**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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| In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities and Battery Energy Storage Systems. | ) ) ) ) ) ) | File No. EA-2026-0183 |

**APPLICATION OF MARY E. GEEDING FOR REHEARING AND CLARIFICATION OF THE ORDER APPROVING STIPULATION AND AGREEMENT AND GRANTING CERTIFICATES OF CONVENIENCE AND NECESSITY (ITEM 74), AS TO THE MILLCREEK BESS PROJECT**

COMES NOW Mary E. Geeding ("Applicant"), appearing on her own behalf as permitted by 20 CSR 4240-2.040(5), and under Section 386.500, RSMo, and 20 CSR 4240-2.160(1), applies for rehearing and clarification of the Commission's Order Approving Stipulation and Agreement and Granting Certificates of Convenience and Necessity, issued October 21, 2026, and effective November 20, 2026 (Item 74) (the "Order"). She seeks rehearing as to the certificate for the Millcreek BESS Project, and as to the certificate for the Quinn Switching Station, which is to be constructed "in order to interconnect the Millcreek BESS Project" (Order, pp. 1–2), only to the extent the Commission's disposition of the Millcreek certificate requires or as stated in Ground Eight. She does not seek rehearing as to the Castle Bluff, Huck Finn, Tom Sawyer or Ringer projects. As Section 386.500.2, RSMo, requires, she sets forth specifically below each ground on which she considers the Order unlawful, unjust or unreasonable. She files with this Application a separate Motion for Expedited Treatment. In support she states:

## I. WHAT APPLICANT CONCEDES

1. No party objected to the Non-Unanimous Stipulation and Agreement (Item 63) (the "Agreement") within seven days, and the objection right belongs to a party. 20 CSR 4240-2.115(2)(B). The Commission therefore could treat the Agreement as unanimous, and it did. Order, p. 4. The Office of the Public Counsel ("OPC") did not object. *Id.*

2. Section 536.090, RSMo, excepts "cases disposed of by stipulation, consent order or agreed settlement" from its general requirement of findings of fact and conclusions of law. Applicant does not contend that every settled issue required conventional findings.

3. The Commission stated that it "weighed the opposition to, in particular, the Millcreek BESS Project." Order, p. 5. It has also stated that it "is aware of the issues and concerns raised by Ms. Geeding." Item 73, p. 5.

4. The post-in-service schedule for the Hazard Mitigation Analysis was not hidden. The Company proposed it in surrebuttal testimony filed September 4, 2026, as a revision to Staff's recommended condition. Surrebuttal Testimony of Steven M. Wills (Item 50), p. 22, ll. 32–34, and Schedule SMW-S1.

5. Staff signed the Agreement, including the post-in-service schedule for the Hazard Mitigation Analysis that differs from Staff's own earlier recommendation. Item 63, p. 15. Whether the approved terms are sufficient under Section 393.170.3, RSMo, is nonetheless the Commission's determination, not Staff's.

6. Staff's Report concluded, after what Staff described as "a robust review of safety with respect to the proposed BESS facilities," that "the proposed BESS facilities will be safe," and recommended "that as a condition of approval, the Commission require copies of" material that is marked confidential in the public version. Staff Report (Item 37), p. 73, ll. 16–21, and p. 74, ll. 1–2. Staff also stated its opinion "that there will be no more risk associated with the proposed BESS Facilities than there is with any other aspect of Ameren Missouri's operations." *Id.*, p. 74, ll. 2–4. Applicant does not ask the Commission to set Staff's view aside. She notes that Staff paired its conclusion with a condition of approval, and that Staff's detailed recommendation called for both the Hazard Mitigation Analysis and the Hazard Mitigation Plan (Ground Two).

7. If the Commission does not approve the Agreement "unconditionally and without modification," the Agreement is void, and the Signatories "retain all procedural and due process

rights." Agreement ¶¶ 8, 10 (Item 63, p. 13). The relief requested in Part IV is structured with that in mind.

## II. APPLICANT IS A "PERSON . . . INTERESTED THEREIN" ENTITLED TO APPLY FOR REHEARING

8. Applicant states the adverse facts first. Item 73 denied her request to intervene out of time. The Commission found that the three residents who sought intervention "do not have an interest which is different from that of the general public," Item 73, p. 5, and that their arguments "do not demonstrate that their interests differ materially from those of other area residents near the proposed Millcreek BESS Project." *Id.*, p. 4. Section 386.500.2, RSMo, also refers to the applicant as "that party." Applicant knows of no Missouri decision that decides whether a person whose intervention was denied may apply for rehearing under Section 386.500.

9. The statute that governs this Application uses different words from the intervention rule. Section 386.500.1 gives "the public counsel or any corporation or person or public utility interested therein" the right to apply for rehearing "in respect to any matter determined therein." A "person" includes "a natural person." 20 CSR 4240-2.010(11). The Supreme Court of Missouri has held that nothing in the statutory procedure requires an applicant for rehearing to show that it is "aggrieved," and that "the only requirement to seek rehearing is that the party must be 'interested therein.'" *State ex rel. Riverside Pipeline Co. v. Public Service Comm'n*, 165 S.W.3d 152, 156 (Mo. banc 2005). Applicant acknowledges that the Commission in *Riverside* conceded the applicants were interested, *id.*, and that the case did not address a person whose intervention had been denied.

10. The intervention rule asks whether a person has "an interest which is different from that of the general public." 20 CSR 4240-2.075(3)(A). Section 386.500.1 asks whether a person is "interested therein," that is, interested in the order. A rule governing who may become a party does not narrow a right the statute gives to any interested "person." Applicant's interest in this Order is specific:

(a) Her residence is approximately 4.0 miles from the Millcreek site, on Mill Creek, downstream of the site, and her household water comes from a private well. Item 66, ¶¶ 5–6. The Company's own environmental assessment states: "Property drains west into Mill Creek." Limited Phase I Environmental Site Assessment, Millcreek BESS Project (Item 43, EFIS Doc. 887819) ("Phase I ESA"), §§ 3.1.1, 3.1.5.

(b) The Order fixes the terms that govern the site-specific hazard analysis, containment methods and fire response at the Millcreek site. Agreement ¶¶ 5(c)(ii)–(iii), 5(h) (Item 63, pp. 6, 11). The Company's witness testified that its site design includes stormwater management and containment measures "intended to protect nearby properties, waterways and the surrounding environment by keeping water and runoff managed on Company property." Surrebuttal Testimony of Scott Wibbenmeyer (Item 49) ("Wibbenmeyer Surrebuttal"), p. 21, ll. 3–5.

(c) Before the Order issued, Applicant asked the Commission to impose specific conditions on the Millcreek certificate. Item 72, Part II. The Order did not decide that request. *See* Ground Three.

11. If the Commission concludes that Applicant is not a person "interested therein" under Section 386.500.1, Applicant respectfully asks that it say so expressly and state its basis, so that the question is preserved.

## III. GROUNDS FOR REHEARING

12. An order of the Commission is lawful when "statutory authority for its issuance exists," and reasonable when it "is supported by substantial, competent evidence on the whole record" and "is not arbitrary or capricious" or an abuse of discretion. *State ex rel. AG Processing, Inc. v. Public Service Comm'n*, 120 S.W.3d 732, 734 (Mo. banc 2003); *State ex rel. Praxair, Inc. v. Missouri Public Service Comm'n*, 344 S.W.3d 178, 184 (Mo. banc 2011) (both quoted in *Office of the Public Counsel v. Missouri Public Service Comm'n*, No. SC92964, slip

op. at 7 (Mo. banc July 30, 2013, as modified Sept. 10, 2013)). On rehearing, the Commission may consider "the facts, including those arising since the making of the order," and may "abrogate, change or modify" it. Section 386.500.4, RSMo. Each ground below is stated with those standards in mind.

**Ground One. The Order describes the Agreement as including "compliance with" the NFPA standard for stationary energy storage systems. The Agreement contains no such condition, and no local fire code applies at the Millcreek site.**

13. Adverse facts first: Section 536.090 excuses findings in stipulated cases; the Agreement does refer to NFPA 855, Agreement ¶ 5(h)(i)–(ii) (Item 63, p. 11); and the Company testified that it applies its own safety requirements, and has met with the Northwest Fire Protection District, the lead fire district for the Millcreek site. Wibbenmeyer Surrebuttal, p. 16, ll. 14–19; p. 19, ll. 5–10.

