REC'D DWEE - (10/9/2026) - (20260099260)

NEBRASKA
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DEPT. OF WATER, ENERGY, AND ENVIRONMENT

Jim Pillen, Governor

October 9, 2026

VIA EMAIL & CERTIFIED MAIL

Michael S. Degan, Kutak Rock
Westwood Solutions (DWEE Facility ID: 117197)
1650 Farnam
Omaha, NE 68106

RE: 2026 Data Center Annual Reports Confidentiality Request

Mr. Degan,

This letter serves as the Department of Water, Energy, and Environment's (Department) preliminary determination to deny the request submitted on September 25, 2026, to withhold certain records or information from public disclosure as trade secrets and to afford such records or information confidential treatment. A copy of the confidentiality request is enclosed with this letter. The Department is evaluating your request in accordance with the procedures of Title 115 Neb. Admin. Code Ch. 2, which is also enclosed for your convenience.

Based on its review of the confidentiality request and the information provided in support of those requests, the Department has preliminarily determined that the claims for confidential treatment should be denied because the claimant has not satisfactorily shown that disclosure of the information or record is likely to cause substantial harm to the business's competitive position under Title 115, Ch. 2, § 003.01E.

Additionally, Neb. Rev. Stat. § 84-712.05(3) provides that a lawful custodian may withhold trade secrets and other proprietary or commercial information if release would give advantage to business competitors and serve no public purpose. It is the Department's preliminary determination that there is strong public interest in the information required to be reported by Neb. Rev. Stat. § 70-1506(6), and release of that information serves a public purpose. Because release of the reported data serves a public purpose, those records cannot be withheld under Neb. Rev. Stat. § 84-712.05(3).

Accordingly, Westwood Solutions is being provided with an opportunity to comment before a final decision is made. Written comments must be received by the Department no later than Friday, October 16, 2026. Failure to submit timely comments will be considered a waiver of the confidentiality claim pursuant to Title 115, Ch. 2, § 004.02.

Following receipt and consideration of any timely comments, the Department will issue its final decision regarding the confidentiality request. Notice of the Department's final decision will be provided in writing by certified mail. If the Department issues a final decision denying a claim for confidential treatment, the Department will make the records or information available to the public on the tenth day after the claimant's receipt of the written notice of denial.

Sincerely,

Isabella Peterson

Isabella Peterson, Attorney

Department of Water, Energy, and Environment
245 Fallbrook Blvd., Suite 100
Lincoln, Nebraska 68521

Jesse Bradley, P.G., Director
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Confidentiality Request

Form #: 18-031 **March 2026**

Owner/Operator Name: Google, LLC

Common Name of Source/Facility: Westwood Solutions DWEE Facility ID: 117197

Nebr. Rev. Stat. § 81-1527 and § 84-712.05 provide that certain records or information may be entitled to protection as trade secrets with confidential treatment by the Nebraska Department of Water, Energy, and Environment (DWEE).

This form, or its equivalent, must be completed and submitted to the DWEE to make a confidentiality request. The completed form provides information needed to enable DWEE to determine the eligibility of application materials for confidentiality. DWEE may request additional information or clarification.

The confidentiality request process must be followed EACH TIME confidential material is submitted.

This form, or its equivalent, is a public record when received by DWEE

By law, the following information is never eligible for confidential treatment:

- Emission data, draft and issued permits under the Clean Air Act
- Effluent data, permit applications, draft and issued permits under the National Pollutant Discharge Elimination System (NPDES) pursuant to the Clean Water Act

DWEE has determined that the following information is not entitled to confidential treatment:

- Potential to Emit, Quantity of Emissions
- Names of contaminants and regulated air pollutants
- Applicant name and contact information
- Items that can be viewed from off the property (examples: stack heights, external tanks)
- Items identified in previous permits, a facility file, or otherwise readily available to the public

Provide a response and detailed explanation to the following:
(Reference: Nebraska Administrative Code Title 115, *Chapter 2 – Confidentiality for Trade Secrets*).

Confidentiality Request

Please Note: In order to be eligible for confidentiality consideration you must have answered "Yes" to questions 1, 2, and 3; and answered "No" to questions 7, 8, 10, 11, 12, and 14. Otherwise, your request has not met minimum requirements for consideration of confidentiality.

1. ☑ **Yes** or ☐ **No** Are you requesting confidentiality on material submitted to NDWEE that you consider confidential?

2. ☑ **Yes** or ☐ **No** Have you provided a complete (**not-redacted) original** of your request **and** a separate (identical except with requested confidential information **redacted) public copy** of the document with your request (note - both original and public copy are required)?

3. ☑ **Yes** or ☐ **No** Is the material for a method or process that you consider a trade secret?

4. If you answered "Yes" to the previous question, describe in detail why you consider it a trade secret (be sure to provide a redacted public copy and not-redacted original of any attachments).

