same proposer were connected and/or phased actions, the Minnesota Court of Appeals found that even where the proposals shared overlapping geography and portions of the Commission's public hearings were combined, the language in Minn. R. 4410.2000 regarding pipeline projects that are

part of a larger planned network controlled.<sup>30</sup> In that case, the court rejected MCEA's argument that the three pipelines were connected actions and/or phased actions because they were dependent upon each other for their existence. The court instead found that the three pipelines in that case were not connected actions because they served different purposes and carried different materials, that the pipelines were not prerequisites of each other, and the proposed project was self-justified.<sup>31</sup>

Given the large additions to Minnesota's infrastructure that will be necessary moving forward to combat climate change, Summit Carbon urges the Commission to follow this precedent, which is well-supported under Minnesota law, and find that logical components of a larger planned infrastructure network can be reviewed separately under the Commission's MEPA-compliant environmental review process as set forth in Minn. R. 4410.2000, subp. 4.

### CONCLUSION

Summit Carbon respectfully requests that, at the conclusion of the supplemental period, (1) the Commission accept the Application as complete; (2) issue a notice and order for hearing directing the ALJ to establish a schedule similar to that proposed by EERA; and (3) dismiss the citizen petition for an EAW and proceed with preparation of a CEA for the Project.

Dated: November 14, 2022

Respectfully submitted,

*/s/ Christina K. Brusven*

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<sup>30</sup> *Minnesota Ctr. for Env't Advoc.*, 2010 WL 5071389, at \*4-5.

<sup>31</sup> *Id.* at 5.



## Summit Carbon Solutions Otter Tail to Wilkin Project Attachment A to Reply Comments: Additional Health and Safety Information

**Project Name:**

Summit Carbon Solutions Otter Tail to Wilkin Project

**MPUC Docket Number:**

IP7093/PPL-22-422

**SCS Document Number:**

SCS-0700-ENV-05-PE-014-C

**Date:**

November 14, 2022

## 1 INTRODUCTION

In its October 31, 2022 comments on the Summit Carbon Solutions, LLC (“Summit Carbon”) Route Permit Application (“Application”) completeness, Minnesota Department of Commerce, Energy Environmental Review and Analysis (“EERA”) Staff suggested that Summit Carbon provide additional information about the potential health and safety impacts of the Otter Tail to Wilkin Project (“Project”). Specifically, EERA suggested that Summit Carbon discuss what types of emergency and non-emergency construction- and operations-related health and safety concerns exist with the Project. This Attachment A to Summit Carbon’s reply comments provides additional information on these topics.

## 2 CONSTRUCTION-RELATED HEALTH AND SAFETY CONCERNS

### 2.1 POTENTIAL NON-EMERGENCY IMPACTS

Construction of the Project has the potential to introduce non-emergency health and safety concerns similar to other large construction projects or agricultural activities. These potential impacts may include increased traffic, noise, and construction-related air emissions.

Section 6.3 of the Application discusses Summit Carbon’s expected temporary increases in the use of area roads during construction, including use by heavy construction equipment and associated trucks and vehicles. Summit Carbon will work with local road authorities through execution of a road use agreement or similar arrangements to ensure proper traffic control personnel are in place for lane closures or heavy traffic and to ensure road repairs are completed as necessary. Further, Summit Carbon will take steps to ensure employees and contractors are traveling safely on area roadways.

Nearby residences may also experience short-term increases in construction-related noise from construction equipment intermittently for up to 30 days. Summit Carbon will minimize construction-related noise impacts by limiting most construction activities to daylight hours, maintaining equipment in good working order, and utilizing manufacturer-supplied equipment silencers when available.

Construction emissions would occur over the duration of construction activity at different times throughout the Project area (see Application Section 6.17.1). Construction emissions in the form of particulate matter (e.g., dust) and equipment exhaust would result in short-term, localized impacts in the immediate vicinity of construction work areas. Efforts to mitigate exhaust emissions during construction would include using construction equipment and vehicles that comply with applicable federal and state air pollution control regulations. Dust on roads and from earthmoving activities (e.g., excavation, grading) will also be minimized as described in Section 2.10 of the Minnesota Environmental Construction Plan (“ECP”), which includes spraying the ground using watering trucks.

### 2.2 POTENTIAL EMERGENCY IMPACTS

Construction is not expected to result in emergency health and safety impacts. The presence of additional construction personnel has the potential to affect law enforcement agencies, fire protection services, and health care facilities in the communities adjacent to the Project.

