

STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD

IN RE: WOLF CARBON SOLUTIONS US, LLC	DOCKET NO HLP-2022-0002 APPLICATION FOR CONFIDENTIAL TREATMENT
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Comes now, Wolf Carbon Solutions US, LLC ("Wolf"), and for its application for confidential treatment pursuant to Iowa Code 22.7(3), (6), and (18), states as follows:

1. Under to the Board's Order¹ dated October 19, 2022, granting informational meeting dates and requesting information, Wolf has filed its mailing list for each of the four counties in which the Mt. Simon Hub project will be located. Consistent with the Board's order, Wolf requests confidential treatment for the mailing lists.

2. Wolf set out its process for developing the mailing lists in the Affidavit of Nick Noppinger, filed November 18, 2022. First, Wolf engaged, KC Harvey, who obtained parcel information from a third party, ReportAll (<https://reportallusa.com/>), who purchases, aggregates, and distributes assessor's office information to its clients. The aggregated lists are available only to those who pay for and subscribe to the service. The Board has previously held confidential information filed with the Board that is only made available to subscribers of a service.

3. At Wolf's direction, KC Harvey performed a data gap analysis on the aggregated information and filled in missing data wherever possible. Wolf personnel then undertook additional work to identify correct name and address information for the relevant parcels. Finally, Wolf personnel added that information to the previously aggregated and revised data. After that

¹ Iowa Code Chapter 479B and the Board's rules do not require mailing lists to be filed.

step was completed, Wolf sent the notices of informational meetings to the identified affected persons in each county.

4. Wolf staff and the staff of its retained consultants have spent significant time and expense in obtaining, reviewing, and revising the lists, including updating the lists to include any tenants or persons in possession that are not listed on the county tax rolls. In total, Wolf's lists involve hundreds of records, reflecting the personal information of the owner, tenants, or persons in possession, of each parcel in the notice corridor across five Iowa counties. Wolf will continue to expend significant resources to obtain, revise, and maintain the lists to include updated information and information obtained regarding tenants or other persons in possession who may be affected by the project.

5. To date, Wolf has not utilized the mailing lists for any landowner mailings other than the required notices of informational meetings and enclosures, which were all filed publicly with the Board on July 8, 2022. Wolf anticipates utilizing the lists, as warranted, to send survey notices pursuant to Iowa Code § 479B.15.

6. Wolf treats the mailing lists as proprietary, trade secret and commercially sensitive information which, if released, would give an advantage to competitors and serve no public purpose. First, Wolf's mailing lists are derived from lists available on a subscription-only basis. Then, Wolf's lists are reviewed, revised, and updated to include information that Wolf and its contractor have obtained since the lists were initially developed. This can include information that may not be available from the county assessor, such as information regarding tenants or other persons in possession. In addition, Wolf's project is located in some counties where the pipeline proposed by Navigator Heartland Greenway, LLC ("Navigator") is also located. Revealing Wolf's mailing list would cause Wolf harm as Navigator (or any other carbon capture pipeline applicant)

could discern Wolf's exact corridor, which landowners may be negotiating with Wolf for easements, and how much flexibility Wolf has to move its line within its corridor. Undoubtedly, Navigator would claim the same potential for commercial harm if its mailing lists were available to Wolf or any other carbon capture pipeline applicant.

7. Next, consistent with Iowa law and prior Board precedent, the privacy interests of the affected persons on the mailing lists outweigh any argument for making the lists public. In fact, the Board has repeatedly held confidential the personal information contained on mailing lists filed with the Board:

[Applicant] asserts the landowners' "personal, specific information should be protected." The Board agrees with this assertion. In *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42 (Iowa 1999), the Iowa Supreme Court recognized a constitutional right of privacy could serve as basis for holding information confidential. The Clymer Court examined, in part, the scope of this privacy interest in the context of a public employee's home address, holding "a public employee has a substantial privacy interest in his or her address that outweighs the public's interest in disclosure, unless the information is necessary to open the government's actions to the light of public scrutiny." *Id.* at 47 (citations omitted). The Board finds this same privacy interest could be implicated with respect to the landowner contact information. Given the minimal interest in public disclosure of this information, the Board finds the request for confidentiality relating to the landowner information to be reasonable and grants confidentiality to the same.²

8. There is no connection between the mailing lists developed by Wolf and 'open[ing] the government's actions to the light of public scrutiny.' *See id.* Though Wolf does not concede that there is a valid public purpose that could outweigh the privacy interests of those on its mailing lists, to the extent individuals, third parties, or advocacy groups want to contact affected persons

² In re: Wapello Solar LLC, Docket No. GCU-2019-0001, "Order Granting Request for Confidential Treatment Filed on August 28, 2019 and Issuing Certificate" (October 24, 2019); *see also* In re: Holliday Creek Solar LLC, Docket No. GCU-2020-0001, "Order Granting Requests for Confidential Treatment Filed June 22 and July 31, 2020" (October 28, 2020).

to collectively oppose the project, multiple alternative options exist beyond revealing the personal information contained in Wolf's proprietary mailing lists. First, Wolf's informational meetings, provide an opportunity for those opposed to the project to communicate with those affected by the project. At the informational meetings, individuals can obtain names and contact information from other attendees. Further, as pointed out by the majority in the Board's November 23, 2021 opinion in Docket No. HLP-2021-0001 (Nov. 23 Order), opponents looking for like-minded individuals to oppose the project can start with the Board's EFS system, where commenters' names and email addresses are publicly available. *See Nov. 23 Order*, pp. 7-8.

9. It is important to note the privacy privileges granted to individuals who file a comment or objection with the Board. Such persons are given the chance to "opt-in" to making their comments and contact information publicly available. In contrast, affected persons on the mailing lists would not be afforded a similar choice if Wolf's mailing lists are not kept confidential.

10. Harm to affected persons, should their information be made publicly available, must not be taken lightly. As opposed to opting into potential communications from others, such individuals could receive unwanted and frequent communications and become targets for opponents of the pipeline. They could also receive unwanted contacts from those who support the project and therefore become targets for proponents of the pipeline. Notably, the mailing lists do not distinguish between the individuals on the centerline of the corridor and those simply located within the notice corridor. There is a significant risk that if the mailing lists are not kept confidential, those who may not ultimately be affected by the projects will have their privacy disregarded for no public purpose.

11. Wolf also seeks to keep its mailing lists confidential pursuant to Iowa Code § 22.7(18) which states that "Communications not required by law, rule, procedure, or contract that

are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination." Wolf recognizes that it has been ordered to submit mailing lists as provided in the Board's Nov. 23 Order, but it does not concede that such an Order is the same as the definition of procedure as contemplated in Iowa Code § 22.7(18). Such an interpretation would create a chilling effect on any and all applicants before the Board seeking approval for infrastructure development.

12. Wolf submits an Affidavit in Support of its Application for Confidential Treatment from Nick Noppinger, a corporate officer.

Wherefore, Wolf respectfully requests that the Board grant its Application for Confidential Treatment and that the Board hold confidential the portion of Wolf's filing so marked.

DATED this 18th day of November 2022.

Respectfully Submitted,

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