14. The Order states: "The Commission notes, for example, that the Agreement includes safety testing of the BESS batteries prior to installation and compliance with the National Fire Protection Association standard for stationary energy storage systems." Order, pp. 5–6. It continues: "The Commission's decision to approve the Agreement takes into consideration safety and cost considerations . . . ." *Id.*, p. 6.

15. The Agreement does not require compliance. It requires the Company to meet with OPC, Staff and Renew Missouri about expanding the Millcreek website's Frequently Asked Questions to address "steps taken to comply with" NFPA 855, and to file a notice "that affirms its intention for the BESS to comply with the NFPA 855 standard." Agreement ¶ 5(h)(i). It requires a meeting to discuss "the steps the supplier has taken to ensure the BESS complies with the NFPA 855 standard." *Id.* ¶ 5(h)(ii). An affirmation of intention and two meetings are not a compliance condition. The certificates are granted "subject to the conditions contained within the Non-Unanimous Stipulation and Agreement." Order, Ordered ¶ 2 (p. 6). As written, the Millcreek certificate therefore carries no condition requiring compliance with NFPA 855.

16. Applicant has located no other instrument in this record that makes NFPA 855 compliance at the Millcreek site enforceable by the Commission. Staff reported: "No locally adopted ordinances or fire codes apply to the proposed Huck Finn and Millcreek BESS sites." Staff Rebuttal Report (Item 37) ("Staff Report"), p. 72, ll. 7–8. The Company's internal requirements, however sincerely applied, are not conditions the Commission can enforce. On this record, a certificate condition is the means by which NFPA 855 compliance at the Millcreek site would become enforceable by the Commission.

17. The record also leaves open who would verify compliance, and against which edition. The Company testified that its safety approach includes "review by the applicable Authority Having Jurisdiction," and that "[t]he 2024 International Fire Code states that energy storage systems regulated by Section 1207 must comply with the applicable provisions of its energy-systems chapter and NFPA 855." Wibbenmeyer Surrebuttal, p. 16, ll. 1–4. Staff reported that no locally adopted fire code applies at the Millcreek site and that the Company had not met with the Authority Having Jurisdiction. Staff Report, p. 72, ll. 7–11. On November 10, 2026, a member of the lead fire district's board stated in substance that the District lacked specialized knowledge to inspect a facility of this type. *See* Ground Nine. Applicant does not contend that the Company lacks independent code obligations. She asks the Commission to identify the condition that requires actual compliance at the Millcreek site, the edition of NFPA 855 that applies, the authority that will review compliance, and the documentation that will verify compliance before operation. The County's proposed agreement would commit the Company to "compliance with NFPA 855 (2026 edition)." Exhibit I, § 1.2; *see* Ground Five.

18. Section 536.090 relieves the Commission of a duty to make findings in a stipulated case. It does not make reasonable an order whose stated basis describes a condition that the approved agreement does not contain. The Order offers that description as an example of the safety considerations behind its decision. Order, pp. 5–6. To that extent the Order is not supported by the record and is unreasonable.

19. The correction asks the Company to do only what it has testified it will do, although a condition would make that commitment enforceable. The Company testified that its safety requirements, including "compliance with the applicable NFPA 855 and International Fire Code provisions," apply "regardless of whether the jurisdiction in which a BESS Project is located, has adopted less restrictive requirements." Wibbenmeyer Surrebuttal, p. 16, ll. 14–19. Applicant asks the Commission either to correct the Order's description of the Agreement or to make NFPA 855 compliance an express condition of the Millcreek certificate, as requested in Part IV.

**Ground Two. The Order approves a Hazard Mitigation Analysis condition that is weaker than Staff recommended and later than the Company testified, without explaining why it is sufficient for the Millcreek site.**

20. Adverse facts first: the Company proposed the post-in-service schedule openly (paragraph 4 above); the Commission may approve a reasonable settlement term; and the Agreement sought a variance from 20 CSR 4240-20.045(3)(C) for as-built drawings. Agreement ¶ 5(e)(i) (Item 63, p. 9).

21. The record contains three versions of this condition:

(a) **Staff recommended** that the Company "submit the site-specific Hazard Mitigation Analysis and Hazard Mitigation Plan for each BESS Project when completed." Staff Report, p. 13, ll. 17–18. Staff's detailed list of recommended conditions likewise called for "[a] copy of the site-specific Hazard Mitigation Analysis, and Hazard Mitigation Plan developed for each BESS facility." *Id.*, p. 107, ll. 19–20.

(b) **The Company testified** that the project-specific Hazard Mitigation Analysis "addresses both the selected battery equipment and the overall project installation," is "performed by a firm independent of the engineering, procurement, and construction contractor," and "will be completed as part of the

design process and prior to the delivery of the BESS equipment to site, for each of the proposed BESS Projects." Wibbenmeyer Surrebuttal, p. 16, ll. 5–13.

(c) **The Agreement provides** only that the Company "shall submit a copy of the site-specific Hazard Mitigation Analysis or Hazard Mitigation Plan developed for each BESS facility after each BESS facility goes into service." Agreement ¶ 5(c)(ii) (Item 63, p. 6).

22. Between Staff's recommendation and the approved condition, two things changed. "When completed" became "after each BESS facility goes into service," and "Analysis and . . . Plan" became "Analysis or . . . Plan," which permits the Company to submit one document rather than both. The Order does not mention the Hazard Mitigation Analysis or explain either change.

23. The timing matters to emergency response. The Company testified that it works with local responders so that they "have access to project-specific emergency response information before the facility enters operation," and that its emergency response planning "incorporates industry best practices, site-specific hazard analyses, and the safety features of the installed equipment." Wibbenmeyer Surrebuttal, p. 19, ll. 13–23. Under the approved condition, the Commission and Staff will first see the site-specific analysis after the facility is operating, when changes to design, layout or protective systems are hardest to make, although the Company's own planning relies on that analysis before operation.

24. The Agreement's separate requirement of a public pleading on Megapack 3 safety testing at least 90 days before installation, Agreement ¶ 5(h)(ii), does not answer this point. That pleading reports testing of the battery equipment. The Hazard Mitigation Analysis, by the Company's description, "addresses both the selected battery equipment and the overall project installation." Wibbenmeyer Surrebuttal, p. 16, ll. 5–6. The two perform different functions, and only the equipment testing is required before installation.

25. The hazard information the Company described in testimony was for a different product. The Company stated that, "[b]ased on the hazard-analysis information for the Tesla

Megapack 2 XL, which is similar to the equipment proposed for these projects," testing was performed at the cell, module and unit levels. Wibbenmeyer Surrebuttal, p. 14, l. 23, to p. 15, l. 2. Applicant does not dispute that the products are similar. The site-specific analysis is the document that would show whether the Millcreek installation, with its own equipment, layout and site conditions, presents the hazard profile the Company described. That is a further reason to file it before the batteries are delivered.

26. The Commission's certificate rule reflects the approach Applicant asks for. When required items are unavailable, "the commission may grant the certificate subject to the condition that the unavailable items be filed before authority under the certificate is exercised." 20 CSR 4240-20.045(3)(C). Applicant acknowledges that the rule addresses items the rule itself requires.

27. Applicant did not ask for a new study. She asked that the analysis the Company says will be completed before equipment delivery be filed when it is completed. Item 72, ¶ 5(a). The Order grants a certificate for a 250 MW battery facility (Order, p. 1) on property that "drains west into Mill Creek." Phase I ESA, §§ 3.1.1, 3.1.5. To the extent it approves post-in-service filing without explanation, the Order is unreasonable. On November 10, 2026, asked whether the Hazard Mitigation Analysis had been completed, a Company representative answered "No," and said that it would be "done as part of the design." *See* Ground Nine. Applicant does not contend that the analysis should already be complete; she asks only that it be filed, and open to review, when it is complete and before equipment is delivered. A condition requiring the Millcreek analysis and plan to be filed when completed, as Staff recommended, and the analysis to be filed before equipment delivery, consistent with the Company's sworn schedule for completing it, is reasonable and necessary under Section 393.170.3, RSMo.

