

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>WOLF CARBON SOLUTIONS US, LLC,</p> <p><i>Petitioner,</i></p> <p>v.</p> <p>IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA,</p> <p><i>Respondent.</i></p>	<p>CASE NO. _____</p> <p>VERIFIED PETITION FOR TEMPORARY & PERMANENT INJUNCTIVE RELIEF</p> <p><i>(EXPEDITED CONSIDERATION REQUESTED)</i></p>
---	---

COMES NOW, Petitioner Wolf Carbon Solutions US, LLC ("**WCS**") with this Verified Petition (this "**Petition**") as against Respondent Iowa Utilities Board ("**IUB**"), stating the following:

INTRODUCTION & STATEMENT OF THE CASE

1. This case concerns the potential release of private and confidential landowner/occupier information voluntarily provided to the IUB from WCS in relation to a highly public carbon capture pipeline project currently under regulatory review.

2. The release of the information in question would violate Iowa's Open Records Act, judicially established common law privacy rights, impair prospective contractual relations, and violate WCS' right of commercial association with potential landowners/occupiers along the proposed pipeline route.

3. If released, the information in question would cause irreparable harm to WCS. Because of the threat of such irreparable harm, and the substantial injuries that would result if injunctive relief is not granted in a timely manner, WCS respectfully requests expedited review of the claims articulated below and in the other filings provided alongside this Verified Petition in order to justify the temporary and injunctive relief requested herein.

4. There being no other adequate means to seek relief, WCS pleads as follows:

JURISDICTION AND VENUE

5. Petitioner seeks a temporary and permanent injunction pursuant to IOWA CODE §§ 1.1501 through 1.1511.

6. Petitioner also seeks enforcement, to the extent applicable, under IOWA CODE §§ 22.5's and 22.8's injunction enabling and enforcement provisions under Iowa's Open Records Act.

7. IUB, being the Respondent, is headquartered in Polk County, Iowa. Therefore, this venue is proper.

8. This Court has jurisdiction over this Verified Petition because no other court, tribunal, or administrative body has been given exclusive or concurrent jurisdiction over this matter. *See* IOWA CODE § 602.6101.

PARTIES

9. Petitioner is WCS, a limited liability company formed under the laws of the State of Delaware and authorized to do business in the State of Iowa. Petitioner's registered address in the State of Iowa is 1503 42nd Street, Suite #210, West Des Moines, Iowa, 50266.

10. Respondent is IUB, a state agency of the State of Iowa. IUB is charged with regulating certain public utilities operating in this State and the permitting of certain pipeline projects, like the one being proposed by WCS. Respondent's address is 1375 East Court Avenue, Des Moines, Iowa 50319-0069.

11. Respondent IUB is a "*government body*" within the meaning of Iowa Code Chapter 22, Iowa's Open Records Act. Respondent IUB is also a "*lawful custodian*" of the records being sought that are subject to this action. *See* IOWA CODE § 22.1.

BACKGROUND & GENERAL ALLEGATIONS

12. WCS has proposed, satisfied rigorous regulatory requirements in pursuant of, and made substantial monetary investments in, a carbon capture and storage pipeline project operating in eastern Iowa and flowing into Illinois. Carbon captured by the pipeline ("CO2"), will be securely placed thousands of feet underground in a suitable geologic formation for the placement of such material.

13. The name of this proposed project is the Mount Simon Hub (the "Hub").

14. The Hub would capture and store up to at least 12 million tons of CO2 per year, equivalent to removing CO2 emissions from over 200,000 automobiles.

15. The Hub would provide a substantial number of temporary and permanent jobs within its service area, encourage new capital investments, provide tax revenue for federal, state, and local purposes, result in beneficial easement payments to applicable landowners/occupiers, and facilitate additional economic and environmental benefits for the citizens of the State of Iowa.

16. The Hub will reduce Iowa's CO2 footprint, provide vital assistance to Iowa's low-carbon fuel producers, and provide vital indirect support for Iowa communities within its operational corridor.

17. A list of potentially impacted landowners/occupiers under the proposed corridor map route for the Hub has been shared with the IUB (the 'List'). The sharing of the List was done voluntarily by WCS at the request of the IUB. The sharing of the List was *not* required by either Iowa law, regulation, rule, or formal procedure.

