

**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>VERIFIED PETITION FOR TEMPORARY &amp; PERMANENT INJUNCTIVE RELIEF</b></p> <p><b><i>(EXPEDITED CONSIDERATION REQUESTED)</i></b></p>
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**COMES NOW**, Petitioner Wolf Carbon Solutions US, LLC ("WCS") with this Verified Petition for Temporary & Permanent Injunctive Relief (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.** This is the second action concerning the potential release of a private and confidential landowner/occupier list related to a pipeline project proposed by WCS. It is separate and distinct from an earlier action involving a similar, but not identical, landowner/occupier list, filed in Polk County District Court on September 7, 2022 (Case No. EQCE088016).

**3.** 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 prospective business advantages, and violate WCS' right of commercial association with potential landowners/occupiers along the proposed pipeline route.

4. 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 Petition in order to justify the temporary and injunctive relief requested herein.

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

**JURISDICTION AND VENUE**

6. Petitioner seeks a temporary and permanent injunction pursuant to IOWA RS. CIV. P. 1.1501 through 1.1511.

7. Petitioner 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. Such actions are properly brought before this district court.

8. Petitioner seeks enforcement, to the extent applicable, under IOWA CODE §§ 550.3's and 550.7's injunction enabling and protective order enforcement provisions under Iowa's Uniform Trade Secrets Act. Such actions are properly brought before this district court.

9. Petitioner seeks relief under the First and Fourteenth Amendments to the United States Constitution, of which the harm alleged herein will occur, in whole or in part, in Polk County, Iowa or otherwise within the jurisdiction of this district court.

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

11. This Court has jurisdiction over this 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**

12. 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.

13. 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.

14. 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**

**I. BACKGROUND ON THE WCS PIPELINE PROJECT.**

15. WCS has proposed, satisfied rigorous regulatory requirements in pursuit 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 proposed pipeline ("CO2"), will be securely placed thousands of feet underground in a suitable geologic formation for the placement of such material.

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

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

18. 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.

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

**II. A FIRST LIST IS PRODUCED AND FILED REGARDING CORRIDOR ROUTING.**

20. An initial list of potentially impacted landowners/occupiers under the proposed corridor map route for the Hub was shared with the IUB ("List #1"). The sharing of List #1 was done voluntarily by WCS at the request of the IUB. The sharing of List #1 was *not* required by either Iowa law, regulation, rule, or formal procedure.

21. List #1 contained, 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 to 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.

22. Upon information and belief, no landowners/occupiers ever consented to the release of any potentially private or confidential information contained within List #1. Upon information and belief, many (if not all) landowners/occupiers along the proposed Hub route had zero input or knowledge regarding their private or confidential information being subject to public disclosure. Likewise, WCS was never under the impression that such information would be subject to public disclosure to the potential detriment of such landowners/occupiers.

23. In its filings with the IUB, WCS previously raised concerns about its reluctance to assent to the unveiling of the voluntarily shared List #1 out of serious concerns regarding the

release of potentially private and confidential information about landowners/occupiers along the proposed Hub corridor.

**24.** When it was filed with the IUB, WCS requested the List #1 be kept confidential. The IUB never ruled on that confidentiality request.

**25.** The potential release of information contained in List #1 raised significant and palpable risks of exposing private and confidential information about landowners/occupiers along the Hub corridor that could 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 who may oppose the construction of the Hub project.

**26.** The potential release of information contained in List #1 also raised a significant and palpable risk of interfering with WCS' potential contractual relations with landowners/occupiers along the proposed Hub corridor.

**27.** The potential release of the information contained in List #1 also raised a significant and palpable risk of disclosing otherwise protected information to WCS' competitors 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 risked causing commercial harm to WCS then and in the future.

**28.** 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 List #1.

**29.** 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 #1 pursuant to IOWA CODE § 22.8.

**30.** On September 7, 2022, WCS affirmatively exercised its rights to enjoin disclosure of List #1 to any and all third-party Requestors effective immediately on a temporary and permanent basis via injunction. *See* IOWA CODE § 22.8.

