

Summit Carbon Seeks to Build Carbon Sequestration Pipeline Across Iowa

On August 4, 2021, Summit Carbon Solutions, LLC, initiated the legal process to build a proposed 710-mile carbon sequestration pipeline through 30 Iowa counties by filing a request for public informational meetings with the Iowa Utilities Board. In its inaugural filing, Summit Carbon stated that the proposed hazardous liquid pipeline would “capture carbon dioxide emissions from ethanol plants that otherwise would be emitted into the atmosphere and transport those emissions through a pipeline to North Dakota where they will be permanently and safely stored in deep underground geologic storage locations.”

Summit Carbon asserts that the proposed \$5.2 billion project, called the “Midwest Carbon Express,” would have the capacity to capture and permanently store 12 million metric tons of carbon dioxide every year. The proposed pipeline would also cross through four other states—North Dakota, Nebraska, Minnesota, and South Dakota—and would capture and transport the emissions from more than 30 ethanol plants for long-term underground sequestration. Summit Carbon projects a 2024 completion date.

Legal Process

To build the Iowa portion of the pipeline, Summit Carbon must obtain a permit from the Iowa Utilities Board. Iowa Code § 479B. Although the Board has no jurisdiction to regulate the safety of pipelines, the Board has sole discretion to determine whether to allow a private company to build a hazardous liquid pipeline across the state. The decision of the Board will ultimately turn on whether the Board believes the pipeline will “promote the public convenience and necessity.” Iowa Code § 479B.9. Iowa law provides that a company granted a pipeline permit “shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the Board, not exceeding seventy-five feet in width.” Iowa Code § 479B.16.

Informational Meetings

The permit approval process, however, is down the road. The first step for a company wishing to build a hazardous



liquid pipeline is to hold public informational meetings for those who will be potentially affected. As noted above, Summit Carbon filed its request to hold these meetings on August 4, 2021. It also filed a map showing the proposed route of the pipeline. On August 11, Summit Carbon revised its proposed letter to landowners to include the following details:

Your receipt of this letter indicates that right of way on or near property in which you have a legal interest could potentially be affected by the construction of the project. Summit Carbon Solutions will be seeking permanent easements for its pipeline on or near your property, as well as easements for temporary construction workspace, as well as access easements. Enclosed is a map showing the proposed route and the notification corridor in which potentially affected properties are located. The final alignment of the pipeline within the identified corridor will be selected after negotiations with landowners are complete. Please join the informational meeting for additional details regarding the purpose, timing and routing of the proposed project. You have the right to be present at this informational meeting and to file objections with the Iowa Utilities Board if you so choose. Under Iowa law, Summit Carbon Solutions cannot negotiate with landowners ...before the public informational meeting.

Waterways is a quarterly publication of the Iowa Drainage District Association. Comments can be directed to the association at:


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On August 12, 2021, the Board approved the dates, times, and locations of the proposed meetings. The approval letter stated, “Summit Carbon shall conduct the informational meetings in compliance with the requirements of 199 IAC 13.3 and provide sufficient audiovisual equipment for the expected audience, should all affected landowners who are notified attend. Summit Carbon shall file in this docket a draft of its informational meeting presentation by September 1, 2021.”

Negotiation Process

Once the informational meeting is held for a particular county, Summit Carbon may approach landowners to begin negotiating the purchase of easements. Few details have been disclosed regarding the size of the easements that will be sought. The presentation materials state that the pipeline would be buried at a minimum of four feet deep (from the top of the pipe).

Access Land for Surveys

Once the meetings are complete, Summit Carbon may also access potentially impacted properties to conduct a survey after giving landowners 10 days’ written notice. The entry for land surveys shall not be deemed a trespass and may be aided by injunction. Iowa Code §479B.15.

