

Appendix A

Agency Coordination

Federal Aviation Administration

- Initial Agency Coordination Letter- June 3, 2024



Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Sheri Lares
Environmental Protection Specialist
Federal Aviation Administration
2301 University Dr, Bldg 23B
Bismarck, ND 58504-7595

Re: Request for Input for the Proposed Toronto Power Plant

Dear Ms. Lares:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

MRES has completed initial environmental due diligence on the Project site and proposed transmission corridor and expects to file an Energy Conversion Facility Permit application with the South Dakota Public Utilities Commission in December 2024. Depending on a variety of factors, the Project is anticipated to start construction in 2027 and be operational by 2029.

MRES is holding a community meeting, and you are invited to attend and learn more about the Project. The following are the details of the meeting:

Date: June 11, 2024
Time: 4:00-6:00 pm CT
Location: Deubrook Elementary School Gym
695 Palisades Ave
Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to your agency's jurisdiction in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map



South Dakota Department of Agriculture and Natural Resources Coordination

- Initial Agency Coordination Letter- June 3, 2024
- Coordination Meeting- July 11, 2024
- Coordination Meeting- January 28, 2025
- Agency Coordination Email for Proposed Change to Combustion Turbines - May 23, 2025
- Agency Coordination Email Response - May 27, 2025



Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Baylee Hoff
Environmental Scientist
South Dakota Department of Agriculture and Natural Resources
523 E. Capitol Ave.
Pierre, SD 57501

Re: Request for Input for the Proposed Toronto Power Plant

Dear Ms. Hoff:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

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695 Palisades Ave
Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to air quality, hazardous materials, aquatic, biological, and natural resources in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

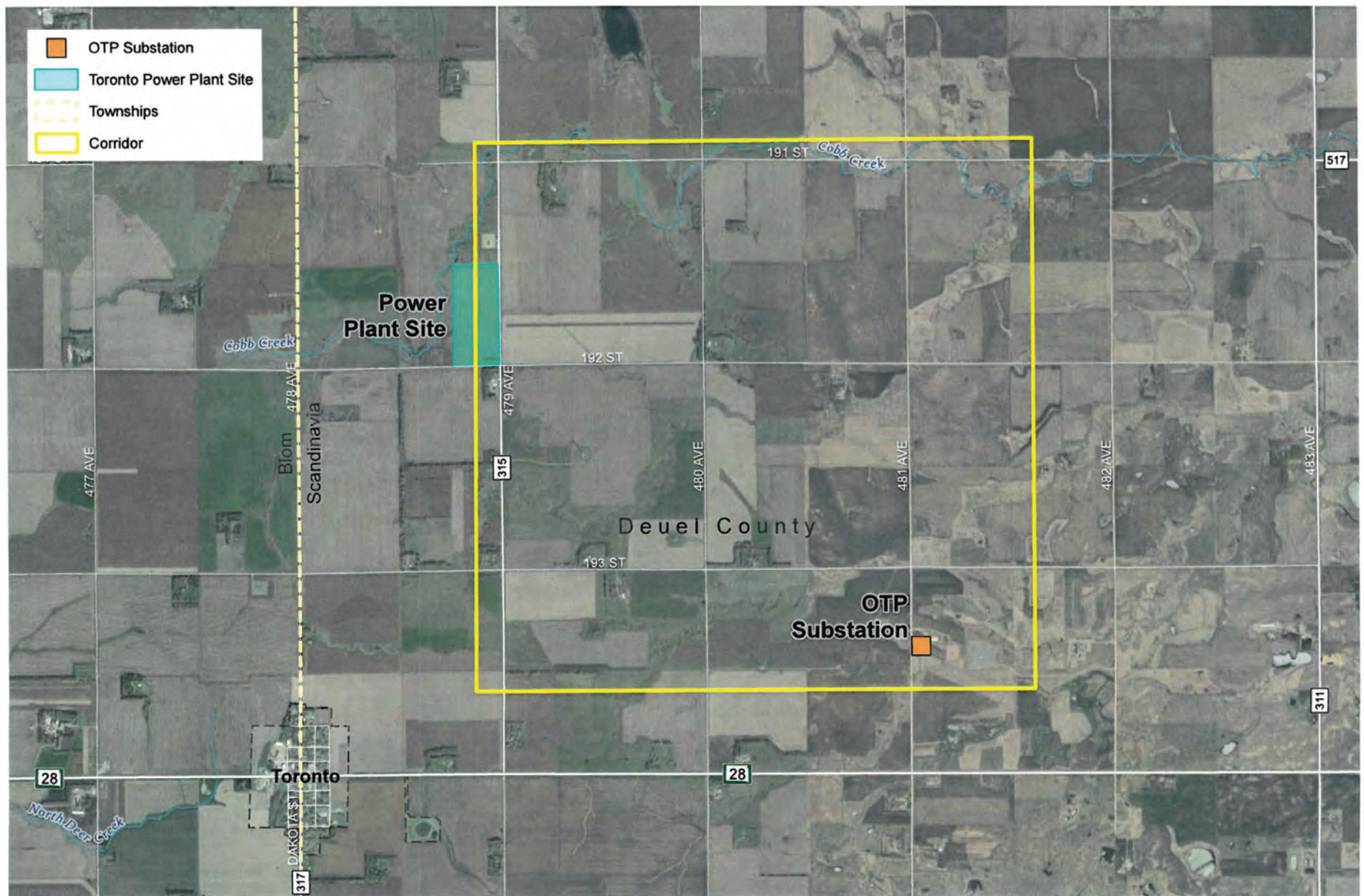
Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map





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PROJECT LOCATION

Meeting Minutes

Project: MRES Toronto Power Plant

Subject: SDDANR Coordination Meeting

Date: Thursday, July 11, 2024

Location: Teams

Attendees:

SDDANR

Trish Kindt
Ashley Brakke
Kent Woodmansey
Carrie Jacobson
Steve Kropp
Ron Duvall
Justin Allen
Nick Emme
Kathleen Grigg

MRES

Brent Moeller
Derek Bertsch
Valerie Holmes

Woods and Fuller

James Moore

Stanley

Andy Ungerman

HDR

Karen Burchardt
Becky Baker

Discussion:

- Presentation given.
- 200,000-gallon tank for fire retention, would like to use well
- Water feature planned is part of the intent to have a zero-discharge facility.
- Permitting Requirements
 - o *Kathleen Grigg- Water Quality*
 - If zero to discharge would change would need NPDES if direct discharge
 - Construction discharge NPDES is needed for over an acre.
 - Industrial discharge permit- she will provide additional information if we need to obtain this permit; no exposure certificate may be a good idea.
 - o *Ron Duvall- Water Rights*
 - Using water for industrial and commercial use, will need water rights.
 - There is one well- not a lot of water rights in that vicinity. Need to do a hydrologic budget done to make sure there is rights available for appropriation.
 - Submit application, then goes to public notice- then if uncontested: 3–4-month timeframe. Water Management Board hears contested cases, which could double or triple the length of time to obtain a permit.
 - Be expansive in designating uses in the application.
 - Once permit obtained have 5 years to construct.
 - Look at last report for the aquifer- to check on budget.

- If there are any other uses besides fire protection, you should list those on the application or state your use is for all industrial uses and fire protection.
- *Carrie Jacobson- Hazardous Waste*
 - Maintenance waste may be considered- solutions to clean equipment.
 - If we are unsure – they are happy to work with us to identify if anything falls under standards. Can assist in determining what type and level of generator the site would be.
 - Waste would be oil- secondary tank for that. Will be reprocessed and shipped out for repurposing. Glycol for cooling and there will be a tank, usually lasts many years and won't need to be replaced very often.
 - DANR does not issue hazardous waste permits
 - Small and large quantity generators submit EPA form 8700-12.
- *Nick Emme- Waste Management*
 - Radioactive materials requirements, industrial sources- during operation or construction. These materials need to be registered with SDDANR, no licenses, just a registration.
 - During construction, may be some radiographs completed. Make sure the company that completes this has been registered with SDDANR.
- *Steve Kropp- Solid Waste*
 - Plan to manage the debris from the construction, permitted solid waste sites or will there be an individual site? If individual site, then need to go through the permitting process, have to go through county permitting process as well. DANR map is available showing permitted sites around the area.
 - Use existing permitted facilities in the region, would not plan on creating project specific disposal site.
 - Clear Lake would be the closest, then Brookings and Watertown.
- *Trish Kindt- SPILLS*
 - Spill release of a regulated substance, then need to report to the state immediately. 25 gallons or if you impact surface waters, call the 24-hour number. Report even if within a building.
 - EPCRA- two reports we should look at- Tier 2 Reports and Toxic Release Inventory Report, need to be aware of both to make sure if we have to report.
- *Justin Allen- Storage Tanks Program*
 - Backup generator if tank is above ground, then not regulated, if underground then regulated.
 - Tanks will be above ground, so regulations do not apply.
 - If tanks are lubricants and outside of buildings- send in plan and specs to the program 30-day review timeframe. If tanks are within enclosed structure, the intent for the project would be inside buildings. If tanks are within fully enclosed building, then not regulated tanks- but worth sending in for review.
 - Oil water separator tanks are not regulated.
- *Ashley Brakke, Air Quality*
 - 18 months to begin construction once you obtain the air quality permit
 - Can you get an extension? SDDANR had not done that but if no design changes, could move forward with just reissuing another permit. Would be required to resubmit the permit application.

Shorter timeframe to reissue as the DANR would not have to redraft the permit.

- Submittal – if non-PSD source: 180-day lead time, if contested adds at least 4-5 months (same as water rights).
 - If PSD source: 1 year submittal lead time
 - 30-day public notice period. If someone comments, DANR has 30 days to respond to comment; the commenting party then has 30 days to contest the issued permit.
- Pouring footings etc. counts as construction- what is the definition of construction? Is procurement considered part of the construction? There are a few activities that can occur before permit is obtained. Ashley will provide this information.
- Ashley will provide information on insignificant activities to include in the permit application.
- If any septic facility needed, there are requirements.
- Spill prevention control and counter measure planning- this is an EPA requirement. Have been inspecting facilities, make sure we have that completed.



DEPARTMENT of AGRICULTURE and NATURAL RESOURCES

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

July 11, 2024

Missouri River Energy Services
Derek Bertsch, Regulatory & Contracts Counsel

Dear Mr. Bertsch:

Thank you for having a One-Stop meeting with our team on July 11, 2024 to discuss your proposed power plant in Deuel County, South Dakota. Please find in this document preliminary information on the Department of Agriculture and Natural Resources' permits and requirements that may be applicable to the facility. Further information on the Department's requirements and most permit applications are available on our internet site at <https://danr.sd.gov/> and <https://danr.sd.gov/Press/PermittingGuides.aspx>. As you get further along, if you would like to set-up another meeting to further discuss certain permits in more detail, please contact me by phone at (605) 773-3151 or by email at Ashley.Brakke@state.sd.us.

Based on the discussion of your proposed plant, you would likely need a Water Rights Permit, Stormwater Construction Permit, and Air Quality Permit. There are also several other types of permits discussed below that may be applicable to your proposed plant dependent on final design.

RADIOACTIVE MATERIALS AND RADIATION MACHINES

All industrial use radiological sources or radiation producing machines are required to be registered with the DANR. It's a registration requirement, not a license as DANR does not have regulatory authority for the licensing. If you need additional information, please contact Nick Emme at (605) 773- 3153 or by email at Nick.Emme@state.sd.us.

WATER RIGHTS

If the operation needs a water supply and the water supply is from private wells or a surface water source, a water right permit will need to be obtained for the appropriation of water. When considering the locations for well(s), if applicable, attention should be given to nearby existing wells to ensure that there is not a reduction of needed water supplies for domestic wells and that existing water rights are not being unlawfully impaired. Also, attention should be given to locating and/or constructing the well(s) to provide protection from possible flooding.

If you plan to get your water from a rural water or municipal system, you will not need a water right permit as the municipality or rural water system will have a water right permit of its own. If you may have standby wells in case something happens to your rural or municipal water supply, the standby wells would need a water right permit.

The Water Rights Program can provide you with information on local aquifers, wells in the area, and other water rights information. DNR recommends that if you choose to obtain a Water Rights Permit for fire suppression to include any other potential uses such as irrigation, domestic use, etc. in the original application. If you should have any further questions concerning the water right permitting requirements or the process for applying for a permit, please contact Ron Duvall at (605) 773-3352 or by email at Ron.Duvall@state.sd.us.

WATER QUALITY

Stormwater General Permit for Construction Activity

This permit is required where an acre or more is disturbed during construction. A copy of the general permit and application form (Notice of Intent) can be found on our website. There is a fee associated with new permit applications based on the size of the construction project. The fee information can also be found on this website. The permit needs to be in place and stormwater pollution prevention plan implemented when construction begins. We recommend you submit a permit application at least 15 days before starting construction. If you have any questions, please contact the stormwater team at 1-800-737-8676, (605) 773-3351, or by email at stormwater@state.sd.us.

AIR QUALITY

If equipment associated with the facility will emit pollutants to the ambient air, they will need to be permitted by the air quality program before construction begins. The permitting process may take up to 180 days. The air quality permit will cover any source that releases air contaminants to the ambient air. Examples of equipment that will be regulated by the permit are any generators, boilers, process equipment, etc. Since the facility will be a new source, you will need to apply for an air quality construction permit. If the facility is a major source, it will be subject to an annual air quality fee. If the facility meets EPA's definition for a Prevention of Significant Deterioration (PSD) facility, it will need a PSD preconstruction permit. This means that you may have to collect air quality samples for a period of time before we can begin processing your permit application. If you choose to begin construction prior to permit issuance, the regulations can be found in Administrative Rules of South Dakota 74:36:20:02.01 – Initiating Construction Prior to Permit Issuance: <https://sdlegislature.gov/Rules/Administrative/74:36:20:02.01>. Please contact Ashley Brakke at (605) 773-3151 or by email at Ashley.Brakke@state.sd.us for a permit application, more information or if you have any questions.

GROUND WATER DISCHARGE PERMIT

If your plan includes using lagoons for treatment or holding ponds and it is located over a shallow aquifer, ground water monitoring or a ground water discharge permit may be required. More information concerning ground water requirements can be obtained from Matt Hicks at (605) 773-3351 or by email at Matt.Hicks@state.sd.us.

HAZARDOUS WASTE

Among the waste streams generated by the plant, there may be some wastes that would be considered hazardous wastes. For example, laboratory wastes generated as a result of laboratory analyses, maintenance activities where cleaning or degreasing solvents are used, or outdated chemical disposal may be considered hazardous wastes. Although not considered a hazardous waste, the generation of used oil is also regulated under our state's hazardous waste rules. All used oil, waste paint, and hazardous wastes must be properly disposed. If you have specific Safety Data Sheets and process information, we can review that information ahead of time to determine what requirements would apply. Questions on the proper disposal of hazardous waste may be directed to Carrie Jacobson at (605) 773-3153 or by email at Carrie.Jacobson@state.sd.us.

STORAGE TANKS

Petroleum storage and any petroleum tanks used for fleet use are regulated. All regulated above ground storage tanks (AST) and underground storage tanks (UST), must be registered with this department. New regulated tank systems or upgraded existing facilities must have plans and specifications submitted for review and approval prior to their installation.

All existing AST systems must be protected from corrosion and depending on the size of the facility meet certain other requirements. All regulated USTs must have corrosion protection, leak detection, overfill prevention and overfill control. For more information regarding the regulation of storage tanks, please contact Justin Allen at (605) 773-3296 or by email at Justin.Allen@state.sd.us.

Your plant may also be regulated by the Spill Prevention Control and Countermeasure Plan (SPCC) rules. These are federal regulations administered by EPA in Denver. For more information, please contact EPA – Region 8 at (303) 312-6311.

OTHER WATER QUALITY

Stormwater General Permit for Industrial Activity

A copy of the general permit and application form (Notice of Intent) can be found on our website. If you do not have any chemicals exposed to stormwater, a No Exposure Certification form can be submitted in lieu of a permit application. The No Exposure Certification form can also be found on our website. The permit application or No Exposure Certification Form needs to be submitted at least 15 days before beginning operation. If you have any questions, please contact the stormwater team at (605) 773-3351 or by email at stormwater@state.sd.us.

Pretreatment Permit

If an operation plans to discharge industrial wastewater to a sanitary sewer the operation may need a pretreatment permit issued by the department and approval from the city prior to discharging. Several of the larger municipalities in the state operate their own pretreatment programs and issue permits in lieu of DANR. The purpose of this permit is to protect municipal sanitary sewer systems and treatment plants from impacts due to industrial discharges. The pretreatment permitting process may take up to 180 days. A permit issued by the department has an annual fee plus analytical testing costs. The department may be able to provide you with

information on the hydraulic and organic loading that a municipal system would have available. For more information on the department's pretreatment requirements, please contact Kyle Doerr at (605) 773-3351 or by email at Kyle.Doerr@state.sd.us.

Surface Water Discharge Permit

If your operation will have a direct discharge to surface water, it will need a Surface Water Discharge permit. Permit limits vary depending on the discharge characteristics and discharge location. If you can provide us with this information, we will determine if we can provide you with tentative permit limits or if instream sampling will be necessary before permit limits can be developed. The department's web site contains our 2022 Integrated Report for Surface Water Quality Assessment, showing impaired water bodies at:

https://danr.sd.gov/OfficeOfWater/SurfaceWaterQuality/docs/DANR_2022_IR_approved.pdf.

The report is used by the state to identify impaired water bodies in South Dakota. For more information about the report, contact Shannon Minerich by email at

Shannon.Minerich@state.sd.us or by phone at (605) 773-3351. If you plan to have a discharge to surface waters, the department recommends staying away from these impaired water bodies when looking at locations for your facility. Our water quality standards do not allow discharges to reach certain lakes. The permitting process may take up to 180 days. This permit will have an annual fee. The amount of the fee will depend on the production process used and the discharge flow rate. For further information on Surface Water Discharge permits, please contact please contact Kyle Doerr at (605) 773-3351 or by email at Kyle.Doerr@state.sd.us.