**31.** That action was timely filed pursuant to Iowa law and proper notifications were provided by WCS to the IUB. *See Wolf Carbon Solutions US, LLC v. IA Utils. Bd.*, Case No. EQCE088016 (Polk Cnty. Dist. Ct. Filed Sept. 7, 2022).

**III. WCS PRODUCES AND FILES A SECOND LIST WITH THE IUB.**

**32.** While litigation remained — and continues to remain — ongoing over the disclosure of List #1, WCS realized that List #1's contents contained certain incongruences and anomalies. As a result, WCS restarted its public commenting process and prepared a second, more accurate list of potentially impacted landowners/occupiers along the Hub corridor route ("List #2").

**33.** On or about November 21, 2022, List #2 was filed with the IUB, along with a formal request for confidential treatment of such information. The request for confidential treatment was based upon nearly identical concerns as the earlier request for confidential treatment related to List #1.

**34.** To date, the IUB has not made a ruling on the confidential treatment request of List #2 held in the custody of the IUB.

35. On or about November 22, 2022, a filing was made by a third party Requestor<sup>1</sup> resisting WCS' ask for confidential treatment and requesting a copy of List #2 under Iowa's Open Records Act. *See* Chapter 22.1, *et seq.*

36. This Requestor's ask for List #2 was different than the earlier action regarding List #1 because this specific Requestor never formally requested List #1 at any time during those earlier proceedings.

37. Now that WCS is aware that a Requestor is seeking disclosure of List #2 — which again, is a separate and distinct document from List #1 — WCS is now compelled to bring this action to protect its rights as follows:

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

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

39. 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.

40. WCS seeks immediate temporary and permanent injunctive relief prohibiting the IUB from releasing List #2, 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.

41. Under Iowa law, communications (including the transmission or disclosure of private or confidential information) not required by law, rule, or procedure made by persons

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<sup>1</sup> In this instance, the Requestor was Sierra Club of Iowa.

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).<sup>2</sup>

**42.** Here, WCS is a "*person*" who voluntarily provided List #2 to the IUB, a government body.

**43.** WCS provided List #2 in a manner not required by law, rule, or procedure.

**44.** WCS has not, and does not, consent to the release of the voluntarily provided landowner/occupier private and confidential information contained within List #2.

**45.** Upon information and belief, there is no conceivable method by which the landowner/occupier private and confidential information within List #2 can be disclosed (partially or in whole) 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.

**46.** Furthermore, upon information and belief, no landowner/occupier has provided any consent to the release of their private and confidential information contained in List #2.

**47.** Upon information and belief, should List #2 be revealed to any Requestor, 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 or intrusion.

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<sup>2</sup> 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.



**48.** Should any private and confidential landowner/occupier information contained in List #2 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 feasibly undone.

**49.** Any potential harm to any Requestor seeking List #2's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should List #2's information be improperly disclosed.

**50.** Release of any private and confidential landowner/occupier information from List #2 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.

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

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

**53.** 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.

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

**55.** 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))**

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

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

**58.** Iowa law defines a "trade secret" as any information (including compilations of any 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).

**59.** 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 that 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).

**60.** List #2 contains information that is proprietary to WCS and its business plans, modeling, and potential business associates (*e.g.*, landowners/occupiers potentially amenable to voluntary easement agreements). Any release of List #2, 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, List #2 is a "trade secret" under Iowa law. *See* IOWA CODE § 550.2(4)(a)-(b).

**61.** WCS requests temporary and permanent injunctive relief with respect to the disclosure of List #2 to the extent it qualifies as a protected trade secret under IOWA CODE § 22.7(3).

62. Any potential harm to any Requestor seeking List #2'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 contained in List #2 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.

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

66. 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.