Permit Approval

Summit Carbon may file its formal petition seeking a hazardous pipeline permit anytime between 30 days and two years after holding its last informational meeting, currently slated for October 15. If and when Summit Carbon files its petition, the Board will schedule a hearing in the county seat of the county at the “midpoint” of the proposed line. Interested persons may file written objections. At the hearing, interested parties would be allowed to present



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evidence to support or oppose the pipeline's construction. Ultimately, the Board would have to decide whether the proposed line would "promote the public convenience and necessity."

As noted above, pipeline companies granted a pipeline permit "shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the Board." This means that Summit Carbon would be given the right to acquire easements through eminent domain in exchange for "just compensation" if it is unable to acquire all necessary parcels pursuant to voluntary agreements. The law also requires the Board to establish standards for the "restoration of agricultural lands during and after" the construction of the pipeline.

If the Board were to grant Summit Carbon the power of eminent domain, county compensation commissions would determine the "just compensation" to which the individual landowners would be entitled. Landowners and Summit Carbon would have the right to appeal these initial determinations through the Iowa court system. *Source – Center for Ag Law and Taxation, Iowa State University*

IDDA does have a model resolution that can be adopted to protect drainage infrastructure from projects such as this. It was originally drafted for the Dakota Access Pipeline but has since been modified to have a broader emphasis so that, for example, it could be used to apply to wind farms. If you would like a copy of this resolution, contact the IDDA office.

100th CREP Wetland Celebrated

Iowa's Conservation Reserve Enhancement Program (CREP) celebrated its 100th wetland site in September, nearly 20 years after the program was launched to encourage farmers and landowners to build retention areas to aid nutrient reduction in north central Iowa.

The Leidahl family farm in Buena Vista County hosted about 50 guests for the event as their newly built, 6-acre wetland was unveiled on a cool, rainy day in northwest Iowa.

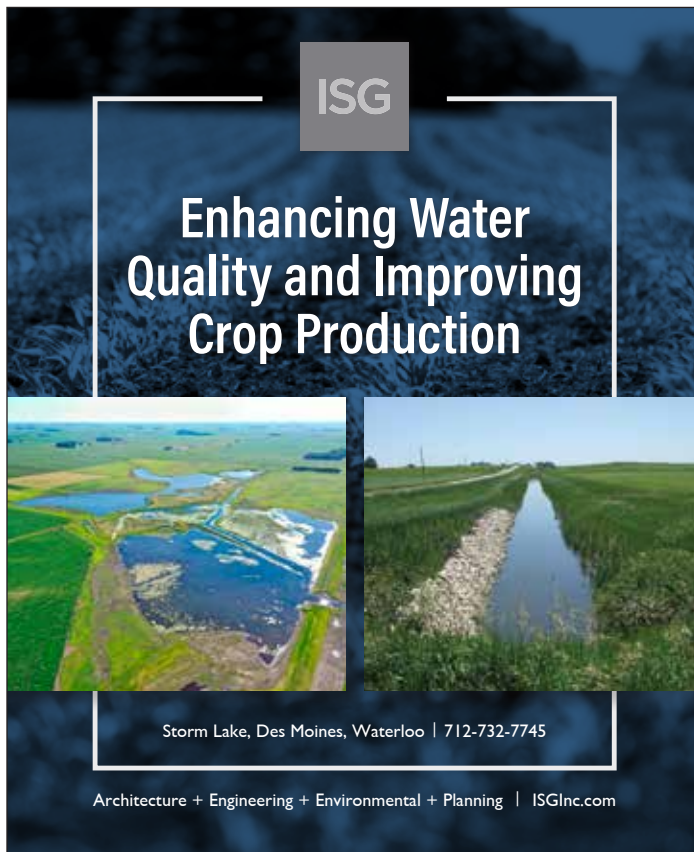
"We're just delighted with how this turned out," Todd Leidahl said. He, along with his five siblings, own the farm.

The wetland collects runoff from nearly 1,000 acres. Over the course of its life, the site is expected to collect between 60% to 90% of nitrogen (N) runoff from those acres, the equivalent of 8,300 pounds of N annually.

Next generation supports



As a family farmer, Leidahl said it was important to have buy-in from not only his siblings but also those who may take over the operation one day.