SOLID WASTE

Any solid waste produced by the facility and/or construction should be treated in accordance with the solid waste rules (Article 74:27) and state statutes for solid waste disposal (Chapter 34A-6). If any by-product or waste produced from the manufacturing process will be land applied, this process will require a solid waste disposal permit. A copy of this general permit and application are available online. If any by-products are disposed of in an existing permitted landfill, the company may not need a permit. If you choose to pursue becoming a permitted site for disposal of construction debris, please reach out to our Solid Waste Team for more information on the process. If any contaminated soil will be disposed of, it will need disposed at an approved site. Please contact Steve Kropp at (605) 773-3153 or by email at Steve.Kropp@state.sd.us if you have questions on solid waste requirements.

DRINKING WATER

State and EPA drinking water standards apply to all public water systems (PWS). If your operation is not connected to an existing municipal or rural water system, drinking water requirements may apply to your operation. A PWS is any water system that serves 15 service connections or 25 people per day for at least 60 days per year. There are several types of PWS. Community PWS are water systems that serve a residential population such as municipalities, rural water systems, mobile home courts, and housing developments. Non-transient non-community PWS are water systems that serve the same non-residents for at least six months per year such as day cares, workplaces (factories, etc.), and schools. Transient non-community water systems serve a transient or non-resident population such as campgrounds, resorts, and rest stops. Also, any new water system that will start operation after October 1999 must go through a capacity assurance review. For more information on drinking water requirements, contact Erin

Fagnan at 773-3754 or by email at Erin.Fagnan@state.sd.us.

ON-SITE WASTEWATER SYSTEM

It is common for certain operations to use an on-site wastewater system for disposal of domestic wastewater. If your operation plans to use an on-site wastewater system, department approval of on-site wastewater/septic system plans and specifications is required for your operation. Also, all on-site systems are required to be installed by certified installers. For more information contact Neal Konda at (605) 773-3351 or by email at Neal.Konda@state.sd.us.

DANR has approved several onsite wastewater systems where a requirement of approval was to obtain any necessary Class V permit from the EPA prior to placing the system into service. These onsite systems were for domestic wastes only. The department does not have the authority to grant approval for an onsite system that receives wastes other than domestic wastes. Systems receiving wastes other than domestic wastes need authorization through the U.S. Environmental Protection Agency. For more details about EPA's requirements, please contact Douglas Minter at (303) 312-6079 or Omar Sierra-Lopez (303) 312-7045.

PLANS AND SPECIFICATIONS APPROVAL

Plans and specifications for any new or modifications to any existing wastewater collection and treatment system or water distribution and treatment system may need department approval prior to starting construction. For more information on plans and specifications for wastewater treatment systems contact Kyle Doerr at (605) 773-3351 or by email at Kyle.Doerr@state.sd.us, for wastewater collection system plans and specifications information contact Neal Konda at (605) 773-3351 or by email at Neal.Konda@state.sd.us, and for drinking water distribution and treatment plans and specifications requirements contact Mark McIntire at (605) 773-3754 or by email at Mark.McIntire@state.sd.us.

SARA TITLE III and TIER II

Depending on the substances stored on or released from the site, your proposed facility may be subject to SARA Title III reporting requirements once you begin storing those substances on-site. To determine if your facility is subject to SARA Title III, contact Trish Kindt at 1-800-433-2288 or by email at Trish.Kindt@state.sd.us.

401 WATER QUALITY CERTIFICATION

Any federally permitted activity that has the potential to dump or discharge pollutants into waters of the state must comply with water quality standards. The actual discharge of pollutants is permitted by a variety of state or federal programs, depending on the type of discharge proposed. When the project requires a federal permit or license, such as a federal 404 dredge and fill permit issued by the U.S. Corps of Engineers, the state must issue a water quality certification before the federal permit can be issued. To obtain a water quality certification for this project, the owner or operator has the option of working directly with DANR or asking the federal permit issuing authority to work with DANR. For more information on water quality certification, please contact Shannon Minerich by email at Shannon.Minerich@state.sd.us or by phone at (605) 773-3351.

GEOLOGICAL SURVEY

The Geological Survey Program maintains a database of test holes and observation wells and may be able to help you determine water quality at different depths depending on each site. For more information, please contact Tim Cowman by email at Tim.Cowman@usd.edu or by phone at (605) 677-5227.

SECTION 404 PERMITS

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports) and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities). For information on this permit, please contact the Corps of Engineers at (605) 224-8531.

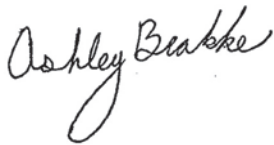
FIRE MARSHALL

I recommend you contact the state fire marshal's office to determine their requirements for this type of operation. Please call (605) 773-3562.

LOCAL REQUIREMENTS

You need to check with local governments in the city and county that you are planning on locating your operation in to determine any zoning requirements and processes they have. Please let me know if you have any questions and we look forward to working with you in the future!

Sincerely,

A handwritten signature in cursive script that reads "Ashley Brakke".

Ashley Brakke
Engineer III
SD DANR - One-Stop Permitting Contact
Phone: (605) 773-3151
Email: Ashley.Brakke@state.sd.us

Agenda

Project: MRES Toronto Power Plant

Subject: DANR Coordination- Wetland Impacts

Date: Tuesday, January 28, 2025

Location: Teams

1. Introductions

Becky Baker, Sr. Environmental Project Manager – HDR
Brent Moeller, Director of Generation Resources – MRES
Derek Bertsch – MRES
Tyler Fogelson – MRES
Andy Ungerman – Stanley Consultants
Sean Kruger, Scientist Manager I – SDDANR
Shannon Minerich, Environmental Scientist IV – SDDANR
Nick Kelly, Team Leader - SDDANR

2. Project Description

3. Environmental Coordination

- a. PUC Application
- b. DANR Coordination Meeting
- c. Wetland Delineation
- d. Preliminary Jurisdictional Determination

4. DANR Guidance for Wetland Impacts Needed

- a. [Administrative Rule 74:51:01:11 | South Dakota Legislature](#)
- b. Stormwater Detention
- c. Fill within Non-JD Wetlands

Discussion:

- Overview of the Project
 - o The project includes a proposed Toronto Power Plant and transmission line from the plant to the Ottertail Astoria substation.
 - o The plant will be approximately 140-megawatt, and we are in the evaluation stage.
 - o Wetland delineation, habitat assessment fieldwork and a cultural survey have been completed.
 - o Tentative construction start date in Q2 in 2027, completed by Q2 in 2029.
- Completing jurisdictional determination with USACE, initial results noted that there are three non-JD wetlands and one JD wetland on the power plant site.
 - o Since the project will not have a federal nexus or jurisdiction of the wetlands that are impacted, we are reviewing any state requirements or regulations.
 - o At the moment, no avenue for fill within non-jurisdictional wetlands to meet the SDDANR regulations is available. If able to get Nationwide Permit, could go that route.
 - o Construction is in 2027 – might be an avenue to meet the SDDANR regulation/requirement by this time.
 - o The JD wetland will be avoided by the project, with two non-JD wetlands proposed for drainage retention. No fill will occur within the wetlands.
 - o Could we utilize wetlands as detention basins? Would include runoff from project site, no point source discharges.
 - Regulation does discuss destruction and impairment, depending on the design DANR may consider regrading wetlands as destruction/impairment. Lining and berming differ from a natural wetland.
 - o A general construction NPDES permit will be required for the project.
 - o No NPDES permit is expected during project operations.
 - o Continue to coordinate with SDDANR as design occurs, share design for their review.

Follow Up Discussion at 12:00 pm

Attendees: Sean Kruger, Shannon Minerich, Becky Baker

Discussion:

- One pathway for the wetlands on site to be utilized for the runoff retention is to design them with natural components in mind. If they are converted from farmed

wetlands and have more water retention, they would provide value to the SDDANR set beneficial uses, specifically #9 Fish Propagation.

- If the design is more natural, retains their boundaries – doe not include a liner or berm, then we can provide an application for Wetland Restoration to SDDANR, link is here: [South Dakota Restoration Enhancement](#)
- The restoration approval would make sure the project is compliant with SDDANR wetland regulations.
- This does require a 10 day public notice, it is posted as Wetland Restoration.

From: [Brent Moeller](#)
To: DANRmail@state.sd.us
Cc: [Schmidt, Dan](#); [Baker, Becky](#)
Subject: Request for Input for the Proposed Toronto Power Plant
Date: Friday, May 23, 2025 10:46:06 AM
Attachments: [DANRMtg_07112024.pdf](#)
[Deuel County Power Plant_20240711.pdf](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

On July 11, 2024, an initial One-Stop meeting was held with your office for your input on the proposed Toronto Power Plant. See the attachments for the meeting minutes from this meeting, as well as your letter in response.

We are reaching out for additional coordination due to a change that has occurred to the proposed generators. Missouri River Energy Services is now proposing combustion turbines instead of RICE generators due to cost. The proposed ground disturbing activities and footprint of the plant and transmission line remain the same as originally proposed during initial coordination.

We are currently revising the draft Public Utilities Commission (PUC) application. Please respond by June 6th if you have any further input for the Project.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources
Missouri River Energy Services
PO Box 88920
Sioux Falls, SD 57109-8920
Phone 605-330-6969
Mobile 605-254-4076

From: [Brent Moeller](#)
To: [Brakke, Ashley](#)
Cc: [Koisti, Ben](#); [Baker, Becky](#)
Subject: RE: Request for Input for the Proposed Toronto Power Plant
Date: Tuesday, May 27, 2025 8:51:55 AM

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ashley,

No need for a meeting to discuss the change from going from the RICE gensets to combustion turbine gensets. The plan is to submit an air permit application in the coming months. The purpose of last weeks email was to provide notice of the change to the project from what we have discussed in the past. We want to be open and transparent as much as possible as to what we are doing with regards to this project. Let me know if you have any other questions.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources
Missouri River Energy Services
PO Box 88920
Sioux Falls, SD 57109-8920
Phone 605-330-6969
Mobile 605-254-4076

From: Brakke, Ashley <Ashley.Brakke@state.sd.us>
Sent: Tuesday, May 27, 2025 8:10 AM
To: Brent Moeller <Brent.Moeller@mrenergy.com>
Cc: Koisti, Ben <Ben.Koisti@state.sd.us>
Subject: FW: Request for Input for the Proposed Toronto Power Plant

MRES External Email Security: This email is from an outside source. Use caution before clicking on any link or downloading any content.

Hi Brent,

Thank you for reaching out. Are you looking to set-up another meeting to discuss potential requirements due to the engine changes?

Since we have not received an air quality application yet, the application process and emission thresholds would be the same for air quality.

Please let me know if you would like to set-up another meeting to discuss the changes.

Regards,

Ashley

From: Koisti, Ben <Ben.Koisti@state.sd.us>

Sent: Friday, May 23, 2025 2:35 PM

To: Brakke, Ashley <Ashley.Brakke@state.sd.us>

Subject: FW: [EXT] Request for Input for the Proposed Toronto Power Plant

Afternoon Ashley –

Please see message that came through DANR mail.

Thank you,

South Dakota Game, Fish and Parks Coordination

- Initial Agency Coordination Letter, June 3, 2024
- National Heritage Program Coordination, January 28, 2025
- Agency Coordination Email for Proposed Change to Combustion Turbines - May 23, 2025
- Agency Coordination Email Response - May 27, 2025
- Agency Coordination Email Response - June 3, 2025



Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Hilary Morey
Environmental Review Coordinator
SD Game Fish and Parks
523 E. Capitol Ave.
Pierre, SD 57501

Re: Request for Input for the Proposed Toronto Power Plant

Dear Ms. Morey:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

MRES has completed initial environmental due diligence on the Project site and proposed transmission corridor and expects to file an Energy Conversion Facility Permit application with the South Dakota Public Utilities Commission in December 2024. Depending on a variety of factors, the Project is anticipated to start construction in 2027 and be operational by 2029.

MRES is holding a community meeting, and you are invited to attend and learn more about the Project. The following are the details of the meeting:

Date: June 11, 2024
Time: 4:00-6:00 pm CT
Location: Deubrook Elementary School Gym
695 Palisades Ave
Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to aquatic, biological, and natural resources in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

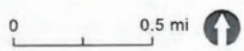
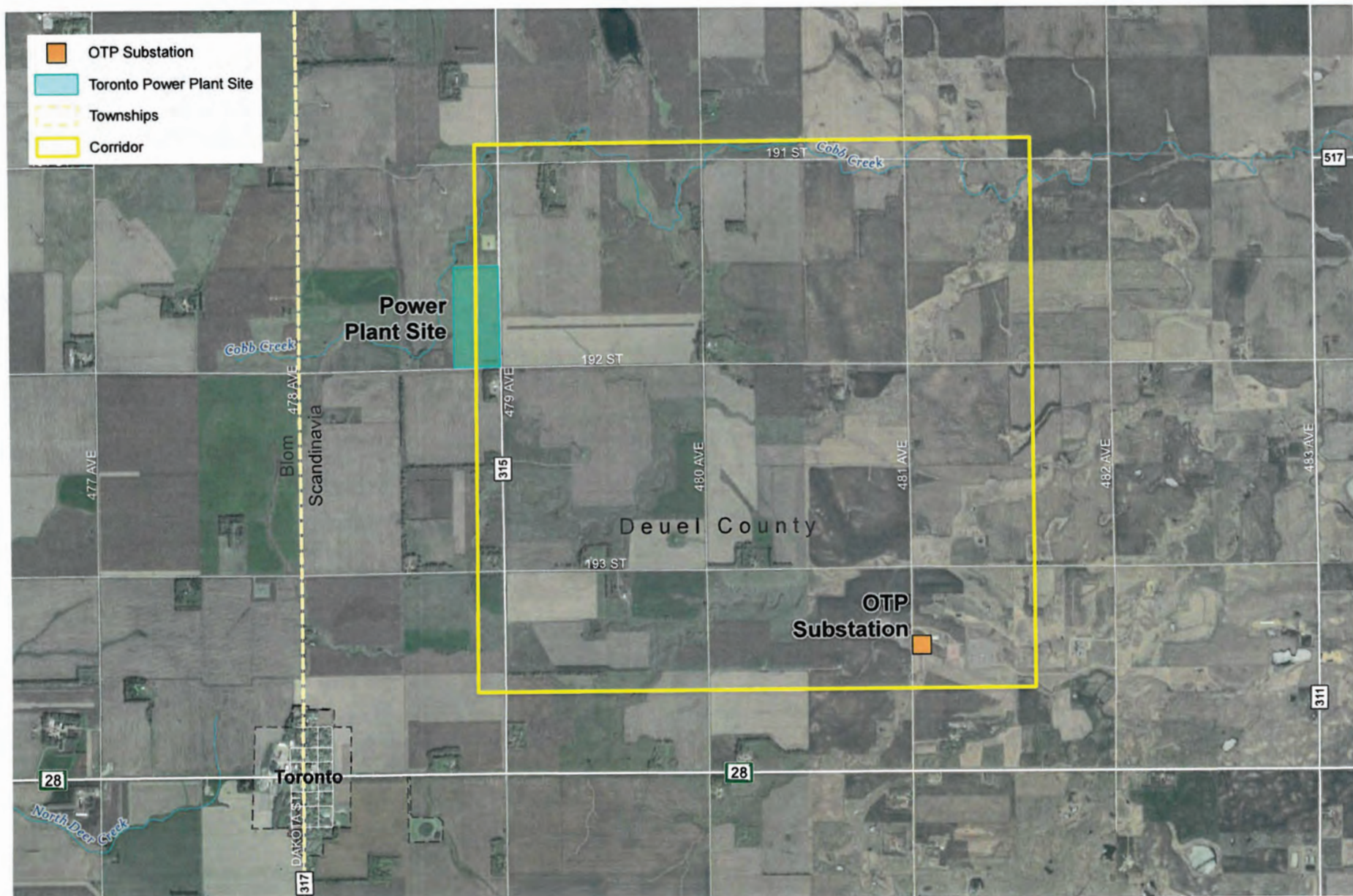
Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map





PROJECT LOCATION

From: Weidler, John <John.Weidler@state.sd.us>
Sent: Tuesday, January 28, 2025 9:17 AM
To: Oswald, Noah P <Noah.Oswald@terracon.com>
Cc: Pearson, Mandy <Mandy.Pearson@state.sd.us>
Subject: Re: Natural Heritage Program Data Request

Hi Noah,

Our Environmental Review Tool looks at our Natural Heritage data, so in your report when it says no environmental conflicts were detected it means we do not have any Natural Heritage data for that area. I would think that should satisfy what your client is looking for.

Thanks,

J.M. Weidler | *Regional Wildlife Diversity Biologist*

South Dakota Game, Fish and Parks

4500 S Oxbow Ave | Sioux Falls, SD 57106

O: 605.362.2719 | C: 605.305.6511 | john.weidler@state.sd.us



From: Oswald, Noah P <Noah.Oswald@terracon.com>
Sent: Tuesday, January 28, 2025 9:07 AM
To: Weidler, John <John.Weidler@state.sd.us>
Cc: Pearson, Mandy <Mandy.Pearson@state.sd.us>
Subject: RE: Natural Heritage Program Data Request

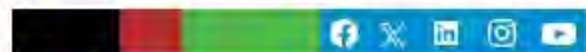
Good Morning,

I've used the Environmental Review Tool on multiple projects and for this specific project (attached), however, the client we are working for has requested a Natural Heritage Program review (which I haven't done before) so I submitted the request online. Is there anything that is specifically different from the two? Is there anything needed from me for a NHP review?

Thank you,

Noah Oswald
Staff Scientist | Environmental Group


15050 A Circle | Omaha, NE 68144
D (402) 384-7035 | F (402) 330-7606
noah.oswald@terracon.com | Terracon.com



From: [Brent Moeller](#)
To: john.kanta@state.sd.us
Cc: [Schmidt, Dan](#); [Baker, Becky](#)
Subject: Request for Input for the Proposed Toronto Power Plant
Date: Friday, May 23, 2025 10:50:03 AM
Attachments: [MRESTorontoPowerPlant_EnvironmentalReviewToolResponse.pdf](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

On June 5, 2025, an initial coordination email was sent to your office for your input for the proposed Toronto Power Plant. Since this time, we coordinated the project within the environmental review tool. We received the response “No environmental conflicts were detected by South Dakota Game, Fish and Parks for your proposed project”

We are reaching out for additional coordination due to a change that has occurred to the proposed generators. MRES is now proposing combustion turbines instead of RICE generators due to cost. The proposed ground disturbing activities and footprint of the plant and transmission line remain the same as originally proposed during initial coordination. Since the location and footprint did not change, we do not anticipate needing to rerun the environmental review tool.