18. The List contains, among other information, specific names, addresses, and potential property-related information along the Hub corridor route. This information, in multiple particulars, is private and confidential to WCS and the relevant landowners/occupiers listed who

may not be amenable to such information being released to the public or to potentially various opposition groups against the Hub project.

19. To date, no landowners/occupiers have consented to the release of any potentially private or confidential information contained within the List. Upon information and belief, many (if not all) landowners/occupiers along the proposed Hub route have had zero input or knowledge regarding their private and confidential information being currently under threat of public exposure. Likewise, WCS was never under the impression that such information would be subject to public disclosure to the potential detriment of such landowners/occupiers.

20. In its filings with the IUB, WCS has previously raised concerns about its reluctance to assent to the unveiling of the voluntarily shared List out of serious concerns regarding the release of potentially private and confidential information about landowners/occupiers along the proposed Hub corridor.

21. When filed with the IUB, WCS requested the List be kept confidential. The IUB has yet to rule on that confidentiality request.

22. The release of information contained in the List raises a significant and palpable risk of exposing private and confidential information about landowners/occupiers along the Hub corridor that may lead to unwanted publicity, invasion of privacy/seclusion, disturbance of the peace, harassment, intrusion on the right of association, potential violence, or other harm(s) by those that may oppose the construction of the Hub project.

23. The release of information contained in the List also raises the significant and palpable risk of interfering with WCS' potential contractual relations with landowners/occupiers along the proposed Hub corridor.

24. The release of the information contained in the List also raises the significant and palpable risk of disclosing otherwise protected information to WCS' competitors currently operating in the CO2 capture pipeline market, of which there are at least two other proposed pipelines in the State of Iowa (Summit and Navigator). Such disclosure may cause commercial harm to WCS now and in the future.

25. Upon information and belief, on or about August 19, 2022, certain third parties (the "Requestors") began making formal requests to the IUB under Iowa Code Chapter 22 for copies of detailed documents containing material comprising of personally identifiable information contained in the List.

26. On or about August 24, 2022, the IUB sent a letter to WCS' counsel informing WCS' counsel of such open records requests and informing WCS' counsel that it would be afforded fourteen (14) days to decide whether or not to seek injunctive relief to prevent disclosure of the List pursuant to IOWA CODE § 22.8.

27. This Verified Petition is intended to affirmatively exercise WCS' right to enjoin disclosure of the List to any and all third-party Requestors effective immediately on a temporary and permanent basis via injunction. *See* IOWA CODE § 22.8.

28. This action is timely filed pursuant to Iowa law and proper notifications have been provided by WCS to the IUB.

COUNT I
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF IOWA CODE § 22.7(18))

29. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

30. The Iowa Open Records Act contains mechanisms by which a party who may be injured by the release of certain private, confidential, or sensitive information may petition the district court for injunctive relief to prevent improper disclosure. *See* IOWA CODE § 22.8.

31. WCS seeks immediate temporary and permanent injunctive relief prohibiting the IUB from releasing the List, shared by WCS voluntarily — not required by any governing law, rule, or procedure — as part of its administrative permitting/application process related to the Hub project.

32. Under Iowa law, communications (including the transmission or disclosure of private or confidential information) not required by law, rule, or procedure made by persons outside of government are to be kept confidential once it is in the hands of any receiving government body, such as the IUB. *See* IOWA CODE § 22.7(18). The only exceptions relevant to this statutory confidentiality provision are: **(a)** If the impacted party consents to the release of the information; or **(b)** If it can be disclosed without directly or indirectly indicating the identity of the party who provided the information. *See id.* at §§ 22.7(18)(a)-(b).¹

33. Here, WCS is a "person" who voluntarily provided the List information to the IUB, a government body.

34. WCS provided the List in a manner not required by law, rule, or procedure.

35. WSC has not, and does not, consent to the release of the voluntarily provided landowner/occupier private and confidential information contained within the List.

36. Upon information and belief, there is no conceivable method by which the landowner/occupier private and confidential information can be disclosed (partially or in whole)

¹ There is a third exception in IOWA CODE § 22.7(18)(c) that relates to criminal or illegal acts, but that exception is not relevant to this action.

without directly or indirectly indicating the identity of the landowners/occupiers, or even WCS itself, as the party who provided the information to the IUB.