As discussed in Section 6.2.2.4 of the Application, the Project will work with local and county emergency management to develop procedures for response to potential emergencies, natural hazards, hazardous materials incidents, manmade problems, and other incidents concerning Project construction. The contractor will provide site maps, haul routes, schedules, contact numbers, training, and other requested information to local and county emergency management. Additionally, construction

contractors will maintain a list of local emergency response providers and contact information in all construction vehicles. Certain personnel will also be trained in first aid and safety.

Remote medical units will be deployed in the field during construction, and local healthcare facilities will provide healthcare services to Project construction workers during construction only if required. It is anticipated that impacts to local facilities will be minor and that local healthcare facilities will be able to manage minor increases to healthcare needs during construction. The Project's health and safety procedures and policies will seek to prevent workplace injuries that could occur, which would limit the need to utilize local healthcare facilities during the temporary increase of construction workers.

### 3 OPERATIONS-RELATED HEALTH AND SAFETY CONCERNS

#### 3.1 POTENTIAL NON-EMERGENCY IMPACTS

The Project is expected to have minimal non-emergency operational impacts to human health and safety. Once operational, the Project will generate noise at the capture facility through the use of pumps, blowers, compressors, and cooling towers. However, these noise levels are not expected to produce perceptible changes in noise levels at any nearby residences and will not be distinguishable from the noise already produced at the adjacent Green Plains Ethanol Plant ("Plant").

Emissions from operation of the pipeline will include particulate (e.g., dust) and engine exhaust emissions from occasional worker vehicles for operation, inspection, and maintenance activities at mainline valve ("MLV") sites and the capture facility. During operation of the capture, MLV, and launcher facilities, potential emissions will include stationary source emissions and fugitive emissions from minor equipment leaks or inspection and maintenance activities. These emissions are not expected to result in significant air-related health and safety impacts. It is worth noting that most of the potential operating emissions that are associated with the Project are currently being emitted by normal Plant operations.

#### 3.2 POTENTIAL EMERGENCY IMPACTS

Similar to other pipeline infrastructure, the potential for emergency-related health and safety impacts from operation of the pipeline would primarily occur during unexpected and abnormal operating conditions, such as an unplanned release of CO<sub>2</sub>. While CO<sub>2</sub> pipelines do not pose a heightened safety risk relative to other types of pipelines or modes of transportation, members of the public may be less familiar with the potential safety hazards related to a CO<sub>2</sub> release. The following sections provide additional information regarding the safety regulations applicable to the Project and address several common public concerns related to potential human health and safety impacts from a CO<sub>2</sub> pipeline release.

##### 3.2.1 CO<sub>2</sub> Pipeline Performance

Based on U.S. Department of Transportation ("DOT") Pipeline and Hazardous Materials Safety Administration ("PHMSA") annual reporting data, in 2020, there were 5,150 miles of CO<sub>2</sub> pipelines in the U.S. This includes 27 different systems in 11 states: North Dakota, Wyoming, Colorado, Utah, Montana, Kansas, Oklahoma, Texas, New Mexico, Mississippi, and Louisiana. In the U.S., there are over 40 years of significant experience with CO<sub>2</sub> pipelines.

PHMSA publishes data on leaks and spills from regulated pipelines. In the past 20 years, there have been a total of 102 leaks or releases from CO<sub>2</sub> pipelines and facilities. This includes pump stations, collection sites, and similar facilities. The number of leaks that occurred on CO<sub>2</sub> pipeline rights-of-way is

37.<sup>1</sup> None of the CO<sub>2</sub> pipeline leaks or releases resulted in a fatality, injury to the public, impact to wildlife, or water contamination. Only one injury, a pipeline contractor, has been reported in the past 20 years.<sup>2,3</sup>

This PHMSA release data includes data related to the Satartia, Mississippi release in 2020. It has been reported by the pipeline operator that 45 people sought attention at local hospitals with some complaining of long-term effects. However, the PHMSA Failure Investigation Report does not identify any injuries as a direct result of the Satartia release nor any harm to wildlife or water resources.<sup>4</sup>

According to the PHMSA, pipelines are the safest mode to transport products, including CO<sub>2</sub>.<sup>5</sup>

### 3.2.2 Safety Regulations and Minimizing the Potential for CO<sub>2</sub> Releases

The Project will incorporate numerous design, construction, operational, maintenance, and inspection measures and requirements aimed at reducing the risk of an unplanned CO<sub>2</sub> release from the Project. This section provides examples of the applicable regulations and measures Summit Carbon is taking to minimize the potential for CO<sub>2</sub> releases from the Project. The Project is being designed, built, operated, and maintained to PHMSA hazardous liquid pipeline regulations at Title 49 Code of Federal Regulations (“CFR”) Part 195. Federal regulations also incorporate a number of industry standards by reference. These are the same rigorous requirements that apply to gasoline, anhydrous ammonia, and propane pipelines.