**Ground Three. The Order does not dispose of Applicant's request, presented independently of intervention, for conditions on the Millcreek certificate.**

28. Adverse facts first: Section 393.170.3 makes conditions discretionary ("may"); Applicant is not a party; and Applicant has found no Missouri authority requiring the Commission to rule separately on a non-party's request for certificate conditions.

29. On October 19, 2026, before the Order issued, Applicant filed Item 72. Its Part II, titled "Relief That Requires No Party Status," asked the Commission to consider whether four conditions on the Millcreek certificate are reasonable and necessary: (a) filing the Hazard Mitigation Analysis when completed, before equipment delivery; (b) filing the containment design, basin capacity and runoff collection and testing measures in public form before operation; (c) stating the Company's first-responder commitments as conditions; and (d) a public summary of safety test outcomes. Item 72, ¶ 5 (pp. 2–4). Each was drawn from the Company's testimony or the Agreement. *Id.* Applicant asked the Commission to "rule on it separately, whatever its ruling on intervention," *id.* ¶ 7 (p. 5), and to rule "on Part II regardless of its ruling on intervention." *Id.*, Relief Requested ¶ (1) (p. 9). She also asked that the Company be directed to state whether it accepts items (a) through (c). *Id.* ¶ 6; Relief Requested ¶ (2).

30. Item 73 acknowledged the "Statement of Alternative Relief," Item 73, p. 3, but its ordering paragraphs deny only intervention and leave to file an amicus brief. *Id.*, p. 5. The Order does not mention Item 72 or the four requested conditions. The Commission's docket sheet lists Item 73 as responding to Items 64, 65, 66, 71 and 72, and lists the Order as responding to Items 63 and 68. EFIS Docket Sheet, File No. EA-2026-0183. Applicant recognizes that docket listings are administrative and do not themselves state what the Commission considered.

31. The power to impose conditions under Section 393.170.3 belongs to the Commission and does not depend on whether the person who proposes a condition is a party. The Order does not show whether the Commission considered the Part II requests and found them not reasonable and necessary, regarded them as resolved by approving the Agreement, or treated them as unavailable because Applicant was not a party. Those dispositions have different legal consequences, and the Order does not permit review of which one occurred. To that extent the Order is unlawful and unreasonable. Applicant asks for an express ruling on the Part II requests and the basis for it.

**Ground Four. The Order adopts no pre-operation condition for the runoff containment the Company described in testimony, and the approved term is weaker than Staff recommended.**

32. Adverse facts first: the Agreement does address containment procedures, Agreement ¶ 5(c)(iii); final engineering may still be in progress; other permitting authorities may review site drainage; discharges from the operating facility are for the Department of Natural Resources to permit; and some design detail may warrant confidential treatment.

33. The Company's witness testified that the Millcreek design includes "containment barriers designed within or around the battery and transformer equipment" and that "the entire site will include multiple detention basins designed to collect, test and manage runoff, so water remains controlled on-site during both normal operations and emergency event conditions." Wibbenmeyer Surrebuttal, p. 21, ll. 7–12.

34. Staff recommended that the Company "submit procedures, practices, or plans developed for environmental mitigation or containment as part of a BESS fire-response strategy," with no post-in-service limitation. Staff Report, p. 13, ll. 19–20. The Agreement instead requires only procedures and best practices "that the Ameren Environmental team may develop regarding environmental mitigation or containment methods," and only "after any corresponding BESS facility goes into service." Agreement ¶ 5(c)(iii) (Item 63, p. 6). No condition addresses the detention basins, their capacity, or how runoff will be tested.

35. The studies Applicant has located in the record do not model the developed site; if the Company has completed such modeling, Applicant asks that it be identified. The Company's flood study states that its purpose is "to estimate the 100-year inundation depths at the Millcreek BESS site under existing conditions," and that "[f]looding depths were calculated for existing terrain conditions in the project area." Existing Hydrology Study Report, Millcreek BESS (Item 43, Attachment C, EFIS Doc. 887821) ("Hydrology Study"), p. 2. It identifies, "[f]urther downstream," a "FEMA SFHA Zone A present, associated with Mill Creek," *id.*, p. 3, and depths "higher than 7 feet" where Mill Creek meets Millcreek Church Road, "to the west of the project site." *Id.*, p. 6. The Company's waters delineation found "one (1) named stream (Mill Creek)

within the AOI," "a 100-year floodplain associated with Mill Creek located along the southwest boundary of the AOI," and "two (2) wetlands, fourteen (14) streams, and two (2) open waters" in the field. Waters Delineation Report (Item 43, Attachment B, EFIS Doc. 887820), §§ 3.1–3.2. The Company also testified that it "will maintain an approximately 30,000-gallon water storage tank on-site to support emergency response activities at the Millcreek BESS Project." Wibbenmeyer Surrebuttal, p. 20, ll. 13–14. Applicant concedes that the flood study does not predict that the facility will flood or that containment will fail, and that the depths above 7 feet are at the road crossing west of the site, not at the battery pads. The point is narrower: the detention basins and emergency containment on which the Company's runoff assurance rests appear in the record only as testimony, and no filed study models them, their capacity, or the firefighting water they would have to hold. Lincoln County Emergency Management's own meeting summary lists the "Definition and Management of Contaminated Firewater" as "Unresolved." Exhibit D, Action Item No. 3; *see* Ground Nine.

36. Firefighting water connects these gaps. Some of the water responders apply to a battery fire may become runoff that the containment and detention basins must hold; how much is an engineering assumption the record does not state. The U.S. Environmental Protection Agency's July 2025 overview of battery energy storage systems lists, among its considerations, "[m]inimize, contain, and/or redirect runoff from water application, to the extent possible." U.S. EPA, *Battery Energy Storage Systems Overview*, EPA 530-F-25-013 (July 2025), https://www.epa.gov/system/files/documents/2025-08/battery_energy_storage_systems_fact_sheet.pdf. Adverse facts first: Lincoln County Emergency Management rated contaminated firewater and runoff management "Substantially Addressed in Principle," noting preliminary designs for "an engineered detention/containment basin with externally accessible isolation valves." Exhibit C, Request No. 2. The same summary states, however, that "[f]inal documentation should still define containment capacity, sampling protocols, isolation-valve procedures, contaminated-water characterization, pumping/removal responsibilities, transportation, final disposal, and post-incident environmental clearance." *Id.* Emergency Management also recorded "Independent

Access to Fire-Water Infrastructure" as "Unresolved": responders "requested consideration of a separate keyed emergency entrance providing direct access to the dedicated fire-water storage and containment area," and "[n]o final agreement was reached regarding this request." Exhibit D, Action Item No. 2. At the Lincoln County Commission's meeting of November 10, 2026, a member of the Northwest Fire Protection District's board stated in substance that several of the Company's commitments to the District remained verbal; that adequate firefighting water had not been addressed to his satisfaction; and that, although the Company proposed an on-site supply of about 30,000 gallons, the District's capacity to transport water is limited. At the same meeting, the Company's representatives described the 30,000 gallons as a planning figure, with the exact firefighting-water requirement still to be calculated through further hazard and design analysis. *See* Ground Nine. The 30,000-gallon figure describes the water supply, not the volume the containment must hold, which depends on how fast and how long water is applied and on any rain falling at the same time. The preliminary design described to the County includes isolation valves, Exhibit C, Request No. 2, but the record does not state whether the basins are lined, how much they hold with their outlets closed, or how long they can hold potentially contaminated water while it is tested. Applicant does not ask the Commission to prescribe a design, only that the pre-operation filing show the calculation and how retained water will be kept from discharging or soaking into the ground until it is tested. Applicant has located in this record neither the volume of water responders would apply nor the volume the containment is designed to hold. Applicant concedes that the board member's statement is not an admission by the Company. She asks only that the pre-operation filing state the volume of firefighting water the containment is designed to hold, how that volume relates to the on-site water supply, and how responders will reach that supply.