   Detail: The redacted data relates to proprietary trade practices and processes the disclosure of which wold provide insight and advantage to competitors

5. ☐ **Yes** or ☑ **No** Has a similar confidentiality request been approved or denied by NDWEE or any other governmental agency in the past five years?

6. If you answered "Yes" to the previous question, provide an official copy of that determination.

7. ☐ **Yes** or ☑ **No** Has the information been publicly filed with another governmental agency?

8. ☐ **Yes** or ☑ **No** Is this information associated with a publicly traded source or has the information been disclosed in publicly available SEC (U.S. Security and Exchange Commission) filings?

9. Describe in detail measures the claimant has taken to protect the confidentiality of the information and how access to the information is restricted. Include detailed information on who it is restricted to, any policies and practices of securing the information including electronic restrictions and physical actions such as stamping the information "CONFIDENTIAL", any confidentiality training provided to staff or others (training details, scheduled, etc.), and any other active measures or policies you have taken.

   Detail: The redacted data is maintained on secure servers with access limited to employees on a need to know basis

10. ☐ **Yes** or ☑ **No** Can the information be obtained without the claimant's consent by other persons (other than governmental bodies) by use of legitimate means?

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Confidentiality Request

11. ☐ **Yes** or ☑ **No** Has the information ever been disclosed on your business website or social media or has the information been disclosed by your contractor, supplier, investors, or by a competitor?

12. ☐ **Yes** or ☑ **No** Is the information obtainable or identifiable from a physical or aerial observation of site operations (i.e. visible or accessible through use of aerial photography, Google Earth or similar websites, thermal imagery, or other readily available observation tools)?

13. Describe actions taken to ensure privacy from physical or aerial observation.

Detail: Physical site is secured by security fencing, security cameras and private security officers. Employees and visitors admitted only via security cards and badged access

14. ☐ **Yes** or ☑ **No** Can the information be calculated from publicly available sources?

15. Explain why disclosure of the information is likely to result in substantial harmful effects to the business's competitive position and identify specific competitors, by name, who could gain advantage through use of this information. Include in your detailed explanation any purported harmful effects, the extent of those effects, and any causal relationship between disclosure and such harmful effects.

Detail: The redacted data could be utilized by data center competitors to infer and extrapolate confidential trade secret processes, practices and operations

(References: *Confidential Business Information* - 19 CFR 201.6(a) ; *Trade Secret* - Neb. Rev. Stat. S. 87-502(4))

Certification Statement of Responsible Person or Corporate Official for Owner/Operator	
I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.	
Signature Michael S. Degan	Date (mm/dd/yyyy): 09/25/2026
Typed or Printed Name: Michael S. Degan	Title: Attorney for Owner

NOTE: Even if confidentiality is granted by DWEE, any information received by DWEE may be used by DWEE in compiling or publishing analyses or summaries as long as the owners/operators are not identified and the analysis/summaries do not.

Confidentiality Request

reveal any information that is otherwise confidential. Furthermore, NDWEE is authorized by law to allow the United States-EPA to inspect NDWEE's confidential records.

Produced by: Nebraska Department of Water, Energy, and Environment, 245 Fallbrook Boulevard, Suite 100, Lincoln, NE 68509-8922, phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at ***dwee.nebraska.gov/*** *.*

REC'D DWEE - (10/9/2026) - (20260099260)

DEPARTMENT OF ENVIRONMENT AND ENERGY

TITLE 115, RULES OF PRACTICE AND PROCEDURE

EFFECTIVE 06-24-2019

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Title 115 - Rules Of Practice And Procedure

Chapter 1 - Adoption of Model Rules

001 For any proceeding before the agency to which the Administrative Procedures Act, Neb. Rev. Stat. §84-901 et seq. is made applicable by statute, the following Model Rules of Agency Procedure promulgated as Title 53 NAC by the Nebraska Attorney General, are incorporated by reference except as specifically indicated.

001.01 53 NAC Chapter 1 – Negotiated Rulemaking.

001.02 53 NAC Chapter 2 – Petition for Rulemaking.

001.03 53 NAC Chapter 3 – Procedures Governing Declaratory Orders.

001.04 53 NAC Chapter 4 – Rules of Procedure for Hearings in Contested Cases Before an Agency.

001.04A When the action before the agency is initiated by an administrative order or permit decision issued by the director under Neb. Rev. Stat. §81-1507, the petition and request for a contested case hearing must be filed within thirty days of receipt of the administrative order or permit decision in accordance with Neb. Rev. Stat. §81-1507. The contested case proceeding commences on the filing of a petition and request for a contested case hearing by the recipient of the administrative order or permit decision.

001.04B When the action before the agency is initiated by an emergency order issued by the director in accordance with Neb. Rev. Stat. §81-1507, the emergency order is effective immediately and the filing of a petition and request for a contested case hearing does not stay its effectiveness.