We are currently revising the draft Public Utilities Commission (PUC) application. Please respond by June 6th if you have any further input for the Project.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources

Missouri River Energy Services

PO Box 88920

Sioux Falls, SD 57109-8920

Phone 605-330-6969

Mobile 605-254-4076

From: [Kanta, John](#)
To: [Brent Moeller](#)
Cc: [Schmidt, Dan](#); [Baker, Becky](#); [Pearson, Mandy](#)
Subject: RE: Request for Input for the Proposed Toronto Power Plant
Date: Tuesday, May 27, 2025 10:29:29 AM
Attachments: [MRESTorontoPowerPlant_EnvironmentalReviewToolResponse.pdf](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Brent,

Thank you for reaching out to us. Your email below has June 5, 2025, I assume you meant 2024. I am including Mandy Pearson with my staff and she can provide a response here.
Thank you

John Kanta | *Terrestrial Section Chief*
South Dakota Game, Fish and Parks
4130 Adventure Trail | Rapid City, SD 57702
605.394.2391 | John.Kanta@state.sd.us



From: [Pearson, Mandy](#)
To: [Brent Moeller](#)
Cc: [Schmidt, Dan](#); [Baker, Becky](#); [Kanta, John](#)
Subject: RE: Request for Input for the Proposed Toronto Power Plant
Date: Tuesday, June 3, 2025 6:44:34 PM
Attachments: [image002.png](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Brent,

We appreciate you using the SDGFP Environmental Review Tool and keeping us in the loop for your project changes. Since the location and footprint did not change, we have no further comments on your project. Please let us know if you need any further guidance or have any questions.

Best,

Mandy Pearson | *Senior Wildlife Biologist*
South Dakota Game, Fish, and Parks
4130 Adventure Trail | Rapid City, SD 57702
916.390.9031 | mandy.pearson@state.sd.us



From: Kanta, John <John.Kanta@state.sd.us>
Sent: Tuesday, May 27, 2025 9:29 AM
To: Brent Moeller <Brent.Moeller@mrenergy.com>
Cc: dan.schmidt@hdrinc.com; Baker, Becky <rebecca.baker@hdrinc.com>; Pearson, Mandy <Mandy.Pearson@state.sd.us>
Subject: RE: [EXT] Request for Input for the Proposed Toronto Power Plant

Hi Brent,

Thank you for reaching out to us. Your email below has June 5, 2025, I assume you meant 2024. I am including Mandy Pearson with my staff and she can provide a response here.
Thank you

John Kanta | *Terrestrial Section Chief*
South Dakota Game, Fish and Parks
4130 Adventure Trail | Rapid City, SD 57702
605.394.2391 | John.Kanta@state.sd.us



From: Brent Moeller <Brent.Moeller@mrenergy.com>
Sent: Friday, May 23, 2025 9:50 AM
To: Kanta, John <John.Kanta@state.sd.us>
Cc: dan.schmidt@hdrinc.com; Baker, Becky <rebecca.baker@hdrinc.com>
Subject: [EXT] Request for Input for the Proposed Toronto Power Plant

Good morning,

On June 5, 2025, an initial coordination email was sent to your office for your input for the proposed Toronto Power Plant. Since this time, we coordinated the project within the environmental review tool. We received the response “No environmental conflicts were detected by South Dakota Game, Fish and Parks for your proposed project”

We are reaching out for additional coordination due to a change that has occurred to the proposed generators. MRES is now proposing combustion turbines instead of RICE generators due to cost. The proposed ground disturbing activities and footprint of the plant and transmission line remain the same as originally proposed during initial coordination. Since the location and footprint did not change, we do not anticipate needing to rerun the environmental review tool.

We are currently revising the draft Public Utilities Commission (PUC) application. Please respond by June 6th if you have any further input for the Project.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources
Missouri River Energy Services
PO Box 88920
Sioux Falls, SD 57109-8920
Phone 605-330-6969
Mobile 605-254-4076

South Dakota State Historical Preservation Society

- Initial Agency Coordination Letter - June 3, 2024
- Section 106 Review Letter - September 11, 2024
- Agency Coordination Response - October 17, 2024
- Response to Agency Coordination Letters and Submission of Level III Report - June 20, 2025
- Agency Request for Additional Information - July 22, 2025
- Additional Information Provided to SDSHPO - July 23, 2025

Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Jenna Carlson-Dietmeier
State Historic Preservation Officer and Review and Compliance Coordinator
South Dakota State Historical Society
900 Governors Drive
Pierre, SD 57501

Re: Request for Input for the Proposed Toronto Power Plant

Dear Ms. Carlson-Dietmeier:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMPMA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

MRES has completed initial environmental due diligence on the Project site and proposed transmission corridor and expects to file an Energy Conversion Facility Permit application with the South Dakota Public Utilities Commission in December 2024. Depending on a variety of factors, the Project is anticipated to start construction in 2027 and be operational by 2029.

MRES is holding a community meeting, and you are invited to attend and learn more about the Project. The following are the details of the meeting:

Date: June 11, 2024
Time: 4:00-6:00 pm CT
Location: Deubrook Elementary School Gym
695 Palisades Ave
Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to cultural and historic resources in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

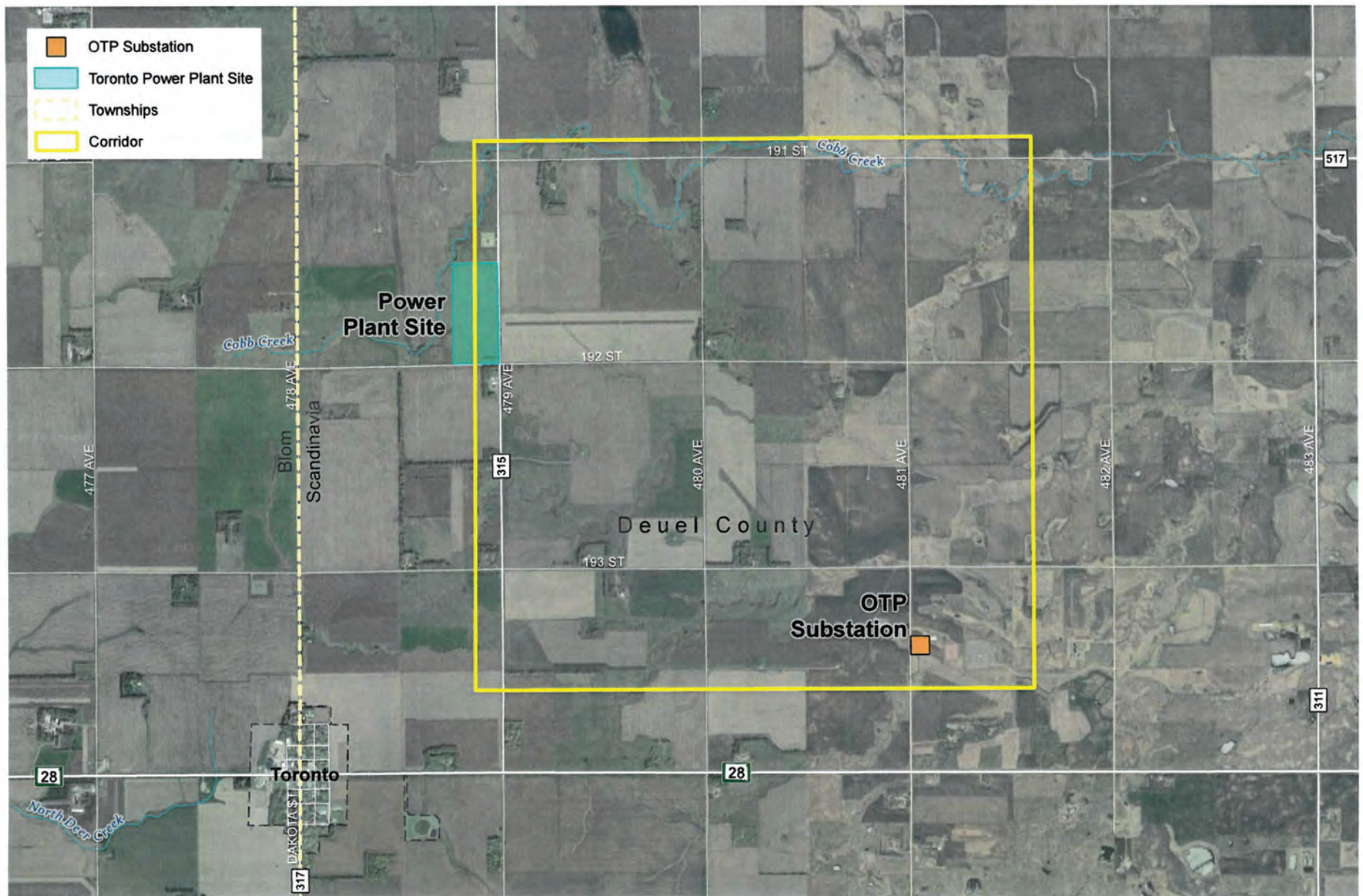
Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map





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PROJECT LOCATION

September 11, 2024

Benjamin Jones, Review & Compliance Archaeologist
State Historic Preservation Office
Cultural Heritage Center
900 Governors Drive
Pierre, SD 57501-2217

RE: Toronto Power Plant Project, Toronto, SD - SHPO Coordination

Dear Mr. Jones:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMPMA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection into the regional energy market. See attached Project location map. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

We have also requested and received a record search for the Power Plant Site and transmission line. Attached for your review is a figure displaying the results of the record search. No previous surveys have been completed within the Power Plant Site. Portions of the proposed transmission line corridor have been surveyed, and identified sites are avoided.

To date for the Project, we have coordinated with the list of tribes identified on your website. Three tribes have responded to our outreach, and their responses are attached.

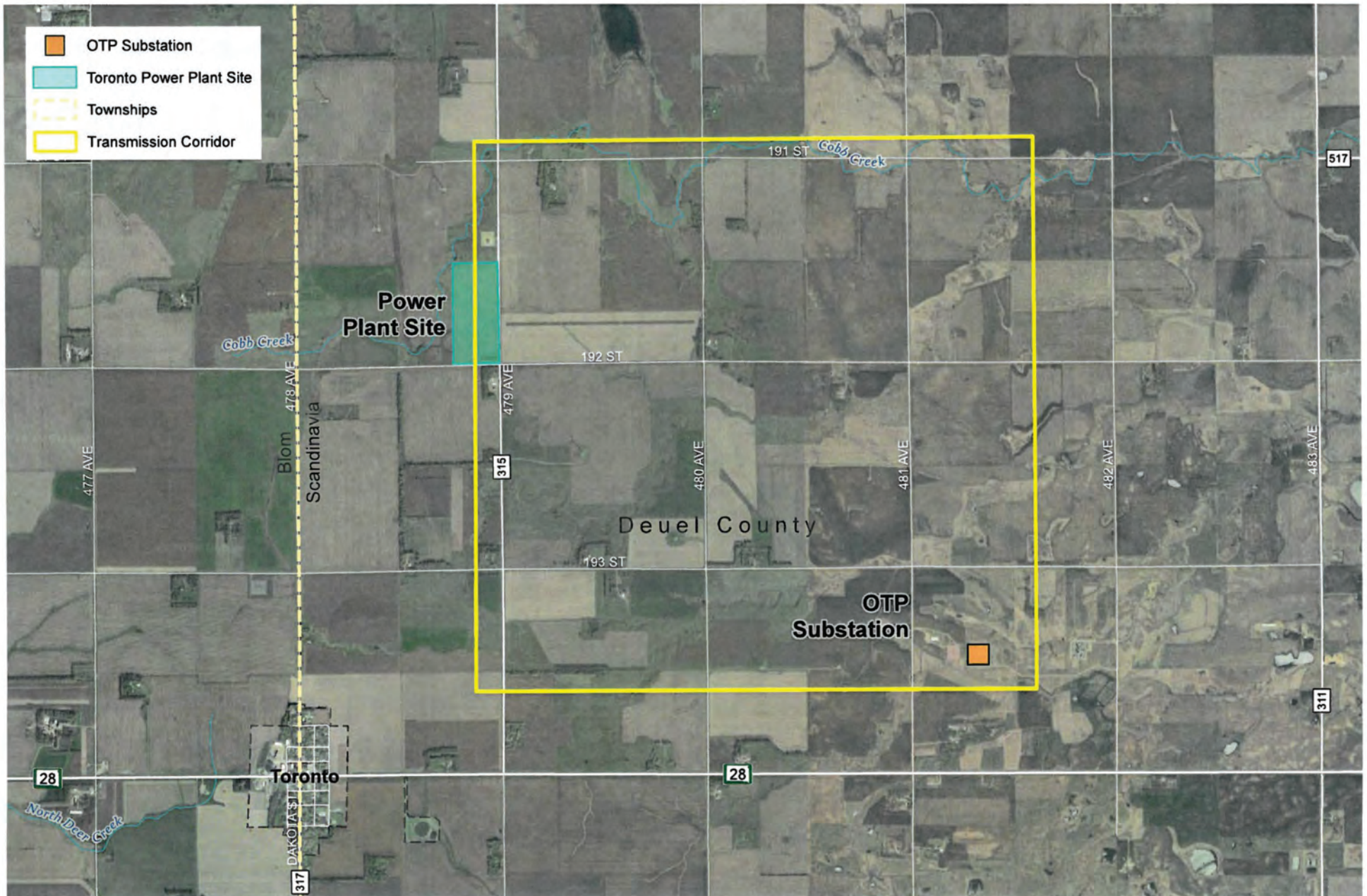
While it is unknown at this time whether the Project will require a federal nexus and thus trigger a Section 106 review, the record search shows that a Section 106 Finding of No Historic Properties Affected be granted for this project. MRES requests SHPO concurrence in a Section 106 determination of No Historic Properties Affected for this Project. If you have any questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com.

Sincerely,



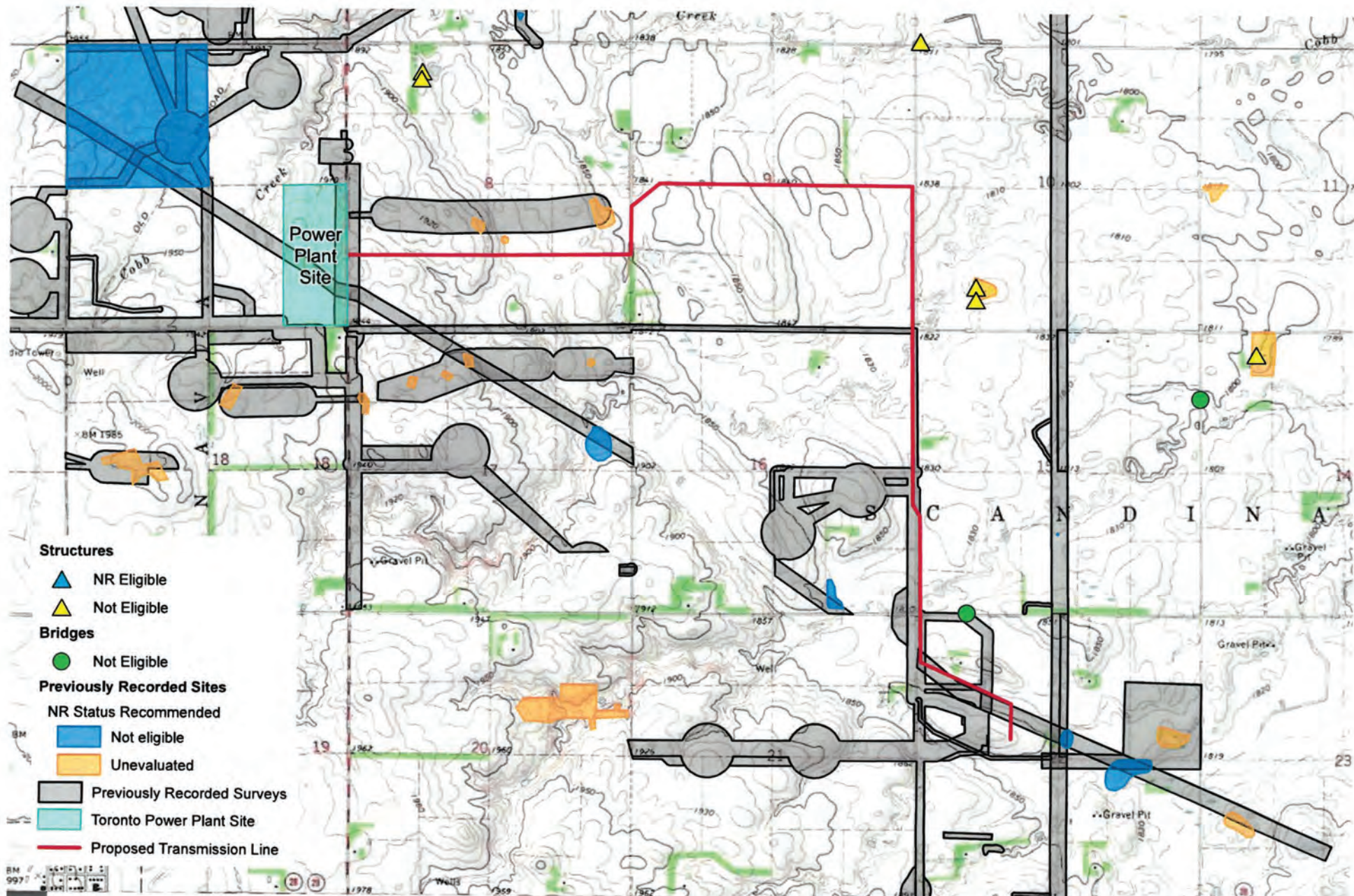
Brent A. Moeller
Director of Generation Resources
Missouri River Energy Services
Agent for Western Minnesota Municipal Power Agency

Enclosures: Project Location Map
Previously Recorded Sites and Survey Map
Tribal Response Letters



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PROJECT LOCATION



PREVIOUSLY RECORDED SITES AND SURVEYS



October 17, 2024

Brent Moeller
Missouri River Energy Services
3724 West Avera Drive, PO Box 88920
Sioux Falls, SD 57109

SDCL 1-19A-11.1 Consultation

Project: 240920002S – Toronto Power Plant Project
Location: Deuel
PUC - South Dakota Public Utilities Commission

Dear Mr. Moeller,

Thank you for the opportunity to comment on the above referenced project pursuant to SDCL 1-19A-11.1. SDCL 1-19A-11.1 outlines a specific process that must be followed prior to any governmental action, including the issuance of permits, that may harm any historic property that is included in the National or State Registers of Historic Places. The South Dakota Office of the State Historic Preservation Officer (SHPO) would like to provide the following comments concerning effect of the proposed project on the non-renewable cultural resources of South Dakota.