37. Furthermore, upon information and belief, no landowner/occupier has provided any consent to the release of their private and confidential information.

38. Upon information and belief, should the List be revealed to the Requestors, persons outside government — including WCS and landowners/occupiers along the Hub route — would be discouraged from making further information available to the IUB or other government agencies for fear of unwarranted public scrutiny.

39. Should any private and confidential landowner/occupier information contained in the List be released in whole or in part under Iowa Code Chapter 22, WCS would be a directly aggrieved and injured party. Any such injury would be immediate and irreparable as the dissemination of such private and confidential information could not be undone.

40. Any potential harm to Requestors seeking the List's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

41. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

42. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa Code Chapter 22.

43. Absent injunctive relief, WCS has no adequate remedy at law.

44. Pursuant to IOWA CODE § 22.8(1) and IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

45. No petition for the same relief has been previously presented to and refused by any court or tribunal.

46. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief as permitted by IOWA CODE § 22.8(2).

COUNT II
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF IOWA CODE § 22.7(3))

47. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

48. Iowa's Open Records Act contains a provision that prevents "trade secrets," as defined under Iowa law, to be released pursuant to an open records request. *See* IOWA CODE § 22.7(3).

49. Iowa law defines a "trade secret" as any information (including compilations of information) that possesses actual or potential independent economic value and that is subject to any efforts intended to maintain that information's secrecy. *See* IOWA CODE § 550.2(4)(a)-(b).

50. If such information is at risk of being disclosed by a government entity, and such disclosure may allow competitors to gain an advantage they otherwise may not have without the information, disclosure of such information is prohibited. *See* IOWA CODE § 22.7(3). *See also* *Sysco Iowa, Inc. v. Univ. of Iowa*, 889 N.W.2d 235, 241 (Iowa Ct. App. 2016).

51. The List requested contains information that is proprietary to WCS and its business plans, modeling, and potential business associates (*e.g.*, landowners potentially amenable to

easement agreements). Any release of the List, in whole or in part, risks providing an advantage to current or potential competitors in the CO2 capture and sequestration industry and any opponents of the permitting of the Hub project. Thus, the List is a "trade secret" under Iowa law. *See IOWA CODE § 550.2(4)(a)-(b).*

52. WCS requests temporary and permanent injunctive relief with respect to the disclosure of the List to the extent it qualifies as a protected trade secret under IOWA CODE § 22.7(3).

53. Any potential harm to Requestors seeking the List's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

54. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

55. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa Code Chapter 22.

56. Absent injunctive relief, WCS has no adequate remedy at law.

57. Pursuant to IOWA CODE § 22.8(1) and IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

COUNT III
TEMPORARY & PERMANENT INJUNCTION
(THREATENED VIOLATION OF IOWA CODE CHAPTER 550)

58. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

59. Iowa Code Chapter 550 is Iowa's "Uniform Trade Secrets Act." *See* IOWA CODE §§ 550.1, *et seq.* This Act protects from disclosure by any means "information, including but not limited to, a formula, pattern, compilation, program, device, method, technique, or process" that is both of the following: **(a)** Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by another person able to obtain such information by proper means; and **(b)** Is subject to efforts under the circumstances to maintain its secrecy. *See* IOWA CODE § 550.2(4)(a)-(b).

60. The "owner of a trade secret may petition the district court to enjoin an actual or threatened misappropriation," and "[i]n appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order." *Id.* at § 550.3(1) and (3).

61. WCS requests temporary and permanent injunctive relief with respect to the disclosure of the List to the extent it qualifies as a protected trade secret under Iowa Code Chapter 550.

62. Any potential harm to Requestors seeking the List's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

63. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

64. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa Code Chapter 22.7(6) and Iowa Code Chapter 550.

65. Absent injunctive relief, WCS has no adequate remedy at law.

66. Pursuant to IOWA CODE § 550.5, WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

67. Further, pursuant to IOWA CODE § 550.6, WCS respectfully requests reasonable attorneys' fees should WCS be a prevailing party on this claim.

