

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

<p><b>WOLF CARBON SOLUTIONS US, LLC,</b></p> <p><i>Petitioner,</i></p> <p>v.</p> <p><b>IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA,</b></p> <p><i>Respondent.</i></p>	<p><b>CASE NO. _____</b></p> <p><b>DECLARATION AND AFFIDAVIT IN SUPPORT OF VERIFIED PETITION FOR TEMPORARY &amp; PERMANENT INJUNCTIVE RELIEF</b></p> <p><b><i>(EXPEDITED CONSIDERATION REQUESTED)</i></b></p>
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Pursuant to IOWA CODE § 622.1 and IOWA R. CIV. P. 1.1502, I, Nick Noppinger, the undersigned, make the following Declaration and Affidavit (this "Affidavit"):

1. I am employed by Wolf Carbon Solutions US, LLC ("WCS"). My title is Senior Vice President, Corporate Development.

2. I have personal knowledge of the statements and matters outlined in this Affidavit, and I am familiar with WCS' proposed carbon capture and sequestration project (the "Hub"), as well as administrative and legal proceedings related thereto involving the Iowa Utilities Board (the "IUB") and other third parties.

3. In an effort to comply with Iowa Code Chapter 479B and the IUB's rules implementing that statute, WCS sent an initial round of notices regarding informational meetings, including additional specific information, to all of those persons WCS believed were responsible for paying taxes on certain parcels in each county where the Hub project was proposed to be constructed and operated.

4. In an effort to fully comply with the good-faith requirements of the IUB's rules in IOWA ADMIN CODE r 199–13.2(5)(d) to locate the addresses of all potentially affected persons, WCS took the steps described below:

5. WCS engaged KC Harvey, a consulting firm, which, on behalf of WCS, obtained assessor's office information for the various potential parcels in the multi-county notification corridor, including Clinton, Johnson, Linn, Cedar, and Scott (the "Counties"). KC Harvey obtained such information from a third party vendor, Real Estate Portal USA LLC ("ReportAllUSA"), a business that provides a set of real estate research services allowing clients to search land parcel data, engage in mapping, create advanced query reports, utilize PDF exporting capabilities, transfer data downloads, and use data overlays on other mapping services.

6. The parcel information and other data purchased from, customized with, and curated by ReportAllUSA for KC Harvey, and then transferred confidentially to WCS, is neither a legally recorded map or survey, and it is not intended to be used for any publically available purposes. This data is a compilation of records, information, and data from various city, county, regional, state, and federal offices (as well as other sources), and is meant to be used for private business enterprise purposes and references only.

7. For the sake of brevity, this information will be referred to herein as "List #1."

8. Upon information and belief, all parcel data materials and real estate matters displayed, performed, or derived from List #1 is the sole property of ReportAllUSA and its third-party client, WCS, and is therefore protected proprietary information under Federal and International copyright laws. See Real Estate Portal USA LLC's Terms of Service regarding its Copyright/Patent Number(s) and Proprietary Information at <http://reportallusa.com/tos>.

**9.** For the purposes of List #1, to identify the name and addresses of persons so listed, analyses of tax assessment rolls of those responsible for payment for real estate taxes each year of those parcels potentially located within the notification corridor of the Hub was performed. WCS additionally reviewed concomitant Geographic Information System ("GIS") data for the areas in question.

**10.** Using the proprietary information provided by KC Harvey and ReportAllUSA, a tax parcel database map was created indicating a potential pipeline route and selected tax parcels along a corridor that would require legal notification. From this proprietary information, selected tax parcels were identified using custom and curated information, and WCS added each parcel owner/occupier/or identifiable affected person's name and address to List #1 for proprietary business purposes.

**11.** From July 28, 2022 to July 30, 2022, WCS sent letters to landowners and notices to all known or identifiable owners/occupiers/affected persons listed on List #1. This mailing was meant to satisfy the legal requirements of Iowa Code Chapter 479B and the IUB's rules implementing that statute. The template of the landowner letter and notices filed with the IUB can be found in IUB Docket. No. HLP-2022-0002 (Filed Jul. 8, 2022).

**12.** List #1 was provided to the IUB as part of a voluntary cooperative process to expedite the administrative proceedings related to the completion of the Hub. The provision of List #1 by WCS to the IUB was not pursuant to any law, rule, or procedure. List #1 was submitted to the IUB with a tandem application for confidential treatment to prevent its public release.

**13.** Around the same time, approximately in August 2022, other pipeline projects — not parties to this action — had similarly provided their mailing lists to the IUB. This triggered a series of open records requests from organizations openly opposed to all pipelines who attempted

to secure the filed mailing lists in an attempt to pressure landowners/occupiers/affected persons along identifiable routes to resist signing voluntary easements for any pipeline projects, including, but not limited to WCS' Hub project.

**14.** At the time, the IUB had not yet made a decision on the status of the confidential treatment application of List #1 already filed with it by WCS. To protect its interests in keeping List #1 confidential, WCS filed a judicial action in district court for temporary and permanent injunctive relief. *See Wolf Carbon Solutions US, LLC v. IA Utils. Bd.*, Case No. EQCE088016 (Polk Cnty. D. Ct. Filed Sept. 7, 2022). That litigation remains unresolved.

**15.** Unfortunately, by the time that litigation was commenced, it was discovered that List #1 contained certain inadvertent incongruences and anomalies in its underlying data sets. This compelled WCS to have the contents of List #1 revisited as to content, data, mapping, overlying, and other particulars. This resulted in a newly customized and curated list of protected and proprietary information separate and distinct from List #1.

