

property and to obtain a conditional use permit. Both applications were filed on February 19, 2026.

4. On March 17, 2026, the Deuel County Board of Adjustment sitting as the Planning Commission recommended that the rezoning application be denied, but on April 7, 2026, the Deuel County Commission voted to grant the rezoning application. The County Commission deferred decision on the conditional-use application pending a possible referendum on the rezoning, but discussed at the meeting appropriate conditions for a conditional use permit and later circulated to the Applicants a proposed letter of assurances to be signed if the conditional use permit was granted.

5. As the result of a petition drive, the rezoning ordinance was referred to a public vote on June 2, 2026. The ordinance was defeated in the referendum, so the property retains an agricultural zoning designation. The County Commission has not since acted on the conditional use permit application. Under SDCL § 7-18A-24, a question contained in a referred ordinance may not be voted on again for one year from the date of the election.

6. On March 3, 2026, the Deuel County Commission enacted a temporary moratorium on the construction of power plants. The ordinance became effective on March 23, 2026, and remains in effect for one year from that date. Under SDCL § 11-2-10, it may be extended for an additional year. The statutory authority for a county to enact such a moratorium requires that the county “is conducting or in good faith intends to conduct studies within a reasonable time.” SDCL § 11-2-10.

7. As allowed by statute, the moratorium was enacted to allow the County time to study the effects of permitting public power plant facilities and to consider zoning amendments.

The Applicants are unaware what progress Deuel County has made since the moratorium was enacted.

8. Based on Deuel County's stated rationale for adopting the moratorium, the Applicants expect that the County will consider and may enact new ordinances addressing power plants in Deuel County. Because the moratorium is temporary, it is possible that under an amended zoning ordinance rezoning approval and a conditional use permit for the proposed plant at the current location could be obtained. Because of the moratorium, no one is presently able to say that it is impossible.

9. The Applicants are presently considering other sites for the proposed power plant, including outside Deuel County. It has been less than 30 days since the results of the referendum. Finding an alternative site is a complicated process involving the consideration of many factors, including:

- the availability of land suitable to site the power plant
- proximity to a natural-gas distribution pipeline
- proximity to a substation to connect in the regional energy market (MISO)
- proximity to a fuel-oil terminal
- proximity to existing residences and structures
- paved road access
- minimizing the length of transmission line required to the substation
- impacts on environmental resources and the extent to which such impacts can be avoided or minimized
- the interest of affected landowners in selling property rights necessary to construct the power plant and the transmission line
- county zoning and permitting processes

10. MRES has invested substantial time and resources in attempting to obtain a permit at the current site.

11. The effects of changing project sites on the Generator Interconnection Application MRES filed with the Midcontinent Independent System Operator, Inc. (MISO) and the Generator Interconnection Agreement to be executed by MRES, Otter Tail Power, and MISO for a Point of Interconnection at the Astoria substation are unclear and require further study and conversation with MISO.

12. As stated in Section 5.0 of the permit application, MRES is facing a significant deficit in capacity in MISO. MRES previously determined that the construction of a new power plant is the best way to satisfy its capacity requirements. Given the economic investment made in the proposed plant, including orders placed for equipment with long lead times, MRES intends to permit and construct a new capacity plant somewhere.

13. If a new site is found that satisfies the criteria for siting the plant and allows the Applicants to continue their current position in the MISO generation interconnection process, the Applicants are likely to proceed with an alternative site given the uncertainties in Deuel County with the present site. If a new site is found, the Applicants will either move to withdraw the current application and file a new application, or seek leave to amend the current application. If a new satisfactory site is not found, the Applicants may decide to proceed with the Deuel County site if it is determined to be the best alternative.

14. The Applicants have been evaluating in earnest all options since the results of the referendum.

15. Given the substantial investment the Applicants have made in the current permitting process and the complexity of the many processes involved in selecting and

permitting a site, the Applicants seek a reasonable amount of time to discern whether a new site is available and to make informed decisions about appropriate next steps with respect to the current site and any potential alternative site.

16. The Applicants will communicate with Staff about its progress and intentions during the requested extension.

Dated this 30th day of June, 2026.

WOODS, FULLER, SHULTZ & SMITH P.C.

By /s/James E. Moore

James E. Moore
PO Box 5027
300 South Phillips Avenue, Suite 300
Sioux Falls, SD 57117-5027
Phone (605) 336-3890
Fax (605) 339-3357
Email James.Moore@woodsfuller.com
Attorneys for Applicants

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 2026, a true and correct copy of the foregoing Motion to Extend Decision Deadline was served via email upon the following:

Ms. Leah Mohr
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Leah.Mohr@state.sd.us

Mr. Logan Schaeffbauer
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
Logan.Schaeffbauer@state.sd.us

Mr. Darren Kearney
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
darren.kearney@state.sd.us

Mr. Jon Thurber
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
jon.thurber@state.sd.us

Mr. Terry Wolf
2nd Assistant Secretary
Western Minnesota Municipal Power Agency
3724 West Avera Drive
Sioux Falls, SD 57109-8920
terry.wolf@mrenergy.com

Ms. Carrie E. Backman
Fluegel, Anderson, McLaughlin
& Brutlag, Chartered
129 2nd Street NW
Ortonville, MN 56278
cbackman@fluegellaw.com

Mr. Brent A. Moeller, P.E.
Director of Generation Resources
Missouri River Energy Sources
3724 West Avera Drive
Sioux Falls, SD 57109-8920
brent.moeller@mrenergy.com

Mr. Derek Bertsch
Staff Attorney
Missouri River Energy Services
3724 West Avera Drive
Sioux Falls, SD 57109-8920
derek.bertsch@mrenergy.com

/s/ James E. Moore
One of the Attorneys for Applicants