Enabling Legislation: Neb. Rev. Stat. §81-1507; §84-901 et seq.; §81-1504(1)(7)(9)(13); §81-1507.

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Title 115 - Rules Of Practice And Procedure

Chapter 2 - Confidentiality for Trade Secrets

001 Whenever the agency requests that a regulated entity furnish records or information which may be entitled to confidential treatment as trade secrets under Neb. Rev. Stat. §81-1527 or §84-712.05, the regulated entity may raise a claim of confidentiality for trade secrets at the time of submission of the record or information to the agency.

001.01 If no claim of confidentiality for trade secrets accompanies the record or information when it is received by the agency, the claim is waived and the material may be made available to the public by the agency without further notice to the submitting entity, unless the claimant establishes a just reason for the claim subsequent to submission of the record or information under 002.

001.02 The claimant should certify the record or information by placing on or attaching at the time of submission a cover sheet with appropriate notice, reasons for asserting the claim, and language, such as trade secret, proprietary, or confidential.

001.03 The appropriate notice and reasons for asserting the claim should include:

001.03A Certification that the record or information is entitled to confidentiality as a trade secret and that such claim has not expired by its terms, been waived, or withdrawn;

001.03B Description of reasonable measures the claimant has taken to protect the confidentiality of the information or record, and that it intends to continue to take such measures;

001.03C Assurance that the information or record is not, and has not been, reasonably obtainable without the claimant’s consent by other persons (other than governmental bodies) by use of legitimate means; and

001.03D Reasons why or how disclosure of the information or record is likely to result in substantial harmful effects to the business’s competitive position and what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

001.04 Allegedly confidential portions of otherwise non-confidential records and information are to be clearly identified by the claimant and may be submitted separately to facilitate identification and handling by the agency. The agency may require the claimant to submit a separate copy of the record and information with the confidential portions omitted to facilitate requests for access by the public.

001.05 If the regulated entity desires confidential treatment only until a certain date or the occurrence of a certain event, the notice is to so state.

002 If a confidentiality claim for trade secrets covering the record or information is received after the submission of the record or information itself is received, the agency will make such efforts as are administratively practicable to associate the late claim with copies of the previously-submitted information in the agency files, although the agency cannot assure that such efforts will be effective given the possibility of prior disclosure to the public.

003 For each claim the director or his or her designee will determine whether sufficient information has been provided to support the claim that the record or information relates to processes or methods are entitled to protection as trade secrets.

003.01 In making such determination, the director will consider whether:

003.01A The claimant has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;

003.01B The claimant has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information or record, and that it intends to continue to take such measures;

003.01C The information or record is not, and has not been, reasonably obtainable without the business' consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);

003.01D No statute specifically requires disclosure of the information or record; and

003.01E The claimant has satisfactorily shown that disclosure of the information or record is likely to cause substantial harm to the business's competitive position.

004 Whenever the director or his or her designee preliminarily determines that records or information required to be submitted to the agency are not entitled to confidential treatment as trade secrets, a written explanation of the reasons for such determination will be furnished to the claimant, who will be afforded an opportunity to comment before a final decision is made.

004.01 Notice of such determination will be sent by certified mail to the claimant specifying a reasonable time allowed for comments.

004.02 Failure to furnish timely comments will be considered a waiver of the claim.

005 Notice of the final decision denying a claim for confidential treatment of records or information as trade secrets will be provided to the claimant in

writing by certified mail. The agency will make the record or information available to the public on the tenth day after the date of the claimant's receipt of the written notice of denial of its claim.

006 The director may not withhold records as confidential if they have been disclosed in an open court, open administrative proceeding, open meeting or disclosed by the department in its duties.

Enabling Legislation: Neb. Rev. Stat. §§81-1527; §84-712.05.

Legal Citation: Title 115, Ch. 2, Nebraska Department of Environmental Quality

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Title 115 - Rules Of Practice And Procedure

Chapter 3 - Public Hearings

001 Unless more specific requirements in other agency Titles apply, this chapter contains minimum requirements for public hearings for:

001.01 Permit decisions which by statute or other agency regulations provide for public notice, public review and comment, and an opportunity to request a public hearing before making a final permit decision.

001.02 Fact-finding hearings afforded by statute or regulation.

002 To the extent provided by statute or other agency regulations authorizing public hearings for proposed permit decisions, any person may submit written comments on the proposed permit decision and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing is to be submitted in writing and state the nature of the issues proposed to be raised in the hearing.

