

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

WOLF CARBON SOLUTIONS US LLC,)	
)	
Petitioner,)	No. EQCE088409
)	
vs.)	
)	INTERVENTION PETITION
IOWA UTILITIES BOARD,)	
)	
Respondent.)	

Comes now Sierra Club Iowa Chapter and in support of this Intervention Petition states to the Court as follows:

1. The Iowa Chapter of the Sierra Club has approximately 7,000 members across Iowa and is part of a national organization with over 700,000 members. Our mission is to preserve and protect Iowa’s environment. An important focus of our advocacy is addressing the crisis of climate change. We also work for the preservation of farmland and soil health. We are opposed to the carbon dioxide pipeline project proposed by Wolf Carbon Solutions US LLC (Wolf) because it is a false solution to climate change that will divert attention from more effective solutions. We also oppose the Wolf project because it will adversely impact the farmland over which it would be constructed.

2. Wolf is a pipeline company within the meaning of Iowa Code § 479B.2, subject to the jurisdiction of the Iowa Utilities Board (IUB).

3. The IUB is a state agency having the jurisdiction and authority to permit hazardous liquid pipelines in Iowa, pursuant to Chapter 479B of the Iowa Code.

4. Sierra Club has been working with landowners who will likely be impacted by the construction and operation of the Wolf pipeline. The landowners are an important factor in challenging the permitting of the pipeline. It is therefore important for Sierra

Club to have the names of all likely affected landowners in order to help them respond to the threat of the pipeline crossing their land.

5. Wolf was required by the IUB to submit the list of landowners to the IUB, but Wolf requested that the list be kept confidential and not released to the public. Sierra Club filed a resistance to that request. Sierra Club also submitted to the IUB a request for release of the list pursuant to Chapter 22 of the Iowa Code.

6. Wolf in this action seeks to prevent release of the landowner list on several grounds. Sierra Club resists Wolf's arguments as follows:

A. Wolf has not shown, pursuant to Iowa Code § 22.7(18), that its submission of the landowner list was not pursuant to a procedure of the IUB. On the contrary, it was in response to an order from the IUB. Further, as found by Judge Nelmark in *Summit Carbon Solutions v. IUB*, Polk County No. CVCV062900 (2022), there is no showing that the IUB could not reasonably believe that Wolf would be discouraged from submitting the landowner list if the list were made public.

B. Wolf has not shown, pursuant to Iowa Code § 22.7(3), that the landowner list is a trade secret because it has not shown that the list has independent economic value. Further, in that connection, Wolf has not shown that it has any competitor that would gain any competitive advantage from having access to the list.

C. Wolf has not shown that release of the landowner list would be a violation of Iowa Code Chapter 550, because for the reasons stated in subparagraph B above, the landowner list is not a trade secret.

D. Wolf has not shown, pursuant to Iowa Code § 22.7(6), that releasing the landowner list would give a competitor a competitive advantage and would serve no

public purpose. Judge Nelmark, in the *Summit* case cited above, specifically found that release of the list would serve a public purpose.

E. Wolf is incorrect in relying on an alleged common law balancing test. The decisions in *Clymer v. City of Cedar Rapids*, 601 N.W.2d 42 (Iowa 1999) and *DeLa Meter v. Marion Civil Serv. Comm.*, 554 N.W.2d 875 (Iowa 1996), were based on a specific statutory exemption in the Open Records Law and did not announce a general balancing test.

F. Wolf has not shown that release of the landowner list would be an interference with prospective contractual relations. Intentional interference with a prospective business advantage or prospective contractual relations requires the plaintiff to prove (1) the plaintiff had a prospective business relationship or contract; (2) the defendant knew of the prospective relationship; (3) the defendant intentionally and improperly interfered with the prospective relationship; (4) the interference caused the third party not to enter or continue the relationship; and (5) the amount of damages. *Nesler v. Fisher and Co., Inc.*, 452 N.W.2d 191 (Iowa 1990).

G. Wolf has not shown that it has any constitutional right that would prevent the release of the landowner list.

H. Wolf has not shown that release of the landowner list would come within the exceptions in Iowa Code §§ 22.7(50) and 22.7(71), regarding information related to critical infrastructure. There is no critical infrastructure until the pipeline is constructed, and simply releasing the names of landowners on whose land the pipeline may be constructed does not endanger a pipeline that is not yet constructed.

WHEREFORE, Sierra Club Iowa Chapter requests that it be allowed to intervene and that the Court deny Wolf's Petition for Temporary and Permanent Injunction.

/s/ *Wallace L. Taylor*

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