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

68. 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 III**  
**TEMPORARY & PERMANENT INJUNCTION**  
**(THREATENED VIOLATION OF IOWA CODE CHAPTER 550)**

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

70. 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)** Possessing 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)** Subject to efforts under the circumstances to maintain its secrecy. *See* IOWA CODE § 550.2(4)(a)-(b).

**71.** 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).

**72.** WCS requests temporary and permanent injunctive relief with respect to the disclosure of List #2 to the extent it qualifies as a protected trade secret under Iowa Code Chapter 550.

**73.** Any potential harm to any Requestor seeking List #2's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

**74.** 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.

**75.** WCS has a substantial likelihood to prevail on the merits of this claim under Iowa IOWA CODE § 550.3.

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

**77.** Pursuant to IOWA CODE § 550.3, WCS demands a temporary and permanent injunction as supported by the Affidavit of Nick Noppinger, duly executed and filed in conjunction herewith.

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

79. WCS requests an expedited hearing on this claim and that the Court waive any bond requirement for injunctive relief as permitted by Iowa law.

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

81. Further, during the pendency of this litigation, pursuant to IOWA CODE § 550.7, WCS requests that List #2 — to the extent it is determined as a trade secret — be preserved as confidential by reasonable means, including, but not limited to, the granting of a protective order, handling of it only permitted within *in camera* proceedings for examination, sealing of the records of this action that may cause its intentional or accidental release, and an order that any person in possession of or with knowledge of List #2's contents not disclose List #2's contents absent a prior court order after a fair and reasonable opportunity for WCS to contest the same.

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

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

83. 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 models of service will be substantially similar to one another when they respectively reach operational status.

84. If one CO2 carbon capture pipeline in the State of Iowa learns otherwise unobtainable information about the service area(s), easement holder(s), plan(s), or customer(s) of

another, then certain competitive advantages may vest in the receiving CO2 carbon capture pipeline operator to the detriment of the CO2 carbon capture pipeline operator whose information is exposed.

**85.** 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.

**86.** WCS requests temporary and permanent injunctive relief with respect to the disclosure of List #2 to the extent it qualifies under IOWA CODE § 22.7(6).

**87.** The release of the private and confidential information in List #2 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.

**88.** Any potential harm to any Requestor seeking List #2's information is outweighed by the harm that would be visited upon WCS should this information be improperly disclosed.

**89.** Release of any private and confidential landowner/occupier information contained in List #2 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 List #2.

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

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

**92.** 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.

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

**94.** 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)**

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

**96.** In a twin pair of cases from the 1990s, the Iowa Supreme Court crafted a multi-part balancing test for determining whether certain common law privacy interests commanded protection from disclosure of otherwise potentially disclosable open records information, even if a Chapter 22 statutory exemption existed. 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.

**97.** 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.

**98.** Here, the Requestor of List #2 ostensibly claims their purpose in obtaining (and likely publicizing) List #2's information is under the guise of furthering public information, but it is clear the true purpose is to further foment and organize opposition to the Hub project and exert pressure on landowners/occupiers to not sign voluntarily negotiated easements with WCS. While arguably noble, this intended purpose by the Requestor does not outweigh the plain language and statutory intent of Chapter 22 granting confidentiality to the requested records. *See, e.g.*, IOWA CODE §§ 22.7(3); 22.7(6); 22.7(18); 22.7(50); 22.7(71); 550.2; and 550.3.

**99.** Given the nature of List #2 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.

**100.** Further, the scope of the request — effectively a fishing expedition for all information contained in List #2, including sensitive, personal, private, and confidential information — is overbroad and unreasonable.

**101.** Additionally, the information from List #2 sought by the Requestor 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, including representatives of the Requestor. If the Requestor would like to examine the Hub map and do their own homework, it is 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 List #2 for mere convenience purposes of the Requestor as the risk of disclosure of sensitive data clearly exists at this time and may interfere with current easement negotiations.

