

DIRECT TESTIMONY

OF

Brett Seagle

Energy Engineering Program
Safety & Reliability Division
Illinois Commerce Commission

Wolf Carbon Solutions US LLC

Application pursuant to the Carbon Dioxide Transportation and Sequestration Act (220 ILCS 75/1 et seq.) for a Certificate of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Docket No. 23-0475

October 24, 2023

Table of Contents

Properly Filed 7

Fit, Willing, and Able..... 11

Agreements with Carbon Dioxide Producers 13

Pipeline and Hazardous Materials Safety Administration 16

U.S. Army Corps of Engineers 17

Illinois Department of Agriculture 18

Financial, Managerial, Legal, and Technical Qualifications 18

Public Interest, Public Benefit, and Legislative Purpose 21

Other Considerations 39

Conclusion 41

1 **Q. Please state your name and business address.**

2 A. My name is Brett Seagle and my business address is Illinois Commerce
3 Commission, 527 East Capitol Avenue, Springfield, Illinois 62701.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by the Illinois Commerce Commission (“Commission”) as a Gas
6 Engineer in the Energy Engineering Program of the Safety & Reliability Division.

7 **Q. Please state your educational background.**

8 A. I hold a Bachelor of Science degree in Mechanical Engineering from Southern
9 Illinois University - Carbondale.

10 **Q. What are your duties and responsibilities as a Gas Engineer in the Energy
11 Engineering Program?**

12 A. My primary responsibilities and duties are in the performance of studies and
13 analyses dealing with the day-to-day, and long-term, operations and planning of
14 the gas utilities serving Illinois. For example, I review purchased gas adjustment
15 clause reconciliations, rate base additions, levels of natural gas used for working
16 capital, and utilities' applications for Certificates of Public Convenience and
17 Necessity. I have also testified in multiple pipeline cases.

18 **Q. What is the purpose of this proceeding?**

19 A. On June 16, 2023, Wolf Carbon Solutions US LLC (“WCSUS” or the “Company”)
20 filed an Application requesting the Commission issue it a certificate of authority
21 pursuant to the Carbon Dioxide Transportation and Sequestration Act (“CO₂ Act”)
22 (220 ILCS 75/1 *et seq.*) to construct and operate the Illinois portions of the Mt.
23 Simon Hub pipeline system (“MSH”) and related facilities. (Application, 2.)
24 Additionally, WCSUS is seeking an order authorizing it to take and acquire
25 easements and interests in private property in the manner provided for by the law
26 of eminent domain, as provided in Section 20(i) of the CO₂ Act. Id. at 37-38.

27 **Q. What is your role in this proceeding?**

28 A. My role is to determine whether WCSUS meets the requirements under the CO₂
29 Act to obtain a certificate of authority from the Commission to construct and
30 operate a carbon dioxide pipeline.

31 **Q. Have you determined whether WCSUS meets the statutory requirements for**
32 **the issuance of a certificate of authority by the Commission?**

33 A. I have determined that WCSUS does not meet the requirements for the issuance
34 of a certificate of authority, for reasons that I will discuss below. It is my
35 recommendation that the Commission deny WCSUS’s request for a certificate of
36 authority to construct and operate a carbon dioxide pipeline.

37 **Q. Do you have any exhibits or attachments to your testimony?**

38 A. Yes. I have included the following attachments to my testimony:

39	Attachment A	WCSUS Response to Staff data request (“DR”) IOA 1.02
40	Attachment B	WCSUS Response to Staff DR IOA 1.03
41	Attachment C	WCSUS Response to Staff DR IOA 1.26
42	Attachment D	WCSUS Response to Staff DR IOA 1.07
43	Attachment E	WCSUS Response to Staff DR IOA 1.08
44	Attachment F	WCSUS Response to Staff DR IOA 1.09
45	Attachment G	WCSUS Response to Staff DR IOA 1.13
46	Attachment H	WCSUS Response to Staff DR IOA 1.14
47	Attachment I	WCSUS Response to Staff DR OGC 2.01
48		

49 **Q. What findings must the Commission make to approve a request for a**
50 **certificate of authority for a carbon dioxide pipeline?**

51 A. Section 20(b) of the CO₂ Act states:

52 (b) The Commission, after a hearing, may grant an application for a certificate
53 of authority authorizing the construction and operation of a carbon dioxide
54 pipeline if it makes a specific written finding as to each of the following:

- 55 (1) [T]he application was properly filed;
- 56 (2) [T]he applicant is fit, willing, and able to construct and operate the
57 pipeline in compliance with this Act and with Commission regulations
58 and orders of the Commission or any applicable federal agencies;
- 59 (3) [T]he applicant has entered into an agreement with a clean coal
60 facility, a clean coal SNG [Substitute Natural Gas] facility, or any
61 other source that will result in the reduction of carbon dioxide
62 emissions from that source;
- 63 (4) [T]he applicant has filed with the Pipeline and Hazardous Materials
64 Safety Administration of the U.S. Department of Transportation all

- 65 forms required by that agency in advance of constructing a carbon
66 dioxide pipeline;
- 67 (5) [T]he applicant has filed with the U.S. Army Corps of Engineers all
68 applications for permits required by that agency in advance of
69 constructing a carbon dioxide pipeline;
- 70 (6) [T]he applicant has entered into an agreement with the Illinois
71 Department of Agriculture that governs the mitigation of agricultural
72 impacts associated with the construction of the proposed pipeline;
- 73 (7) [T]he applicant possesses the financial, managerial, legal, and
74 technical qualifications necessary to construct and operate the
75 proposed carbon dioxide pipeline; and
- 76 (8) [T]he proposed pipeline is consistent with the public interest, public
77 benefit, and legislative purpose as set forth in this Act [. . .].

78 220 ILCS 75/20(b)(1)-(8).

79 **Q. Does the CO₂ Act require the Commission to consider any other evidence**
80 **when considering an application for a certificate of authority?**

81 A. Yes. Section 20(b)(8) of the CO₂ Act also requires the Commission to consider
82 the following:

- 83 (A) [A]ny evidence of the effect of the pipeline upon the economy,
84 infrastructure, and public safety presented by local governmental
85 units that will be affected by the proposed pipeline route;
- 86 (B) [A]ny evidence of the effect of the pipeline upon property values
87 presented by property owners who will be affected by the proposed
88 pipeline or facility, provided that the Commission need not hear
89 evidence as to the actual valuation of property such as that as would
90 be presented to and determined by the courts under the Eminent
91 Domain Act [735 ILCS 30/1-1-1 et seq.];
- 92 (C) [A]ny evidence presented by the Department of Commerce and
93 Economic Opportunity regarding the current and future local, State-
94 wide, or regional economic effect, direct or indirect, of the proposed
95 pipeline or facility including, but not limited to, ability of the State to

96 attract economic growth, meet future energy requirements, and
97 ensure compliance with environmental requirements and goals;

98 (D) [A]ny evidence addressing the factors described in items (1) through
99 (8) of this subsection (b) or other relevant factors that is presented
100 by any other State agency, the applicant, a party, or other entity that
101 participates in the proceeding, including evidence presented by the
102 Commission's staff; and

103 (E) [A]ny evidence presented by any State or federal governmental
104 entity as to how the proposed pipeline will affect the security,
105 stability, and reliability of energy.

106 220 ILCS 75/20(b)(8)(A)-(E).

107 **Q. Are there any other provisions of the CO₂ Act that are relevant to your**
108 **testimony?**

109 A. Yes. Section 20(g) of the CO₂ Act provides as follows:

110 A final order of the Commission granting a certificate of authority
111 pursuant to this Act shall be conditioned upon the applicant obtaining
112 all required permits or approvals from the Pipeline and Hazardous
113 Materials Safety Administration of the U.S. Department of
114 Transportation, U.S. Army Corps of Engineers, and Illinois
115 Department of Agriculture, in addition to all other permits and
116 approvals necessary for the construction and operation of the
117 pipeline prior to the start of any construction. The final order must
118 specifically prohibit the start of any construction until all such permits
119 and approvals have been obtained.

120 220 ILCS 75/20(g).

121 Further, Section 20(i) of the CO₂ Act provides as follows:

122 (i) A certificate of authority to construct and operate a carbon
123 dioxide pipeline issued by the Commission shall contain and
124 include all of the following:

125 (1) a grant of authority to construct and operate a carbon
126 dioxide pipeline as requested in the application, subject
127 to the laws of this State; and

128 (2) a limited grant of authority to take and acquire an
129 easement in any property or interest in property for the
130 construction, maintenance, or operation of a carbon
131 dioxide pipeline in the manner provided for the exercise
132 of the power of eminent domain under the Eminent
133 Domain Act. The limited grant of authority shall be
134 restricted to, and exercised solely for, the purpose of
135 siting, rights-of-way, and easements appurtenant,
136 including construction and maintenance. The applicant
137 shall not exercise this power until it has used
138 reasonable and good faith efforts to acquire the
139 property or easement thereto. The applicant may
140 thereafter use this power when the applicant
141 determines that the easement is necessary to avoid
142 unreasonable delay or economic hardship to the
143 progress of activities carried out pursuant to the
144 certificate of authority.

145 220 ILCS 75/20(i).

