

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION BY WESTERN MINNESOTA
MUNICIPAL POWER AGENCY AND MISSOURI RIVER ENERGY SERVICES FOR
A FACILITY PERMIT FOR AN ENERGY CONVERSION FACILITY AND
ASSOCIATED FACILITIES INCLUDING AN ELECTRIC TRANSMISSION LINE IN
DEUEL COUNTY, SOUTH DAKOTA**

Docket No. EL25-028

REQUEST FOR ACCESS TO CONFIDENTIAL INFORMATION UNDER ARSD

20:10:01:43

(Appendix G)

The undersigned, an organizer with South Dakota for Data Center Transparency (SDDCT), appearing on my own behalf, requests access under ARSD 20:10:01:43 to part of Appendix G to the Application of Western Minnesota Municipal Power Agency and Missouri River Energy Services, and states as follows.

Background

1. The Applicants filed their Application in this docket on 08/07/2025. Appendix G is titled on the docket "Appendix G - Level III Cultural Survey." It appears twice on the docket filing list, once as a public document and once as a confidential version marked as not available to the public. The public version is two pages: a title page, and a page stating that the appendix "is CONFIDENTIAL in its Entirety (Intentionally Omitted)."

2. On 09/21/2026 I sent a letter making this request to the Executive Director. The Executive Director has since stated that a request under ARSD 20:10:01:43 must be filed formally in the docket rather than by letter, and on 09/28/2026 confirmed that it is filed through the Commission's electronic filing system. I file it here in my own name.

What is not requested

3. I do not seek the location of any archaeological site or unmarked burial, or any site-specific coordinates or mapping. I understand that SDCL 1-20-21.2 and SDCL 34-27-33 make that information confidential.

What the public record already shows

4. The Commission's Order Granting Motion to Extend Deadline, entered 07/15/2026, recites that notice of the filing and of the intervention deadline of 10/06/2025 was transmitted on 08/14/2025, and states: "No petitions to intervene have been filed."

5. The same Order states that on 06/30/2026 the Applicants filed a Motion to Extend Decision Deadline for six months "so that the Applicants can evaluate the feasibility of the Project at this location given the recent zoning and moratorium developments in Deuel County." The Commission granted that motion and extended the decision deadline to 02/08/2027.

6. Appendix G was filed with the Application on 08/07/2025. The route was adjusted afterward. On 04/07/2026 the Applicants filed the Supplemental Direct Testimony of Brent Moeller together with Exhibit A, Summary of Route Adjustment, under which the 345 kV generation-tie line runs south along 481st Avenue for approximately 1.5 miles and then turns southeast at 193rd Street toward the Astoria Substation. Table 1-1 of Exhibit A states that "Updated Figure 18 displays the areas that have been previously surveyed," so the Applicants themselves treat survey coverage as bearing on the adjustment. Whether the cultural resources survey now before the Commission covers the Project as it currently stands is a question that can be answered without disclosing a single site location.

7. Appendix G is a Level III intensive field survey rather than a records search. The comparable appendices withheld in Dockets EL26-026 and EL26-028 are Level I records searches, so Appendix G is the only completed intensive field survey withheld in any of the three dockets.

No request for confidential treatment appears in the docket

8. The docket filing list, as checked on 10/02/2026, shows no request for confidential treatment of Appendix G under ARSD 20:10:01:41.

The likely basis does not reach the requested items

9. SDCL 1-20-21.2 makes confidential records maintained under SDCL 1-20-21 "pertaining to the location of an archaeological site." None of the items requested in paragraph 12 is location information. Survey methods, area covered, fieldwork dates, consultation contacts and site counts are not records of the location of a site.

10. Under ARSD 20:10:01:42, the party asserting confidentiality bears the burden of showing by a preponderance of the evidence that disclosure would materially damage its financial or competitive position, reveal a trade secret, or impair the public interest.