**102.** The gravity of any invasion of the personal privacy of any persons included in List #2 cannot be understated. List #2's 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, "doxxing," unwanted publicity, invasions of privacy/seclusion, undue influence, community and activist pressure, and other negative associational consequences.

**103.** For the reasons stated above and below, List #2 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.

**104.** Any potential harm to any Requestor seeking List #2's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

**105.** 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.

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

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

**108.** 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.

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

**110.** 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)**

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

**112.** Iowa law recognizes the cause of action of interference with prospective contractual relations. *See, e.g., Preferred Marketing Associated Co. v. Hawkeye Nat. Life Ins. Co.*, 452 N.W.2d 389, 395-96 (Iowa 1990).

**113.** At the current time, WCS has held two rounds of 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).

**114.** A utility land easement is a contract under Iowa law between a utility company and a landowner/occupier. *See* 81 AM. JUR. *Proof of Facts* 3d 199 (2022) (collecting authorities) ("An easement is a contract.").

**115.** At the current time, WCS is planning 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.

**116.** Requestor knows or should know of these prospective contractual and/or business relationships due to its interest in the Hub project and Requestor's desire to obtain information as to who is a potential party to such agreements.

**117.** The disclosure of the private and confidential landowner/occupier information from List #2 causes a serious and palpable risk that third parties, including, but not limited to, Requestor, may intentionally or improperly interfere with, or otherwise frustrate, potential contractual and/or business relationships related to the Hub project.

**118.** Should the disclosure of List #2 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.

**119.** Any potential harm to any Requestor seeking List #2's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

**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. *See, e.g., Preferred Marketing*, 452 N.W.2d at 395-96

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

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

**127.** Iowa law recognizes the cause of action of interference with prospective business advantage. *See, e.g., Nesler v. Fisher & Co., Inc.*, 452 N.W.2d 191, 199 (Iowa 1990).<sup>3</sup>

**128.** WCS is currently in the process of planning negotiations with third-party landowners/occupiers for easement rights to move forward with the commercially viable Hub project.

**129.** If released, the information on List #2 may be used by a Requestor or others to interfere with such negotiations. Such interference would plainly be known and facilitated in concert by a Requestor and others through coordinated communications, formal or otherwise.

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<sup>3</sup> It should be noted that the common law claims of interference with prospective contractual relations and interference with prospective business advantage are similar, but settled Iowa law treats them as "considerably different" actions. *Nesler*, 452 N.W.2d at 198-99 (citing and quoting *Farmers Co-op Elevator, Inc., Duncombe v. The State Bank*, 236 N.W.2d 674, 679 (Iowa 1974)).

**130.** Interference with any ongoing activities to prospective negotiations would be the result of bad faith, with intention, 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.

**131.** 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 the performance of finishing the WCS Hub project more expensive, burdensome, or potentially impracticable.

**132.** The risk of the release of List #2 would facilitate the interference of prospective advantage under these circumstances and would cause irreparable damage to WCS financially, operationally, and reputationally.

**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. *See Nesler*, 452 N.W.2d at 199.

**135.** Absent injunctive relief, WCS has no adequate remedy.

**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.

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

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

**140.** The First Amendment of the United States Constitution, as incorporated to the States by the Fourteenth Amendment, guarantees the right to freedom of association. This right protects not only political association, but also 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).

**141.** 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.

**142.** As in *NAACP v. Alabama*, among other cases, the release of List #2'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.<sup>4</sup>

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<sup>4</sup> 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*

**143.** Whatever public interests a Requestor of List #2 may 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.

**144.** A release of List #2 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.

**145.** Any potential harm to a Requestor seeking the List #2's information is outweighed by the irreparable harm that would be visited upon WCS and the landowners/occupiers should this information be improperly disclosed.

**146.** 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.

**147.** WCS has a substantial likelihood to prevail on the merits of this claim under the law. *See, e.g., Americans for Prosperity*, 141 S. Ct. at 2383; *NAACP*, 377 U.S. at 460-62.