68. Further, during the pendency of this litigation, pursuant to Iowa Code § 550.7, WCS requests that the List — to the extent it is ruled as a trade secret — be preserved as confidential by reasonable means, including, but not limited to, the granting of a protective order, handling only within in-camera proceedings for examination, sealing of the records of this action that may cause its intentional or accidental release, and an order of any person in possession of or with knowledge of the List's contents not to disclose the List's contents absent a prior court order.

COUNT IV
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF IOWA CODE § 22.7(6))

69. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

70. At the present time, there are at least three (3) CO₂ carbon capture pipelines under project-stage preparation in the State of Iowa, including WCS. While their proposed service areas may differ in some particulars, their underlying business model of service is substantially similar to one another when they respectively reach operational status.

71. If one CO₂ carbon capture pipeline in the State of Iowa learns otherwise unobtainable information about the service area(s), easement holder(s), or customer(s) of another, then certain competitive risks and exposures may result to the advantage of the receiving CO₂

carbon capture pipeline operator and to the detriment of the CO2 carbon capture pipeline operator whose information is exposed.

72. IOWA CODE § 22.7(6) provides confidentiality to any information provided to governmental entities which, if released, would give advantage to commercial competitors and serve no public purpose.

73. WCS requests temporary and permanent injunctive relief with respect to the disclosure of the List to the extent it qualifies under IOWA CODE § 22.7(6).

74. The release of the private and confidential information on the List would expose certain direct and indirect commercial information that a CO2 carbon capture pipeline competitor to WCS could use to learn about WCS' otherwise commercially sensitive operations, including, but not limited to, a potential customer list, route construction activity, easement acquisition procedures, commercial capacity projections, and more. This information, in the hands of any current competitors — and if released into the public sphere, to any potential competitors yet unknown — would injure and pose a threat to WCS, its investors, its contractors, its easement holders, its prospective business associates, and its general operations. Any such injury would be immediate and irreparable as the dissemination of such private and confidential information could not be undone.

75. Any potential harm to Requestors seeking the List's information is outweighed by the harm that would be visited upon WCS should this information be improperly disclosed.

76. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact, and furthermore, any commercially competitive harm WCS may suffer as a result of the public release of the List.

77. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa Code Chapter 22.

78. Absent injunctive relief, WCS has no adequate remedy at law.

79. Pursuant to IOWA CODE § 22.8(1) and IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

80. No petition for the same relief has been previously presented to and refused by any court or tribunal.

81. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief as permitted by IOWA CODE § 22.8(2).

COUNT V
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF THE *CLYMER/DELAMATER* COMMON LAW STANDARDS)

82. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

83. In a twin pair of cases from the 1990s, the Iowa Supreme Court crafted a multi-part balancing test for determining whether, even if a Chapter 22 Open Records Act exemption existed, when certain privacy interests commanded protection from disclosure of otherwise potentially disclosable open records information. These cases were *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42 (Iowa 1999), and *DeLaMater v. Marion Civil Servs. Comm'n*, 554 N.W.2d 875 (Iowa 1996). Collectively, they formed what is colloquially known as the "*Clymer/DeLaMater*" standard.

84. The factors of the *Clymer/DeLaMater* standard are: **(a)** The public purpose of the requesting party; **(b)** Whether the purpose can be served without disclosing personal information;

(c) The scope of the request; (d) Possible alternatives to receive similar information; (e) The gravity of the invasion of privacy involved.

85. Here, the Requestors of the List ostensibly claim their purpose in obtaining (and likely publicizing) the List information is under the guise of public information, where it is clear the true purpose is to further foment and organize opposition to the Hub project and exert pressure on landowners to not sign voluntarily negotiated easements. While arguably noble, this intended purpose by the Requestors does not outweigh the plain language and statutory intent of Chapter 22 granting confidentiality to the requested records — *see* IOWA CODE §§ 22.7(6) and (18).

86. Given the nature of the List and its contents, it is not practically feasible to release it in a form that would not *de facto* expose personal information presumed to be private and confidential.

87. Further, the scope of the request — effectively a fishing expedition for all information contained in the List, including sensitive, personal, private, and confidential information — is overbroad and unreasonable.