37. The same gap exists for routine operation. The record treats operation and maintenance of the BESS facilities only as an expense, consisting of "costs such as internal labor and materials, PILOTs, and insurance expense." Staff Report, p. 98, ll. 17–20. Applicant has located nothing in the record describing the manufacturer-approved cleaning procedure for the

Megapack 3 units; any water or chemicals that procedure uses; the quantity and disposal of any resulting wastewater; or how maintenance of coolant, refrigerant, transformer or other fluid-containing equipment, and any accidental release of those fluids, is kept out of site drainage and nearby waters. Tesla's published Megapack Maintenance Agreement, which does not identify the model or generation it covers, lists annual "[c]abinet cleaning," "radiator area cleaning" and a "[c]oolant level check," and a "Megapack coolant refill" once every ten years. Tesla, *Megapack Maintenance Agreement* § 5, https://digitalassets.tesla.com/image/upload/prod/fulfillment/energy/Order/MegapackConfigurator/megapack-web-maintenance-agreement. Applicant concedes that this document does not establish the procedures, frequencies or quantities that apply to the Megapack 3 equipment proposed for Millcreek; it shows only that cleaning and coolant servicing are foreseeable parts of operating this kind of equipment. The Department of Natural Resources reports that its industrial permits staff "has not received an application for this project at this time," and it has referred Applicant's questions about equipment cleaning and coolant handling to that staff. Exhibit A. Applicant does not contend that any discharge is occurring or will occur, and she does not assume that periodic washing is required, that any particular chemical is used, or that wastewater is necessarily generated. She asks only for measurable operating information that would allow the Commission, the Department and local responders to verify that maintenance water and fluids remain controlled on site, as the Company testified runoff will be "during both normal operations and emergency event conditions." Wibbenmeyer Surrebuttal, p. 21, ll. 7–12.

38. The Company's own environmental assessment states that the property "drains west into Mill Creek," and that the westernmost portion of the site, "near Mill Creek, is mapped as 1% Annual Chance Flood Hazard." Phase I ESA, §§ 3.1.1, 3.1.5, 3.1.6. Applicant concedes that the same assessment identified no recognized environmental conditions on the property. *Id.* It is, however, a limited review: it states that it is "a split from the previous report and not an update," that its site reconnaissance took place on May 21, 2026, and that its "180-day Viability

Date" was November 15, 2026. *Id.*, cover letter and § 1.10. It does not evaluate the completed facility's runoff, groundwater or emergency-water performance, and Applicant asks only that it not be treated as a substitute for the pre-operation filing requested in this Ground. OPC listed "environmental concerns associated with water runoff" among the concerns raised in this case and stated that its non-objection "does not constitute an agreement that these concerns have been satisfied." Item 68, ¶ 8 (p. 4). Applicant lives downstream on Mill Creek and relies on a private well. Item 66, ¶¶ 5–6. A condition requiring a filing, before the Millcreek facility begins operation, that states the completed containment design and its design basis, the detention basin capacity and emergency containment capacity, the runoff testing protocol and disposition procedures, and the cleaning and maintenance information described in the preceding paragraph, in public form with confidential treatment under 20 CSR 4240-2.135 where justified, is reasonable and necessary under Section 393.170.3. The Order's failure to address it is unreasonable.

**Ground Five. The Commission approved the Millcreek certificate before local emergency-response arrangements were complete, and the Order does not require their completion before energization.**

39. Adverse facts first: the Company may honor these commitments without a condition; it testified that it has met with the Northwest Fire Protection District, that "[a]dditional meetings are scheduled with the Eolia Fire Protection District and with Lincoln County Fire Rescue and Emergency Management personnel," and that it plans "safety documentation, facility tours, responder training, and ongoing coordination with local agencies," Wibbenmeyer Surrebuttal, p. 19, ll. 5–19; the county's records show that the Company agreed to the County's request for responder training and agreed in principle to several other requests, Exhibit C, Requests No. 1, 4 and 5; Exhibit D, Action Item No. 1; and the Agreement's pre-installation testing provision, ¶ 5(h)(ii), overlaps in part with the public's safety concerns. Applicant does not contend that a signed county agreement was a legal prerequisite to the certificate, or that the Company failed to meet with responders.

40. The Company testified that it "offers safety training to local first responders prior to commencing operation of the BESS project," Wibbenmeyer Surrebuttal, p. 18, ll. 12–14, and that it "has committed to supplying reasonable project-specific equipment identified by local responders as part of the emergency planning process." *Id.*, p. 19, ll. 19–21. When Staff filed its report, it stated that "Ameren Missouri has not conducted pre-design meetings with the Authority Having Jurisdiction." Staff Report, p. 72, ll. 10–11. The Agreement contains no condition addressing first responders.

41. The Commission approved the certificate before those arrangements were complete. Lincoln County Emergency Management's summaries of its meetings with the Company, whose document properties are dated September 24, 2026, nearly four weeks before the Order, record that the County's request for air-monitoring and protective-action capability was a "Partial Agreement / Additional Ameren Research Required," Exhibit C, Request No. 3; that its request for a responder capability and emergency cost-recovery agreement was "No Agreement Reached / Legal Review Pending," *id.*, Request No. 6; and that "Independent Access to Fire-Water Infrastructure" and the "Definition and Management of Contaminated Firewater" remained unresolved, Exhibit D, Action Items No. 2–3. Responders also asked that 911 receive "actionable technical information, rather than a generic facility alarm," and raised "[w]inter snow and ice conditions" and access that does not depend on "the physical arrival of an Ameren employee." Exhibit D. The County's stated objective was to convert "verbal and conceptual agreements into written, project-specific commitments with defined deliverables, responsible parties, completion dates, and pre-energization milestones." Exhibit C. On October 21, 2026, the Commission approved the Millcreek certificate subject to the Agreement, which contains no condition addressing first responders and no term addressing contaminated firewater, responder access to fire-water infrastructure, air monitoring, or emergency cost recovery. On November 10, 2026, a member of the lead fire district's board told the County Commission that several of those commitments remained verbal and that the District could neither endorse nor oppose the proposed agreement, and the County tabled the agreement so that the District could review it. At

the same meeting, a Company representative said that the site-specific Hazard Mitigation Analysis had not been completed. *See* Ground Nine.

42. The County's proposed agreement, as tabled on November 10, 2026, would not close that gap. Exhibit I. Adverse facts first: the draft is unsigned, its terms may change before any vote, and it is not before this Commission. It also contains substantive commitments, including an emergency response plan that is to address "air monitoring (equipment, triggers, and responsibilities)" and "water flow and duration assumptions," § 2.1(a); a Hazard Mitigation Analysis "developed by a qualified independent third party," § 1.2(e); and emergency response equipment for local agencies, § 2.1(d). But the draft requires only "an adequate on-site water supply, or other mutually acceptable water-source arrangements," without stating a volume, § 1.2(a); sets no date for the Hazard Mitigation Analysis, § 1.2(e); requires the plan and training to be "in place and completed prior to commencement of commercial operation of the Facility," § 2.1(b), which follows delivery and installation of the batteries; states that it "constitutes the entire agreement and understanding of the parties," § 5.3, so commitments made only orally would not be part of it; and provides that no provision shall "give rise to any cause of action in any person not a party to this Agreement," § 5.5, so neither the fire district nor residents could enforce it. A certificate condition would make the Company's responder commitments enforceable by the Commission, and verifiable by the responders, before the Millcreek facility is energized.

43. The point is not that a county agreement had to be signed before the Commission could act; Applicant does not so contend. It is that the Company presented its work with local responders as one layer of a safety approach that "does not depend on any single layer of prevention or mitigation," Wibbenmeyer Surrebuttal, p. 18, ll. 12–16; that the responders' own records showed that work was not yet complete or in writing when the Commission acted; and that the Order does not require it to be completed before the Millcreek facility is energized. The Commission "may by its order impose such condition or conditions as it may deem reasonable and necessary." Section 393.170.3, RSMo. A documented opportunity for the responding fire protection districts and Lincoln County Emergency Management to review the Company's

Millcreek emergency response plan before energization would answer the lead fire district's own request, and a verified pre-energization report on each matter the County recorded as open would show the Commission which safeguards are in place. Stating the Company's existing commitments as conditions, completed and certified in a filing before the Millcreek facility is energized, asks the Company to do only what it has said it will do, adds regulatory accountability, and gives the responders and residents nearest the Millcreek site an enforceable assurance. The Order's omission of them is unreasonable.