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

**149.** 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.

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*Confirm Pipeline Vandalism* (Mar. 21, 2017), available at <https://apnews.com/article/65dd5cb6e6e84bfc977f54de5bfaa6e6> (last visited Dec. 28, 2022). In response, a new statute was enacted to deter and punish similar violence in the future. *See* IOWA CODE §§ 716.11; and 716.12 ("critical infrastructure sabotage").

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

**151.** 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 IX**  
**(THREATENED VIOLATION OF IOWA CODE § 22.7(71))**

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

**153.** IOWA CODE § 22.7(71) shields from disclosure "[i]nformation and records related to...critical infrastructure, the disclosure of which may expose or create vulnerability to critical infrastructure systems, held by the utilities board of the department of commerce...for purposes relating to....hazardous liquid [pipelines]...or other critical infrastructure systems."

**154.** List #2 concerns potential routes and property locations where a hazardous liquid pipeline may be located, namely WCS' proposed pipeline — the Hub. This, by law, "relates to" critical infrastructure. *See* IOWA CODE § 716.11(1) (defining "critical infrastructure"). *Accord* 42 U.S.C. § 5195(c) (same).

**155.** List #2 is currently in the custody of the IUB, the state agency specifically listed in IOWA CODE § 22.7(71).

**156.** Disclosure of List #2 would expose or create vulnerability to the Hub project pipeline by allowing those who oppose it to have a "blueprint" that may be used to engage in vandalism, interference, sabotage, or otherwise. This would run counter to public policy in Iowa and at the federal level.

**157.** WCS requests temporary and permanent injunctive relief with respect to the disclosure of List #2 to the extent it qualifies under IOWA CODE § 22.7(71).



**158.** Any potential harm to any Requestor seeking List #2's information is outweighed by the harm that would be visited upon WCS or others should this information be improperly disclosed.

**159.** Release of any private and confidential landowner/occupier information contained in List #2 is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers along the proposed Hub route.

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

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

**162.** 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.

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

**164.** 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 X**  
**(THREATENED VIOLATION OF IOWA CODE § 22.7(50))**

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

**166.** IOWA CODE § 22.7(50) shields from disclosure "[i]nformation and records concerning...critical infrastructure...maintained, or held by a government body for the protection of life or property, if disclosure could reasonably be expected to jeopardize such life or property."

**167.** "Such information and records include, but are not limited to...information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures to attack." IOWA CODE § 22.7(50)(a).

**168.** List #2 concerns potential routes and property locations where a hazardous liquid pipeline may be located, namely WCS' proposed pipeline — the Hub. This, by law, "relates to" critical infrastructure. *See* IOWA CODE § 716.11(1) (defining "critical infrastructure"). *Accord* 42 U.S.C. § 5195(c) (same).

**169.** List #2 is currently in the custody of the IUB, a "*government body*" under IOWA CODE § 22.1.

**170.** Disclosure of List #2 significantly increases the vulnerability of the Hub pipeline project to attack by those that oppose it, risking damage to life and/or property. This, unfortunately, is a reality in today's contentious discourse over pipeline projects. *See infra* fn.4.

**171.** WCS requests temporary and permanent injunctive relief with respect to the disclosure of List #2 to the extent it qualifies under IOWA CODE § 22.7(50).

**172.** Any potential harm to any Requestor seeking List #2's information is outweighed by the harm that would be visited upon WCS or others should this information be improperly disclosed.

**173.** Release of any private and confidential landowner/occupier information contained in List #2 is clearly not in the public interest as weighed against the harm potentially caused to the interests of WCS and the landowner/occupiers along the proposed Hub route.

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

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

**176.** 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.

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

**178.** 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).

**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 Petition under any one, or all, grounds specified for requested relief.
- 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:** January 3, 2023

Respectfully submitted,

By: /s/ Colin C. Smith

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**ATTORNEYS FOR PETITIONER**

*Filed electronically via EDMS.*

**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**