Why this matters to the public

11. Because no petitions to intervene were filed, there is no party in this docket outside the Applicants and Commission Staff to test the cultural resources record. The Commission has extended its own decision deadline by six months on grounds tied to developments in Deuel County, and the route has changed since the survey was filed. The Project also remains unresolved locally: the rezoning ordinance for the site was referred to a vote and defeated on 06/02/2026, the property remains zoned agricultural, the conditional use permit application has not been acted on since, and Deuel County's moratorium took effect 03/23/2026. Through all

of it the public has been able to see nothing of the cultural resources record, because the appendix is withheld in its entirety rather than redacted.

Request

12. I ask the Commission to order either (a) a public version of Appendix G redacted only to remove site location information, or, if the Commission finds that impractical, (b) a public statement from the Applicants of the following:

- i. The survey methods and the professional standards or guidelines applied, including transect spacing.
- ii. The area surveyed, described in general terms such as acres at the plant site and route miles and corridor width for the transmission line, without site locations.
- iii. Whether the survey covers the route adjustment filed 04/07/2026, and if it does not, whether additional survey has been done or is planned.
- iv. The firm or professional who performed the survey, and the dates of fieldwork.
- v. Which tribes, tribal historic preservation officers, and state or federal agencies were contacted, and on what dates.
- vi. The number of sites identified and the number recommended as eligible for the National Register of Historic Places, stated as counts without locations.
- vii. The report's conclusions and recommendations, including any recommended avoidance, monitoring, or further work.

13. If the Commission prefers neither course, I would accept access to Appendix G under a protective order on terms the Commission sets.

14. If a request for confidential treatment of Appendix G was filed and does not appear on the public filing list, I ask that it be made available. If none was filed, I ask the Commission to require the Applicants to state their grounds and factual basis under ARSD 20:10:01:41 before Appendix G is treated as confidential in its entirety.

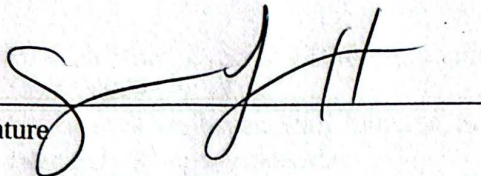
15. In Dockets EL26-026 and EL26-028 Commission Staff offered to ask the applicants to file a letter stating the specific factual basis for a claim of confidentiality. I ask that the same be done in this docket.

16. I also ask for confirmation that my letter of 09/21/2026 in this docket has been received and acted on. The Executive Director's reply of 09/25/2026 in Docket EL26-028 twice refers to "Appendix G - Level III Cultural Survey," which is the title of the appendix in this docket and not in EL26-028, and I have had no separate response in this docket.

17. I ask for notice of any procedural schedule the Commission sets under ARSD 20:10:01:43 and the opportunity to respond to the Applicants' grounds. If the Applicants

answer the questions in paragraph 12 on the record, I will narrow or withdraw this request accordingly.

Dated: 10 / 02 /2026

Signature 

Printed name: Suzie Pratt

Organizer, South Dakota for Data Center Transparency, appearing on my own behalf

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CERTIFICATE OF SERVICE

I certify that on 10 / 02 /2026, I served a true and correct copy of this Request for Access to Confidential Information by email, with the request attached as a .pdf file, under ARSD 20:10:01:22.03, on each of the following persons on the Commission's service list for this docket:

Ms. Leah Mohr, Executive Director, South Dakota Public Utilities Commission,
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Mr. Logan Schaeffbauer, Staff Attorney, South Dakota Public Utilities Commission,
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Mr. Terry Wolf, 2nd Assistant Secretary, Western Minnesota Municipal Power Agency,
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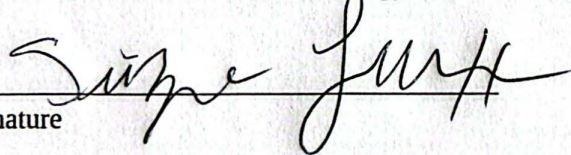
Ms. Carrie E. Backman, Fluegel, Anderson, McLaughlin & Brutlag, Chartered,
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Mr. James E. Moore, Woods, Fuller, Shultz & Smith P.C., representing Missouri River
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Signature



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