146 **Q. Why is Section 20(g) of the CO₂ Act relevant to your testimony?**

147 A. As I detail below, there are certain forms, permits, or permissions that, for various
148 reasons, WCSUS has not obtained prior to the filing of my direct testimony.
149 However, the Commission's Final Order must be conditioned upon WCSUS
150 obtaining these forms, permits, or permissions before starting any construction on
151 its proposed pipeline. Therefore, in my non-legal opinion, WCSUS's failure to
152 obtain certain forms, permits, or permissions at this point does not, on its own,
153 disqualify it from obtaining a certificate of authority from the Commission.

154 **Q. Why is Section 20(i) of the CO₂ Act relevant to your testimony?**

155 A. In my review of the public comments in this docket, the overwhelmingly negative
156 feedback from those affected by the construction and operation of the MSH
157 pipeline displays the unpopularity and safety concerns of the public associated
158 with the proposed pipeline and ultimately supports my recommendation that
159 WCSUS's Application be denied.

160 **Properly Filed**

161 **Q. What does Section 20(d) of the CO₂ Act and Part 302.30(a) of the**
162 **Commission's Rules require?**

163 **A.** Section 20(d) of the CO₂ Act states:

164 An application for a certificate of authority filed pursuant to this
165 Section shall request either that the Commission review and approve
166 *a specific route for a carbon dioxide pipeline*, or that the Commission
167 review and approve a *project route width that identifies the areas in*
168 *which the pipeline would be located, with such width ranging from*
169 *the minimum width required for a pipeline right-of-way up to 200 feet*
170 *in width*. A map of the route or route width shall be included in the
171 application. The purpose for allowing the option of review and
172 approval of a project route width is to provide increased flexibility
173 during the construction process to accommodate specific landowner
174 requests, avoid environmentally sensitive areas, or address special
175 environmental permitting requirements.

176 220 ILCS 75/20(d) (emphasis added).

177 Part 302.30(a) of the Commission's Rules states:

178 [[A]ny Owner or Operator] shall file with the Illinois Commerce
179 Commission an application containing . . . a map of the route or route
180 width showing either the specific route for the carbon dioxide pipeline
181 (including size of site and width of easement to be sought), or the
182 project route width that identifies the areas in which the pipeline
183 would be located, with such route ranging from the minimum width
184 required for the pipeline right-of-way up to 200 feet in width [220 ILCS
185 75/20(d)], and pipeline length and diameter, and the location of any
186 above ground facilities (compressor stations, valves, etc.)

187 83 Ill. Adm. Code 302.30(a).

188 While I am not an attorney, I am advised by counsel that Section 20(d)
189 requires that WCSUS *either* apply for a specific route, *or* a project width up
190 to 200 feet. In its Application, WCSUS states, “WCSUS is proposing a
191 specific route *and* 200-foot project route width for the pipeline in Illinois.”
192 (Application, 14 (emphasis added).) WCSUS also states that it requests
193 approval of a 200-foot project route width along the proposed route of the
194 MSH. Id. at 3-4, 34. It appears that WCSUS’s position is that it may
195 “voluntarily locate the final 200-foot project route width.” (WCSUS’s
196 Response to Motion to Dismiss, 3 (Oct. 17, 2023).) However, I am advised
197 by counsel that WCSUS must have identified the specific location of the up-
198 to-200-foot project route width and depicted the project route width in a map
199 at the time of filing, and the statute does not give WCSUS the ability to
200 choose the location of the project width later. Staff counsel will address this
201 issue further in briefs.

202 **Q. Please explain the notice requirements that WCSUS must adhere to pursuant**
203 **to Section 20(e) of the CO₂ Act and Part 302.30 of the Commission's Rules.**

204 A. Section 20(e) of the CO₂ Act details the landowner notice requirements for
205 applications for a certificate of authority for carbon dioxide pipelines. Specifically,
206 Section 20(e) states that "notice of an application for a certificate of authority is
207 provided within 30 days after filing to the landowners along a proposed project
208 route, or to the potentially affected landowners within a proposed project route
209 width, using the notification procedures set forth in the Commission's rules." 220
210 ILCS 75/20(e).

211 Part 302.30(c) of the Commission's Rules states:

212 The applicant shall include with the application, when filed with the
213 Commission, a list containing the name and address of each owner
214 of record of the land along the proposed route, or within a proposed
215 project route width, as disclosed by the records of the tax collector of
216 the county in which the land is located, as of not more than 30 days
217 prior to the filing of the application. Notice of the filing of an
218 application for a certificate of authority shall be provided by the
219 Commission within 30 days after filing to the landowners along the
220 proposed route, or to the potentially affected landowners within a
221 proposed project route width. [220 ILCS 75/20(e).]

222 83 Ill. Adm. Code 302.30(c).

223 **Q. Has WCSUS complied with the requisite landowner notice requirements as**
224 **detailed in Section 20(e) and Part 302.30? Please explain.**

225 A. WCSUS indicates in its Application that Landowners in Exhibit F are the
226 landowners within the Notification Corridor. WCSUS used a multi-step process to
227 identify potentially affected landowners using records from county tax collectors,
228 tax assessors, and recorder offices. WCSUS also stated that it performed an
229 additional review of records prior to the filing of the Application. (Application, 33.)
230 Further, WCSUS witness Tracey McDaneld explains that two public informational
231 meetings were held on May 17, 2022, and December 12, 2022. (WCSUS Ex. 4.0,
232 3-4.)

233 However, it appears that several hundred landowners may not have received
234 notice of the proceeding. The Landowner List provided to the Commission from
235 WCSUS to send notice of this proceeding was also used to send a Landowner
236 Notification Letter providing notice regarding upcoming right-of-way (“ROW”)
237 negotiations. (Attach. I.) According to WCSUS, approximately 579 ROW
238 negotiation letters were not delivered. Id. Thus, since the Landowner List used by
239 the Commission clerk’s office should be identical to the Landowner Notification
240 Letter for ROW negotiations, I cannot be certain that all, or nearly all, of the
241 impacted landowners properly received notice of the proceeding.

242 Additionally, as I explain further below, due to comments made by officials from
243 the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) in a recent
244 public meeting regarding pipeline setbacks, the Notification Corridor may not cover
245 all the landowners affected if PHMSA enacts new CO₂ regulations regarding a

246 safety setback distance. (PHMSA Meeting Day 1 Transcript,
247 <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1426>, 24.)

248 **Q. In your opinion, has WCSUS properly filed its Application for a certificate of**
249 **authority to construct and operate a carbon dioxide pipeline pursuant to 220**
250 **ILCS 75/20?**

251 A. Based on the information currently available to me, it has not.

252 **Fit, Willing, and Able**

253 **Q. Has WCSUS demonstrated that it is willing to pursue the Project pursuant to**
254 **220 ILCS 75/20(b)(2)? If yes, please explain how.**

255 A. Yes. WCSUS has filed its Application for a certificate with the Commission, and it
256 is also pursuing permits and applications with numerous agencies and
257 organizations. (WCSUS Ex. 5.5.)

258 **Q. Has WCSUS demonstrated that it is technically fit and able to construct the**
259 **Project pursuant to 220 ILCS 75/20(b)(2)?**

260 A. Yes. However, as I further explain below, I am concerned that the current
261 construction guidelines for CO₂ pipelines do not adequately address public safety.

262 **Q. How has WCSUS demonstrated that it is technically fit and able to construct**
263 **and operate a carbon dioxide pipeline?**

264 A. WCSUS has stated in testimony that the Company's management team is highly
265 experienced in the pipeline and infrastructure industry and has experience
266 operating and constructing various pipeline projects. (WCSUS Ex. 1.0, 6.) In his
267 direct testimony, WCSUS witness Dean Ferguson explained that the management
268 team overseeing the Project is highly experienced in the pipeline and infrastructure
269 industry including technical and operational expertise operating the Alberta Carbon
270 Trunk Line (a Canadian CO₂ pipeline operating since 2019), as well as numerous
271 other pipelines transporting multiple commodities. Id. Further, Mr. Ferguson
272 indicates that the management team has acquired or constructed and safely
273 operated thousands of miles of pipeline and associated infrastructure. Id. Mr.
274 Ferguson also indicates WCSUS retained third-party experts in CO₂ capture,
275 transportation, and sequestration to assist with and validate project routing, design,
276 construction, and operation. Id.

277 Additionally, WCSUS witness Patrick J. Brierley explained in his direct testimony
278 that WCSUS and its affiliates have over 200 years of combined experience in
279 constructing pipelines and associated infrastructure industries, including technical
280 expertise to safely transport CO₂ across MSH Pipelines. (WCSUS Ex. 3.0R, 23.)
281 Further, as indicated above WCSUS has operated the Alberta Carbon Trunkline
282 for approximately 3.5 years. Id. Mr. Brierley indicates that experienced companies

283 have been or will be hired to help design the pipeline. WCSUS stated that it has
284 retained a company named “EXP”¹ to complete a preliminary Geohazard
285 Assessment Study for the MSH Pipeline route. Id. at 26. WCSUS stated that it
286 has retained Integrated Modelling to conduct preliminary dispersion plume
287 modeling. Id. at 21. Mr. Brierley also stated that when the Company evaluates
288 potential construction firms, it will review factors such as the contractors’
289 experience, previous projects in the region, ability to work in the respective region,
290 labor and equipment resources, financial strength, safety record, and outstanding
291 litigation. Id. at 22.