On September 13, 2024, SHPO received your letter, dated September 11, 2024, a map of the proposed project locations, a figure displaying the results of the record search, and documentation of tribal consultation regarding the proposed Toronto Power Plant and Transmission Line project. On September 13, 2024, SHPO requested additional information to clarify if the proposed project was to be reviewed under Section 106 of the National Historic Preservation Act of 1966 (as amended) or, if the proposed project was seeking a permit from the South Dakota Public Utilities Commission (PUC), would need to be reviewed under SDCL 1-19A-11.1. On September 19, 2024, SHPO received an email from Becky Baker of HDR, Inc. who clarified that the proposed project currently has no federal involvement and would be subject to SDCL 1-19A-11.1 as they would require an Energy Conversion Facility Public Utility Commission permit.

As a project seeking a permit from the South Dakota PUC, the project will be subject to the permitting requirements of the PUC in addition to SDCL 1-19A11.1. The PUC Facility Permit Application requires “a forecast of the impact on landmarks and cultural resources of historic, religious, archaeological, scenic, natural, or other cultural significance,” as described in the Administrative Rules of South Dakota (ARSD) at 20:10:22:23.

To assist the Western Minnesota Municipal Power Agency and Missouri River Energy Services in meeting the requirements of the South Dakota PUC Facility Permit Application, SHPO recommends that the applicant:

1. Provide a copy of the original official record search from the Archaeological Research Center that identifies the previously recorded cultural resources within one mile of the proposed project area.
2. Have a qualified archaeologist complete an intensive field survey of the project area.





3. Conduct an analysis of the visual effects of the power plant and transmission line on cultural resources within one mile of the project area.

4. Follow up with the Tribal Historic Preservation Officers and Tribal governments that indicated an interest in cultural resources within or near the project area concerning the project's potential effects on Traditional Cultural Properties associated with American Indian Tribes and/or properties of religious and cultural significance to them.

Once the additional information has been obtained regarding historic properties and cultural resources which could be affected by the project, please submit that information to SHPO for review and comment under SDCL 1-19A-11.1.

Please note that if any federal funding, permitting, licensing, or approval is needed for the project, the project will be a federal undertaking subject to the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended (54 USC306108).

Should you require any additional information, please contact Katie Wasley at Katie.Wasley@state.sd.us or at 605-773-2906.

Sincerely,
Garry Guan
State Historic Preservation Officer

Katie Wasley
Historic Preservation Specialist

CC: Becky Baker - HDR, Inc.



June 20, 2025

Via email:
Katie.Wasley@State.SD.US

Mrs. Katie Wasley
South Dakota Historic Preservation Specialist
900 Governors Dr
Pierre, SD 57501

RE: Toronto Power Plant Project; Section 106 Archaeological Review

Dear Mrs. Wasley,

Thank you for last correspondence dated October 17, 2024 (see attached), since receiving this letter we have been working on your recommendations. As discussed previously, the project includes a power plant site and transmission line route. Missouri River Energy Services (MRES) has access to the power plant site and not the transmission route. Landowner permission was requested and not approved. Cultural resource surveys will be completed once easements or right of entry is obtained from the landowners. This commitment is included within the Public Utility Commission (PUC) application. Please see the following that has been completed for the power plant site.

1. Provide a copy of the original official record search from the Archaeological Research Center that identifies the previously recorded cultural resources within one mile of the proposed project area.
A record search was completed by Augustana as part of the Level III survey and report. A background record search revealed that five cultural resource investigations were previously conducted within one mile of the project area; three of these investigations intersect the project parcel. The records search further revealed that 15 archaeological sites and 16 structures are recorded within one mile of the project area; none of these are within the project parcel (power plant site).
2. Have a qualified archaeologist complete an intensive field survey of the project area.
A Level III survey and report were completed for the power plant site. The report has been submitted on the SD portal. Historic maps and aerial imagery depict no evidence of structures within the project boundaries. Augustana documented a Native American isolate find and a lithic scatter (39DE0184 and 39DE0185) within the project area during the current investigation. Both sites were subjected to evaluative subsurface testing in an attempt to more clearly delimit their respective boundaries and ascertain their National Register of Historic Places (NRHP) eligibility status. Cultural deposits associated with both sites are confined to disturbed surface contexts and the landform harboring these sites has been wholly deflated. Augustana recommends that both sites be considered not eligible for NRHP-listing.
3. Conduct an analysis of the visual effects of the power plant and transmission line on cultural resources within one mile of the project area.
Augustana conducted a viewshed analysis within a one-mile-radius of the project area. Within this range, two unevaluated Native American artifact scatter sites, 39DE108 and 39DE112, fall within the viewshed. Aboveground infrastructure associated with the proposed project has the potential to negatively impact the NRHP eligibility status of these properties provided they are determined eligible for NRHP-listing.

MRES does not have access to the properties these sites are located on, therefore additional analysis was not conducted.

4. Follow up with the Tribal Historic Preservation Officers and Tribal governments that indicated an interest in cultural resources within or near the project area concerning the project's potential effects on Traditional Cultural Properties associated with American Indian Tribes and/or properties of religious and cultural significance to them.

The following coordination occurred with the Tribes, please let us know if you would like any part of this coordination provided to your office. This will be included within the PUC Application as an appendix

- *Initial Tribal Coordination Letters - May 31, 2024*
- *Flandreau Santee Tribe Response to Initial Coordination Letter-June 8, 2024*
- *MRES Response to Flandreau Santee Tribe- June 12, 2024*
- *Northern Arapaho Tribe Response to Initial Coordination Letter-July 16, 2024*
- *Cultural Resources Survey Coordination Email to Flandreau Santee Tribe and Northern Arapaho Tribe- November 19, 2024*
- *Flandreau Santee Tribe Report- November 25, 2024*
- *Tribal Coordination Emails for Proposed Change to Combustion Turbines - May 2025*

MRES is planning to submit the PUC Application in mid-July. As your letter indicates, we would appreciate your review of the project under SDCL 1-19A-11.1.

Respectfully,



Brent A. Moeller, P.E.
Director of Generation Resources
Missouri River Energy Services
Agent for Western Minnesota Municipal Power Agency
PO Box 88920
Sioux Falls, SD 57109-8920
Phone 605-330-6969

Enclosed: October 17, 2024, Letter from Garry Guan, SHPO, to Brent Moeller, Toronto Power Plant

C: Becky Baker, HDR



From: Baker, Becky
Sent: Wednesday, July 23, 2025 8:54 AM
To: Wasley, Katie
Cc: Brent Moeller; Derek Bertsch
Subject: RE: Toronto Power Plant - Archaeological Review
Attachments: [Appendix B_TribalCoordination.pdf](#)

Good morning, Katie,

Attached is the coordination that occurred with the tribes, this is the Draft Appendix B from the PUC Application.

The route will be surveyed once access to the entire route is obtained. We are currently coordinating with landowners; we are not sure when we would have complete access. We anticipate filing the PUC Application in the next two months. The hope would be to do the survey in Summer 2026 but will depend upon access.

Thanks!

Becky Baker

D 605.782.8189 M 605.690.2190

Upcoming PTO: July 24th-28th

hdrinc.com/follow-us

From: Wasley, Katie <Katie.Wasley@state.sd.us>
Sent: Tuesday, July 22, 2025 4:45 PM
To: Baker, Becky <rebecca.baker@hdrinc.com>
Subject: RE: Toronto Power Plant - Archaeological Review

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon Becky,

I was working on the review of the letter that Brent provided on June 19, 2025, and the survey report you submitted on June 24, 2025, and I wanted to follow up on some of the information that was included in the provided documents.

Since the information regarding the coordination with the Tribal Historic Preservation Officers and Tribal governments did not note if any specific concerns or additional coordination that occurred, I was wondering if you could provide the a copy of the coordination efforts listed on page 2 of the letter? This will help our office determine if there are any tribal concerns we need to be aware of.

Also, it was noted that the current survey report only covers the project area for the powerplant and that additional survey work will be completed once either easements or right of entry has been granted for the project area for the transmission route. Is there an anticipated timeline for when the additional survey may be completed?

Thank you,



Katie Wasley

Review & Compliance Coordinator

SOUTH DAKOTA STATE HISTORICAL SOCIETY

katie.wasley@state.sd.us

605-773-2906 | 900 Governors Drive, Pierre | history.sd.gov

From: Brent Moeller <Brent.Moeller@mrenergy.com>
Sent: Thursday, June 19, 2025 5:35 PM
To: Wasley, Katie <Katie.Wasley@state.sd.us>
Cc: Baker, Becky <rebecca.baker@hdrinc.com>
Subject: [EXT] Toronto Power Plant - Archaeological Review

Katie,

Please see the attached letter that responses to your October 17, 2024, letter regarding the archaeological review for the site of the proposed Toronto Power Plant. Reach out to Becky Bake of HDR should you have any questions.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources

Missouri River Energy Services

PO Box 88920

Sioux Falls, SD 57109-8920

Phone 605-330-6969

Mobile 605-254-4076

U.S. Army Corp of Engineers Coordination

- Initial Agency Coordination Letter- June 3, 2024
- Coordination Meeting- September 19, 2024
- Coordination Meeting- January 17, 2025
- Approved Jurisdictional Determination Response- February 13, 2025



Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Nathan Morey
Natural Resources Specialist
U.S. Army Corp of Engineers
28563 Powerhouse Rd.
Pierre, SD 57501

Re: Request for Input for the Proposed Toronto Power Plant

Dear Mr. Morey:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

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MRES is holding a community meeting, and you are invited to attend and learn more about the Project. The following are the details of the meeting:

Date:	June 11, 2024
Time:	4:00-6:00 pm CT
Location:	Deubrook Elementary School Gym 695 Palisades Ave Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to aquatic resources in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

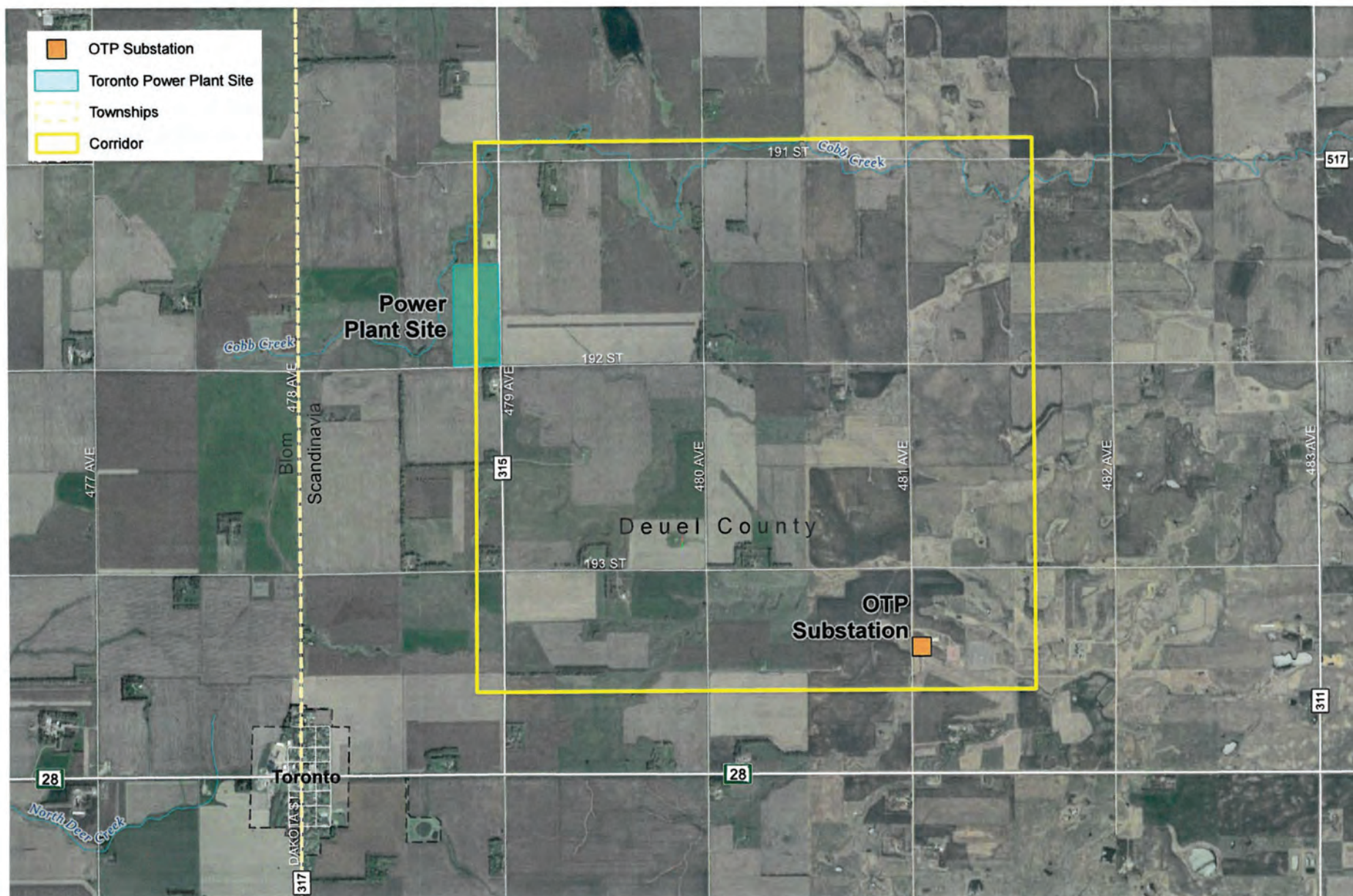
Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map





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PROJECT LOCATION

Meeting Minutes

Project:	MRES Toronto Power Plant	
Subject:	USACE Coordination Meeting	
Date:	Thursday, September 19, 2024	
Location:	Teams	
Attendees:	Nathan Morey, USACE Kat Gurney, USACE Becky Baker, HDR	Brent Moeller, MRES Tyler Fogelsen, MRES

Presentation was provided.

Wetland delineations will be completed at end of September.

Power Plant Site is 71 acres, with 10-12 acrea facility within this area.

Section 404 permitting of the CWA- adjacent tributary is located by the site, which would be jurisdictional. Wetlands within the site would likely connect to this feature and be jurisdictional.

Consider the threshold of less than 0.5 acre, which would remain at a nationwide permit. Above 0.5 acre would require individual permit review. Review the footprint with the delineated wetland areas. Nationwide permitting does not require a public notice.

Individual permitting process requires consideration of alternatives analysis to consider meeting the purpose and need and a USACE EA. Individual permitting required a public notice. Able to work through screening criteria with USACE project manager.

Need to consider cultural resources survey for historic properties identification for the site.

Next Steps

1. Wetland Delineation- Identify the wetland boundaries. End of September.
2. Compare the delineated wetland boundaries to the current designed footprint of the site.
3. Continue with preapplication meetings and discuss/collaborate on the permitting approach for this project.
4. Assigned to a USACE project managers- complete Section 404 permit application- May 2025.

Meeting Minutes

Project: MRES Toronto Power Plant

Subject: Section 404 Permit Application

Date: Friday, January 17, 2025

Location: Teams

1. Introductions

- a. USACE
 - i. Nathan Morey
 - ii. Adam (Geno) Wells
- b. MRES
 - i. Brent Moeller
 - ii. Derek Berck
 - iii. Tyler Fogelson
- c. HDR
 - i. Becky Baker

2. Project Background

- a. Power Plant and Transmission Line
 - i. Power Plant site is proposed for north of Toronto, SD.
 - ii. Transmission line is proposed to connect the powerplant to OTP substation.
- b. Cultural Resource Sites
 - i. Completed a Level III Archeological Survey; two unevaluated sites were found.
 - ii. Flandreau Santee Tribe completed a TCP survey; noted no sites found.
- c. Delineated Wetlands
 - i. Four wetlands were delineated on site.

3. Clarification for Design

- a. Permitting
 - i. Staying under 0.5 acre of JD wetlands

1. Under NWP authorization- avoid alternative analysis and narrows scope of review, public notice
 2. Limits areas of jurisdiction to wetland boundary and directly adjacent; good chance that cultural sites would
- b. Jurisdiction of Wetlands – Preliminary Discussion
- i. W4 might have a connection on the east side.
 - ii. W1 may be isolated.
 - iii. *Next Step: USACE to complete the JD. MRES and HDR to discuss SDDANR regulations with the agency.*
- c. Buffering the Wetlands
- i. Utilize the delineation boundary as the in the wetlands, do not have to buffer the area.
- d. Drainage to the Wetlands
- i. If a stormwater retention is graded into a wetland, fill into the wetland, grading would be that. This would be a permanent impact to the wetland.
 - ii. After development if the site drains into the wetland, this would not be a permanent impact. This may not meet the site drainage requirements; civil engineer would need to check into this.
- e. Section 106
- i. USACE is required to complete Section 106 to the area of impact and directly adjacent upland.
 - ii. The cultural sites noted are at a distance from the wetlands that USACE likely would not have Section 106 responsibility for the sites.