#### 3.2.2.1 Depth of Cover

Although rare, third party strikes are the most common cause of pipeline failures. Pipeline safety regulations in the U.S. require 30 inches of cover over a pipeline in rural areas and three feet in other locations unless the pipeline is in rock.<sup>6</sup> Summit Carbon is designing the pipeline for a minimum 54 inches of cover (increased to 60 inches at waterbody and drainage ditch crossings as well as private road crossings), which will provide an additional safety measure to reduce the risk of third-party strikes.

#### 3.2.2.2 Ductile Fractures

In addition to setting standards for all hazardous liquid pipelines, federal regulations include specific requirements that are applicable to CO<sub>2</sub> pipelines. For example, CO<sub>2</sub> pipelines must be designed to resist ductile fractures.<sup>7</sup> Ductile fractures are running cracks that can originate at a failure. These types of fractures are driven by the compressibility of the CO<sub>2</sub> in the pipe and can affect several pipe joints (i.e., where 40-foot sections of pipes are welded together). To comply with PHMSA’s design regulation

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<sup>1</sup> PHMSA Pipeline Incident Flagged Files, <https://www.phmsa.dot.gov/data-and-statistics/pipeline/pipeline-incident-flagged-files>.

<sup>2</sup> *Id.*

<sup>3</sup> Prior to 2002, injuries were reported as “Bodily harm to any person resulting in one or more of the following: (1) Loss of consciousness, (2) Necessity to carry the person from the scene, (3) Necessity for medical treatment, (4) Disability which prevents the discharge of normal duties or the pursuit of normal activities beyond the day of the accident”. This definition was replaced by Amdt. 195-75, 67 FR 831 in January 2002 with “Personal injury necessitating hospitalization.”

<sup>4</sup> PHMSA Failure investigation Report – Denbury Gulf Coast Pipelines, LLC – Pipeline Rupture/Natural Force Damage, May 26, 2022.

<sup>5</sup> PHMSA, *General Pipeline FAQs*, available at <https://www.phmsa.dot.gov/faqs/general-pipeline-faqs>.

<sup>6</sup> 49 CFR § 195.248, Cover over buried pipeline.

<sup>7</sup> 49 CFR §195.111, Fracture propagation.

and minimize this risk, Summit Carbon has committed to installing heavier wall pipe and fracture arrestors throughout the system where needed.

### 3.2.2.3 Pipeline Testing and Inspections

Prior to commissioning the Project, Summit Carbon will conduct a hydrostatic pressure test to confirm the design strength of the pipeline and verify that it is leak free. This test is conducted at levels between 125% and 150% of maximum operating pressure (“MOP”) and is held for at least four hours and at 110% MOP for another four hours.<sup>8</sup> The pressure test serves as the pipeline’s baseline integrity assessment. In conjunction with the pressure test, an in-line caliper inspection tool is run to identify any dents or deformations indicative of construction damage.

Following the start of operations, hazardous liquid operators, including Summit Carbon and all CO<sub>2</sub> pipeline operators, are required to conduct integrity re-assessment utilizing pressure testing or in-line inspection (“ILI”) tools capable of finding metal loss and deformations that might result from corrosion or mechanical damage.<sup>9</sup> Summit Carbon is also required to implement cathodic protection (“CP”) to guard the pipeline against external corrosion and inspect the performance of the CP system annually.<sup>10</sup> In addition, Summit Carbon will conduct an alternating current (“AC”) interference survey to ensure their CP design is adequate.<sup>11</sup> Summit Carbon will also complete regular inspections of the pipeline right-of-way and participate in one-call and damage prevention programs to prevent third party damage.<sup>12</sup>

### 3.2.2.4 Valve Placement

In the event of a breach in pipeline integrity, valve spacing can limit the total volume of product released and the duration of the release, and therefore the length of potential exposure. The spacing intervals between the MLVs were designed in accordance with Title 49 CFR Part 195, which requires the consideration of CO<sub>2</sub> release dispersion modeling, risk assessments, and the potential to impact populated areas, sensitive environmental areas, and other topographic and environmental considerations. Summit Carbon will comply with PHMSA’s newly adopted, more stringent valve spacing regulations that were released March 2022.<sup>13</sup> Summit Carbon is also conducting an Emergency Flow Restricting Device (“EFRD”) study to determine if additional remotely activated valves will be installed based on requirements of 49 CFR Part 195.452.