292 **Q. Based on the information you reviewed, is it your opinion that WCSUS is fit,**
293 **willing, and able to construct and operate the carbon dioxide pipeline?**

294 A. Yes; however, it is my opinion that the current construction guidelines for CO₂
295 pipelines do not adequately address public safety and new PHMSA regulations
296 may render the proposed route non-compliant.

297 **Agreements with Carbon Dioxide Producers**

¹ “EXP” is not otherwise defined by WCSUS in its Application, so it is unclear if “EXP” is an acronym.

298 **Q. Has WCSUS entered into any agreements with any sources of carbon dioxide**
299 **that will result in the reduction of carbon dioxide emissions from those**
300 **sources pursuant to 220 ILCS 75/20(b)(3)?**

301 A. No. WCSUS witness Nicholas Noppinger stated in his direct testimony that
302 WCSUS is negotiating with Archer-Daniels-Midland Company (“ADM”) and several
303 other industrial producers across the MSH footprint in both Iowa and Illinois to
304 initially capture, transport, and store up to 3 million metric tons (“MMT”) of CO₂
305 annually. (WCSUS Ex. 2.0, 2.) Mr. Noppinger indicates that negotiations with
306 ADM are “at an advanced stage.” Id.

307 Further, WCSUS admits that a definitive agreement has not been reached with
308 ADM and provides only a letter agreement that, as I understand, is not a final
309 binding agreement. (Attach. A.) Also, WCSUS explains that it has contacted and
310 has reached in some cases definitive agreements with other CO₂ producers, but
311 does not provide copies of any signed documents, indicating that demand for
312 transporting CO₂ across the MSH pipeline cannot be reasonably estimated.
313 (Attach. B.)

314 **Q. Does the lack of a final binding agreement to ship CO₂ on the MSH pipeline**
315 **cause you any concern?**

316 A. Yes. Mr. Noppinger states that ADM will be the “foundational shipper”² in the
317 pipeline. (WCSUS Ex. 2.0, 3.) However, as noted above, WCSUS and ADM have
318 yet to come to a final, binding agreement. If WCSUS is unable to reach a final,
319 binding agreement with ADM, I recommend that the Commission deny the
320 Company’s request, given that ADM would be the main customer looking to
321 transport and ultimately store CO₂.

322 Further, WCSUS has not provided a final, binding agreement with other CO₂
323 producers; rather, WCSUS has only stated that it has entered into “definitive”
324 agreements. (Attach. B.) Staff notes that definitive agreements are not final,
325 binding agreements, and WCSUS has not provided the agreements for Staff to
326 review.

327 **Q. Why do you recommend that the Commission deny WCSUS’s Application if**
328 **no agreement is reached between WCSUS and a CO₂ producer?**

329 A. I am advised by counsel that WCSUS has not met the requirements of 220 ILCS
330 75/20(b)(3) of the CO₂ Act which requires that “applicant has entered into an
331 agreement.”

332 Additionally, in each prior Commission pipeline case in which I provided testimony,
333 it has been common practice for the entity shipping natural gas or oil to have a

² WCSUS did not define the term “foundational shipper” in its testimony. It is Staff’s understanding that foundational shipper refers to the main customer of the pipeline.

334 supply of product to transport and either an agreement or letter of intent from the
335 shipper that it will procure capacity on the pipeline. If the letter of intent in those
336 oil or natural gas pipelines indicates that an agreement will be reached and gives
337 a specific date when those agreement documents will be signed, I do not raise an
338 issue. In this proceeding, WCSUS is shipping CO₂, not natural gas or oil; however,
339 it is my opinion that such an agreement for capacity must be in place between the
340 supplier and the shipper before I would consider recommending approval of this
341 project. In other words, WCSUS cannot demonstrate why the pipeline construction
342 is in the public interest or if there is a public benefit without any agreements to ship
343 product using the pipeline as discussed further below.

344 **Q. If ADM and WCSUS or if WCSUS and another CO₂ producer reach a final**
345 **binding agreement, will that alleviate your concerns?**

346 A. Until I see the agreement, I cannot provide a definitive response.

347 **Pipeline and Hazardous Materials Safety Administration**

348 **Q. Has WCSUS filed with the Pipeline and Hazardous Materials Safety**
349 **Administration (“PHMSA”) of the U.S. Department of Transportation all**
350 **forms required in advance of constructing a carbon dioxide pipeline**
351 **pursuant to 220 ILCS 75/20(b)(4)?**

352 A. No. While WCSUS witness Mr. Brierley does indicate that WCSUS is in discussion
353 with PHMSA, WCSUS's application for a PHMSA Operator ID and authority to
354 operate a hazardous liquid pipeline will be submitted to PHMSA in mid-2024.
355 (WCSUS Ex. 3.0R, 3-4; Attach. D.)

356 **Q. Is the lack of a PHMSA Operator ID and authority to operate a reason to deny**
357 **WCSUS's request for service authority in the instant proceeding?**

358 A. Yes. I am advised by counsel that 220 ILCS 75/20(b)(4) requires that the applicant
359 file "all forms" required by PHMSA in advance of constructing a carbon dioxide
360 pipeline.

361 **U.S. Army Corps of Engineers**

362 **Q. Has WCSUS filed with the U.S. Army Corps of Engineers all applications for**
363 **permits required in advance of constructing a carbon dioxide pipeline**
364 **pursuant to 220 ILCS 75/20(b)(5)?**

365 A. No, WCSUS intends to submit applications for two permits and one authorization
366 in the fall of 2024 and the fall of 2023, respectively. (Attach. D.)

367 **Q. Has WCSUS obtained all applications and permits from the U.S. Army Corps**
368 **of Engineers required in advance of constructing a carbon dioxide pipeline**
369 **pursuant to 220 ILCS 75/20(b)(5)?**

370 A. No. According to WCSUS's response to Staff DR IOA 1.07 (Attach. D), it expects
371 to obtain all permit(s)/authorization by Spring 2025.

372 **Q. Is WCSUS's lack of permits from the U.S. Army Corps of Engineers a reason**
373 **to deny its requested certificate of authority?**

374 A. Yes. I am advised by counsel that the CO₂ Act requires that the applicant "*has*
375 *filed*" for all U.S. Army Corps of Engineers applications it requires. 220 ILCS
376 75/20(b)(5) (emphasis added). Because WCSUS has not filed for all of its
377 necessary permits from the U.S. Army Corps of Engineers, I recommend that the
378 Commission deny the Application.

379 **Illinois Department of Agriculture**

380 **Q. Has WCSUS entered into an agreement with the Illinois Department of**
381 **Agriculture ("IDOA") that governs the mitigation of agricultural impacts**
382 **associated with the construction of the pipeline pursuant to 220 ILCS**
383 **75/20(b)(6)?**

384 A. Yes. WCSUS filed the agreement as WCSUS Exhibit 3.3 on July 10, 2023.

385 **Financial, Managerial, Legal, and Technical Qualifications**

386 **Q. Did you review whether WCSUS has the required financial, managerial, legal,**
387 **and technical qualifications to construct and operate a carbon dioxide**
388 **pipeline pursuant to 220 ILCS 75/20(b)(7)?**

389 A. I have reviewed the Company's managerial and technical qualifications. However,
390 I will not address the Company's financial qualifications, as Staff witness, Prabesh
391 Bista, will address this issue in Staff Exhibit 2.0. I will also not directly address the
392 Company's legal qualifications but will provide a summary of what WCSUS has
393 demonstrated in this area so that the Commission will have the necessary
394 information to form an opinion on the matter.

395 **Q. How has WCSUS demonstrated that it has the managerial and technical**
396 **qualifications to construct and operate a carbon dioxide pipeline?**

397 A. As indicated above, the Wolf Carbon Solutions (a WCSUS affiliate) management
398 team has acquired or constructed and safely operated thousands of miles of
399 pipeline and associated infrastructure. Please see questions and answers under
400 the Fit, Willing, and Able heading regarding WCSUS's and affiliates' qualifications.

401 **Q. Are you providing an opinion regarding whether WCSUS has the required**
402 **legal qualifications to construct and operate a carbon dioxide pipeline?**

403 A. No. However, below I summarize what WCSUS has demonstrated in that area so
404 that the Commission will have the necessary information to form an opinion on the
405 matter.

406 **Q. Are you aware of any information that may relate to WCSUS's legal**
407 **qualifications?**

408 A. WCSUS has retained experienced outside counsel to assist with federal and state
409 regulatory, environmental, and other permitting and real estate matters.
410 (Application, 24.) WCSUS provides a listing of all federal, state, and local permits
411 and approvals that the Company is required to obtain in order to construct its
412 proposed pipeline. (Attach. D.)

413 **Q. Has WCSUS demonstrated that it is financially fit to construct and operate**
414 **the pipeline pursuant to 220 ILCS 75/20(b)(7)?**

415 A. Staff witness Prabesh Bista will address the financial issues in this proceeding in
416 Staff Exhibit 2.0.

417 **Q. Based on the information you reviewed, do you believe WCSUS possesses**
418 **the managerial and technical qualifications necessary to construct and**
419 **operate the carbon dioxide pipeline?**

420 A. Yes.

421 **Public Interest, Public Benefit, and Legislative Purpose**

422 **Q. What does the CO₂ Act provide with respect to legislative purpose?**

423 A. Section 5 of the CO₂ Act states the legislative purpose of the CO₂ Act:

424 Pipeline transportation of carbon dioxide for sequestration,
425 enhanced oil recovery, and other purposes is declared to be a public
426 use and service, in the public interest, and a benefit to the welfare of
427 Illinois and the people of Illinois *because pipeline transportation is*
428 *necessary for sequestration*, enhanced oil recovery, or other carbon
429 management purposes and thus is an essential component to
430 compliance with required or voluntary plans to reduce carbon dioxide
431 emissions from "clean coal" facilities and other sources. *Carbon*
432 *dioxide pipelines are critical to the promotion and use of Illinois coal*
433 and also advance economic development, environmental protection,
434 and energy security in the State.