**Ground Six. The pre-installation testing pleading should state its results in plain terms.**

44. Adverse facts first: the Agreement already requires a public pleading "identifying the results" of the Megapack 3 safety testing "at least 90 days prior to the installation of the batteries at the Millcreek site," with the supplier's report kept confidential. Agreement ¶ 5(h)(ii) (Item 63, p. 11).

45. Applicant asks only that the Commission clarify that "identifying the results" includes plain statements of whether thermal runaway spread beyond the unit in which it was initiated, whether flaming occurred outside the enclosure, and whether any explosion or deflagration was observed. Item 72, ¶ 5(d). Outcomes of that kind describe how the equipment behaves in a fire, not how it is made. The Order is unreasonable to the extent it leaves that term undefined for the residents nearest the site.

**Ground Seven. The reporting condition in Agreement ¶ 5(d)(v) cites Executive Order 14420, which concerns childhood vaccine recommendations, not the bulk-power system.**

46. Adverse facts first: the bulk-power-system executive order was reportedly first numbered 14420 before publication; the Signatories' intent appears clear; and the error can be corrected without changing the substance of the Agreement.

47. The Agreement provides: "If Ameren Missouri identifies material cost or procurement impacts on a Project for which a CCN is to be granted in this case arising from Executive Order 14420 or any enabling regulations issued under it, Ameren Missouri will, within

30 days of such identification, file a report in this docket specifying such impacts." Agreement ¶ 5(d)(v) (Item 63, pp. 8–9). The Order approves that term and grants the certificates subject to it. Order, Ordered ¶¶ 1–2 (p. 6).

48. As published in the Federal Register, Executive Order 14420 is titled "Delivering Gold Standard Childhood Vaccine Recommendations for Americans." Exec. Order No. 14420, 91 Fed. Reg. 53173 (Aug. 14, 2026). The bulk-power-system order is Executive Order 14421, "Declaring a National Emergency To Secure the United States Bulk-Power System," 91 Fed. Reg. 55995 (Aug. 31, 2026), whose definition of "bulk-power system electric equipment" includes "battery energy storage systems." *Id.* § 5(b), 91 Fed. Reg. at 55998. The Agreement was filed September 25, 2026, after that publication.

49. As approved, the Millcreek procurement-reporting condition is tied by its terms to an executive order that has nothing to do with battery equipment. A certificate condition that refers to the wrong instrument is uncertain in its application, and the Order is unreasonable to that extent. The Commission "may correct its own orders nunc pro tunc." 20 CSR 4240-2.160(4). Applicant asks the Commission to clarify that Agreement ¶ 5(d)(v), as approved in the Order, refers to Executive Order 14421.

**Ground Eight. The Order does not address whether the landowner-notice requirement of 20 CSR 4240-20.045(6)(K) was met for the Quinn Switching Station and Millcreek sites, although the Company's own testimony shows that the Quinn site is held under a purchase option.**

50. Adverse facts first: the owner of the optioned land has presumably agreed to sell; Applicant is not herself a directly affected landowner; no party raised the issue; and whether the rule reaches a battery site is open to argument.

51. An application to construct must include "[a]n affidavit or other verified certification of compliance with the following notice requirements to landowners directly affected by electric transmission line routes or transmission substation locations proposed by the application." 20 CSR 4240-20.045(6)(K). Land is directly affected "if a permanent easement or

other permanent property interest would be obtained over all or any portion of the land." *Id.* (6)(K)1.

52. The Quinn Switching Station is a 161 kV switching station to be built "in order to interconnect the Millcreek BESS Project to the existing 161 kV transmission system." Order, pp. 1–2. The Company's witness testified that it "will construct a new switchyard station located on land currently under a purchase option by Ameren Missouri and located directly adjacent to the existing 161 kV Harley-Pike transmission line." Direct Testimony of Harman Ormani (Item 9), p. 2, ll. 20–23. A permanent property interest therefore "would be obtained" over the Quinn site. Applicant has not located in the Application any statement addressing 20 CSR 4240-20.045(6)(K) for the Quinn Switching Station, and has not located in the docket a verified certification of notice for that site.

53. For the Millcreek site, the Application states that no notice was required "because the Company has already obtained all necessary land rights for the land on which the BESS Project will be constructed." Application (Item 2), ¶ 36(k) (p. 22). The same Application states that the Company "holds a five-year purchase option whereby the Company will close on the real estate upon receipt of CCN approval." *Id.* ¶ 18 (p. 10).

54. The Order does not address either point. A certificate granted without the verified notice the Commission's rule requires, or without a determination that the rule does not apply, is unlawful to that extent. Applicant asks the Commission to determine whether 20 CSR 4240-20.045(6)(K) applies to the Quinn and Millcreek sites and, if it does, to require the verified notice and certification before authority under those certificates is exercised. *See* 20 CSR 4240-20.045(3)(C).

**Ground Nine. Facts not in the record, several arising since the Order, bear on whether the Millcreek certificate should take effect without pre-construction conditions.**

55. Adverse facts first: the documents described in this Ground are not part of the evidentiary record. Applicant offers them under Section 386.500.4, which permits the Commission on rehearing to consider "the facts, including those arising since the making of the

order." Applicant concedes that the November 2, 2026 date reported to the Department of Natural Resources was, according to the Department, a projected start date, and that the Company reported no work done as of that report; she does not allege that any federal or state permit has been violated, or that work outside regulated waters requires federal authorization; she did not take the photographs in Exhibits F and H herself; the video in Exhibit G was recorded from a moving vehicle; she does not know for whom the work they show is being performed or whether any of it lies in waters subject to federal jurisdiction; the Corps project manager's email in Exhibit E is not a finding that any requirement has been violated; that site mobilization may not be "construction" within the meaning of Section 393.170.1; that permits issued by other agencies are for those agencies to administer; and that the county records in Exhibits C and D are county staff summaries, not statements by the Company.

56. The Company's sworn Application states that Millcreek construction "is anticipated to commence in Q1 2027," Application (Item 2), ¶ 22 (p. 11), and "is expected to commence in Q1 2027 after the required permits are received." *Id.* ¶ 36(d) (p. 21). Its witness testified that the Quinn Switching Station's construction is scheduled "to commence in the second quarter of 2027." Ormani Direct (Item 9), p. 5, ll. 15–16.

57. The Missouri Department of Natural Resources, Water Protection Program, wrote to Applicant on November 16 and 18, 2026. Exhibit A. It stated that the Company relies on an area-wide land disturbance permit, MOR100098, "issued January 1, 2023," which "covers state-wide projects"; that the permit's responsible authority "is Ameren Corporation" and the permit "has not been modified or transferred"; and that the Company's quarterly report "lists this project with a start date of November 2, 2026." The Department then clarified that the report covers "2026, Third Quarter, July-September," that "November 2 is a projected start date," and that the Company "reported 0% work has been done." *Id.* A projected start date of November 2, 2026, is before the Order takes effect on November 20, 2026, and earlier than the schedule the Company swore to. The Company told the Commission that stream crossings "may be needed" at the project entrance road, and that it "is coordinating with the U.S. Army Corps of Engineers so

those crossings can be designed and permitted." Notice of Public Filing of Environmental Studies (Item 43), ¶ 7(b), p. 3. Its consultant's Waters Delineation Report concluded that impacts to several site streams "would be subject to USACE jurisdiction and CWA Section 404 permitting requirements." *Id.*, Attachment B, § 4.0. On November 6, 2026, the U.S. Army Corps of Engineers, St. Louis District, wrote, in an email copied to Applicant, that the Nationwide Permit 14 verification for the project "has not been issued" and that the Corps' responsibilities under Section 106 of the National Historic Preservation Act were "underway." Exhibit B.