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
SOUTH DAKOTA REGULATORY OFFICE
28563 POWERHOUSE ROAD
PIERRE, SD 57501

February 13, 2025

SUBJECT: NWO-2024-01554-PIE, Missouri River Energy Services – Toronto Facility – Approved Jurisdictional Determination

Mr. Brent Moeller
Missouri River Energy Services
3724 W Avera Dr
PO Box 88920
Sioux Falls, SD 57109

Dear Mr. Moeller:

This letter is in response to your request received on December 17, 2024, submitted on your behalf by Jeremiah Makahunui, for an approved jurisdictional determination for building a natural gas internal combustion generation facility. The site is located at 44.60054025, -96.6247165 near Astoria, SD in Deuel County. Your request has been assigned the Corps Regulatory File Number referenced above. Please reference this file number on any correspondence to us or to other interested parties when referencing this project or concerning this request.

The U.S. Army Corps of Engineers (Corps) regulates the discharge of dredged and fill material into waters of the United States under Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344) and structures or work in, over, and under navigable waters of the United States under Section 10 of the Rivers and Harbors Act (RHA) (33 U.S.C. 403). The implementing regulations for these Acts are published in the Code of Federal Regulations at 33 CFR parts 330-332.

Based on our evaluation of the information provided and other available information, we have determined that the following aquatic resources within the review area are non-jurisdictional: wetland 1, 3 and 4. The attached approved jurisdictional determination provides rationale for why these aquatic resources do not meet the definition of waters of the United States. Based on this determination, a Department of the Army permit is not required for the discharge of dredged or fill material into these aquatic resources. This determination does not eliminate requirements to obtain any other applicable federal, state, tribal, or local permits.

Attached to this letter is the approved jurisdictional determination for your project site. This jurisdictional determination is valid for a 5-year period from the date of this letter, until **13 Feb 2030**, unless new information warrants revision of the determination before

the expiration date. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR part 331. Enclosed you will find a *Notification of Administrative Appeal Options and Process and Request for Appeal* (NAO-RFA) form. If you request to appeal this determination, you must submit a completed NAO-RFA form to the address listed on the form.

For an NAO-RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that it has been received by the Division Office within 60 days of the date of the NAO-RFA. Should you decide to submit an NAO-RFA form, it must be received at the Division Office by **14 Apr 2025**. It is not necessary to submit an NAO-RFA form to the Division Office if you do not object to the determination in this letter.

In the event that you disagree with this approved jurisdictional determination and you have **new information** not considered in the original determination, you may request reconsideration of this determination by contacting this office prior to initiating an appeal. To request this reconsideration based upon new information, you must submit the new information to this office so that it is received within 60 days of the date of the NAO-RFA.

The Corps' Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at <https://regulatory.ops.usace.army.mil/customer-service-survey/>. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return by mail. Additionally, further information regarding the Omaha District Regulatory Program can be obtained by visiting our website at <https://www.nwo.usace.army.mil/Missions/Regulatory-Program/>.

If you have any questions concerning this jurisdictional determination, please contact Mr. Geno Adams at the above address, by phone at (605) 945-3383, or by email at wells.e.adams@usace.army.mil and reference file number **NWO-2024-01554-PIE**.

Sincerely,



Nathan Morey
Section Chief, South Dakota Regulatory Office

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT
SOUTH DAKOTA REGULATORY OFFICE
28563 POWERHOUSE ROAD
PIERRE SD 57501

CENWO-ODR-SD

13 Feb 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322
(2023),¹ [NWO-2024-01554-PIE](#)²

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.³ AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.⁴ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. This

¹ While the Supreme Court's decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, interstate water, or territorial seas that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CENWO-ODR-SD

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NWO-2024-01554-PIE](#)

AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in [South Dakota](#) due to litigation.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. [W1, non-jurisdictional, not a water of the United States.](#)
 - ii. [W3, non-jurisdictional, not a water of the United States.](#)
 - iii. [W4, non-jurisdictional, not a water of the United States.](#)

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651 (2023)

3. REVIEW AREA. [The project review area is 70-acres. It is located at 44.6054025, and -96.6247165 at the center of the review area, near the city of Toronto, Deuel County, South Dakota.](#)

CENWO-ODR-SD

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NWO-2024-01554-PIE](#)



4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. [N/A](#)
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS
6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as “navigable in law” even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ [N/A](#)

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

- a. TNWs (a)(1): [N/A](#)
- b. Interstate Waters (a)(2): [N/A](#)
- c. Other Waters (a)(3): [N/A](#)
- d. Impoundments (a)(4): [N/A](#)
- e. Tributaries (a)(5): [N/A](#)
- f. The territorial seas (a)(6): [N/A](#)
- g. Adjacent wetlands (a)(7): [N/A](#)

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as "generally non-jurisdictional" in the preamble to the 1986 regulations (referred to as "preamble waters").⁸ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. [N/A](#)
- b. Describe aquatic resources and features within the review area identified as "generally not jurisdictional" in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance. [N/A](#)

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

⁸ 51 FR 41217, November 13, 1986.

- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. [N/A](#)
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. [N/A](#)
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “SWANCC,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with SWANCC. [N/A](#)
- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

[Wetland 1 is 2.31 acres situated in hayed agricultural lands. It is a depressional feature that is bordered by uplands as well as County Road 315/479th Ave. It flows to the east towards the road, then north along the road ditch. Topography keeps water from this wetland basin from flowing west towards the nearest relatively permanent water. To the east, the wetland does not have a continuous surface connection to a requisite water.](#)

[Wetland 3 is 0.49 acres situated in hayed agricultural lands. It is a depressional feature that is bordered by uplands as well as County Road 315/479th Ave. It flows to the north and east towards the Tatonka O&M Building, then north along the road ditch. Topography keeps water from this wetland basin from flowing west towards the nearest relatively permanent water. To the east, the wetland does not have a continuous surface connection to a requisite water.](#)

[Wetland 4 is 3.18 acres situated in hayed agricultural lands. It is a depressional feature that is bordered by uplands as well as County Road 315/479th Ave. It](#)

flows to the north and east towards the road, then north along the road ditch. Topography keeps water from this wetland basin from flowing west towards the nearest relatively permanent water. To the east, the wetland does not have a continuous surface connection to a requisite water.

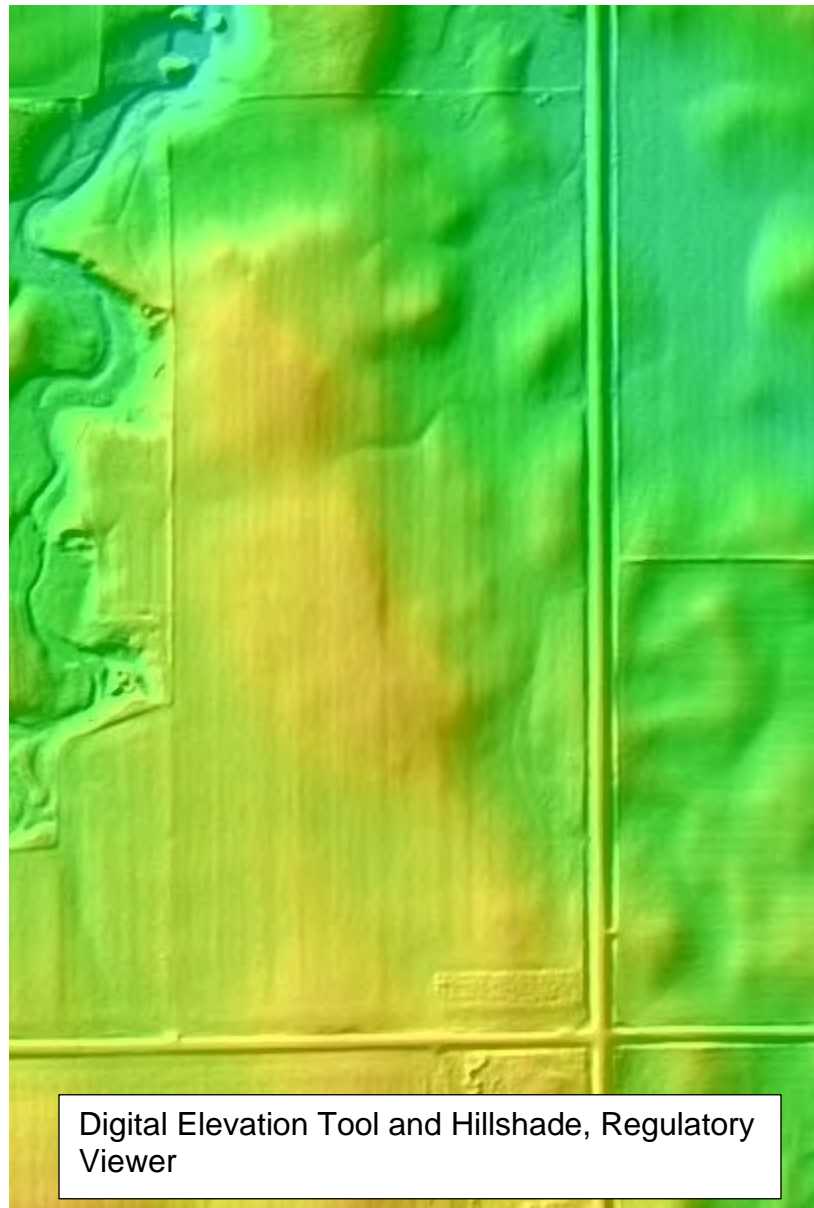
Wetlands 1,3, and 4 were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court's decision in *Sackett*, since Wetland 1, 3 and 4 are non-tidal wetland that does not have a continuous surface connection to a jurisdictional water.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. Office Evaluation, January 2025. The data sources below were accessed electronically in January 2025.
 - b. Wetland Delineation Report, Dated November 15, 2024.
 - c. Google Earth. Multiple years of aerial imagery.
 - d. National Hydrography Dataset, accessed and viewed through the National Regulatory Viewer.
 - e. USGS Topo Map, accessed and viewed through the National Regulatory Viewer.
 - f. National Wetland Inventory, accessed and viewed through the National Regulatory Viewer.
 - g. Lidar Digital Elevation Model (DEM), accessed and viewed through the National Regulatory Viewer.
 - h. Lidar Hillshade, accessed and viewed through the National Regulatory Viewer.
 - i. Elevation Profile Tool, accessed and viewed through the National Regulatory Viewer.
10. OTHER SUPPORTING INFORMATION. [N/A](#)

CENWO-ODR-SD

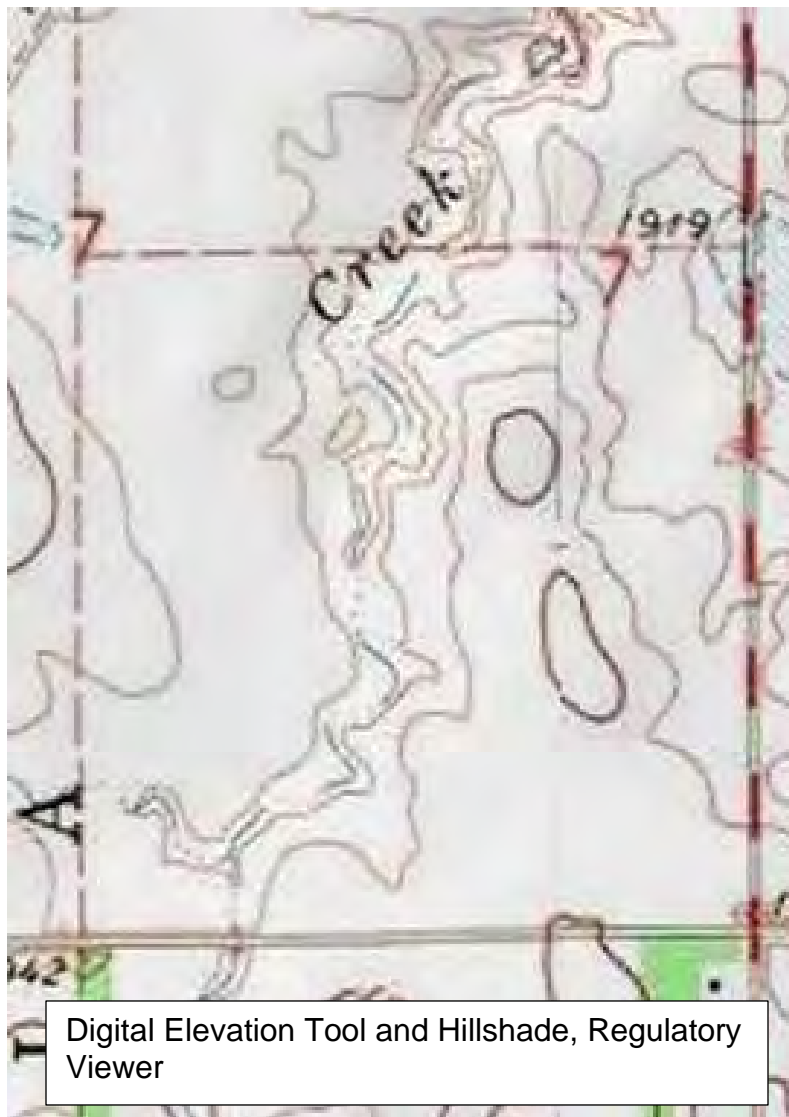
SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NWO-2024-01554-PIE](#)

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



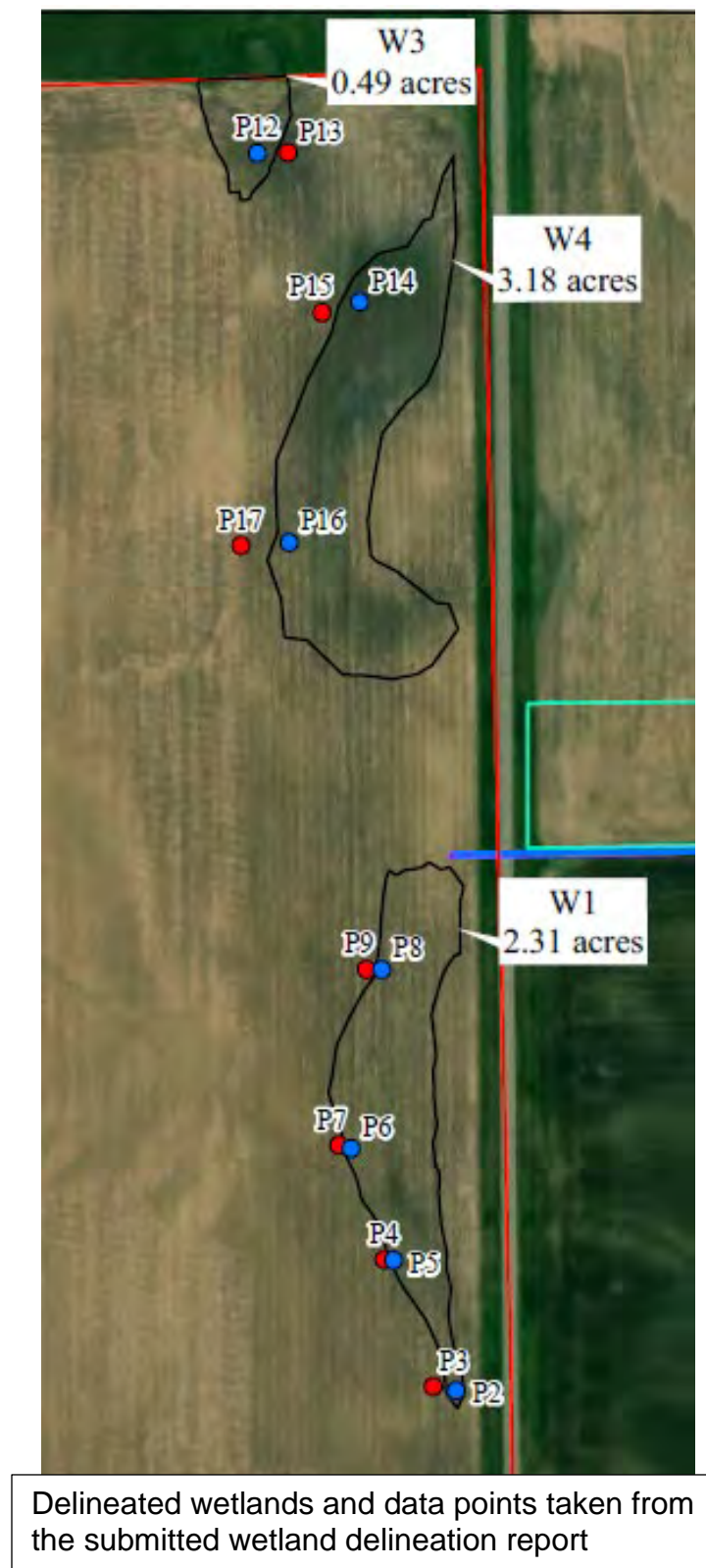
CENWO-ODR-SD

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NWO-2024-01554-PIE](#)



CENWO-ODR-SD

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NWO-2024-01554-PIE](#)



U.S. Department of Agriculture - Natural Resources Conservation Service

- Initial Agency Coordination Letter- February 7, 2025
- Agency Coordination Letter Response- February 11, 2025
- Agency Coordination Email for Proposed Change to Combustion Turbines - May 23, 2025



February 7, 2025

Jennifer Michalski
State Resource Conservatist
U.S. Department of Agriculture
200 Fourth Street SW, Room 203
Huron, SD 57350

Re: Request for Input for the Proposed Toronto Power Plant

Dear Ms. Michalski:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes six or seven reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure.

The Project is needed to ensure MRES can continue to provide reliable, cost-effective and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation like wind, the Project will provide a dispatchable fast response resource to maintain local grid reliability and resiliency, especially during cold weather events.

MRES has completed initial environmental due diligence on the Project site and proposed transmission corridor and expects to file an Energy Conversion Facility Permit application with the South Dakota Public Utilities Commission in March/April 2025. Depending on a variety of factors, the Project is anticipated to start construction in 2027 and be operational by 2029.

The project does not have a federal nexus; therefore, we believe that the Farmland Protection Policy Act is not applicable. We did want to give your agency the opportunity to comment on the project. The proposed power plant site would convert the site from current cropland to the energy facility, approximately 20-30 acres total. The transmission line would have minimal direct effects to farmland areas, with construction temporary impacted areas returning to farmland.

