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STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION  
Case No. PU-22-034

Montana-Dakota Utilities Co.  
12-inch Water Pipeline Project - Morton County  
Siting Application

OAH File No. 20220034

**ORDER GRANTING TRADE SECRET PROTECTION**

1. Montana-Dakota Utilities Co., (“MDU” or the “Company”), filed an Application for Trade Secret Protection on January 18, 2022, to prevent the disclosure of trade secret or proprietary information as defined in N.D.C.C. § 47-25.1-01(4) and protect cultural resource location information under N.D.C.C. § 49-22.1-24.

2. The identified information to be protected includes cultural resource areas and a safety and emergency plan.

3. Commission staff, as required by N.D. Admin. Code § 69-02-09-03, has made a prima facie recommendation that the information is relevant for the hearing of this case and is protected information.

4. Under N.D.C.C. § 49-22.1-24 the Commission may limit access to information that identifies the location of cultural resources.

5. The safety and emergency plan contains information not intended for the public. The information, especially bomb threat information, is not generally known to other persons and is not readily ascertainable by other persons. If publicly available, the information could harm the MDU’s response to a critical situation. Under N.D.C.C. § 44-04-18.4(7), these records are exempt from being public records.

6. The information is trade secret because it “ a. [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and b. [i]s the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information,” as provided in N.D.C.C. § 44-04-18.4(4). The information is not readily ascertainable by other proper means to such competitors, vendors, suppliers, or other persons. The confidentiality of this information has been maintained by MDU and MDU’s contractors.

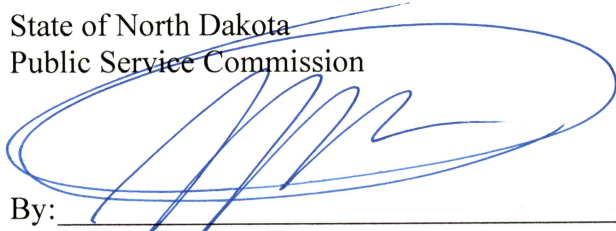
7. This Hearing Officer has fully reviewed and considered the application of MDU and the recommendations of Commission staff, and determines that the information is relevant for the hearing of this case, that the information is not a public record under N.D.C.C. § 44-04-18 because the information is a trade secret as defined by N.D.C.C. § 47-25.1-01(4) and exempt under N.D.C.C. §§ 44-04-18.4(7) and 49-22.1-24, and that the information is entitled to protection pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1, N.D.C.C. § 44-04-18.4, N.D.C.C. § 49-22.1-24, and N.D. Admin. Code ch. 69-02-09, all as set forth above;

8. **IT IS, THEREFORE, ORDERED** that MDU is hereby granted trade secret protection or the information described herein is otherwise protected information pursuant to and in accordance with the provisions of N.D.C.C. ch. 47-25.1, N.D.C.C. § 44-04-18.4, N.D.C.C. § 49-22.1-24, and N.D. Admin. Code ch. 69-02-09 for the information identified in this Order; and it is further

9. **ORDERED** that this order shall not constitute precedent for a determination of entitlement to trade secret protection for any information submitted upon any subsequent application.

Dated in Bismarck, North Dakota, this 10<sup>th</sup> day of March 2022.

State of North Dakota  
Public Service Commission



By: \_\_\_\_\_

Timothy J. Dawson  
Administrative Law Judge  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, North Dakota 58503  
Telephone (701) 328-3200  
[tjdawson@nd.gov](mailto:tjdawson@nd.gov)

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**CERTIFICATION OF SERVICE**

The undersigned certifies that the original of the **ORDER GRANTING TRADE SECRET PROTECTION** was mailed, inside mail, at the State Capitol, on the 10 day of March 2022, to:

John Hamre  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

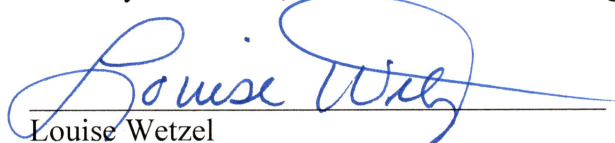
and that a true and correct copy of the above document was mailed, regular mail, on the 10 day of March 2022, to

Allison Mann  
MDU Resources Group, Inc.  
P O Box 5650  
Bismarck, ND 58506-5650

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol on the 10 day of March 2022, to:

Brian Johnson  
General Counsel  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS  
Timothy J. Dawson, Administrative Law Judge

  
Louise Wetzel