Because CO<sub>2</sub> disperses in the atmosphere, the potential distance a release travels is more significantly impacted by factors like weather and the surrounding land than the volume of the release. For example, a CO<sub>2</sub> release on a windy day will dissipate more quickly and travel a farther distance than a release on a calm day. The health effects of CO<sub>2</sub> exposure are determined by the concentration of CO<sub>2</sub> and how long a person is exposed.

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<sup>8</sup> 49 CFR Part 195, Subpart E.

<sup>9</sup> 49 CFR § 195.452.

<sup>10</sup> 49 CFR Part 195, Subpart H.

<sup>11</sup> AC interference surveys identify areas of induced alternating current on the pipeline, such as from nearby high-tension power lines, that can cause corrosion.

<sup>12</sup> 49 CFR §§ 195.412 and 195.442.

<sup>13</sup> PHMSA, *Pipeline Safety: Amendments to Parts 192 and 195 to Require Valve Installation and Minimum Rupture Detection Standard*, available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-03/PHMSA%202137-AF06%20Valve%20Final%20Rule%20-%20March%202022.pdf>.

Federal regulations require that CO<sub>2</sub> pipeline operators conduct an air dispersion analysis to determine how CO<sub>2</sub> released from the pipe would impact people and the environment. This analysis, which also incorporates local terrain, is prepared to comply with PHMSA's liquid Integrity Management Program regulations.<sup>14</sup> Dispersion and overland spread analysis allows the operator and emergency response agencies to understand the potential consequences of a CO<sub>2</sub> release. Under PHMSA's Integrity Management regulations, Summit Carbon will complete and use this analysis to inform its selection of appropriate preventive and mitigative measures including valve locations, emergency response planning, and preparedness to reduce those potential consequences.

#### 3.2.2.5 24/7 Monitoring

The Project will be monitored 24 hours a day, seven days a week, and 365 days a year from an operations control center ("OCC") located in Ames, Iowa. The OCC will employ experienced and trained staff who will continuously monitor and control pipeline operations. A supervisory control and data acquisition ("SCADA") system will communicate with all field sites and provide real time status from every facility and/or data collection point along the Project. Data such as pressure, temperature, and flow will be monitored to ensure pipeline operation is maintained within established, safe operating parameters.

Summit Carbon will utilize a Real Time Transient Model ("RTTM") leak detection system. The RTTM is a real time hydraulic model of the pipeline system that runs in parallel with monitoring pressure and volume with system instruments. If the behavior of the pipeline does not match the hydraulic model, the OCC is notified that an issue must be analyzed. Alarms will be established for pipeline controllers when this analysis detects a potential leak profile and, in certain circumstances, valves will automatically close without human intervention. Summit Carbon will develop operations and maintenance ("O&M") procedures for OCC and field personnel prior to commencement of operation. These O&M procedures will include both normal and abnormal operating conditions. OCC personnel will have the capability to remotely shut down the capture facility and isolate pipeline segments via the Project's MLVs in the event abnormal operating conditions are observed.

#### 3.2.3 Potential Human Health and Safety Impacts of a Release

CO<sub>2</sub> is naturally occurring in the atmosphere, used in the food and beverage industry, and produced by the human body during ordinary respiration, so it is commonly perceived by the general public to be a relatively harmless gas. However, at concentrations of 4% by volume (40,000 parts per million ["ppm"]), CO<sub>2</sub> is Immediately Dangerous to Life or Health ("IDLH"), and at concentrations of 8% by volume (80,000 ppm) can cause dimmed sight, sweating, tremor, unconsciousness, and possible death by asphyxiation.<sup>15</sup>

Because CO<sub>2</sub> is colorless, odorless, and heavier than air, a significant uncontrolled release may cause CO<sub>2</sub> to temporarily accumulate near the ground in low lying outdoor areas, and in confined spaces such as caverns, tunnels, and basements until it dissipates into the atmosphere. CO<sub>2</sub> is not flammable, combustible, or explosive.

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<sup>14</sup> 49 CFR § 195.452.

<sup>15</sup> FSIS Environmental, Health, and Safety Group, *Carbon Dioxide Health Hazard Information Sheet*, available at [https://www.fsis.usda.gov/sites/default/files/media\\_file/2020-08/Carbon-Dioxide.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2020-08/Carbon-Dioxide.pdf).