58. No electrical corporation "shall begin construction of . . . electric plant . . . without first having obtained the permission and approval of the commission." Section 393.170.1, RSMo. The Agreement requires the Company to file a copy of each permit only "with the first quarterly construction progress report after each such permit is received." Agreement ¶ 5(d)(ii) (Item 63); *see also id.* ¶ 5(d)(iv) (Quinn). Under that term, work authorized by a permit may begin before the Commission sees the permit. The statute's purpose is that the Commission's approval come first: by requiring approval each time a utility begins to construct a power plant, "the legislature ensures that a broad range of issues, including county zoning, can be considered in public hearings before the first spadeful of soil is disturbed." *StopAquila.org v. Aquila, Inc.*, 180 S.W.3d 24, 37 (Mo. App. W.D. 2005). According to the Department, the Company reported no work as of its third-quarter report. Work is now under way. On November 17, 2026, at 1:47 p.m., Applicant recorded a video from a vehicle on the road beside the site. The file's embedded location data places the recording about 324 meters from the project coordinates stated in the Company's Waters Delineation Report (Item 43, Attachment B, § 1.0). Frames from that video show a track-type tractor working bare ground, rows of disturbed soil across the field, a track loader on a cleared strip of bare soil, a survey instrument on a tripod, and portable toilets set in the field. Exhibit G. On the morning of November 19, 2026, the day before the Order takes effect, area residents photographed, at the Millcreek BESS site, an excavator and a track loader removing vegetation and soil within a staked area, an excavator working in the roadside ditch, silt fence installed along the field, stacked sections of large corrugated pipe, a survey crew, and a

semi-tractor with a lowboy trailer. Exhibit F. Applicant sent the photographs to the Corps project manager for the project at about 11:25 a.m. that day. At 1:19 p.m. he replied: “That activity is certainly beyond what I would like to see prior to the NWP verification, and I am going to reach out to Ameren today.” Exhibit E. Work continued that afternoon. At about 2:57 p.m., an area resident photographed a crushed-rock pad at the site entrance beside the transmission structure shown in Exhibit F, with a tracked machine on the pad, a rock stockpile, an excavator and a track loader beyond, and workers in safety vests. Exhibit H. Those photographs were also provided to the Corps project manager. Applicant concedes that a gravel construction entrance is a common erosion- and sediment-control measure, that the time stated is the photographer’s report, and that she does not know whether the Corps had reached the Company by then. Applicant does not know whether the work shown is construction within the meaning of Section 393.170.1. It is, however, work at the Millcreek site before the Order takes effect and before the Corps verification has issued. She asks only that the Company be required to state the facts, and that each permit be filed before work begins in the area it covers.

59. The Agreement’s permit-filing term reaches only “each State, Federal, and Local permit that Ameren Missouri obtains for each BESS project.” Agreement ¶ 5(d)(ii) (Item 63). The Agreement defines “Ameren Missouri” as Union Electric Company d/b/a Ameren Missouri. *Id.*, p. 1. The construction stormwater coverage on which the Company relies was issued to its parent, Ameren Corporation, in 2023, for projects statewide. Exhibit A. The Department states that the site-specific stormwater pollution prevention plan “must be developed prior to land disturbance,” but that the Department does “not require the permittee submit SWPPPs” and has none on file. *Id.* Applicant concedes that the coverage is the Department’s to administer, and she does not contend that it is invalid. On the Agreement’s words, however, neither the coverage nor the site plan that implements it is a permit “that Ameren Missouri obtains for each BESS project.” Neither may ever reach the Commission, although the site plan is the document that governs how runoff from the Millcreek site is controlled during construction.

60. Lincoln County Emergency Management's summaries of two meetings with the Company, in files whose document properties are dated September 24, 2026, the day before the Agreement was filed, show that the Company met with county responders, including the Northwest Fire Protection District, and agreed in principle to several county requests. Exhibits C–D. The same summaries record as "Unresolved" both "Independent Access to Fire-Water Infrastructure" and the "Definition and Management of Contaminated Firewater," Exhibit D, Action Items No. 2–3; record "No Agreement Reached / Legal Review Pending" on the county's request for a responder capability and emergency cost-recovery agreement, Exhibit C, Request No. 6; and state that "[t]he principal remaining objective should be converting verbal and conceptual agreements into written, project-specific commitments with defined deliverables, responsible parties, completion dates, and pre-energization milestones." Exhibit C. The Agreement contains no term addressing contaminated firewater, responder access to fire-water infrastructure, air monitoring, or emergency cost recovery.

61. At the Lincoln County Commission's recorded meeting of November 10, 2026, S. Logan, a member of the board of the Northwest Fire Protection District, which the Company calls "the lead fire district for the Millcreek BESS Project," Wibbenmeyer Surrebuttal, p. 19, ll. 8–9, stated in substance that the District had reached verbal agreements with the Company's representatives in good faith (recording at 6:29–6:52); that the District lacked specialized knowledge to inspect a facility of this type and needed time to formalize the safeguards (7:23–7:49); that adequate firefighting water had not been addressed to his satisfaction (8:04–8:20); that the District had not adequately reviewed the proposed agreement between the County and the Company and could neither endorse nor oppose its terms (9:13–9:37); and that, although the Company proposed an on-site supply of about 30,000 gallons, the District's capacity to transport water is limited and the agreement's terms were uncertain (11:31–12:06). Later in the meeting he described the proposed agreement as vague and asked that the District's chief and board review it (30:03–30:44). A commissioner then cited the District's request as a reason for further review, and the County Commission voted to table the agreement (43:52–44:38). Later in the meeting,

answering questions, the Company's representatives described the 30,000 gallons as a planning figure, with the exact firefighting-water requirement to be calculated through further hazard and design analysis (1:09:21–1:09:40); asked whether the Hazard Mitigation Analysis had been completed, a representative answered "No," and said that it would be "done as part of the design" (1:10:02); and the discussion indicated that the fire-protection calculations were still being developed (1:10:46–1:11:04). Recording of the meeting, https://www.youtube.com/watch?v=UujJbPzjNOM. Applicant concedes that these are summaries of oral remarks, not a certified transcript; that design work is ordinarily incomplete at this stage, and she does not contend otherwise; that the District has not issued a written statement; and that the County's agreement is not before this Commission.

62. These facts bear directly on Grounds One, Two, Four and Five. The Company's projected start date preceded the date the Order takes effect and the schedule the Company swore to; work was under way at the Millcreek site on November 17 and 19, 2026, before the Order takes effect, and the Corps project manager described it as "beyond what I would like to see prior to the NWP verification"; federal authorization for work in the site's streams was still pending; and the county's emergency-management agency and the lead fire district were still seeking, after the Order, written commitments on the same subjects (training, equipment, water supply and contaminated firewater) that the Agreement leaves without conditions. Under Section 386.500.4 the Commission may consider those facts and change the Order. Applicant asks the Commission to direct the Company to file, by a date the Commission sets, a verified statement of (a) the date any site work at the Millcreek or Quinn sites began and what that work consisted of, including the work shown in Exhibits F through H; (b) the status of the Corps verification and Section 106 review; (c) the state permit coverage on which it relies, including the holder of that coverage; and (d) a register listing, for each category of site work at the Millcreek and Quinn sites, the federal, state or local authorization that work requires and the status of that authorization; to require that each permit described in Agreement ¶¶ 5(d)(ii) and (iv) be filed before work begins in the area that permit covers; and to require that the MOR100098 coverage

and the site-specific stormwater pollution prevention plan for the Millcreek and Quinn sites be filed, with confidential treatment where justified, within seven days of the Commission's order and before any further land disturbance.

**Ground Ten (preserved). The "due hearing" requirement was not met as to the Millcreek certificate.**

63. Section 393.170.3 permits a certificate to be granted when the Commission "shall after due hearing determine" that construction is necessary or convenient for the public service. The Order relies on the principle that "[t]he requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence," citing *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n*, 776 S.W.2d 494 (Mo. App. W.D. 1989). Order, p. 4 n.2. Applicant concedes that under Item 73 she and the other residents were not parties. She also concedes that the Commission held three in-person local public hearings near the project sites and one online in July, and an additional in-person hearing in August, Order, p. 3, and that it weighed the opposition to the Millcreek project "as expressed at the local public hearings and in written public comments submitted," *id.*, p. 5. She does not contend that the public was not heard; she asks only that any rehearing be limited to the Millcreek safety conditions stated in Grounds One through Five. Two days before the Order, however, Item 73 denied party status to the three Lincoln County residents who sought it and who "state that they have objections to the Agreement." Item 73, p. 4. Applicant contends that, as to the Millcreek certificate, the opportunity for hearing was not effectively available to the persons who sought to request one, and that the Order is unlawful to that extent.