435 220 ILCS 75/5 (emphasis added).

436 **Q. Please explain Section 20(b)(8) of the CO₂ Act.**

437 A. Section 20(b)(8) states that the Commission must make a specific finding that “the
438 proposed pipeline is consistent with the public interest, public benefit, and
439 legislative purpose as set forth in this Act.” 220 ILCS 75/20(b)(8). The
440 Commission shall also consider additional evidence as detailed in Section
441 20(b)(8)(A)-(E). Section 20(b)(8)(D) also specifically allows for the Commission
442 Staff to present evidence on any “other relevant factors.” As part of my review, I
443 address each consideration under 20(b)(8) and analyze the proposed route of the
444 pipeline as an additional relevant factor.

445 **Q. In your opinion, does the proposed pipeline meet the legislative purpose**
446 **pursuant to 220 ILCS 75/20(b)(8)?**

447 A. No.

448 **Q. Please explain why, in your opinion, the proposed pipeline does not meet**
449 **the legislative purpose pursuant to 220 ILCS 75/20(b)(8).**

450 A. While I am not an attorney, Section 20(b)(8) requires that the proposed pipeline be
451 consistent with the public interest, public benefit, and legislative purpose as set
452 forth in Section 5; specifically, the legislative purpose as defined in Section 5 states
453 that the pipeline transportation of carbon dioxide for sequestration is declared to
454 be a public use and service and in the public interest, and a benefit to the welfare
455 of Illinois and the people of Illinois *because pipeline transportation is necessary for*
456 *sequestration*. 220 ILCS 75/5 (emphasis added).

457 Part of my route analysis included reviewing the endpoint of the pipeline. While
458 ADM has submitted two applications to the U.S. Environmental Protection Agency
459 for Class VI Injection wells (Attach. G), WCSUS and ADM still have not reached a
460 final binding agreement for sequestration of CO₂ at the ADM site in or near
461 Decatur, IL. WCSUS has also not reached a final binding agreement with other
462 CO₂ producers.

463 Without a final binding agreement in place to sequester the CO₂, in my opinion,
464 the transportation of the CO₂ is not a benefit to the citizens of Illinois nor in the
465 public interest, as I indicated above in the Agreement with Carbon Dioxide
466 Producers section. As noted in Section 5, pipeline transportation of CO₂ is in the
467 public interest because the *pipeline is providing the transportation necessary for*
468 *sequestration*. However, if there is no sequestration due to no final binding
469 agreement between WCSUS and ADM or other CO₂ producers, in my non-legal
470 opinion, the result is that the transportation is not in the public interest, and
471 therefore, it is not consistent with the legislative purpose nor does it satisfy Section
472 20(b)(8).

473 Further, Section 5 of the CO₂ Act declares that carbon dioxide pipelines are in the
474 public interest of Illinois citizens, but also states that “[c]arbon dioxide pipelines are
475 critical to the *promotion and use of Illinois coal* and also advance economic
476 development, environmental protection, and energy security in the State.”
477 (emphasis added.) However, WCSUS seeks to transport CO₂ from *ethanol*
478 facilities in Cedar Rapids and Clinton, Iowa. (WCSUS Ex 1.0, 3-4 (emphasis
479 added).) Neither of those facilities are coal or SNG facilities. Although I am not
480 an attorney, in my opinion, WCSUS’s proposed pipeline does not match the
481 legislative purpose of the CO₂ Act, which sought to promote and use Illinois coal.
482 The only other Commission application filed, and ultimately granted, pursuant to
483 the CO₂ Act that I am aware of is Docket No. 13-0252. In contrast to the present

484 Application which seeks a 260-mile pipeline to transport CO₂ from ethanol facilities
485 in Cedar Rapids and Clinton, Iowa, to a storage facility in the Mt. Simon geological
486 formation near Decatur, Illinois, the application filed in ICC Docket No. 13-0252
487 sought a certificate for a 28-mile pipeline to sequester carbon in Illinois *from an*
488 *Illinois coal plant*. FutureGen Industrial Alliance, Inc., ICC Final Order, Docket No.
489 13-0252, 1 (Feb. 20, 2014) (emphasis added). It is my non-legal opinion that the
490 “other sources”, other than Illinois coal or SNG plants referenced by the CO₂ Act,
491 do not appear to align with the primary purpose of the CO₂ Act. Staff counsel will
492 address this issue further in briefs.

493 **Q. How did WCSUS select its proposed route width?**

494 A. In direct testimony, WCSUS witness Matt Kindred explained that the proposed
495 route was initially developed using a geographic information system computer
496 program known as ArcGIS. (WCSUS Ex. 5.0, 6.) WCSUS obtained numerous
497 data sets for categories such as existing infrastructure, environment, land use,
498 cultural sites, and other pertinent categories. Id. at 6-7. WCSUS reviews each
499 data set used in ArcGIS to “determine if they present a desirable location for a
500 pipeline to be located in the vicinity of, or whether they present undesirable
501 characteristics for pipeline installation and should be avoided.” Id. at 7. WCSUS
502 established a corridor along this route and was able to gather more information
503 along the corridor through flyovers, meetings with landowners and local officials,

504 surveys, and other means. Id. at 8. Additionally, “WCSUS was then able to
505 perform, and will continue to perform, micro-routing adjustments.” Id.

506 **Q. Does WCSUS intend to make use of authority granted by the Eminent**
507 **Domain Act?**

508 A. WCSUS states that:

509 WCSUS will not exercise eminent domain authority allowed by 220 ILCS
510 75/20(i)(2) until it has used reasonable and good faith efforts to acquire the
511 necessary property or easement, and further will only exercise such
512 authority once WCSUS has determined that the property or easement is
513 necessary to avoid unreasonable delay or economic hardship to the
514 progress of activities carried out pursuant to the certificate of authority.

515 (Application, 37.)

516 **Q. Has the public expressed concerns regarding the construction of the MSH**
517 **pipeline and the use of eminent domain?**

518 A. Yes. The Public Comments section available on the Commission’s eDocket
519 system has over 130 posted public comments, as of the date of this testimony, and
520 is demonstrative of the landowner sentiment in this docket. The majority of the
521 comments on e-Docket are overwhelmingly negative and detail landowner
522 concerns. There are also several public comments available on PHMSA’s website,
523 which further demonstrate the concerns about the safety of the pipeline. (PHMSA,
524 *Meetings: Carbon Dioxide Public Safety*, <https://www.regulations.gov/document/>

525 PHMSA-2023-0013-0001/comment.) I recommend the Commission consider the
526 overwhelmingly negative public sentiment when evaluating WCSUS's application.

527 **Q. Given the overwhelmingly negative comments regarding the construction of**
528 **the pipeline, is it your opinion that WCSUS will have to use eminent domain**
529 **to acquire land rights, above or below ground?**

530 A. There is a high likelihood that many landowners will not agree through arm's-length
531 negotiations to sell land rights for the construction and operation of the MSH
532 pipeline.

533 **Q. How is eminent domain typically used?**

534 A. In pipeline construction dockets, it has been my professional experience that the
535 applicant is generally able to acquire the majority of easements through
536 negotiations in most dockets. Eminent domain is used as a last resort to obtain a
537 small percentage of easements from any holdout landowners who refuse to
538 negotiate. This prevents a small minority of landowners from obstructing a large
539 project to which most landowners along the route have given consent. In my
540 professional opinion, that is how eminent domain should be evaluated and utilized.
541 Using eminent domain to obtain an overwhelming majority of the land for a project
542 demonstrates that it is not in the public interest or public benefit.

543 **Q. Has WCSUS made efforts to negotiate voluntary easements with**
544 **landowners?**

545 A. It appears that WCSUS has not yet begun any actual negotiation with landowners
546 and has not executed any voluntary easements with landowners. (WCSUS Ex.
547 4.0, 7; Attach. E; Attach. F.) As I explain above, eminent domain is typically only
548 used to obtain easements from a small percentage of landowners. Here, without
549 knowing how many landowners are voluntarily signing easements, I cannot testify
550 at this time as to the negotiation process and whether eminent domain should be
551 granted. Further, the lack of negotiations limits the Commission's ability to
552 consider whether reasonable and good faith negotiations took place during the
553 pendency of the proceeding. I reserve the right to supplement my testimony
554 regarding the use of eminent domain and landowner negotiation in rebuttal
555 testimony.

556 **Q. Did you conduct a route review of WCSUS's proposed route in this**
557 **proceeding?**

558 A. Yes.

559 **Q. What did you conclude from your route review?**

560 A. Based on my review, I found no reason to object to WCSUS's general methodology
561 of selecting the proposed route. However, I reserve the right to revise my opinion
562 if new or additional information suggests a more reasonable route exists.