We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

Sincerely,



Brent A. Moeller, P.E.
Director of Generation Resources
Missouri River Energy Services
Agent for Western Minnesota Municipal Power Agency

Enclosure: Project Map

c: Dan Schmidt, HDR Engineering



South Dakota State Office
200 Fourth Street SW, Room 203
Huron, SD 57350

February 11, 2025

Mr. Brent Moeller
Missouri River Energy Services
3724 West Avera Drive
Sioux Falls, South Dakota 57109-8920

RE: Environmental Review for:
Toronto Power Plant_project

Dear Mr. Moeller,

Thank you for the opportunity to provide a Farmland Protection Policy Act (FPPA) review on this project. The project as outlined will have **no impact** on prime or important farmland.

If you have any questions, please contact me at (605) 352-1234.

Sincerely,



JESSICA MICHALSKI
State Resource Conservationist

cc:
Nathan Jones, State Soil Scientist, NRCS, Huron SO

From: [Brent Moeller](#)
To: jessica.michalski@usda.gov
Cc: [Schmidt, Dan](#); [Baker, Becky](#)
Subject: Request for Input for the Proposed Toronto Power Plant
Date: Friday, May 23, 2025 10:29:26 AM
Attachments: [Toronto Power Plant project letter.pdf](#)
[2025-0207 Letter to USDA-NRCS for Consultation.pdf](#)

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

On February 7, 2025, an initial coordination letter was sent to your office for your input for the proposed Toronto Power Plant. It was indicated in your response that the Project as outlined will have **no impact** on prime or important farmland.

See the attachments for the original letter, as well as your response.

We are reaching out for additional coordination due to a change that has occurred to the proposed generators. Missouri River Energy Services is now proposing combustion turbines instead of RICE generators due to cost. The proposed ground disturbing activities and footprint of the plant and transmission line remain the same as originally proposed during initial coordination.

We are currently revising the draft Public Utilities Commission (PUC) application. Please respond by June 6th if you have any further input for the Project.

Regards,

Brent A. Moeller, P.E.

Director of Generation Resources

Missouri River Energy Services

PO Box 88920

Sioux Falls, SD 57109-8920

Phone 605-330-6969

Mobile 605-254-4076

U.S. Fish and Wildlife Service

- Initial Agency Coordination Letter- June 3, 2024
- Proposed Species Effects and Survey Plan Coordination- February 5, 2025
- Agency Coordination Letter Response- February 20, 2025
- Agency General Habitat Assessment Coordination- February 20, 2025
- IPaC Official Species List- February 20, 2025
- IPaC Northern Long-eared Bat Determination Key- February 20, 2025
- Response Letter - February 20, 2025
- Agency Coordination Email for Proposed Change to Combustion
Turbines - May 23, 2025

Agency Coordination

Energy Conversion Facility Public Utilities
Commission Application

TORONTO
POWER PLANT

June 3, 2024

Chris Swanson
ND/SD Project Leader
US Fish and Wildlife Service, SD Ecological Services Field Office
420 S. Garfield Ave. Suite 400
Pierre, SD 57501-5408

Re: Request for Input for the Proposed Toronto Power Plant

Dear Mr. Swanson:

Missouri River Energy Services (MRES), on behalf of Western Minnesota Municipal Power Agency (WMMPA), is evaluating whether to develop, construct, and operate a natural gas-fired power plant near Toronto, South Dakota (referred to as the Project). The Project includes seven or eight reciprocating internal combustion engines (RICE) producing about 145 MW of electricity, approximately 4 miles of 345-kV transmission line, on-site gas pipeline connection and substation connection in the regional energy market. See attached figure. The Project is needed to ensure MRES can continue to provide reliable, cost-effective, and long-term energy supply to meet the demands of electric consumers. As coal-fired power plants are retired and replaced with non-dispatchable generation, the Project will provide a fast power ramp up to maintain local grid reliability and improve system resiliency during extreme weather events.

MRES has completed initial environmental due diligence on the Project site and proposed transmission corridor and expects to file an Energy Conversion Facility Permit application with the South Dakota Public Utilities Commission in December 2024. Depending on a variety of factors, the Project is anticipated to start construction in 2027 and be operational by 2029.

MRES is holding a community meeting, and you are invited to attend and learn more about the Project. The following are the details of the meeting:

Date: June 11, 2024
Time: 4:00-6:00 pm CT
Location: Deubrook Elementary School Gym
695 Palisades Ave
Toronto, SD 57268

At present, MRES is conducting further agency outreach and would appreciate your review and comment of the Project as it relates to aquatic, biological, and natural resources in the area. We are looking forward to hearing from you! If you require further information or have questions about the Project, please contact me at 605.330.6969 or brent.moeller@mrenergy.com or our lead environmental consultant, Dan Schmidt of HDR, Inc. at 763.278.5928 or dan.schmidt@hdrinc.com.

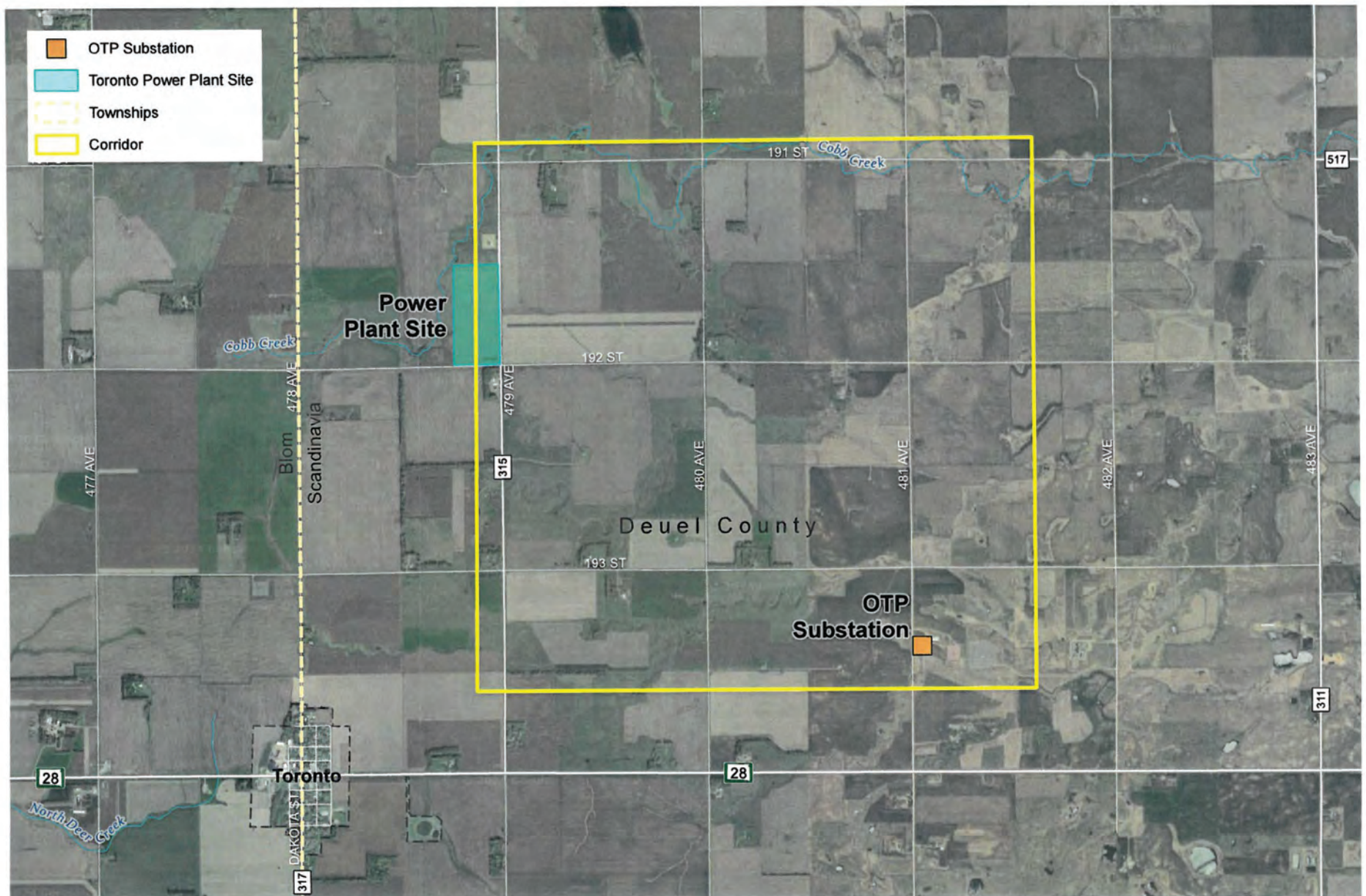
Sincerely,



Brent Moeller, P.E.
MRES, Director of Generation Resources

Enclosure: Project Map





0 0.5 mi ↑

PROJECT LOCATION

Memo

Date: Wednesday, February 05, 2025

Project: MRES Toronto Power Plant

To: U.S. Fish and Wildlife Service – SD Ecological Services Office

From: Missouri River Energy Services agent for Western Minnesota Municipal Power Agency

Subject: Proposed Species Effects and Survey Plan

1. Purpose of this Memo

The purpose of this memo is to identify the threatened and endangered species that could be present within the Power Plant Site and Transmission Line Study Area, identify the potential effect to the species, and propose mitigation measures to be incorporated into the Project for US Fish and Wildlife Service review. Refer to Figure 1 for the Power Plant Site and Transmission Line Study Area.

2. Project Background

The Project would consist of the construction and operation of an energy conversion facility near Toronto, South Dakota. The Project would also include the installation of transmission line that would connect with a 345-kV substation near Astoria, SD, owned by the Otter Tail Power Company.

Project components would include:

- Conversion facility to generate approximately 145 megawatts (MW) using six or seven reciprocating internal combustion engines (RICE), concrete engine hall building, natural gas pipeline, diesel truck facilities, and any additional facilities as needed;
- Installation of approximately 4 miles of 345-kilovolt (kV) generation-tie transmission lines; and
- Temporary laydown/staging area, pulling/tension sites, and access roads.

Project Schedule:

- SDPUC Notice of Intent: Q2 2024 to Q2 2024
- SDPUC Facility Permit Process: Q2/3 2025 to Q2/3 2026
- Acquisition of Land Rights: Q3 2024 to Q4 2026
- Contract for RICE Engines: Q2 2025 to Q1 2028
- Plant and Transmission Design: Q1 2024 to Q2 2027
- Other Federal, State and Local Permits: Q3 2025 to Q4 2026

- Construction: Q2 2027 to Q2 2029
- RICE Engines Delivery to Site: Q1 2028
- Project Commercial Operation Date: Q2 2029

3. Proposed Survey Plan

Terracon conducted a limited on-site visual assessment for possible Rare, Threatened, or Endangered (RTE) species habitat on September 30th and October 1st, 2024. Attached is the Threatened and Endangered Species Review document. The route shown has shifted slightly, this coordination focuses on the Transmission Line Study Area shown on Figure 1. Additionally, a desktop review of topographic maps and aerial imagery to assess habitat conditions and availability.

Migratory Birds and Birds of Conservation Concern – Wooded areas identified during a limited on-site visual assessment determined these areas could be utilized by migratory birds during breeding season. Trees within the power plant site and transmission route that have the potential to be used by migratory birds are cleared after October 31st and before April 1st, there is not expected to be adverse impacts to migratory birds. Additionally, marking the transmission lines to increase visibility should significantly reduce the likelihood of avian collisions.

Bald Eagle, Golden Eagle and other Raptors – No raptor nests were observed during the 2024 wetland delineation or the T&E desktop review. A survey for eagle/raptor nests would be conducted no more than one week prior to tree removal, recording nest locations using a GPS.

Northern Long-eared Bat – Limited tree cover is present within or in the vicinity of the identified construction limits. Trees within or near the project area occur in small clusters less than 10 acres and are greater than 1,000 feet from any forested/wooded areas, resulting in no effect due to lack of habitat. No surveys are proposed.

Rufa Red Knot - Potential habitat in the area is limited to the Quail Waterfowl Production Area, which is outside of the identified construction limits. The project may affect, but likely won't adversely affect the species due to the low potential for this area to be used for breeding or stopover habitat. No surveys are proposed.

Monarch Butterfly – The project area largely includes cultivated lands as well as utility and disturbed roadway corridors. The project may affect, but likely won't adversely affect the species due to limited suitable habitat and planned overhead transmission lines. No surveys are proposed.

Western Regal Fritillary – The project area largely includes agricultural cropland with a limited amount of uncultivated grass land. The project may affect, but likely won't adversely affect the species due to lack of habitat and planned overhead transmission lines. No surveys are proposed.

4. Avian Power Line Interaction Committee (APLIC)

The Project would be designed in accordance with APLIC's *Suggested Practices for Avian Protection On Power Lines: State of the Art in 2006*. The following would be incorporated into the new construction of the transmission line:

- Conductor separation of 60 inches between energized conductors and grounded hardware, or much cover energized parts and hardware if such spacing is not possible.
- In areas that are identified higher potential for bird collisions, add visibility enhancement devices (marker balls, bird diverters, or other line visibility devices) in varying configurations, depending on the line design and location.

5. Revegetation Methods

Applicants propose a seed mix recommended by NRCS or USFWS unless otherwise agreed to with landowner. Use of milkweed in the seed mix in non-agricultural areas with landowner agreement.



Figure 1. Project Location



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services

South Dakota Field Office

420 South Garfield Avenue, Suite 400

Pierre, South Dakota 57501-5408



In Reply Refer to:
HDR: Toronto Power Plant

February 20, 2025

Rebecca Baker
HDR Inc
101 S. Phillips Ave. Suite 401
Sioux Falls, SD 57104

Dear Ms. Baker:

Thank you for your email dated Feb 12, 2025 concerning a consultation for the construction of a proposed power plant and 500-foot-wide transmission line corridor in Duel County, SD. Terracon consultants conducted a threatened and endangered species for this project, including entering the data into the Information for Planning and Consultation (IPaC) portal, which generated a list of threatened and endangered species associated with the project area.

We appreciate you accessing our Information for Planning and Consultation (IPaC) online system and subsequently providing our office with details of the project including a map, project description and an official species list generated via the IPaC site, as well as your letter providing your determination of impacts to those species. However, as this project has no federal nexus, this letter represents technical assistance, and not an informal section 7 review for the federally listed species associated with this project: in this case, the endangered northern long-eared bat (*Myotis septentrionalis*) as well as the threatened rufa red knot (*Calidris canutus*), Western Prairie Fringed Orchid (*Platanthera praeclara*), the proposed endangered species Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) and the proposed threatened species, Monarch Butterfly (*Danaus plexippus*) and Western Regal Fritillary (*Argynnis idalia occidentalis*).

The Service has no concerns for threatened or endangered species posed by the project as described in your email and from the Terracon report. For species listed as proposed threatened or endangered, conferencing with our office on these species is not required unless the project may jeopardize the continued existence of any of these species.

Monarch

The monarch is a large migratory butterfly that lives in a variety of habitats throughout North America and various additional locations across the globe. On December 12, 2024, the Service proposed the listing of the monarch butterfly as threatened with extinction under the Endangered Species Act (1973), (89 FR 100662). Due to its proposed status, conferencing with our office on this species is not required unless the project may jeopardize the continued existence of the butterfly.

While proposed threatened species are not afforded protection under the ESA, the U.S. Fish and Wildlife Service (Service) encourages their consideration in environmental planning. If unnecessary impacts to proposed species can be avoided, the likelihood that they will require the protection of the ESA in the future is reduced. Monarch eggs are laid on milkweed plants (*Asclepias* spp.) which are the sole source of food for developing larvae. Mature larvae may pupate on milkweeds but will also use nearby vegetation for this purpose. Adult monarchs use a wide variety of flowering plants throughout migration and breeding. Important nectar sources during the spring migration typically include *Coreopsis* spp., *Viburnum* spp., *Phlox* spp., and early blooming milkweeds. Important nectar sources during fall migration include goldenrods (*Solidago* spp.) asters (*Symphyotrichum* spp. and *Eurybia* spp.), gayfeathers (*Liatris* spp.), and coneflowers (*Helianthus* spp.), thistle (*Cirsium* spp.) and sage (*Salvia* spp.). Lists of preferred nectar plants by region specific to monarchs can be found at <http://www.xerces.org/monarch-nectar-plants/>. We recommend the project area be surveyed for potential monarch habitat so that impacts to milkweed plants and nectar sources may be avoided or minimized during construction activities. Further, post-construction revegetation efforts that include native seed mixes with milkweed and nectar sources used by monarchs are recommended to promote future conservation of this candidate species.

Suckley's Cuckoo Bumble Bee

On December 17, 2024, Suckley's cuckoo bumble bee (*Bombus suckleyi*) was proposed for listing as an endangered species (89 FR 102074). Suckley's Bumble Bee is an obligate social parasite of social bumble bees in the genus *Bombus*. Suckley's Bumble Bee cannot successfully reproduce without the availability of suitable host colonies. It is a semi-specialist parasite and confirmed to usurp nests of Western bumble bee (*Bombus occidentalis*) and Nevada bumble bees (*Bombus nevadensis*).

Based on the best available information, no Suckley's cuckoo bumble bee have been observed in South Dakota since 1969 (Mertens et al 2022) despite recent all taxa bumble bee surveys across the entire state. Based on this information, we now consider Suckley's cuckoo bumble bee to be extirpated from South Dakota. Because the species is not currently known to occur in South Dakota, projects will have "no effect" on the species, and we recommend Federal agencies document this determination and rationale in their files for consultation purposes under section 7(a)(2) of the ESA.

Western Regal Fritillary: Regal Fritillary is a large resident butterfly that relies on intact grasslands with abundant nectar resources. On August 8, 2024, the Service proposed the listing of the Western Fritillary butterfly as threatened with extinction under the Endangered Species Act (1973), (89 FR 63889). Due to its proposed status, conferencing with our office on this species is not required unless the project may jeopardize the continued existence of the butterfly.

