

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

|   |   |
|---|---|
| <p>WOLF CARBON SOLUTIONS US, LLC,</p> <p>Petitioner,</p> <p>v.</p> <p>IOWA UTILITIES BOARD, A DIVISION<br/>OF THE DEPARTMENT OF<br/>COMMERCE, STATE OF IOWA,</p> <p>Respondent.</p> | <p>CASE NO. EQCE088016</p> <p><b>RESPONDENT’S ANSWER<br/>TO PETITION FOR<br/>TEMPORARY &amp; PERMANENT<br/>INJUNCTION</b></p> |
|---|---|

**COMES NOW** Respondent Iowa Utilities Board (Board), by and through its undersigned counsel, and for its Answer to the Petition for Temporary and Permanent Injunctive Relief states:

**INTRODUCTION AND STATEMENT OF THE CASE**

1. Respondent admits the allegation contained in Paragraph 1 of the petition that this case concerns landowner information lists related to a public carbon capture pipeline proposed by Wolf Carbon Solutions US, LLC (WCS), but denies the remaining allegations contained in Paragraph 1.
2. Respondent admits the allegation that the question before the Court is whether the information should be released pursuant to Iowa’s Open Records Act, but denies the remaining allegations contained in Paragraph 2 of the petition.
3. Respondent admits the allegation that WCS requests an expedited review of the its claims, but denies all other allegations contained in Paragraph 3 of the petition.
4. Respondent admits the allegations in Paragraph 4 of the petition.

**JURISDICTION AND VENUE**

5. Respondent admits the allegations in Paragraph 5 of the petition.
6. Respondent admits the allegations in Paragraph 6 of the petition.
7. Respondent admits the allegations in Paragraph 7 of the petition.
8. Respondent admits the allegations in Paragraph 8 of the petition.

**PARTIES**

9. Respondent admits the allegations in Paragraph 9 of the petition.
10. Respondent admits the allegations in Paragraph 10 of the petition.
11. Respondent admits the allegations in Paragraph 11 of the petition.

**BACKGROUND & GENERAL ALLEGATIONS**

12. Respondent admits WCS has proposed a carbon capture storage pipeline project operating in eastern Iowa and flowing into Illinois, but denies the remaining allegations contained in Paragraph 12 for lack of knowledge.

13. Respondent admits the allegations in Paragraph 13 of the petition.

14. Respondent denies the allegations in Paragraph 14 of the petition for lack of knowledge.

15. Respondent denies the allegations in Paragraph 15 of the petition for lack of knowledge.

16. Respondent denies the allegations in Paragraph 16 of the petition for lack of knowledge.

17. Respondent denies the allegations in Paragraph 17 of the petition and affirmatively states that the Board required Wolf to file a landowner mailing list for each applicable county by Order issued in Board docket No. HLP-2022-0002 on July 14, 2022.

18. Respondent admits the landowner list contains, among other information, specific names, addresses, and potential property-related information, but denies the remaining allegations contained in Paragraph 18 of the petition.

19. Respondent denies the allegations in Paragraph 19 of the petition for lack of knowledge.

20. Respondent admits WCS seeks to keep its mailing [landowner] lists confidential and on August 15, 2022, WCS filed an Application for Confidential Treatment of its mailing lists on the basis the lists are confidential pursuant to Iowa Code section 22.7(18). Respondent denies any remaining allegations characterizing WCS' concerns and the lists as contained in Paragraph 20 of the petition.

21. Respondent admits the allegation in Paragraph 21 of the petition that on August 15, 2022, WCS requested the Board to keep WCS' mailing lists confidential. Respondent affirmatively states that by an August 24, 2022 letter, the Board notified WCS of its receipt of public records requests for the landowner lists for "which a request for confidentiality" "has not been ruled upon" and that the Board was withholding the lists from public inspection to allow WCS an opportunity to obtain injunctive relief in district court.

22. Respondent denies the allegations in Paragraph 22 of the petition.

23. Respondent denies the allegations in Paragraph 23 of the petition.

24. Respondent denies the allegations in Paragraph 24 of the petition.

25. Respondent admits the allegations in Paragraph 25 of the petition.

26. Respondent admits the allegations in Paragraph 26 of the petition.

27. Respondent admits the allegations in Paragraph 27 of the petition.

28. Respondent admits the allegations in Paragraph 28 of the petition.

**COUNT I**  
**TEMPORARY & PERMANENT INJUNCTIVE RELIEF**  
**(Iowa Code § 22.7(18))**

29. Respondent reasserts and incorporates by reference its answer to each preceding paragraph.

30-46. In response to the allegations and request for a permanent injunction set forth in Paragraphs 30 through 46 of the petition, Respondent states that Iowa Code chapter 22 speaks for itself and Respondent denies all other allegations. Respondent states that in the underlying docket, Docket No. HLP-2022-0002, the Board determined it would withhold from public inspection all material subject to WCS' request for confidential treatment pending the district court's final decision on its confidentiality pursuant to Iowa Code chapter 22.