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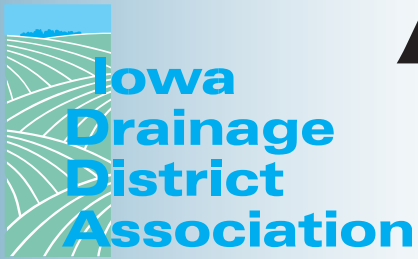
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Annual Conference

December 3, 2021

Starlite Village Hotel • Fort Dodge, Iowa

- 8:00 a.m. Registration Opens
- 8:30 a.m. IDDA Annual Business Meeting
- 9:00 a.m. Drainage water recycling in Iowa – Potential and Challenges, Dr. Matt Helmers, Iowa State University (Drainage clerks adjourn to separate session)
- 9:45 a.m. How does drainage impact the optimum nitrogen rate to corn – productivity, profitability and uncertainty, Dr. Michael Castellano, Professor of Agronomy, Iowa State University
- 10:30 a.m. Iowa Ag Update – The Honorable Mike Naig, Secretary of Agriculture, Iowa Department of Agriculture and Land Stewardship
- 11:20 a.m. Sponsor Presentations
- 12 noon Buffet lunch
- 1:00 p.m. Adjourn

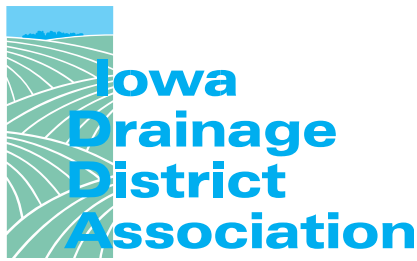


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Registration Form



Annual Conference

Friday, December 3, 2021

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Highway 169 & 7 intersection

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Please use one registration form for each person attending. **Pre-registration cost is \$60 for IDDA members and \$70 for non-members. On-site registration is \$65 for members and \$75 for non-members.** Registration fee includes morning coffee & rolls, noon meal, all conference handouts and conference gift item. Speakers and some sponsors are exempt from the registration fee. On-site registration will also be available. Sorry, we do not accept credit cards.

Send check, warrant or money order to:

IDDA
c/o TP Anderson Company
P.O. Box 509
Humboldt, IA 50548
Fax: (515) 332-1026

Questions – Contact IDDA Executive Director John Torbert at (515) 221-1961 or jtortbertidda@gmail.com.

Please return registration form no later than Monday, Nov. 29, for purposes of meal count. Refunds are possible for weather-related issues but are the discretion of IDDA. Refund requests must be in writing.

“I think the next generation is probably just as excited as we are,” he said. “They see how this helps nature, and they are very supportive.”

The CREP program is a joint effort of the Iowa Department of Agriculture and Land Stewardship (IDALS), the U.S. Department of Agriculture (USDA), the Natural Resources Conservation Service, Farm Service Agency, county water conservation districts and Iowa State University.

It offers participants up to 15 years of annual rental payments from USDA for all enrolled acres paid at 150% of the average soil rental rate; 100% cost-share for wetland restoration and buffer establishment; and a one-time, upfront incentive payment to enter into either a 30-year or perpetual easement.

Milestone

“This is an exciting milestone and a great springboard to get us to the next 100 wetlands. We couldn’t have done it without the public and private partners who are working alongside us,” Iowa Secretary of Agriculture Mike Naig said at the event. “We know there’s still work to do to achieve the goals outlined in Iowa’s Nutrient Reduction Strategy, but we have more partners and funding to support our efforts than ever before. And we’re continuously researching and testing new science-based conservation practices to help us scale up projects more efficiently.”

Naig noted that even though it took 20 years to get the first 100 CREP projects built, he expects the next

100 to come along much quicker.

“We’re really focused on accelerating this program,” Naig said. “We have about 50 projects being planned now. It won’t take us long to get to 200 wetlands.”

IDDA provides the field and engineering support for the CREP wetland program under a contract with IDALS

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