While proposed threatened species are not afforded protection under the ESA, the Service encourages their consideration in environmental planning. If unnecessary impacts to proposed species can be avoided, the likelihood that they will require the protection of the ESA in the future is reduced. The host plant for Regal Fritillary includes several species of violets, and these plants are the sole source of food for developing larvae. Native violets occur in a variety of

grassland setting, but most likely occur in unbroken prairie patches. Adult regal fritillaries range across South Dakota from late June through October, potentially occurring in or near grasslands wherever nectar resources exist. Due to its proposed status, consultation is not currently required for this butterfly, but we encourage proactive consideration for this species during project planning. Whenever possible, we recommend work occur in previously disturbed areas (e.g., cropland) to avoid potential impacts to regal fritillary habitat and individuals. We recommend evaluating project sites for the presence of native violet plants and nectar sources prior to construction activities and avoiding impacts to those plants while the regal fritillary may be present in South Dakota. Further, we encourage post-construction revegetation efforts that include native seed mixes with violets and forbs incorporated to promote future conservation of this proposed threatened species.

Avian Electrocutation and Line Strikes

The Service appreciates your willingness to follow the APLIC guidelines to avoid avian electrocutions and recommends lines near the WPA and any other permanent and seasonal wetlands should be marked avian diverters to minimize bird collisions with transmission lines.

Please be apprised of the potential application of the Migratory Bird Treaty Act of 1918 (MBTA), as amended, 16 U.S.C. 703 et seq., and the Bald and Golden Eagle Protection Act of 1940 (BGEPA), as amended, 16 U.S.C. 668 et seq., to your project. The MBTA does not require intent to be proven and does not allow for "take," except as permitted by regulations. Section 703 of the MBTA provides: "Unless and except as permitted by regulations...it shall be unlawful at any time, by any means, or in any manner, to...take, capture, kill, attempt to take, capture, or kill, possess...any migratory bird, any part, nest, or eggs of any such bird...". The BGEPA prohibits knowingly taking or taking with wanton disregard for the consequences of an activity, any bald or golden eagles or their body parts, nests, or eggs, which includes collection, molestation, disturbance, or killing activities.

If the project plan changes to include a federal nexus, the Service must be informed to conduct an informal consultation.

The Service appreciates the opportunity to provide comments. If you have any questions on these comments, please contact Daniel Kim of this office at (605) 280- 6090 or Daniel_kim@fws.gov.

Sincerely,

Daniel Kim, PhD
Grassland Bird and Prairie Pollinator Biologist
USFWS South Dakota Field Office

From: Kim, Daniel H <daniel_kim@fws.gov>
Sent: Thursday, February 20, 2025 9:11 AM
To: Baker, Becky <Rebecca.Baker@hdrinc.com>
Subject: Re: [EXTERNAL] MRES- Toronto Power Plant

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Becky,

Thanks for the update. As you mentioned, this project has no federal nexus, therefore there is no need for a section 7 consultation. The Service does not concur on projects without a federal nexus, however we do provide technical assistance.

Before completing the technical assistance, please use the Northern Long-Eared Bat determination Key in IPaC

As the Monarch, Regal Fritillary, and Suckley's Cuckoo Bumble Bee are all candidate species, there are no requirements for species determinations as the project will not jeopardize any of these species.

For transmission lines, as long as the lines are designed to minimize or prevent eagle electrocutions based the suggested guidelines for raptor protections on powerlines, you should fine under the Bald and Golden Eagle Protection Act. Here is a website with more information on individual eagle take permits, if you were curious. <https://www.fws.gov/program/eagle-management/eagle-incident-disturbance-and-nest-take-permits>

For the rufa red knot, and migratory birds in general, the Service requests bird diverters on lines, especially near the WPA or any other areas with the potential for standing water during the spring or fall migration.

Let me know once the bat D-key is done, and I will complete the project.

Dan

Daniel H. Kim Ph.D.
Grassland Bird and Prairie Pollinator Biologist
Ecological Services
U.S. Fish and Wildlife Service
420 South Garfield Avenue, Suite 400
Pierre, South Dakota 57501
Cell Phone: (605)-280-6090
Fax: (605)-224-1416
Email: daniel_kim@fws.gov



United States Department of the Interior



FISH AND WILDLIFE SERVICE
South Dakota Ecological Services Field Office
420 South Garfield Avenue, Suite 400
Pierre, SD 57501-5408

Phone: (605) 224-8693 Fax: (605) 224-1416

<https://www.fws.gov/office/south-dakota-ecological-services>

In Reply Refer To:

02/20/2025 16:30:06 UTC

Project Code: 2025-0059005

Project Name: Toronto Power Plant and Transmission Line, Missouri River Energy

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/media/endangered-species-consultation-handbook>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/law/bald-and-golden-eagle-protection-act>, <https://www.fws.gov/media/endangered-species-act-1>, and/or <https://www.fws.gov/law/migratory-bird-treaty-act-1918>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/law/migratory-birds>

Please be aware that bald and golden eagles are protected under the Migratory Bird Treaty Act (16 U.S.C. §§ 703-712, as amended), as well as the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). Projects affecting these species may benefit from the development of an Eagle Conservation Plan (ECP), see guidance at this website (<https://www.fws.gov/node/266177>). An ECP can assist developers in achieving compliance with regulatory requirements, help avoid "take" of eagles at project sites, and

provide biological support for eagle permit applications. Additionally, we recommend wind energy developments adhere to our Land-based Wind Energy Guidelines for minimizing impacts to migratory birds and bats.

We have recently updated our guidelines for minimizing impacts to migratory birds at projects that have communication towers (including meteorological, cellular, digital television, radio, and emergency broadcast towers). These guidelines can be found at:

<https://www.fws.gov/story/incidental-take-beneficial-practices-communication-towers>
<http://www.towerkill.com>

According to National Wetlands Inventory maps, (available online at <https://www.fws.gov/library/collections/national-wetland-inventory>) wetlands exist adjacent to the proposed construction corridor. If a project may impact wetlands or other important fish and wildlife habitats, the U.S. Fish and Wildlife Service (Service), in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and other environmental laws and rules, recommends complete avoidance of these areas, if possible. If this is not possible, attempts should be made to minimize adverse impacts. Finally if adverse impacts are unavoidable, measures should be undertaken to replace the impacted areas. Alternatives should be examined and the least damaging practical alternative selected. If wetland impacts are unavoidable, a mitigation plan addressing the number and types of wetland acres to be impacted, and the methods of replacement should be prepared and submitted to the resource agencies for review.

Please check with your local wetland management district to determine whether Service interest lands exist at the proposed project site, the exact locations of these properties, and any additional restrictions that may apply regarding these sites. The Offices are listed below. If you are not sure which office to contact, we can help you make that decision.

U.S. Fish and Wildlife Service, Huron Wetland Management District, Federal Building, Room 309, 200 4th Street SW, Huron, SD 57350; telephone (605) 352-5894. Counties in the Huron WMD: Beadle, Buffalo, Hand, Hughes, Hyde, Jerauld, Sanborn, Sully.

U.S. Fish and Wildlife Service, Lake Andes Wetland Management District, P O Box 18, Pickstown, South Dakota, 57367; telephone (605) 487-7603. Counties in the Lake Andes WMD: Aurora, Brule, Charles Mix, Davison, Douglas.

U.S. Fish and Wildlife Service, Madison Wetland Management District, P.O. Box 48, Madison, South Dakota, 57042, telephone (605) 256-2974. Counties in the Madison WMD: Bon Homme, Brookings, Clay, Deuel, Hamlin, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Turner, Union, Yankton.

U.S. Fish and Wildlife Service, Sand Lake Wetland Management District, 39650 Sand Lake Drive, Columbia, South Dakota, 57433; telephone (605) 885-6320. Counties in the Sand Lake WMD: Brown, Campbell, Edmunds, Faulk, McPherson, Potter, Spink, Walworth.

U.S. Fish and Wildlife Service, Waubay Wetland Management District, 44401 134A Street, Waubay,

South Dakota, 57273; telephone (605) 947-4521. Counties in the Waubay WMD: Clark, Codington, Day, Grant, Marshall, Roberts.

You are welcome to visit our website (<https://www.fws.gov/office/southdakota-ecological-services>) or to contact our office/staff at the address or phone number above for more information.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

South Dakota Ecological Services Field Office
420 South Garfield Avenue, Suite 400
Pierre, SD 57501-5408
(605) 224-8693

PROJECT SUMMARY

Project Code: 2025-0059005
Project Name: Toronto Power Plant and Transmission Line, Missouri River Energy
Project Type: Transmission Line - New Constr - Above Ground
Project Description: Western Minnesota Municipal Power Agency (WMMPA) and Missouri Basin Municipal Power Agency d/b/a Missouri River Energy Services (MRES) (Applicants) submit this application for a Facility Permit (Application) to the South Dakota Public Utilities Commission (Commission) for the construction and operation of an energy conversion facility and associated facilities (the Project). The Project will include approximately 4.65 miles of power transmission line as well as the previously mentioned energy conversion facility. This project is located in Deuel County, SD to the northeast of Toronto, SD. The project is located within Sections 7, 8, 9, 10, 15, 16, 17, 20, 21, and 22 of Township 113N, Range 48W.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@44.59007235,-96.59191605108735,14z>



Counties: Deuel County, South Dakota

ENDANGERED SPECIES ACT SPECIES

There is a total of 5 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

BIRDS

NAME	STATUS
Rufa Red Knot <i>Calidris canutus rufa</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/1864	Threatened

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9743	Proposed Threatened
Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i> Population: No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10885	Proposed Endangered
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/12017	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

The following FWS National Wildlife Refuge Lands and Fish Hatcheries lie fully or partially within your project area:

FACILITY NAME	ACRES
DEUEL COUNTY WATERFOWL PRODUCTION AREA <a %5c%22deuel+county+waterfowl+production+area%5c%22\""="" href="https://www.fws.gov/our-facilities?keywords=\">https://www.fws.gov/our-facilities? \$keywords=\"%5C%22DEUEL+COUNTY+WATERFOWL+PRODUCTION+AREA%5C%22\"	33.125

BALD & GOLDEN EAGLES

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act ² and the Migratory Bird Treaty Act (MBTA) ¹. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their habitats, should follow appropriate regulations and consider implementing appropriate avoidance and minimization measures, as described in the various links on this page.

1. The [Bald and Golden Eagle Protection Act](#) of 1940.
2. The [Migratory Birds Treaty Act](#) of 1918.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

There are Bald Eagles and/or Golden Eagles in your [project](#) area.

Measures for Proactively Minimizing Eagle Impacts

For information on how to best avoid and minimize disturbance to nesting bald eagles, please review the [National Bald Eagle Management Guidelines](#). You may employ the timing and activity-specific distance recommendations in this document when designing your project/activity to avoid and minimize eagle impacts. For bald eagle information specific to Alaska, please refer to [Bald Eagle Nesting and Sensitivity to Human Activity](#).

The FWS does not currently have guidelines for avoiding and minimizing disturbance to nesting Golden Eagles. For site-specific recommendations regarding nesting Golden Eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

If disturbance or take of eagles cannot be avoided, an [incidental take permit](#) may be available to authorize any take that results from, but is not the purpose of, an otherwise lawful activity. For assistance making this determination for Bald Eagles, visit the [Do I Need A Permit Tool](#). For assistance making this determination for golden eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

Ensure Your Eagle List is Accurate and Complete

If your project area is in a poorly surveyed area in IPaC, your list may not be complete and you may need to rely on other resources to determine what species may be present (e.g. your local FWS field office, state surveys, your own surveys). Please review the [Supplemental Information](#)

[on Migratory Birds and Eagles](#), to help you properly interpret the report for your specified location, including determining if there is sufficient data to ensure your list is accurate.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to bald or golden eagles on your list, see the "Probability of Presence Summary" below to see when these bald or golden eagles are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Dec 1 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

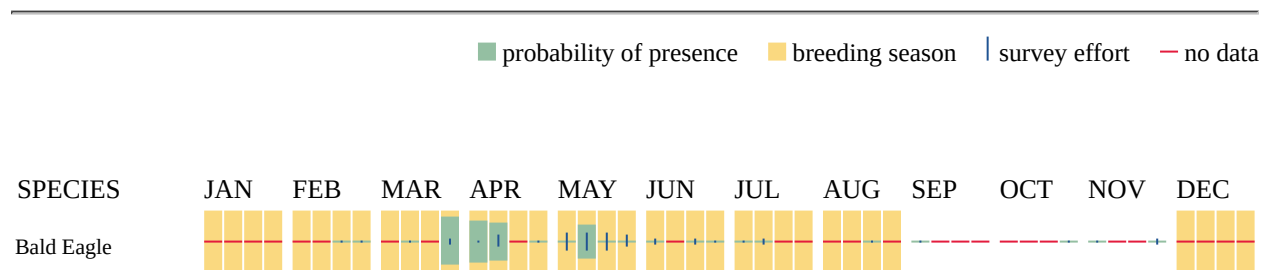
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.



Non-BCC
Vulnerable

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

MIGRATORY BIRDS

The Migratory Bird Treaty Act (MBTA) ¹ prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (Service). The incidental take of migratory birds is the injury or death of birds that results from, but is not the purpose, of an activity. The Service interprets the MBTA to prohibit incidental take.

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the "Probability of Presence Summary" below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Baird's Sparrow <i>Centronyx bairdii</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/5113	Breeds May 20 to Aug 15
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Dec 1 to Aug 31

NAME	BREEDING SEASON
Black Tern <i>Chlidonias niger surinamenisis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3093	Breeds May 15 to Aug 20
Black-billed Cuckoo <i>Coccyzus erythrophthalmus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9399	Breeds May 15 to Oct 10
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9454	Breeds May 20 to Jul 31
Chimney Swift <i>Chaetura pelagica</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9406	Breeds Mar 15 to Aug 25
Franklin's Gull <i>Leucophaeus pipixcan</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/10567	Breeds May 1 to Jul 31
Grasshopper Sparrow <i>Ammodramus savannarum perpallidus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/8329	Breeds Jun 1 to Aug 20
Henslow's Sparrow <i>Centronyx henslowii</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3941	Breeds May 1 to Aug 31
Northern Harrier <i>Circus hudsonius</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/8350	Breeds Apr 1 to Sep 15
Pectoral Sandpiper <i>Calidris melanotos</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9561	Breeds elsewhere
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9398	Breeds May 10 to Sep 10

NAME	BREEDING SEASON
Ruddy Turnstone <i>Arenaria interpres morinella</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/10633	Breeds elsewhere
Western Grebe <i>aechmophorus occidentalis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/6743	Breeds Jun 1 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

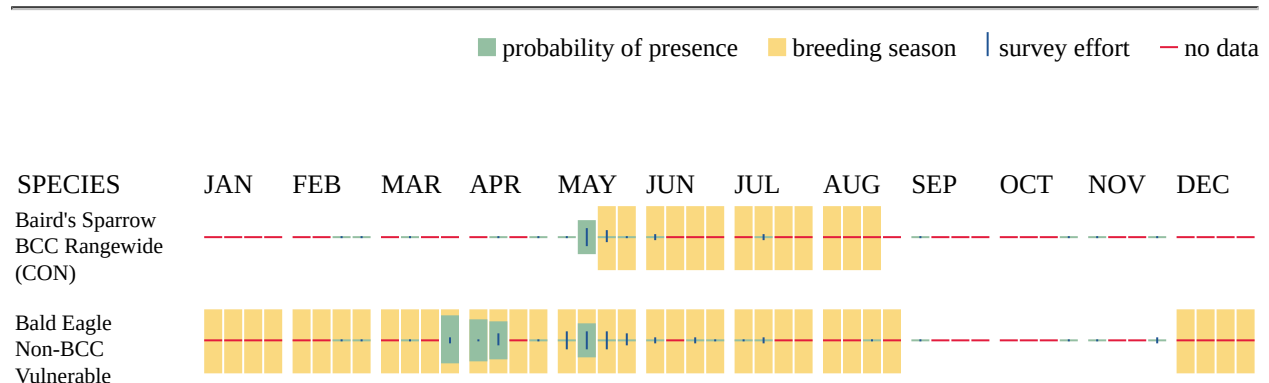
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.





Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER EMERGENT WETLAND

- PEM1C
- PEM1/ABF
- PEM1/ABFd
- PEM1A
- PEM1Cd
- PEM1Cx
- PEM1Ad

FRESHWATER POND

- PABFx
- PABFh

FRESHWATER FORESTED/SHRUB WETLAND

- PFOA
- PFOCd
- PFOC
- PSSA
- PSSC
- PSSCd

RIVERINE

- R4SBC
- R5UBH

IPAC USER CONTACT INFORMATION

Agency: Private Entity
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United States Department of the Interior



FISH AND WILDLIFE SERVICE
South Dakota Ecological Services Field Office
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Pierre, SD 57501-5408

Phone: (605) 224-8693 Fax: (605) 224-1416

<https://www.fws.gov/office/south-dakota-ecological-services>

In Reply Refer To:

02/20/2025 17:24:50 UTC

Project code: 2025-0059005

Project Name: Toronto Power Plant and Transmission Line, Missouri River Energy

Federal Nexus: no

Federal Action Agency (if applicable):

Subject: Technical assistance for 'Toronto Power Plant and Transmission Line, Missouri River Energy'

Dear Michaela Carlson:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on February 20, 2025, for 'Toronto Power Plant and Transmission Line, Missouri River Energy' (here forward, Project). This project has been assigned Project Code 2025-0059005 and all future correspondence should clearly reference this number. **Please carefully review this letter. Your Endangered Species Act (Act) requirements may not be complete.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat and Tricolored Bat Range-wide Determination Key (Dkey), invalidates this letter. ***Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid. Note that conservation measures for northern long-eared bat and tricolored bat may differ. If both bat species are present in the action area and the key suggests more conservative measures for one of the species for your project, the Project may need to apply the most conservative measures in order to avoid adverse effects. If unsure which conservation measures should be applied, please contact the appropriate Ecological Services Field Office***

Determination for the Northern Long-Eared Bat and Tricolored Bat

Based upon your IPaC submission and a standing analysis completed by the Service, your project has reached the following effect determination(s):

Species	Listing Status	Determination
Northern Long-eared Bat (<i>Myotis septentrionalis</i>)	Endangered	NLAA

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination key for the northern long-eared bat and tricolored bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Monarch Butterfly *Danaus plexippus* Proposed Threatened
- Rufa Red Knot *Calidris canutus rufa* Threatened
- Suckley's Cuckoo Bumble Bee *Bombus suckleyi* Proposed Endangered
- Western Regal Fritillary *Argynnis idalia occidentalis* Proposed Threatened

You may coordinate with our Office to determine whether the Action may cause prohibited take of the animal species and/or critical habitat listed above. Note that if a new species is listed that may be affected by the identified action before it is complete, additional review is recommended to ensure compliance with the Endangered Species Act.