### 3.2.4 Emergency Response Planning

Summit Carbon's draft Emergency Response Plan (Application - Appendix 6) discusses the actions Summit Carbon and local first responders will engage in to minimize human health and safety impacts in the event of release of CO<sub>2</sub> from the Project.

Based upon the estimated volume of the release, topography, proximity of habitable structures, and weather conditions, Summit Carbon may work with the local emergency response agencies to effect orderly evacuation of the public. The safety of the public and the response team is the number one priority. Emergency agencies will be notified to help control traffic, establish danger zones to control sightseers, and determine if it is advisable to set up roadblocks. Roadblocks may be needed for pedestrian, automotive, and train traffic.

Company employees, contractors, and agency responders will be equipped with tools, supplies, and equipment available to be used in cases of emergency conditions existing on or near the pipeline system. CO<sub>2</sub>/oxygen monitoring devices should be used in the event of an accidental/uncontrolled release of CO<sub>2</sub>. Self-contained breathing apparatus may be required pending results from on site-specific hazards and monitoring results. Summit Carbon has begun and will continue to engage in outreach and community education to ensure that local first responders and area residents are informed regarding the potential risks of a CO<sub>2</sub> release.

Although pipeline failures are unlikely, Summit Carbon will implement a damage prevention and public awareness program to educate the public, first responders, and other stakeholders, protect the pipeline from damage from third parties, and prevent or mitigate effects on public health and the environment.<sup>16</sup>

## 4 POTENTIAL HUMAN HEALTH AND SAFETY BENEFITS

When considering the potential risks to human health and safety related to unexpected release of CO<sub>2</sub> from the Project, it is important to also consider the potential health and safety benefits associated with reducing the amount of CO<sub>2</sub> released into the atmosphere. Each year, during normal operations, the Project will capture and permanently store approximately 0.19 MMTPA of CO<sub>2</sub> from the existing Green Plains Ethanol Plant that would otherwise be released into the atmosphere under the Plant's existing air permits.

CO<sub>2</sub> is a leading contributor to climate change. The World Health Organization states that "[c]limate change is the single biggest health threat facing humanity, and health professionals worldwide are already responding to health harms caused by this unfolding crisis."<sup>17</sup> The Centers for Disease Control has identified the following health-related impacts of climate change in the Midwest, including in Minnesota: temperature-related death and illness, air quality impacts, extreme events, vector-borne diseases, water-related illness and high risks for certain populations of concern.<sup>18</sup> The Project will contribute in a concrete and meaningful way to reducing CO<sub>2</sub> in the atmosphere, and, coupled with other CO<sub>2</sub> capture and clean energy projects and initiatives, is an important tool for slowing or reversing the human health and safety impacts related to climate change.

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<sup>16</sup> See also 49 CFR §§ 195.402, 195.403, 195.440, and subpart G.

<sup>17</sup> World Health Organization, *Climate Change and Health*, available at <https://www.who.int/news-room/factsheets/detail/climate-change-and-health>.

<sup>18</sup> Centers for Disease Control and Prevent, *Regional Health Effects – Midwest*, available at <https://www.cdc.gov/climateandhealth/effects/Midwest.htm>.

**In the Matter of the Application of Summit  
Carbon Solutions, LLC for a Routing  
Permit for the Otter Tail to Wilkin Carbon  
Dioxide Pipeline Project in Otter Tail and  
Wilkin Counties, Minnesota**

**PUC Docket No. IP-7093/PPL-22-422**

**CERTIFICATE OF SERVICE**

Malinda M. Maier certifies that on the 14<sup>th</sup> day of November 2022, she e-filed true and correct copy the following documents on behalf of Summit Carbon Solutions, LLC via eDockets (www.edockets.state.mn.us):

1. Filing Letter;
2. Summit Carbon Solutions, LLC's Reply Comments;
3. Attachment A to Summit Carbon Solutions, LLC's Reply Comments; and
4. Certificate of Service.

Said documents were also served as designated on the Official Service Lists on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: November 14, 2022

*Signed: /s/ Malinda M. Maier*  
\_\_\_\_\_  
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Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_22-422_PPL-22-422
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Kevin	Pranis	kpranis@liunagroc.com	Laborers' District Council of MN and ND	81 E Little Canada Road St. Paul, Minnesota 55117	Electronic Service	No	OFF_SL_22-422_PPL-22-422
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_22-422_PPL-22-422
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