563 **Q. Do you consider public safety to be a relevant topic pertaining to public**
564 **interest?**

565 A. Yes. It is always in the public's interest for any construction project to be carried
566 out in a manner that minimizes harm to people and property. The Commission
567 has an obligation to weigh the risks to the citizens of Illinois when approving a
568 project of this magnitude. Specifically, the CO₂ Act states that the "Commission
569 shall consider the following: (A) any evidence of the effect of the pipeline upon the
570 economy, infrastructure and public safety..." 220 ILCS 75/20(b)(8)(A).

571 **Q. Should the Commission consider public safety in its determination in your**
572 **opinion?**

573 A. Yes. While I am not an attorney, it is my understanding that the Commission can,
574 and should, consider public safety (see 220 ILCS 75/20(b)(8)(A)) in its review of
575 CO₂ pipelines seeking a certificate of authority. However, it is my understanding
576 that the safety oversight of the CO₂ pipeline is PHMSA's responsibility:

577 Safety. Inasmuch as the regulation of the construction,
578 maintenance, and operation of pipelines transporting carbon
579 dioxide, whether interstate or intrastate, falls within the

580 statutory and regulatory jurisdiction of the Pipeline and
581 Hazardous Material Safety Administration of the federal
582 Department of Transportation, each carbon dioxide pipeline
583 owner shall construct, maintain, and operate all of its
584 pipelines, related facilities, and equipment in this State in a
585 manner that complies fully with all federal laws and
586 regulations governing the construction, maintenance, and
587 operation of pipelines transporting carbon dioxide, as from
588 time to time amended, and which otherwise poses no undue
589 risk to its employees or the public. This Section shall not be
590 interpreted to act in derogation of any such federal laws or
591 regulations.

592 220 ILCS 75/30.

593 **Q. Has WCSUS acknowledged that the Project is subject to PHMSA**
594 **jurisdiction?**

595 A. Yes. WCSUS witness, Patrick Brierley, discusses PHMSA's regulations that
596 govern the design, construction, and operation of the pipeline. (WCSUS Ex. 3.0R,
597 3-9.)

598 **Q. Is it your opinion that the proposed pipeline route is located at a distance**
599 **from houses and other places that will guarantee the safety of those people**
600 **in the event that there is an accidental release of CO₂ from the pipeline?**

601 A. I cannot make that determination. It does appear that WCSUS's proposed route
602 would meet or exceed PHMSA's current safety standards for the design of the
603 pipeline. (WCSUS Ex. 3.0R, 10-11.) If WCSUS does not meet the minimum safety
604 standards, PHMSA has jurisdiction to investigate those violations and ensure that

605 WCSUS complies with all of the applicable safety regulations. However, it is my
606 opinion that PHMSA's current regulations pertaining to carbon dioxide pipelines
607 are not sufficient to guarantee the public's safety in all possible scenarios.

608 **Q. Has PHMSA acknowledged the need for stronger safety measures for carbon**
609 **dioxide pipelines?**

610 A. Yes. On May 26, 2022, PHMSA announced its plans to conduct a rulemaking
611 related to CO₂ pipelines. In its press release, PHMSA stated that it was "taking
612 steps to implement new measures to strengthen its safety oversight of carbon
613 dioxide pipelines around the country and protect communities from dangerous
614 pipeline failures." The press release goes on to say that PHMSA is "initiating a
615 new rulemaking to update standards for CO₂ pipelines, including requirements
616 related to emergency preparedness, and response." The press release explains
617 that the new measures, as well as an enforcement action, are a result of PHMSA's
618 investigation into the CO₂ pipeline failure in Satartia, Mississippi in 2020, which
619 resulted in local evacuations and caused many people to seek medical attention.
620 PHMSA, *PHMSA Announces New Safety Measures to Protect Americans From*
621 *Carbon Dioxide Pipeline Failures After Satartia, MS Leak*,
622 [https://www.phmsa.dot.gov/news/phmsa-announces-new-safety-measures-](https://www.phmsa.dot.gov/news/phmsa-announces-new-safety-measures-protect-americans-carbon-dioxide-pipeline-failures)
623 [protect-americans-carbon-dioxide-pipeline-failures](https://www.phmsa.dot.gov/news/phmsa-announces-new-safety-measures-protect-americans-carbon-dioxide-pipeline-failures).

624 Additionally, on May 31-June 1, 2023, PHMSA hosted a public meeting regarding
625 the upcoming proposed rulemaking and CO₂ public safety in Des Moines, Iowa.
626 PHMSA, *Carbon Dioxide Public Safety*,
627 <https://www.regulations.gov/document/PHMSA-2023-0013-0001> (“PHMSA
628 Meeting.”) At the meeting, Tristan Brown, the Deputy Administrator of PHMSA
629 stated that “PHMSA is currently drafting a rulemaking to significantly strengthen
630 the safety and environmental protections for CO₂ transportation via pipeline.” He
631 also stated that PHMSA believed it was “vitaly important [that PHMSA] establish
632 stronger safety [and] environmental protections...” (PHMSA Meeting Day 1
633 Transcript, <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1426>, 4.)
634 Clearly, Mr. Brown and PHMSA would not consider it “vitaly important” to
635 “significantly strengthen” if the current regulations were already sufficient to
636 guarantee the public’s safety in all possible scenarios.

637 **Q. Were there any other topics discussed during the PHMSA meeting?**

638 A. Yes. Many topics were discussed, including setback requirements, pipeline
639 odorization, pipeline material and construction standards, and the regulation of
640 CO₂ in different matter states, among others. (See generally, PHMSA Meeting
641 Transcript.) Throughout the meeting, several PHMSA representatives reminded
642 the participants and attendees that PHMSA would be taking note of all the
643 comments and discussion when conducting the upcoming rulemaking. For
644 instance, Mr. Alan Mayberry, Associate Administrator for Pipeline Safety at

645 PHMSA, stated, “[w]e heard about setback concerns. We heard about dispersion
646 modeling and the concern over the lack of standards, but that is being considered
647 for the rulemaking.” (PHMSA Meeting Day 1 Transcript,
648 <https://primis.phmsa.dot.gov/meetings/FilGet.mtg?fil=1426>, 112.)

649 **Q. What is your concern with WCSUS’s requested certificate of authority with**
650 **respect to the upcoming PHMSA rulemaking?**

651 A. My concern is that given the likely change in PHMSA requirements for pipe
652 material specifications, setback distance and other safety concerns, the entire
653 MSH pipeline could become non-compliant with federal standards during or after
654 the construction of this pipeline.

655 **Q. Is it your opinion that the Commission should issue a certificate for a CO₂**
656 **pipeline to be built while PHMSA is undertaking a rulemaking to change the**
657 **safety standards that would apply to any new CO₂ pipeline construction?**

658 A. No. Once the pipeline is built, many of its characteristics cannot be easily changed,
659 such as location, thickness of the pipe wall, burial depth, etc. It is very possible
660 that PHMSA will issue new rules for characteristics such as a minimum setback
661 distance from homes and structures, that could cause WCSUS’s proposed pipeline
662 to not conform with the new regulations. However, it is unknown if the issuance of
663 a new PHMSA rule for CO₂ pipelines would lead to costly modifications, a

664 shutdown of the pipeline, or grandfathering in the existing, now non-complying
665 pipeline. Additionally, if this project moves forward prior to the rulemaking by
666 PHMSA, WCSUS could construct and operate a pipeline that is later found to be
667 non-compliant with PHMSA's new rules, and therefore, could be deemed unsafe
668 to operate. To avoid this potentially dangerous situation, I recommend that the
669 Commission deny WCSUS's Application on the basis of safety concerns until such
670 time that PHMSA completes its new rulemaking process.

671 **Q. Can you explain your reasoning behind your recommendation to the**
672 **Commission?**

673 A. It is my opinion that denial of WCSUS's Application for safety reasons until PHMSA
674 completes its new rulemaking process is both sensible and necessary, given the
675 circumstances. PHMSA has acknowledged that its rules are outdated and
676 inadequate. The lives and safety of Illinois citizens must come before business
677 concerns. In fact, there is pending Illinois legislation calling for a moratorium on
678 CO₂ pipeline construction pending the new rulemaking, indicating that the General
679 Assembly may share the same safety concerns. See Safety Moratorium on
680 Carbon Dioxide Pipelines Act, H.B. 3803 (2023). Therefore, it is my opinion that
681 the Commission should proceed cautiously and consider denying WCSUS's
682 application for a certificate of authority.