**Ground Eleven (preserved). Notice to Lincoln County was not shown to be adequate.**

64. Item 19 directed the Commission's Public Policy and Outreach Department to "make notice of this order available to the media serving those counties," including Lincoln County, and set an intervention deadline of June 12, 2026. Item 19, Ordered ¶¶ 2–3 (p. 2). Applicant concedes that Item 73 found that no proposed intervenor claimed to be unaware of the

proceeding or the deadline "due to an error or other action on the part of the Commission or Ameren Missouri," and that it is "common practice" to set the intervention deadline before local public hearings. Item 73, p. 4. Applicant first learned of this proceeding on July 27, 2026, after the deadline. Item 66, ¶ 25. She has not located in the case record any showing of which media serving Lincoln County received or published the notice before June 12, 2026. She asks the Commission to identify the media serving Lincoln County to which notice was made available, and when. She preserves the contention that notice to the residents nearest the Millcreek site was inadequate, that the intervention deadline was unreasonable as applied to them, and that the Order is unlawful to that extent.

**Ground Twelve (preserved). The Order does not make the large-load determination on which Staff's finding of need depends.**

65. Adverse facts first: no party contested need; Section 536.090 excuses findings in stipulated cases; and the Commission may regard its general finding on the Tartan criteria as including this determination. Applicant does not contend that the record contains no evidence of need.

66. Staff stated that its "finding of need . . . depends principally upon whether the large loads projected by Ameren Missouri are sufficiently likely to materialize," noting the Company's representation that customers "associated with approximately 2,800 MW of new large load have signed Electric Service Agreements." Staff Report, p. 3, ll. 13–18. Staff then stated: "Whether those projected loads are sufficiently likely to materialize is a factual question for the Commission to determine from the evidence presented by all parties," and "Staff's finding of need is, therefore, contingent upon the Commission making that factual determination." *Id.*, p. 4, ll. 1–7. The Order states only that "[t]he Agreement and application support a finding that the Tartan criteria have been satisfied." Order, p. 5. It does not state the factual determination on which Staff conditioned its finding of need. Applicant asks the Commission to state whether its finding on the Tartan criteria includes that determination.

Applicant contends that, as to the Millcreek certificate, the Order's finding of need is unlawful and unreasonable to that extent.

**Ground Thirteen (preserved). The denial of intervention and amicus leave (Item 73).**

67. Applicant concedes that she did not move for reconsideration of Item 73 under 20 CSR 4240-2.160(2). To the extent Item 73 is reviewable together with the final Order, Applicant seeks rehearing of it. Item 73 treated the residents near the Millcreek site as "a portion of the general public," Item 73, p. 4, without specifically addressing the facts stated in Item 66, ¶¶ 5–8, that distinguish Applicant's interest: her downstream location on Mill Creek and her private well. Item 73 denied amicus leave because a brief "would provide the Commission with no new information," Item 73, p. 5, although Item 72, Part II, presented specific Millcreek conditions that the Order does not address. Item 73 was issued by the Senior Regulatory Law Judge "by delegation of authority pursuant to Section 386.240." *Id.*, p. 6. Section 386.240 provides that no order of any person employed by the Commission "shall be binding on any public utility or any person unless expressly authorized or approved by the commission." Applicant concedes that the statute permits the Commission to authorize such an order in advance or approve it afterward, and that an order is not unlawful merely because a regulatory law judge signed it. Applicant does not know whether such express authorization or approval exists. She asks the Commission to identify it and preserves the contention that, absent it, Item 73 is not binding on her. For these reasons, Item 73 is unlawful and unreasonable as applied to Applicant.

## IV. RELIEF REQUESTED

For Grounds One through Eight, the requested conditions and clarifications rest on the Company's own prefiled testimony and filed studies, Staff's Report, the Application, the Agreement, the Federal Register, or published documents identified where cited; where those Grounds also refer to Exhibits A through I, the exhibits are offered as described for Ground Nine. Ground Nine rests on the documents, photographs and video frames attached as Exhibits A through H, offered under Section 386.500.4; Exhibit I, to which Grounds One and Five refer, is

offered on the same basis. If the Commission declines to receive them, Applicant tenders them as an offer of proof, so that they are "properly proffered" within the meaning of Section 386.510, RSMo. WHEREFORE, Applicant respectfully requests that the Commission, in the following order of preference:

(1) grant rehearing limited to the Millcreek BESS certificate, and to the Quinn Switching Station certificate only to the extent the Commission's disposition of the Millcreek certificate requires or as stated in Ground Eight, without reopening any other project;

(2) before imposing any condition, and recognizing Agreement ¶¶ 8 and 10, direct the Company and the other Signatories to state, by a date the Commission sets, whether they accept each of the following as a condition of the Millcreek certificate, each to be filed in public form with confidential treatment under 20 CSR 4240-2.135 where justified: (a) design, installation and commissioning of the Millcreek BESS in compliance with NFPA 855, as the Company testified, identifying the edition applied, the authority that will review compliance, and the documentation that verifies compliance before operation (Ground One); (b) filing of the site-specific Hazard Mitigation Analysis and Hazard Mitigation Plan for Millcreek when completed, as Staff recommended, and in any event filing of the Hazard Mitigation Analysis before BESS equipment is delivered to the site, as the Company testified it would be completed, with a nonconfidential summary of its findings (Ground Two); (c) before the Millcreek facility begins operation, a filing stating the completed containment design and its design basis, including the volume of firefighting water it is designed to hold, the calculations supporting that volume, and how that volume relates to the on-site water supply, the detention basin capacity and emergency containment capacity, the rainfall assumed to coincide with an emergency, how retained water is kept from discharging or soaking into the ground until it is tested, and how long it can be held, the runoff

testing protocol and disposition procedures, and the manufacturer-approved cleaning and maintenance procedures for the Megapack 3 units and other fluid-containing equipment (or a verified site-specific summary), identifying cleaning methods and frequency, if any; the types and estimated per-event and annual quantities of any water and chemicals used; the collection, testing, reuse or disposal of any resulting wastewater; the preventive-maintenance and spill-response controls for coolant, refrigerant, transformer insulating fluid or other fluids where installed, with the Safety Data Sheets for those fluids; a map of drainage, containment and discharge points, showing outlet controls and isolation valves; the party responsible for inspecting and maintaining the containment; and the state requirements that the responsible agencies determine apply (Ground Four); (d) pre-operation safety training for local first responders and supply of reasonable project-specific equipment identified by local responders, completed and certified in a filing before the Millcreek facility is energized, together with a documented opportunity, before energization, for the responding fire protection districts, Lincoln County 911 and Lincoln County Emergency Management to review the Company's Millcreek emergency response plan, and a verified filing of the comments received and the Company's responses (Ground Five); (e) plain statements of test outcomes in the pleading required by Agreement ¶ 5(h)(ii) (Ground Six); (f) confirmation that Agreement ¶ 5(d)(v) refers to Executive Order 14421 (Ground Seven); (g) filing of each permit described in Agreement ¶¶ 5(d)(ii) and (iv) before work begins in the area that permit covers, and of the MOR100098 coverage and the site-specific stormwater pollution prevention plan within seven days and before any further land disturbance (Ground Nine); and (h) before the Millcreek facility is energized, a verified filing stating, for each matter that Lincoln County Emergency Management recorded in Exhibits C and D as unresolved, partially agreed, or not agreed, including air-monitoring and

protective-action capability, independent responder access to the fire-water supply, the definition and management of contaminated firewater, 911 notification, winter access, and responder capability and emergency cost recovery, whether it has been resolved, the written plan or agreement that resolves it, the responsible party, and the completion date, without requiring any public agency to enter into any agreement (Grounds Four, Five and Nine);

(3) under Sections 386.500.4 and 393.170.3, RSMo, change or modify the Order to impose such of those conditions as the Commission deems reasonable and necessary, to correct the Order's description of the Agreement's NFPA 855 term, and to clarify, including under 20 CSR 4240-2.160(4), that Agreement ¶ 5(d)(v) refers to Executive Order 14421;

(4) if the Commission does not require the filing described in item (2)(b), require at a minimum that the completed site-specific Hazard Mitigation Analysis for Millcreek be provided to Staff for review before BESS equipment is delivered to the site, and that the Company notify the Commission promptly if that analysis identifies hazards materially different from those described in the Megapack 2 XL hazard information on which the Company relied (Ground Two);

(5) direct the Company to file, by a date the Commission sets, the verified statement described in Ground Nine;

(6) in the alternative, issue an order stating expressly how the Commission disposed of Item 72, Part II, and the basis on which it found the Agreement's existing Millcreek safety terms sufficient;

(7) if the Commission concludes that Applicant is not a person "interested therein" under Section 386.500.1, so state expressly, with the basis;

(8) determine whether 20 CSR 4240-20.045(6)(K) applies to the Quinn and Millcreek sites and, if it does, require the verified notice and certification before authority

under those certificates is exercised (Ground Eight), and rule on Grounds Ten through Thirteen; and

(9) grant such other relief as is just.