**16.** For brevity, this updated data compilation will be referred to as "List #2".

**17.** On or about November 21, 2022, WCS voluntarily filed List #2 with the IUB in order to, again, facilitate a cooperative administrative process. This filing was also accompanied by a request for confidential treatment.

**18.** Within hours of this filing — literally the next day, on November 22, 2022 — third parties began making requests for List #2. At that time, the IUB had not had an opportunity to make a determination as to WCS' request for confidentiality, and WCS was actively litigating the confidentiality of List #1.

**19.** Because of these circumstances, WCS is now compelled to take the present action to maintain the confidentiality of List #2 in a separate lawsuit because the materials sought to be legally protected in List #2 are separate and distinct from List #1.

**20.** The process of creating List #2 involved significant resources and went well beyond simply tinkering with List #1 or obtaining a publically available list of landowners from any one county. The information WCS obtained to build List #2 are available only to those who pay for and subscribe to the services provided by ReportAllUSA, who purchases, aggregates, and distributes key information to its private clients. Subsequently, WCS has retained specialized consultants from KC Harvey to review, identify, and modulate any gaps in such information to locate and add potential missing information. WCS internally reviews this customized and curated data for parcels over the relevant proposed pipeline corridors. This list information is continually updated and revised with any new or changing information of which WCS or any of its vendors become aware. This information is not typically or readily available from any public body, such as an assessor's office.

**21.** WCS staff and consultants have spent significant time and resources in obtaining, reviewing, and revising List #2, including updating its contents to include any new tenants or persons in possession that were not initially listed in other public documents or in List #1. WCS will continue to do so and expend additional resources to maintain List #2 throughout the life of the Hub project.

**22.** Further, List #2 is readily distinguishable from List #1 because it no longer includes parcel information for Johnson County, which was included in List #1 but is now not part of List #2 because of planning deviations undertaken by WCS' internal teams.

**23.** To date, WCS' List #2 includes hundreds of records, reflecting the personal information of owners/occupiers/affected persons along the multi-county Hub route. List #2 contains highly sensitive and personal information about land owners/occupiers/affected persons along the proposed Hub route, including names, addresses, and direct contact information. WCS deliberately asked for confidential treatment when List #2 was filed in order to protect potential land owners/occupiers/affected persons from actual or potential unwanted publicity or infringement on their privacy and seclusion by those who may wish to frustrate the securing of voluntary easements by WCS.

**24.** Upon information and belief, persons named on List #2 have not asked that their names be disclosed. Conversely, upon information and belief, persons' names on List #2 have not been given an opportunity to opt-out of any potential disclosure. To date, persons' names on List #2 have not been given any meaningful opportunity to take action to protect their rights to non-disclosure.

**25.** In the current environment, public identification of persons who may wish to make a private decision as to whether or not to enter into a voluntary easement with a pipeline company on their own land may subject them to harassment, invasion of privacy, peace, seclusion, or worse — violence.

**26.** Additionally, disclosure of List #2 would almost certainly disclose protected proprietary information of WCS and potentially give aid and advantage to WCS' competitors should it be released.

**27.** List #2, by its very nature, contains personal, identifiable information about land owners/occupiers/affected persons along the proposed Hub route.

**28.** Unfortunately, in today's environment, those who wish to do harm against others are prevalent, including, but not limited to, activists and computer hackers. Data breaches are common and intentional or inadvertent leaks of confidential information happen. WCS has obtained comprehensive insurance coverage to protect WCS' financial, tangible, and intangible assets — including proprietary information and trade secrets. This insurance coverage was sought to safeguard WCS from the cost of a potential data breach, exposure to ransomware, phishing, and other threats related to data possession and control. List #2 is precisely the type of information that WCS seeks to keep confidential and secure from unwarranted exposure.

**29.** Informational integrity is not the only type of security WCS has an interest in maintaining having roots in List #2. During the public informational meetings conducted by WCS regarding the proposed Hub route, WCS — at its own expense — hired private professional security guard services to deliver event security at every IUB-required public meeting. These professionals were hired by WCS to assist with a broad scope of services should the need arise to contain physical security risks, such as crowd control, access control, general security, loss prevention, de-escalation, and asset protection. WCS engaged expert security with specialized training to protect those public meetings from unexpected safety and security concerns and to keep public meetings running smoothly. This physical security was hired, in part, to make sure that the land owner/occupier/affected persons that were present were able to participate without fear of harassment, intimidation, threats, or undue influence.

**30.** Moreover, WCS is in the hazardous liquid pipeline business. Pipelines are universally recognized as being part of our nation's "critical infrastructure." If sensitive information about pipelines were to be exposed, it would create real and palpable risks to life and

property. List #2 contains exactly that type of information that would, if released, expose critical infrastructure pipeline information to potential or actual harm.

31. The disclosure of List #2 would not be in the public interest and would substantially and irreparably harm both WCS and those persons named on List #2.

32. The harm caused by the release of List #2 is outweighed by any potential benefit of its disclosure.

33. WCS has heretofore relied upon Iowa law and anticipated assurances that List #2 would remain confidential.

34. WCS desires that List #2 not be disclosed to any third party.

35. The foregoing information is provided in support of WCS' Verified Petition of Temporary and Permanent Injunctive Relief.


**FURTHER AFFIANT SAYETH NOT:**

**VERIFICATION**

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Executed on this 3rd day of January, 2023.

Nick Noppinger  
Name

  
Signature

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