There are two other related cases in litigation: In *Summit Carbon Solutions, LLC v. Iowa Utils. Bd.*, CVCV062900, the Court recently ruled Summit failed to prove the information [landowner lists] is subject to the exception in Iowa Code section 22.7(18) and thus, Summit was not entitled to a permanent injunction on that basis. (Polk Cnty. Dist. Ct. 08/12/2022) (on appeal Sup. Ct. No. 22-1444). The other case is pending in Polk County District Court, *Navigator Heartland Greenway, LLC v. Iowa Utils. Bd.*, EQCE088024, where a decision on the merits has yet to be made.

This matter pending before this Court is not a judicial review of a Board Order, but instead is an independent determination of confidentiality by the Court pursuant to Iowa Code chapter 22. As such, Respondent awaits further determination by this Court.

**COUNT II**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Iowa Code § 22.7(3))**

47. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

48-57. In response to the allegations and request for a permanent injunction set forth in Paragraphs 48 through 57 of the petition, Respondent restates its answer asserted for Count I, Paragraphs 30 through 46, and its position that the Board is awaiting determinations and guidance by the Courts in the pending actions.

**COUNT III**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Iowa Code chapter 550)**

58. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

59-68. In response to Paragraphs 59 through 68 of the petition, Respondent denies all allegations and their relevancy to the matter at hand before the Court—how the Board should respond to valid public record requests pursuant to Iowa Code chapter 22. The Board is withholding the mailing lists in good faith pursuant to Board rules and waiting for the Court’s direction and determinations.

**COUNT IV**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Iowa Code § 22.7(6))**

69. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

70-81. In response to the allegations and request for permanent injunction set forth in Paragraphs 70 through 81 of the petition, Respondent restates its answer asserted for

Count I, Paragraphs 30 through 46, and its position that the Board is awaiting determinations by the Courts in the pending actions.

**COUNT V**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Clymer/DeLaMater)**

82. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

83-97. In response to the allegations and request for a permanent injunction set forth in Paragraphs 83 through 97 of the petition, Respondent restates its answer asserted for Count I, Paragraphs 30 through 46, and its position that the Board is awaiting determinations by the Courts in the pending actions.

**COUNT VI**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Tortious Interference-Prospective Contract)**

98. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

99-112. In response to Paragraphs 99 through 112 of the petition, Respondent denies all allegations and their relevancy to the matter at hand before the Court—how the Board should respond to valid public record requests pursuant to Iowa Code chapter 22. The Board is withholding the mailing lists in good faith and waiting for the Court’s direction and determinations. Additionally, assuming *arguendo* that the claims are viable, WCS failed to exhaust its administrative remedies for bringing a tort claim against a State of Iowa agency.

**COUNT VII**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(Tortious Interference-Prospective Advantage)**

113. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

114-125. In response to Paragraphs 114 through 125 of the petition, Respondent denies all allegations and their relevancy to the matter at hand before the Court—how the Board should respond to valid public record requests pursuant to Iowa Code chapter 22. The Board is withholding the mailing lists in good faith and waiting for the Court’s direction and determinations. Additionally, assuming *arguendo* that the claims are viable, WCS failed to exhaust its administrative remedies for bringing a tort claim against a State of Iowa agency.

**COUNT VIII**  
**TEMPORARY AND PERMANENT INJUNCTION**  
**(First and Fourteenth Amendments-Right of Association)**

126. Respondent reasserts and incorporates by reference its answer in each preceding paragraph.

127-138. In response to Paragraphs 127 through 138 of the petition, Respondent denies all allegations and their relevancy to the matter at hand before the Court—how the Board should respond to valid public record requests pursuant to Iowa Code chapter 22. The Board is withholding the mailing lists in good faith and waiting for the Court’s direction and determinations.

**AFFIRMATIVE DEFENSES**

1. Petitioner has failed to state claims upon which relief can be granted.

2. Respondent is acting in a good faith response to a series of public records requests made pursuant to Iowa Code chapter 22 and withholding the mailing lists pending a determination by this Court as to their confidential nature or status and whether they are exempt from public disclosure.

3. Tort claims against the Board must be brought, if at all, pursuant to Iowa Code chapter 669. Petitioner has failed to exhaust administrative remedies and comply with Iowa Code section 669.5 for its alleged tort claims.

**WHEREFORE**, the Respondent Iowa Utilities Board respectfully requests the Court to enter an order:

- 1). Dismissing Counts III, VI, VII, and VIII;
- 2). Assessing the costs of this action against Petitioner;
- 3). Determining the requirements of Iowa Code chapter 22 as applied to the facts presented; and
- 4). Granting such further and additional relief as the Court deems just and appropriate.



Respectfully submitted,

/s/ Jon Tack

Jon Tack (AT0007738)  
General Counsel  
Iowa Utilities Board  
1375 East Court Avenue  
Des Moines, IA 50319-0069  
Telephone: 515-725-7333  
E-mail: [jon.tack@iub.iowa.gov](mailto:jon.tack@iub.iowa.gov)

/s/ Diana S. Machir

Diana S. Machir (AT0006640)  
Iowa Utilities Board  
1375 E. Court Avenue  
Des Moines, IA 50319-0069  
Telephone: (515) 725-0550  
Email: [diana.machir@iub.iowa.gov](mailto:diana.machir@iub.iowa.gov)

**ALL PARTIES SERVED ELECTRONICALLY  
THROUGH COURT EDMS.**