003 If the director or his or her designee tentatively decides to issue or modify a permit, a draft permit shall be prepared. The draft permit will be:

003.01 Accompanied by a statement of basis described in 005;

003.02 Based on the administrative record described in 006;

003.03 Publicly noticed as described in 007; and

003.04 Made available for public review and comment.

004 If the director or his or her designee tentatively decides to deny or revoke a permit, the tentative decision will be:

004.01 Accompanied by a statement of the basis and reasons for the revocation described in 005;

004.02 Based on the administrative record described in 006;

004.03 Publicly noticed as described in 007; and

004.04 Made available for public review and comment.

005 A statement of basis will be prepared for every draft permit decision. A statement of basis will briefly describe the authority and reasons for the conditions of the draft permit, or in the case of permit denial or revocation, reasons supporting the tentative decision.

006 The administrative record for a tentative permit decision will consist of:

006.01 The application, if required, and any supporting data furnished by the applicant;

006.02 The draft permit or notice of intent to deny the application or to revoke the permit;

006.03 The statement of basis;

006.04 Other documents contained in the supporting file for the draft permit.

007 Unless more specific requirements in other agency Titles apply, the agency will provide public notice of tentative permit decisions by placing the notice on the agency webpage for a minimum of thirty days or by publication in a daily or weekly newspaper having general circulation in the area affected by the permit.

007.01 The public notice shall contain the following minimum information:

007.01A Name and address of the agency;

007.01B Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

007.01C A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

007.01D Name, address and telephone number of a person from whom interested persons may obtain further information or copies of documents; and

007.01E A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing unless a hearing has already been scheduled.

008 The agency will hold a public hearing whenever the director or his or her designee finds, on the basis of requests, a significant degree of public interest in the tentative permit decision exists. The director or his or her designee may also hold a public hearing at his or her discretion, whenever such a hearing might clarify one or more issues involved in the permit decision. The director may appoint a hearing officer to conduct the hearing.

008.01 The agency will provide public notice of the hearing as specified in 007.

008.02 In addition to the general public notice described in 007, the public notice of a hearing will contain the following information:

008.02A Date, time, and place of the hearing, which will be held in the area affected unless another location is specifically required; and

008.02B A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

009 All persons, including applicants, who believe any proposed condition of a draft permit is inappropriate or that the director's tentative decision to deny an application or revoke a permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period, including any public hearing. Any supporting materials which are submitted are to be included in full unless they are part of the administrative record in the same proceeding or consist of State or Federal statutes and regulations or other generally available reference materials.

010 Upon conclusion of the public hearing the hearing officer, if one was appointed, shall forward the transcript or recording of the hearing and any other evidence to the director for a final decision. Any final decision made by the director shall be governed by the standards set forth in the Nebraska Administrative Procedure Act, Neb. Rev. Stat. §84-901 et seq. and applicable statutory and regulatory authority of the agency.

011 The director or his or her designee will base the final permit decision on the administrative record described in this section which shall consist of:

011.01 The administrative record for the tentative permit decision described in 006;

011.02 All comments received during the public comment period;

011.03 The tape or transcript of any hearings held;

011.04 Any written materials submitted at such a hearing;

011.05 Any response to comments prepared by the agency; and

011.06 The final permit or permit decision.

012 The final decision to issue a permit may be reviewed by the district court in a proceeding instituted by filing a petition in error pursuant to Neb. Rev. Stat. §25-1901 and Neb. Rev. Stat. §84-917.

013 In accordance with Neb. Rev. Stat. §81-1507(3), any person who is denied a permit or had a permit revoked or modified may request a contested case under this title by filing a petition with the director within thirty days after receipt of notice of the permit decision.

014 Unless more specific requirements in other agency Titles apply, the agency will conduct fact-finding hearings in accordance with the statute or regulation authorizing the hearing. At a minimum, the agency shall:

014.01 Publish notice of the hearing, including:

014.01A Date, time, and place of the hearing, which will be held in the area affected unless another location is specifically required, and

014.01B A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

015 Rulemaking hearings before the Environmental Quality Council will be conducted in accordance with Neb. Rev. Stat. §81-1505(17) and the Administrative Procedure Act.

016 Strict rules of evidence and procedure will not apply in fact-finding hearings. The director or a hearing officer appointed by the director may admit and consider all relevant testimony and evidence having probative value in connection with the subject of the hearing.

017 No person will be required to be sworn or take an oath prior to presenting any evidence, which may be oral or written.

018 The hearing officer will among other things, open the proceedings, enter into the record the public notice given for the hearing, receive testimony, accept and properly mark exhibits, make a record of the hearing, and conduct such other related duties as necessary. Unless the final decision maker is presiding at the hearing, the hearing officer will have no power, acting alone, to take any action involving a final determination from the hearing.

Enabling Legislation: Neb. Rev. Stat. §81-1504(1)(9)(11)(13); §81-1505; §81-1505(17); §81-1507(3); §84-901 et seq.

Legal Citation: Title 115, Ch. 3, Nebraska Department of Environmental Quality.

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