683 **Q. Do you have any other concerns regarding safety?**

684 A. Yes. WCSUS is currently developing its Emergency Response Plan (“ERP”),
685 which is “a plan that includes safety response procedures if an emergency
686 condition occurs as a result of the operation of a pipeline.” (WCSUS Ex. 3.0R, 8.)
687 The ERP “provides guidance on how personnel should respond under various
688 circumstances including step-by-step directions for internal and external
689 responses, notifications, documentation, reporting, and other actions.” Id.
690 Collaboration with local emergency response units is critical because those units
691 must have adequate training, equipment, and personnel necessary to respond to
692 an incident. WCSUS has stated that it is currently working with these units,
693 gathering input for the ERP, and will provide training and other resources to these
694 units. Id. at 27-31. However, the Commission will not get to see the results of
695 these efforts, nor have the opportunity to evaluate or comment on the ERP prior to
696 the record being closed in this docket. WCSUS stated that it would not be
697 providing drafts of its ERP to local authorities and first responders until 90-180
698 days before the commencement of construction in the second quarter of 2025. Id.
699 at 30. In sum, WCSUS is asking the Commission to approve its pipeline project
700 without getting any feedback from local governmental units on the adequacy of the
701 ERP, the amount of training offered by WCSUS, the amount of money that
702 WCSUS will actually spend purchasing critical emergency response equipment,
703 and other aspects of its safety planning. This is despite Section 20(b)(8)(A) of the
704 CO₂ Act requiring the Commission to consider the following:

705 (A) Any evidence of the effect of the pipeline upon the economy,
706 infrastructure, and *public safety presented by local governmental*
707 *units* that the proposed pipeline affects;

708
709 220 ILCS 75/20(b)(8)(A) (emphasis added). Thus, while the CO₂ Act does not
710 explicitly require an applicant to submit an emergency response plan at the time
711 of its application, WCSUS's lack of an emergency response plan is a critical
712 consideration, and ultimately severely curtails local governments' ability to provide
713 evidence, and for the Commission to weigh that evidence, on the public safety of
714 the Project.

715 **Q. Besides safety, why is the proposed route a relevant factor in this**
716 **docket?**

717 A. The pipeline route is at the very center of this case. It determines which
718 landowners are affected, and thus notified, of this certification process. The route
719 determines what construction methods are used to install the pipe and what safety
720 mechanisms and precautions must be engineered into the system. The route was
721 addressed by WCSUS in both the Application (Application, 19-24) and in direct
722 testimony (WCSUS Ex. 1.0, 4; WCSUS Ex. 5.0, 6-13).

723 **Q. Where will WCSUS's proposed route terminate?**

724 A. WCSUS's Application states:

725 Subject to agreement of a final binding agreement, it is envisaged
726 that sequestration would be provided at both existing and new ADM
727 sites in or near Decatur, IL, that injects into the Mt. Simon saline
728 aquifer, a proven geologic zone for CO2 sequestration. Additional
729 sequestration capability will be developed by WCSUS in the future
730 as commercial developments warrant.

731
732
733

(Application, 4.)

734 **Q. Who is responsible for the sequestration facilities at the sites mentioned**
735 **above?**

736 A. It is my understanding that ADM will provide the initial sequestration facilities.

737 **Q. Has ADM obtained all the necessary land rights to construct the**
738 **sequestration facilities?**

739 A. WCSUS indicates that ADM has submitted two applications to the U.S.
740 Environmental Protection Agency for Class VI Injection wells. (Attach. G.) These
741 applications are dated August 2022 and April 2023. Id. Further, WCSUS indicates
742 that it cannot provide any additional information regarding ADM's land rights
743 acquisition in relation to its sequestration facility development. (Attach. H.)
744 Therefore, I cannot offer an opinion of whether the MSH pipeline will in fact have
745 a sequestration facility to store its product. WCSUS indicates that it plans to
746 develop sequestration capability in the future, as commercial developments
747 warrant; however, WCSUS has not submitted at this time permits or applications.

748 Id.

749 **Q. Has ADM received every permit and approval necessary to construct the**
750 **sequestration facilities?**

751 A. I cannot make that determination based on the evidence available to me at this
752 point in the proceeding.

753 **Q. Will ADM eventually obtain all the necessary permits and approvals to**
754 **construct the sequestration facilities?**

755 A. I cannot be certain that ADM will eventually obtain all such permits and approvals.

756 **Q. Is the pipeline project viable if the sequestration sites are not permitted and**
757 **constructed?**

758 A. No. The pipeline project requires both a pipeline and a sequestration site or sites
759 to deliver carbon dioxide to. If the sequestration site or sites are not permitted and
760 necessary land rights are not secured, the pipeline is not viable.

761 **Q. In your opinion, what will happen to the pipeline project if the**
762 **sequestration site is not viable due to difficulties with acquiring permits?**

763 A. There are two likely outcomes. The first would be that WCSUS and ADM do not
764 reach an agreement, making the ADM sequestration site non-viable, as previously
765 mentioned. In that scenario, the pipeline would not be constructed.

766 Alternatively, WCSUS could acquire permits for the construction of a sequestration
767 facility, either nearby in the Mt. Simon formation, or in a different location entirely.
768 In this second scenario, the pipeline would likely need to be rerouted, perhaps only
769 a few miles, or entirely out of Illinois. If the pipeline were to still pass through
770 Illinois, the route would still change, and the list of affected landowners would
771 change as well. Thus, if the pipeline were re-rerouted, there would almost certainly
772 be landowners affected by the re-route who did not receive notice and did not have
773 the opportunity to participate in the original certification process.

774 Although I am not an attorney, it is my understanding that the Commission may
775 only grant a certificate to build a pipeline in the place and manner that the Company
776 has applied for. If the Company is unable to sequester the CO₂ in the location in
777 which it applied, the route would likely need to be re-routed, which in turn, impacts
778 different land and landowners. Therefore, without securing a final, binding
779 agreement with ADM for the sequestration site, the entire route and the pipeline
780 itself are called into question. Said another way, if the sequestration site cannot
781 be used, then the pipeline is unlikely to be built.

782 **Q. Regarding the first scenario in which the pipeline would not be constructed,**
783 **is there potential harm in the Commission issuing a certificate of authority**
784 **for the pipeline now?**

785 A. Yes, potentially affected landowners will likely experience significant harm. While
786 I am not an attorney, a potentially affected landowner pursuing their interests and
787 concerns in this docket and in any subsequent legal action, would be a substantial
788 investment in both time and money. Unless it can be shown that the Project is
789 guaranteed to be viable and constructed as planned, it is not beneficial nor in the
790 public interest of Illinois citizens for the Commission to issue WCSUS a certificate
791 of authority.

792 **Q. Has any other party provided information, to date, on the topics that you**
793 **addressed as items (A) through (E) of 220 ILCS 75/20(b)(8) above?**

794 A. No. However, if a party provides information related to items (A) through (E)
795 above, I reserve the right to modify the conclusions that I have reached in this
796 testimony.

797 **Other Considerations**

798 **Q. Are there any other concerns you are aware of?**

799 A. Yes. If the Commission determines that the Company is required to obtain a
800 common carrier certificate, the Company's failure to seek this certificate at this time
801 would be a cause for concern.

802 **Q. Has the Company filed an application for a Common Carrier Certificate**
803 **pursuant to 220 ILCS 5/15-401(a)?**

804 A. No.

805 **Q. What does the Common Carrier by Pipeline Law, 220 ILCS 5/15, state**
806 **regarding certification for a common carrier?**

807 A. A “common carrier by pipeline” is defined as “a person or corporation that owns,
808 controls, operates, or manages, within this State, directly or indirectly, equipment,
809 facilities, or other property, or a franchise, permit, license, or right, used or to be
810 used in connection with the *conveyance of gas or any liquid other than water for*
811 *the general public in common carriage by pipeline[.]”* 220 ILCS 5/15-201
812 (emphasis added). A common carrier by pipeline is required to possess a
813 certificate to operate prior to pipeline construction (220 ILCS 5/15-401(a)), which
814 is only issued if the Commission finds that public convenience and necessity
815 require issuance of the certificate, among other requirements. 220 ILCS 5/16-
816 401(b).

817 **Q: Is a common carrier certificate required for WCSUS in this proceeding?**

818 A: Although I am not an attorney and therefore will not provide a legal opinion or
819 advice, if the Commission determines that the Company is required to obtain a
820 common carrier certificate, the Company’s failure to seek this certificate at this time

821 would be a cause for concern. I am advised by counsel that a plain reading of the
822 CO₂ Act does not absolve applicants from seeking other applicable and required
823 approvals from the Commission. Staff counsel will address this issue further in
824 briefs.

825 **Conclusion**

826 **Q. What findings have you made as a result of your review?**

827 A. WCSUS has only met three out of the eight criteria that the Commission must
828 consider in granting an application for a certificate of authority to construct and
829 operate a CO₂ pipeline, pursuant to Section 20(b) of the CO₂ Act. Notably, as of
830 the date of this testimony, I am not aware of a final, fully executed agreement
831 between WCSUS and ADM, which in my opinion, is necessary to initiate
832 construction of the proposed pipeline. Also, the proposed pipeline is inconsistent
833 with the public interest, public benefit, and legislative purpose as set forth in the
834 CO₂ Act, as required by Section 20(b)(8). Therefore, the Commission should deny
835 WCSUS's application for a certificate of authority.

836 Specifically, the endpoint of the pipeline is currently uncertain, and subsequently,
837 the entire route is uncertain and likewise not proven to be a benefit to the citizens
838 of Illinois without a confirmed sequestration site. Further, WCSUS's pipeline is
839 contrary to the legislative purpose of the CO₂ Act, which sought to promote the use

840 of Illinois coal. Additionally, WCSUS's inability to provide an ERP during the
841 pendency of the proceeding leads to public safety concerns for local municipalities
842 and for the Commission. Without the ERP, the Commission is unable to consider
843 the evidence of public safety presented by local governmental units as required by
844 Section 20(b)(8)(A). Lastly, as acknowledged by PHMSA, the current PHMSA
845 regulations pertaining to CO₂ pipelines are not adequate to address the safety and
846 environmental threat posed by CO₂ pipelines. Due to safety concerns, until
847 PHMSA implements new regulations for CO₂ pipelines, WCSUS's application
848 should be denied.