88. Additionally, the information from the List sought by the Requestors can be plausibly obtained by other less intrusive and alternative sources. For example, the proposed WCS CO2 carbon capture pipeline route has been publicly filed with the IUB and presented at several public meetings attended by hundreds of interested individuals. If the Requestors would like to examine the Hub map and do their own homework, they are free to do so. Or, after land easements have been obtained and filed with county recorders' offices as the Hub project continues, those documents would be open to public inspection. However, it is not necessary to expose the private and confidential information contained within the List for mere convenience purposes of the

Requestors as the risk of disclosure of sensitive data clearly exists at this time that may interfere with current easement negotiations.

89. The gravity of any invasion of the personal privacy of any persons included on the List cannot be understated. List information includes personal names, addresses, direct contact information, location information, information about the property in question, information about corporate entities and their officers, and the like. This information risks subjecting “listed” persons to harassment, bullying, "doxing," unwanted publicity, invasions of privacy/seclusion, undue influence, community and activist pressure, and other negative associational consequences.

90. For the reasons stated above and below, the List falls within the many enumerated exceptions stated in Iowa Code Chapter 22 and should be held confidential under the *Clymer/DeLaMater* common law standard set forth by the Iowa Supreme Court by temporary and permanent injunctive relief.

91. Any potential harm to Requestors seeking the List’s information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

92. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

93. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa law.

94. Absent injunctive relief, WCS has no adequate remedy at law.

95. Pursuant to IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

96. No petition for the same relief has been previously presented to and refused by any court or tribunal.

97. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief. *See* IOWA R. CIV. P. 1.1508.

COUNT VI
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF INTERFERENCE WITH PROSPECTIVE CONTRACTUAL
RELATIONS)

98. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

99. Iowa law recognizes the cause of action of interference with prospective contractual relations.

100. At the current time, WCS has held legally required public meetings regarding the Hub project and is currently legally able to discuss and negotiate voluntary easements with landowners/occupiers for the Hub project. *See* IOWA CODE § 479B.4(6).

101. A utility land easement is a contract under Iowa law between a utility company and a landowner/occupier.

102. At the current time, WCS has land agents actively attempting to negotiate and enter into contractual easement agreements with landowners/occupiers covered within the proposed Hub project corridor. These easements would represent valid and enforceable contractual and/or business relationships.

103. Requestors know or should know of these prospective contractual and/or business relationships due to their interest in the Hub project and Requestors' desire to obtain information as to who is a potential party to such agreements.

104. The disclosure of the private and confidential landowner/occupier information from the List causes a serious and palpable risk that third parties, including, but not limited to, Requestors, may intentionally or improperly interfere with potential contractual and/or business relationships related to the Hub project.

105. Should the disclosure of the List directly or indirectly cause any contractual and/or business relationship(s) to fail to materialize — and the risk of this happening is evidently high — WCS will be irreparably damaged in multiple particulars financially, operationally, and reputationally.

106. Any potential harm to Requestors seeking the List's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

107. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

108. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa Code Chapter 22.

109. Absent injunctive relief, WCS has no adequate remedy at law.

110. Pursuant to IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

111. No petition for the same relief has been previously presented to and refused by any court or tribunal.

112. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief. *See* IOWA R. CIV. P. 1.1508.

COUNT VII
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF INTERFERENCE WITH PROSPECTIVE ADVANTAGE)

113. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

114. Iowa law recognizes the cause of action of interference with prospective advantage.

115. WCS is currently in the process of negotiating or attempting to negotiate with third-party landowners/occupiers for easement rights to move forward with the commercially viable Hub project.

116. If released, the information on the List may be used by the Requestors or others to interfere with such negotiations. Such interference would plainly be known to the Requestors or others through concerted communications, formal or otherwise.

117. Interference with any ongoing activities to prospective negotiations would be the result of bad faith, intentionally, and with improper motives to the benefit of the interferers, and to the detriment of WCS and its prospective business partners, investors, and landowner/occupier affiliates.

118. Any such interference with prospective advantage could cause a potential business partner, investor, or landowner/occupier not to commercially engage (or potentially cease current engagement) with WCS, which would make performance of finishing the WCS Hub project more expensive, burdensome, or potentially impossible.

119. The risk of the release of the List facilitating the interference of prospective advantage under these circumstances will cause irreparable damage to WCS financially, operationally, and reputationally.

120. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

121. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa law.