Next Steps

Coordination with the Service is complete. This letter serves as technical assistance. All conservation measures should be implemented as proposed. Thank you for considering federally listed species during your project planning.

If no changes occur with the Project or there are no updates on listed species, no further consultation/coordination for this project is required for the northern long-eared bat. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place before project implements any changes which are final or commits additional resources.

If you have any questions regarding this letter or need further assistance, please contact the South Dakota Ecological Services Field Office and reference Project Code 2025-0059005 associated with this Project.

Action Description

You provided to IPaC the following name and description for the subject Action.

1. Name

Toronto Power Plant and Transmission Line, Missouri River Energy

2. Description

The following description was provided for the project 'Toronto Power Plant and Transmission Line, Missouri River Energy':

Western Minnesota Municipal Power Agency (WMMPA) and Missouri Basin Municipal Power Agency d/b/a Missouri River Energy Services (MRES) (Applicants) submit this application for a Facility Permit (Application) to the South Dakota Public Utilities Commission (Commission) for the construction and operation of an energy conversion facility and associated facilities (the Project). The Project will include approximately 4.65 miles of power transmission line as well as the previously mentioned energy conversion facility. This project is located in Deuel County, SD to the northeast of Toronto, SD. The project is located within Sections 7, 8, 9, 10, 15, 16, 17, 20, 21, and 22 of Township 113N, Range 48W.

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@44.59007235,-96.59191605108735,14z>



DETERMINATION KEY RESULT

Based on the answers provided, the proposed Action is consistent with a determination of “may affect, but not likely to adversely affect” for a least one species covered by this determination key.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of listed bats or any other listed species?

Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

No

2. Is the action area wholly within Zone 2 of the year-round active area for northern long-eared bat and/or tricolored bat?

Automatically answered

No

3. Does the action area intersect Zone 1 of the year-round active area for northern long-eared bat and/or tricolored bat?

Automatically answered

No

4. Does any component of the action involve leasing, construction or operation of wind turbines? Answer 'yes' if the activities considered are conducted with the intention of gathering survey information to inform the leasing, construction, or operation of wind turbines.

Note: For federal actions, answer ‘yes’ if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

No

5. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

No

6. [Semantic] Is the action area located within 0.5 miles of a known bat hibernaculum?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

Automatically answered

No

7. Does the action area contain any winter roosts or caves (or associated sinkholes, fissures, or other karst features), mines, rocky outcroppings, or tunnels that could provide habitat for hibernating bats?

No

8. Does the action area contain (1) talus or (2) anthropogenic or naturally formed rock shelters or crevices in rocky outcrops, rock faces or cliffs?

No

9. Will the action cause effects to a bridge?

Note: Covered bridges should be considered as bridges in this question.

No

10. Will the action result in effects to a culvert or tunnel at any time of year?

No

11. Are trees present within 1000 feet of the action area?

Note: If there are trees within the action area that are of a sufficient size to be potential roosts for bats answer "Yes". If unsure, additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

Yes

12. Does the action include the intentional exclusion of bats from a building or structure?

Note: Exclusion is conducted to deny bats' entry or reentry into a building. To be effective and to avoid harming bats, it should be done according to established standards. If your action includes bat exclusion and you are unsure whether northern long-eared bats or tricolored bats are present, answer "Yes." Answer "No" if there are no signs of bat use in the building/structure. If unsure, contact your local Ecological Services Field Office to help assess whether northern long-eared bats or tricolored bats may be present. Contact a Nuisance Wildlife Control Operator (NWCO) for help in how to exclude bats from a structure safely without causing harm to the bats (to find a NWCO certified in bat standards, search the Internet using the search term "National Wildlife Control Operators Association bats"). Also see the White-Nose Syndrome Response Team's guide for bat control in structures.

No

13. Does the action involve removal, modification, or maintenance of a human-made structure (barn, house, or other building) **known or suspected to contain roosting bats?**

No

14. Will the action cause construction of one or more new roads open to the public?

For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.).

No

15. Will the action include or cause any construction or other activity that is reasonably certain to increase average daily traffic permanently or temporarily on one or more existing roads?

Note: For federal actions, answer 'yes' when the construction or operation of these facilities is either (1) part of the federal action or (2) would not occur but for an action taken by a federal agency (federal permit, funding, etc.). .

Yes

16. Will the increased vehicle traffic occur on any road that lies between any two areas of contiguous forest that are each greater than or equal to 10 acres in extent and are separated by less than 1,000 feet? Bats may cross a road by flying between forest patches that are up to 1,000 feet apart.

Note: "Contiguous forest" of 10 acres or more may include areas where multiple forest patches are separated by less than 1,000 feet of non-forested area if the forested patches, added together, comprise at least 10 acres.

No

17. Will the proposed Action involve the creation of a new water-borne contaminant source (e.g., leachate pond, pits containing chemicals that are not NSF/ANSI 60 compliant)?

Note: For information regarding NSF/ANSI 60 please visit <https://www.nsf.org/knowledge-library/nsf-ansi-standard-60-drinking-water-treatment-chemicals-health-effects>

No

18. Will the proposed action involve the creation of a new point source discharge from a facility other than a water treatment plant or storm water system?

No

19. Will the action include drilling or blasting?

No

20. Will the action involve military training (e.g., smoke operations, obscurant operations, exploding munitions, artillery fire, range use, helicopter or fixed wing aircraft use)?

No

21. Will the proposed action involve the use of herbicides or other pesticides other than herbicides (e.g., fungicides, insecticides, or rodenticides)?

No

22. Will the action include or cause activities that are reasonably certain to cause chronic or intense nighttime noise (above current levels of ambient noise in the area) in suitable summer habitat for the northern long-eared bat or tricolored bat during the active season?

Chronic noise is noise that is continuous or occurs repeatedly again and again for a long time. Sources of chronic or intense noise that could cause adverse effects to bats may include, but are not limited to: road traffic; trains; aircraft; industrial activities; gas compressor stations; loud music; crowds; oil and gas extraction; construction; and mining.

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

No

23. Does the action include, or is it reasonably certain to cause, the use of permanent or temporary artificial lighting within 1000 feet of suitable northern long-eared bat or tricolored bat roosting habitat?

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

No

24. Will the action include tree cutting or other means of knocking down or bringing down trees, tree topping, or tree trimming?

Yes

25. Will the proposed action occur exclusively in an already established and currently maintained utility right-of-way?

No

26. Does the action include emergency cutting or trimming of hazard trees in order to remove an imminent threat to human safety or property? See hazard tree note at the bottom of the key for text that will be added to response letters

Note: A "hazard tree" is a tree that is an immediate threat to lives, public health and safety, or improved property.

No

27. Does the project intersect with the 0- 9.9% forest density category?

Automatically answered

Yes

28. Does the project intersect with the 10.0- 19.9% forest density category map?

Automatically answered

No

29. Does the project intersect with the 20.0- 29.9% forest density category map?

Automatically answered

No

30. Does the project intersect with the 30.0- 100% forest density category map?

Automatically answered

No

31. Will the action cause trees to be cut, knocked down, or otherwise brought down across an area greater than 0.5 acre in total extent?

No

32. Will the proposed action result in the use of prescribed fire?

Note: If the prescribed fire action includes other activities than application of fire (e.g., tree cutting, fire line preparation) please consider impacts from those activities within the previous representative questions in the key. This set of questions only considers impacts from flame and smoke.

No

33. Does the action area intersect the northern long-eared bat species list area?

Automatically answered

Yes

34. [Semantic] Is the action area located within 0.25 miles of a culvert that is known to be occupied by northern long-eared or tricolored bats?

Automatically answered

No

35. [Semantic] Is the action area located within 150 feet of a documented northern long-eared bat roost site?

Note: The map queried for this question contains proprietary information and cannot be displayed. If you need additional information, please contact your State wildlife agency.

Automatically answered

No

36. Is suitable summer habitat for the northern long-eared bat present within 1000 feet of project activities?

If unsure, answer "Yes."

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

Yes

37. Has a presence/probable absence summer bat survey targeting the northern long-eared bat following the Service's [Range-wide Indiana Bat and Northern Long-Eared Bat Survey Guidelines](#) been conducted within the project area?

No

38. Are any of the trees proposed for cutting or other means of knocking down, bringing down, topping, or trimming suitable for northern long-eared bat roosting (i.e., live trees and/or snags ≥ 3 inches dbh that have exfoliating bark, cracks, crevices, and/or cavities)?

Note: Additional information defining suitable summer habitat for the northern long-eared bat and tricolored bat can be found in Appendix A of the USFWS' Range-wide Indiana Bat and Northern long-eared bat Survey Guidelines at: <https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>.

Yes

39. Will any tree cutting/trimming or other knocking or bringing down of trees occur during the **Summer Occupancy season** for northern long-eared bats in the action area?

Note: Bat activity periods for your state can be found in Appendix L of the Service's Range-wide Indiana Bat and Northern long-eared Bat Survey [Guidelines](#).

No

40. Do you have any documents that you want to include with this submission?

No

PROJECT QUESTIONNAIRE

Enter the extent of the action area (in acres) from which trees will be removed - round up to the nearest tenth of an acre. For this question, include the entire area where tree removal will take place, even if some live or dead trees will be left standing.

0.2

IPAC USER CONTACT INFORMATION

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Phone: 6057828131



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services

South Dakota Field Office

420 South Garfield Avenue, Suite 400

Pierre, South Dakota 57501-5408



In Reply Refer to:
HDR: Toronto Power Plant

February 20, 2025

Rebecca Baker
HDR Inc
101 S. Phillips Ave. Suite 401
Sioux Falls, SD 57104

Dear Ms. Baker:

Thank you for your email dated Feb 12, 2025 concerning a consultation for the construction of a proposed power plant and 500-foot-wide transmission line corridor in Duel County, SD. Terracon consultants conducted a threatened and endangered species for this project, including entering the data into the Information for Planning and Consultation (IPaC) portal, which generated a list of threatened and endangered species associated with the project area.

We appreciate you accessing our Information for Planning and Consultation (IPaC) online system and subsequently providing our office with details of the project including a map, project description and an official species list generated via the IPaC site, as well as your letter providing your determination of impacts to those species. However, as this project has no federal nexus, this letter represents technical assistance, and not an informal section 7 review for the federally listed species associated with this project: in this case, the endangered northern long-eared bat (*Myotis septentrionalis*) as well as the threatened rufa red knot (*Calidris canutus*), Western Prairie Fringed Orchid (*Platanthera praeclara*), the proposed endangered species Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) and the proposed threatened species, Monarch Butterfly (*Danaus plexippus*) and Western Regal Fritillary (*Argynnis idalia occidentalis*).

The Service has no concerns for threatened or endangered species posed by the project as described in your email and from the Terracon report. For species listed as proposed threatened or endangered, conferencing with our office on these species is not required unless the project may jeopardize the continued existence of any of these species.

Monarch

The monarch is a large migratory butterfly that lives in a variety of habitats throughout North America and various additional locations across the globe. On December 12, 2024, the Service proposed the listing of the monarch butterfly as threatened with extinction under the Endangered Species Act (1973), (89 FR 100662). Due to its proposed status, conferencing with our office on this species is not required unless the project may jeopardize the continued existence of the butterfly.

While proposed threatened species are not afforded protection under the ESA, the U.S. Fish and Wildlife Service (Service) encourages their consideration in environmental planning. If unnecessary impacts to proposed species can be avoided, the likelihood that they will require the protection of the ESA in the future is reduced. Monarch eggs are laid on milkweed plants (*Asclepias* spp.) which are the sole source of food for developing larvae. Mature larvae may pupate on milkweeds but will also use nearby vegetation for this purpose. Adult monarchs use a wide variety of flowering plants throughout migration and breeding. Important nectar sources during the spring migration typically include *Coreopsis* spp., *Viburnum* spp., *Phlox* spp., and early blooming milkweeds. Important nectar sources during fall migration include goldenrods (*Solidago* spp.) asters (*Symphyotrichum* spp. and *Eurybia* spp.), gayfeathers (*Liatris* spp.), and coneflowers (*Helianthus* spp.), thistle (*Cirsium* spp.) and sage (*Salvia* spp.). Lists of preferred nectar plants by region specific to monarchs can be found at <http://www.xerces.org/monarch-nectar-plants/>. We recommend the project area be surveyed for potential monarch habitat so that impacts to milkweed plants and nectar sources may be avoided or minimized during construction activities. Further, post-construction revegetation efforts that include native seed mixes with milkweed and nectar sources used by monarchs are recommended to promote future conservation of this candidate species.

Suckley's Cuckoo Bumble Bee

On December 17, 2024, Suckley's cuckoo bumble bee (*Bombus suckleyi*) was proposed for listing as an endangered species (89 FR 102074). Suckley's Bumble Bee is an obligate social parasite of social bumble bees in the genus *Bombus*. Suckley's Bumble Bee cannot successfully reproduce without the availability of suitable host colonies. It is a semi-specialist parasite and confirmed to usurp nests of Western bumble bee (*Bombus occidentalis*) and Nevada bumble bees (*Bombus nevadensis*).

Based on the best available information, no Suckley's cuckoo bumble bee have been observed in South Dakota since 1969 (Mertens et al 2022) despite recent all taxa bumble bee surveys across the entire state. Based on this information, we now consider Suckley's cuckoo bumble bee to be extirpated from South Dakota. Because the species is not currently known to occur in South Dakota, projects will have "no effect" on the species, and we recommend Federal agencies document this determination and rationale in their files for consultation purposes under section 7(a)(2) of the ESA.

Western Regal Fritillary: Regal Fritillary is a large resident butterfly that relies on intact grasslands with abundant nectar resources. On August 8, 2024, the Service proposed the listing of the Western Fritillary butterfly as threatened with extinction under the Endangered Species Act (1973), (89 FR 63889). Due to its proposed status, conferencing with our office on this species is not required unless the project may jeopardize the continued existence of the butterfly.

While proposed threatened species are not afforded protection under the ESA, the Service encourages their consideration in environmental planning. If unnecessary impacts to proposed species can be avoided, the likelihood that they will require the protection of the ESA in the future is reduced. The host plant for Regal Fritillary includes several species of violets, and these plants are the sole source of food for developing larvae. Native violets occur in a variety of

grassland setting, but most likely occur in unbroken prairie patches. Adult regal fritillaries range across South Dakota from late June through October, potentially occurring in or near grasslands wherever nectar resources exist. Due to its proposed status, consultation is not currently required for this butterfly, but we encourage proactive consideration for this species during project planning. Whenever possible, we recommend work occur in previously disturbed areas (e.g., cropland) to avoid potential impacts to regal fritillary habitat and individuals. We recommend evaluating project sites for the presence of native violet plants and nectar sources prior to construction activities and avoiding impacts to those plants while the regal fritillary may be present in South Dakota. Further, we encourage post-construction revegetation efforts that include native seed mixes with violets and forbs incorporated to promote future conservation of this proposed threatened species.

Avian Electrocutation and Line Strikes

The Service appreciates your willingness to follow the APLIC guidelines to avoid avian electrocutions and recommends lines near the WPA and any other permanent and seasonal wetlands should be marked avian diverters to minimize bird collisions with transmission lines.

Please be apprised of the potential application of the Migratory Bird Treaty Act of 1918 (MBTA), as amended, 16 U.S.C. 703 et seq., and the Bald and Golden Eagle Protection Act of 1940 (BGEPA), as amended, 16 U.S.C. 668 et seq., to your project. The MBTA does not require intent to be proven and does not allow for "take," except as permitted by regulations. Section 703 of the MBTA provides: "Unless and except as permitted by regulations...it shall be unlawful at any time, by any means, or in any manner, to...take, capture, kill, attempt to take, capture, or kill, possess...any migratory bird, any part, nest, or eggs of any such bird...". The BGEPA prohibits knowingly taking or taking with wanton disregard for the consequences of an activity, any bald or golden eagles or their body parts, nests, or eggs, which includes collection, molestation, disturbance, or killing activities.

If the project plan changes to include a federal nexus, the Service must be informed to conduct an informal consultation.

The Service appreciates the opportunity to provide comments. If you have any questions on these comments, please contact Daniel Kim of this office at (605) 280- 6090 or Daniel_kim@fws.gov.

Sincerely,

Daniel Kim, PhD
Grassland Bird and Prairie Pollinator Biologist
USFWS South Dakota Field Office

From: [Brent Moeller](#)
To: daniel_kim@fws.gov
Cc: [Schmidt, Dan](#); [Baker, Becky](#)
Subject: Request for Input for the Proposed Toronto Power Plant
Date: Friday, May 23, 2025 10:41:38 AM
Attachments: [20250207_MRESTorontoPlant_USFWSCoordinationMemo.pdf](#)
[HRD Toronto Power Plant Letter Signed.pdf](#)
[RE EXTERNAL MRES- Toronto Power Plant .msg](#)
[TE Review Report - MRES Toronto SD Revised 1.24.2025 encrypted - signed.pdf](#)

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Good morning,

On February 7, 2025, an initial coordination email was sent to your office for your input for the proposed Toronto Power Plant. Since this time, we coordinated further- see the attachments for the original email, your response, and the documents mentioned above.

We are reaching out for additional coordination due to a change that has occurred to the proposed generators. MRES is now proposing combustion turbines instead of RICE generators due to cost. The proposed ground disturbing activities and footprint of the plant and transmission line remain the same as originally proposed during initial coordination.

We are currently revising the draft Public Utilities Commission (PUC) application. Please respond by June 6th if you have any further input for the Project.

Regards,

Brent A. Moeller, P.E.

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