849 **Q. What is your recommendation to the Commission?**

850 A. I recommend that the Commission deny WCSUS's request for a certificate of
851 authority for multiple reasons:

852 1. WCSUS's Application does not satisfy Section 20(b)(1). It is not certain
853 whether all, or nearly all, of the potentially affected landowners properly
854 received notice of the proceeding. Also, I am advised by counsel that WCSUS
855 must have identified the specific location of the up-to-200-foot project route
856 width and depicted the project route width in a map at the time of filing.

857 2. WCSUS's Application does not satisfy Section 20(b)(3). WCSUS has been
858 unable to provide Staff and demonstrate that there is a final, fully executed

859 agreement with its “Foundational Customer or Shipper,” ADM. Without a
860 sequestration facility secured, the endpoint of the pipeline and the entire route
861 are uncertain, as well as WCSUS’s ability to ship product to the customer. This
862 calls into question the likelihood of WCSUS being able construct the pipeline
863 itself and the viability of the entire project.

864 3. WCSUS’s Application does not satisfy Section 20(b)(4). WCSUS indicates that
865 it has not filed all forms required in advance of constructing the CO₂ pipeline
866 with PHMSA. WCSUS indicates that its application for a PHMSA Operator ID
867 and authority to operate a hazardous liquid pipeline will be submitted to PHMSA
868 in mid-2024.

869 4. WCSUS’s Application does not satisfy Section 20(b)(5). WCSUS indicates it
870 has not filed all applications for permits required in advance of constructing the
871 CO₂ pipeline with the U.S. Army Corps of Engineers. WCSUS indicates it
872 intends to submit applications for two permits and one authorization in the fall
873 of 2024 and the fall of 2023, respectively.

874 5. WCSUS’s Application does not satisfy Section 20(b)(8). The proposed project
875 is not a benefit to the citizens of Illinois, nor is it in the public interest. With the
876 endpoint of the route uncertain, it is impossible to determine what the route’s
877 effect on landowners will be. WCSUS’s failure to provide an emergency

878 response plan leaves the Commission unable to consider evidence of public
879 safety presented by local governmental units, pursuant to Section 20(b)(8)(A).

880 WCSUS's Application is inconsistent with the legislative purpose of the CO₂ Act,
881 as set out in Section 5. I further recommend that due to safety concerns for Illinois
882 citizens, the Commission should deny WCSUS's CO₂ pipeline application until
883 PHMSA has completed its rulemaking process.

884 However, if the Commission disagrees with my recommendation and issues a
885 certificate of authority to WCSUS, I recommend that the Commission impose a
886 condition in its Final Order requiring WCSUS to obtain all required permits or
887 approvals pursuant to Section 20(g), and all other permits and approvals
888 necessary for the construction and operation of the pipeline prior to the start of any
889 construction. Additionally, the issuance of a certificate of authority should be
890 subject to WCSUS submitting to the Commission, the final binding agreement with
891 ADM, prior to the start of any pipeline construction.

892 **Q. Does this conclude your prepared direct testimony?**

893 A. Yes, it does.

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.02. The Company states that WCSUS is negotiating with Archer-Daniels-Midland Company ("ADM") as the foundational customer (Application, 2). Please provide information or documentation detailing how those negotiations have progressed including signed copies of any final agreements. Please consider this an ongoing request, and update the response with the latest information on a monthly basis until the record in this docket is marked "Heard and Taken."

Response

Prepared By: Dean Ferguson
Title: President
Phone Number: 720-826-0737
Date: September 1, 2023

Wolf and ADM began preliminary discussions in early 2021. The parties reached a letter agreement, executed December 21, 2021, that described the basis for further discussion to define a definitive agreement. Throughout 2022 the parties worked collaboratively to further define the elements of the agreement. In late 2022, the parties determined that key issues remained outstanding and warranted focused discussion between them. The result of these discussions was a subsequent letter agreement, executed on July 10, 2023.

Wolf and ADM remain in ongoing negotiations aimed at concluding the contemplated definitive agreement in the near future.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Dean Ferguson
Print: Dean Ferguson
Title: President
Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.03. The Company states that WCSUS is negotiating with several other industrial producers across the Mount Simon Hub footprint (Application, 2). Please provide information or documentation detailing how those negotiations have progressed including signed copies of any final agreements as well as documentation of the industries of each party. Please consider this an ongoing request and update the response with the latest information on a monthly basis until the record in this docket is marked "Heard and Taken."

Response

Prepared By: Nicholas Noppinger
Title: Sr VP, Corporate Development
Phone Number: 720-826-0737
Date: September 1, 2023

WCSUS is actively engaged with several industrial producers across the footprint representing 1 million tons per year. These engagements are in various stages of commercial progress, from preliminary discussions to term sheets to definitive agreements. WCSUS is also in contact with over 5 million tons per year of additional emissions across the footprint that are evaluating carbon capture. The types of industries being considered for our services include, but are not limited to, ethanol, petrochemical, refined products, coal power generation and cement.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Nicholas Noppinger
Print: Nicholas Noppinger
Title: Sr. VP, Corporate Development
Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.26. The Company states that an “emergency response plan for the Mt. Simon Hub is being prepared that will include integration with geohazard identification and will be in place prior to commencing operation.” (Application, 32.) Please indicate when the Company will be able to provide this emergency response plan.

Response

Prepared By: Patrick J Brierley
Title: Vice President Engineering
Phone Number: 720-826-0737
Date: September 1, 2023

WCSUS will use the Emergency Response Plan “ERP” template from our affiliate company’s Alberta Carbon Trunkline; and migrate that to an ERP for the Mt Simon Hub. The preliminary draft ERP is in process and will be completed by end of year 2023. This confidential document will be available for local and emergency management administration “EMA” and government officials, to review for input and content collaboration. Department of Homeland Security and Health Insurance Portability and Accountability Act “HIPPA” confidentiality will be a priority. The final draft ERP will be included in the WCSUS application for a PHMSA Operator ID and authority to operate a hazardous liquid pipeline. This application will be submitted to PHMSA in mid-2024, with approval required prior to the planned commencement of operations by the end of 2025. After the commencement of operations, Department of Transportation regulations (195.403) require an update of the ERP at intervals not exceeding 15 months, but at least each calendar year. WCSUS plans to meet or exceed this requirement.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Patrick Brierley

Print: Patrick Brierley

Title: Vice President Engineering

Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.07. Please update Exhibit G of the Company's Application to add a column showing the date each application for a permit or authorization was submitted or anticipated to be submitted and another column showing the date that each permit or authorization was granted or is anticipated to be granted, distinguishing which entries are anticipated to be submitted/granted and those permits that have actually been submitted/granted. Please consider this an ongoing request, and update the Company's Exhibit G with the latest information on a monthly basis until the record in this docket is marked "Heard and Taken."

Response

Prepared By: Matt Kindred
Title: Senior Project Manager, KC Harvey Environmental
Phone Number: (406) 585-7402
Date: September 1, 2023

WCSUS has developed a list of potential permits or authorizations that will be required for the pipeline route. Final permitting and authorization requirements may depend on final siting and engineering of the pipeline. Attached is IOA 1.07 List of Anticipated Pipeline Permits and Approvals, which is a preliminary list of permits submitted or anticipated to be submitted and the date that each permit or authorization was granted or is anticipated to be granted. WCSUS will update and supplement this table in a timely manner.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Matt Kindred
Print: Matt Kindred
Title: Senior Project Manager, KC Harvey Environmental
Date: September 1, 2023

Exhibit G List of Anticipated Permits and Approvals/Actions.

Agency/Regulatory Entity	Agency Subdivision	Permit/Action	Date Submitted	Date Received
Federal				
U.S. Army Corps of Engineers (USACE)	Rock Island District	Section 404 Permit for dredge or fill in a Waters of the United States	Anticipated Fall 2024	Anticipated Spring 2025
U.S. Army Corps of Engineers (USACE)	Rock Island District, Regulatory Office	Section 10 Permit for construction of structure or work in, over, or under a navigable water of the United States	Anticipated Fall 2024	Anticipated Spring 2025
U.S. Army Corps of Engineers (USACE)	Rock Island District	Section 408 Authorization for alteration of an USACE Civil Works Project	Anticipated Fall 2023	Anticipated Spring 2025
U.S. Fish and Wildlife Service (USFWS)	Illinois-Iowa Ecological Services	Federal Endangered Species Assessment	Anticipated Fall 2024	Anticipated Spring 2025
United States Environmental Protection Agency (USEPA)	Region 7 and Region 5 Offices	Spill Prevention, Control, and Countermeasure (SPCC) Plan	Anticipated Fall 2024	Anticipated Spring 2025
US Department of Transportation (USDOT)	Pipeline and Hazardous Materials Safety Administration (PHMSA)	Pipeline Safety Requirements	Anticipated Fall 2024	Anticipated Spring 2025
State				
Illinois Commerce Commission (ICC)	--	Certificate of Public Convenience and Necessity	June 16, 2023	May 16, 2024
Illinois Commerce Commission (ICC)	--	Certificate of Authority	June 16, 2023	May 16, 2024
Illinois Department of Agriculture (IDOA)	--	Agricultural Impact Mitigation Agreement (AIMA)	July 6, 2023	July 7, 2023
Illinois Department of Natural Resources (DNR)	Endangered Species Protection Board	Endangered species consultation and environmental review	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Historic Preservation Division	Section 707	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Historic Preservation Division	Archeological & Paleontological resources on public lands	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Construction in a floodway authorization	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Construction Permit for Impacts to Public bodies of water	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Statewide Permit No. 2 for Construction of Bridge and Culverts crossings of streams in rural areas	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Statewide Permit No. 6 for Minor non-obstructive floodway construction activities	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Statewide Permit No. 8 for Underground Pipeline and Utility Crossings	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Natural Resources (DNR)	Office of Water Resources	Statewide Permit No. 9 for Minor shoreline, stream bank,	Anticipated Fall 2024	Anticipated Spring 2025