122. Absent injunctive relief, WCS has no adequate remedy at law.

123. Pursuant to IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

124. No petition for the same relief has been previously presented to and refused by any court or tribunal.

125. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief. *See* IOWA R. CIV. P. 1.1508.

COUNT VIII
TEMPORARY & PERMANENT INJUNCTIVE RELIEF
(THREATENED VIOLATION OF CONSTITUTIONALLY PROTECTED ASSOCIATIONAL RIGHTS
UNDER THE FIRST AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION)

126. Petitioner re-alleges and incorporates by reference all prior paragraphs of this Verified Petition and the paragraphs below as if fully set forth herein.

127. The First Amendment of the United States Constitution guarantees the right to freedom of association. This right protects not only political association but association between incorporated entities and their members or prospective members. *See NAACP v. Alabama*, 377

U.S. 288 (1964). *See also Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021) (holding when associational disclosures involving government action arises, "it is immaterial" whether the association in question "is political, economic, religious, or cultural" in nature).

128. During the course of the development of the Hub project, WCS, its prospective business partners, investors, and potential landowner/occupier participants, desire to associate with one another in connection with a legally approved business venture.

129. As in *NAACP v. Alabama*, among other cases, the release of the List's private and confidential information of those wishing to participate in associational relations with WCS and the Hub project potentially risks harassment, unwanted invasion of privacy/seclusion, undue influence, public ridicule, unwarranted business consequences, social repercussions, and regrettably, potential violence.²

130. Whatever public interests the Requestors of the List have, it is outweighed by the risk of harm to WCS and its associational affiliates' interests, particularly where similar information may be obtained from other publicly recorded available sources once easements are secured.

131. A release of the List and its contents would cause a serious chilling effect on the right of WCS to affiliate with those actively or potentially interested in participating in the Hub project venture. This chilling effect would violate the First Amendment as incorporated to the states under the Fourteenth Amendment to the United States Constitution.

² The last time a pipeline project was scheduled to flow through Iowa, it resulted in extended vandalism that was widely publicized. *See, e.g., Associated Press, South Dakota, Iowa Confirm Pipeline Vandalism* (Mar. 21, 2017), available at <https://apnews.com/article/65dd5cb6e6e84bfc977f54de5bfaa6e6> (last visited Sept. 3, 2022). In response, a new statute was enacted to deter and punish similar violence in the future.

132. Any potential harm to Requestors seeking the List's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

133. Release of any private and confidential landowner/occupier information is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers with whom WCS may interact.

134. WCS has a substantial likelihood to prevail on the merits of this claim under Iowa law.

135. Absent injunctive relief, WCS has no adequate remedy at law.

136. Pursuant to IOWA R. CIV. P. 1.1502(2), WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

137. No petition for the same relief has been previously presented to and refused by any court or tribunal.

138. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief. *See* IOWA R. CIV. P. 1.1508.

PRAYER FOR RELIEF

WHEREFORE, Petitioner WCS prays for judgment and relief as against Respondent IUB as follows:

- a) An Order granting a temporary and permanent injunction in favor of WCS and against the IUB as detailed in this Verified Petition.

b) An award of attorney's fees, costs, and expenses against Respondent pursuant to IOWA CODE §§ 625.1; 625.14; 550.6, and under any other applicable authority whatsoever available at law or in equity.

c) Expedited consideration of the matters raised herein, with an opportunity for a hearing on the same.

d) Such other further relief as the law, equity, and the nature of this case may require or allow.

Dated: September 7, 2022

Respectfully submitted,

By: /s/ Colin C. Smith

Dennis L. Puckett AT0006476

Amanda A. James AT0009824

Colin C. Smith AT0011362

SULLIVAN & WARD, P.C.

6601 Westown Parkway, Suite 200

West Des Moines, Iowa 50266

Tel. (515) 244-3500

Fax (515) 244-3599

E-mail: dpuckett@sullivan-ward.com

ajames@sullivan-ward.com

csmith@sullivan-ward.com

ATTORNEYS FOR PETITIONER

Filed electronically via EDMS.

[VERIFICATION PAGE FOLLOWS]


VERIFICATION

I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct.

Executed on this 7th day of September, 2022.

Nick Noppinger

Name



Signature

Senior Vice President, Corporate Development for Wolf Carbon Solutions US, LLC

Title