Agency/Regulatory Entity	Agency Subdivision	Permit/Action	Date Submitted	Date Received
		and channel protection activities		
Illinois Department of Natural Resources (DNR)	Office of Water Resources	State Permit No. 13 for Temporary Construction Activities	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Department of Transportation (IDOT)	--	Utility Permit	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Environmental Protection Agency (IEPA)	--	Section 401 Water Quality Certification for NWP 58	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Environmental Protection Agency (IEPA)	Bureau of Water	Hydrostatic Testing of Pipelines and Tanks (NPDES ILG67)	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Environmental Protection Agency (IEPA)	Bureau of Water	Construction Stormwater Permit (NPDES ILR10)	Anticipated Fall 2024	Anticipated Spring 2025
Illinois Environmental Protection Agency (IEPA)	Bureau of Air	Air Quality Permitting	Anticipated Spring 2024	Anticipated Spring 2025
Illinois Environmental Protection Agency (IEPA)	--	Spill Response Plan	Anticipated Fall 2024	Anticipated Spring 2025
Local				
All Counties	Building, Zoning, or Planning Departments	Building, Construction, or Zoning Permit	Anticipated Fall 2024	Anticipated Spring 2025
All Counties	Highway or Road Departments	Road crossing or Right-Of-Way Permit	Anticipated Fall 2024	Anticipated Spring 2025
All Counties	Building, Zoning, or Planning Departments	Floodplain Development Permit	Anticipated Fall 2024	Anticipated Spring 2025
All Counties	Building, Zoning, or Planning Departments	Grading, Erosion and Sediment Control, or Stormwater Management Permit or Approval	Anticipated Fall 2024	Anticipated Spring 2025

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.08. Please provide a spreadsheet with information identifying each contact (i.e., mailings, telephone calls, in person contact) the Company has had with each landowner to execute voluntary easements including: the date of the contact and, the result of that contact (i.e., whether information was provided, whether compromises were proposed, whether purchase offers were made, the monetary value of the offers, etc.) Please consider this an ongoing request, and update this response monthly until the record is marked "Heard and Taken."

Response

Prepared By: Tracey McDaneld
Title: Director of Government Relations and Land
Phone Number: 720-826-0737
Date: September 1, 2023

WCSUS has not had any contact with landowners to execute voluntary easements. WCSUS has not asked any landowner within that corridor one-half mile on either side of the proposed centerline to execute voluntary easements at this time. Wolf is currently concentrating on its landowner outreach efforts to first make an introduction to talk about the project, answer landowner questions, and provide additional information that a landowner may request. WCSUS will update this response monthly by providing a spreadsheet that will identify each contact (i.e., mailings, telephone calls, in-person contact) the Company has had with each landowner to execute voluntary easements including the date of the contact and, the result of that contact (i.e., whether information was provided, whether compromises were proposed, whether purchase offers were made, the monetary value of the offers, etc.)

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Tracey McDanel

Print: Tracey McDanel

Title: Director of Government Relations and Land

Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.09. Please provide a summary of how many voluntary easement agreements with landowners depicting all required land interests have been executed and how many are still needed, including a county-by-county summary. Please consider this an ongoing request, and update this response monthly until the record in this docket is marked "Heard and Taken."

Response

Prepared By: Tracey McDaneld
Title: Director of Government Relations and Land
Phone Number: 720-826-0737
Date: September 1, 2023

WCSUS has not executed any voluntary easements to date. Wolf has not started negotiating easements with landowners at this time. Wolf is currently concentrating on its landowner outreach efforts to first make an introduction to talk about the project, answer landowner questions, and provide additional information that a landowner may request.

Currently, the Illinois centerline parcel count is 717. The county-by-county summary is as follows:

De Witt, 41
Henry, 110
Knox, 12
Logan, 80
Macon, 56
Peoria, 205
Rock Island, 51
Stark, 37
Tazewell, 125

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Tracey McDaneld

Print: Tracey McDaneld

Title: Director of Government Relations and Land

Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.13. Please explain in detail the permitting process required for WCSUS and/or Archer-Daniels-Midland (“ADM”) to construct the sequestration facility/wells. Please provide a list similar to Company Exhibit G that details every permit and approval necessary: when the company applied for this permit(s) or plans to apply: and when the company anticipates receiving permit approval. Please consider this an ongoing request, and update this response monthly until the record in this docket is marked “Heard and Taken.”

Response

Prepared By: Patrick J Brierley
Title: Vice President Engineering
Phone Number: 720-826-0737
Date: September 1, 2023

The primary permit required for a sequestration facility is the EPA Class VI UIC permit. Additional Federal, State, and local permits may be required depending on the final scope of the overall sequestration facility.

As noted in paragraph 6 of WCSUS’ Application for Certificate of Authority, and subject to agreement of a final binding agreement with ADM, ADM will provide sequestration at a combination of existing and new sites near Decatur, IL. WCSUS is aware, from publicly available sources, that ADM has submitted 2 applications to the EPA for Class VI Injection wells. These applications are dated August 2022 and April 2023.

As further noted in paragraph 6 of WCSUS’ Application for Certificate of Authority, WCSUS will be developing sequestration capability in the future, as commercial developments warrant. Pending the final configuration and scope of the sequestration facility, including consideration of the number and location of wells, facilities, and flowlines, WCSUS has developed a list of potential permits that would be required for a sequestration facility, “IOA – 1.13 - List of Anticipated Permits for a Sequestration Facility”. WCSUS has included columns in this table to track Application and Approval dates. As commercial developments and final sequestration facility scope definition progresses, WCSUS will update this table.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Patrick Brierley

Print: Patrick Brierley

Title: Vice President Engineering

Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

IOA 1.14. Please explain whether WCSUS and/or Archer-Daniels-Midland (“ADM”) currently has the above and below ground land rights to both: (1) construct a sequestration facility both in the following counties: Knox, Stark, Peoria, Tazewell, Logan, Dewitt, and Macon; and (2) inject carbon dioxide (CO₂) into such a sequestration facility. If so, please provide the current capacity, i.e., how much total CO₂ can be sequestered in the pore space acquired at each location. Please consider this an ongoing request, and update this response on a monthly basis until the record in this docket is marked “Heard and Taken.”

Response

Prepared By: Patrick J Brierley
Title: Vice President Engineering
Phone Number: 720-826-0737
Date: September 1, 2023

As noted in paragraph 6 of WCSUS’ Application for Certificate of Authority, WCSUS will be developing sequestration capability in the future, as commercial developments warrant. WCSUS has been acquiring below ground land rights in Macon County to support a future sequestration facility. WCSUS has not acquired above ground land rights to date to construct a sequestration facility.

WCSUS is not able to provide information related to ADM’s acquisition of above or below ground land rights in relation to its sequestration facility development due to confidentiality provisions between WCSUS and ADM.

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in response to the above data request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.

Signed: /s/Patrick Brierley
Print: Patrick Brierley
Title: Vice President Engineering
Date: September 1, 2023

Wolf Carbon Solutions US LLC
Response to Illinois Commerce Commission Staff's Data Requests
Docket 23-0475

Wolf Carbon Solutions LLC, Application pursuant to the Carbon Dioxide Transportation and Sequestration Act for a Certification of Authority to Construct and Operate a Carbon Dioxide Pipeline and when Necessary to take Interests in Property as Provided by the Law of Eminent Domain.

Data Request

OGC 2.01. Referring to the “landowner notification letters dated July 31, 2023” (“letter”) referenced in the Company’s response to Staff Data Request IOA 1.10, please answer the following:

- a) Please provide a copy of the letter.
- b) Please provide the number of letters that were sent to landowners.
- c) How many letters were confirmed delivered to landowners?
- d) Please identify which landowners on the Landowner List (Exhibit F to WCSUS’s Application) did not receive the letter.
- e) Please explain the efforts, if any, WCSUS has made to notify landowners who did not receive the letter.

Response

Prepared By: Tracey McDanel
Title: Director of Government Relations and Land
Phone Number: 618/267-2349
Date: October 6, 2023

There were four thousand three hundred and eight letters mailed. Three thousand seven hundred and twenty-nine letters have a confirmed delivery receipt based on the United States Postal Service tracking website. When letters were returned, research was conducted by checking with the County Assessors online website to make sure the address listed on the website, specifically the property tax information, matched the address that was used for the letter. When that was confirmed, other online research was conducted through third-party websites such as www.beenverified.com, www.whitepages.com and www.intelius.com in an attempt to get a good address. If we felt confident that the address was good, we resent the notification letter to that address. A copy of the letter dated July 31, 2023 is provided as Attachment 1 to OGC 2.01. A list of landowners that have not yet received a letter due to refusal, unclaimed mail, still in transit, forwarding address expired, no forwarding address, or other reasons are listed in Attachment 2 to OGC 2.01.