**EXHIBITS**

Exhibit A. Emails from Sarah Wright, Missouri Department of Natural Resources, Water Protection Program, to Applicant, November 16 and 18, 2026 (the Department's messages only; personal contact information redacted).

Exhibit B. Email from Chad M. LaMontagne, U.S. Army Corps of Engineers, St. Louis District, to another resident with a copy to Applicant, November 6, 2026, 1:57 p.m. (printout; the other recipient's name, both residents' email addresses, and the printout's web address redacted; the message to which it replies omitted).

Exhibit C. Lincoln County Emergency Management, "Executive Summary, Ameren Missouri Millcreek BESS Project, Meeting No. 1 – Response to Lincoln County's Six Public Safety and Emergency Response Requests" (document properties dated September 24, 2026).

Exhibit D. Lincoln County Emergency Management, "Executive Summary, Millcreek Battery Energy Storage System, Multi-Agency Emergency Response and Operational Coordination Meeting" (document properties dated September 24, 2026).

Exhibit E. Email from Chad M. LaMontagne, U.S. Army Corps of Engineers, to Applicant, November 19, 2026, 1:19 p.m., with Applicant's email of that morning to which it replies (printout, pages 1–3; Applicant's contact information, other recipients' names and addresses, and the printout's web address redacted).

Exhibit F. Photographs taken at the Millcreek BESS project site on the morning of November 19, 2026, by area residents and provided to Applicant (eleven photographs, with Applicant's descriptions).

Exhibit G. Six still frames from a video recorded by Applicant beside the Millcreek BESS project site on November 17, 2026, at 1:47:28 p.m., with the video file's recorded date and location (original file available on request).

Exhibit H. Two photographs taken at the Millcreek BESS project site at about 2:57 p.m. on November 19, 2026, by an area resident and provided to Applicant (time and place as reported by the photographer, who retains the original files), with enlarged details and Applicant's descriptions.

Exhibit I. Proposed Battery Energy Storage System (BESS) Development Agreement between the County Commission of Lincoln County and Ameren Missouri, draft before the County Commission on November 10, 2026 (unsigned; photographs of a paper copy provided by a County official).

Respectfully submitted,

/s/ Mary E. Geeding
Mary E. Geeding, pro se
Silex, Missouri 63377
(mailing address on file, Item 66)
mgeeding12@gmail.com

Dated: November 19, 2026

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Application for Rehearing and Clarification was served by electronic mail on November 19, 2026, upon all counsel of record reflected on the Commission's official service list in File No. EA-2026-0183, namely: the Staff of the Commission (Staff Counsel's Office; Paul T. Graham); the Office of the Public Counsel (Marc Poston; Lindsay VanGerpen); Renew Missouri Advocates d/b/a Renew Missouri (Nicole Mers); and Union Electric Company d/b/a Ameren Missouri (Jermaine Grubbs; Wendy K. Tatro; James B. Lowery).

/s/ Mary E. Geeding
Mary E. Geeding

Mary E. Geeding

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

| | | |
|---|---|---|
| In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities and Battery Energy Storage Systems. | ) ) ) ) ) ) | File No. EA-2026-0183 |

# EXHIBIT A

to the Application of Mary E. Geeding for Rehearing and Clarification

Emails from Sarah Wright, Missouri Department of Natural Resources, Water Protection Program, to Applicant

November 16 and 18, 2026

*The Department's messages only, reproduced from Applicant's email printout. Applicant's own messages are omitted where marked, and personal contact information is redacted.*

Gmail

Mary Geeding [redacted]

# Request for response: Ameren Millcreek BESS, Lincoln County (USACE MVS-2026-426) - possible start week of Nov. 23

7 messages

*[Omitted: Applicant's initial message to the Department of November 16, 2026, 12:44 p.m. Its numbered questions are restated in the Department's reply below.]*

**Wright, Sarah** <Sarah.Wright@dnr.mo.gov> Mon, Nov 16 at 3:21 PM
To: [redacted]
Cc: Custodian of Record <custodianofrecord@dnr.mo.gov>

Good afternoon Ms. Geeding, please see below,

QUESTIONS (answers by number are fine; number 1 is the most urgent):
1. Has Ameren or a contractor applied for or received land-disturbance coverage (MO-RA) for this site, including the laydown area and fill placement? If so, what is the permit number and issue date, and is a SWPPP on file?

***There is no MORA permit, however, Ameren has an area-wide land disturbance permit, MOR100098 issued January 1, 2023 and covers state-wide projects. Their quarterly report lists this project with a start date of November 2, 2026. We do not require the permittee submit SWPPPs, we do not have a SWPPP on file. It will be in your current sunshine request.***

2. Has the Department determined whether stormwater from the operating facility needs a Missouri State Operating Permit or a no-exposure certification?

***The industrial permits team has not received an application for this project at this time. We will review the application to determine if a permit or a no-exposure certification is required.***

3. Would a basin designed to hold fire-suppression water or equipment wash water fall under the construction-permit provisions of Section 644.051.5, RSMo, which exempts basins that only settle soil, silt and rock?

***The industrial permits team will review this during the application review. The basin may need construction engineering review depending on what the application states will be held in the basin. The permit writer will review the basin location, design, what type of water is entering the basin.***

4. Does the Department consider Stream 26A and Open Water 17 "waters of the state" under Section 644.016, RSMo, and does any state review apply to the proposed culvert and fill?

***We do not make waters of the state determinations based off the Corps documents. In reviewing our information, neither of those are waters of the state. If there is a 404 permit from USACE, that needs an individual 401 Water Quality Certification (WQC), we will review plans to determine the conditions for the 401 WQC certification. An individual Water Quality Certification is required when a project will not meet one or more of Missouri's General and Specific Conditions for Pre-Certification. General Conditions will apply to all Nationwide Permits that Missouri can provide Water Quality Certifications for, and Specific conditions will only apply to projects under certain/applicable Nationwide Permits. We have not received notice of a 404 permit or a request for a 401 Water Quality Certification.***

5. Has the drinking-water program been told of construction and heavy hauling near the Silex transmission main, and does it require a protection or crossing plan?

***I do not have this information; the public drinking water program will need to answer this.***

Sarah Wright

General Permits, MS4, 401 Unit Supervisor

MoDNR Water Protection Program, Water Pollution Control Branch

573-526-1139 | dnr.mo.gov




*Please take a few minutes to complete our Customer Satisfaction Survey. Thank you.*

[Quoted text hidden]

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*[Omitted: three messages sent by Applicant on November 16, 2026, at 3:36 p.m. and 3:53 p.m. Applicant's 3:53 p.m. message to the Department is quoted in full, with the Department's answers, in the Department's reply below.]*

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**Wright, Sarah** <Sarah.Wright@dnr.mo.gov> Wed, Nov 18 at 2:03 PM
To: [redacted]
Cc: Custodian of Record <custodianofrecord@dnr.mo.gov>

Hi Mary,

I've answered most of the questions below. I sent the industrial specific questions to a colleague in the Industrial team. I will send those on the you, or she may send them to you when she has all the responses.

Thank you,

Sarah Wright

General Permits, MS4, 401 Unit Supervisor

MoDNR Water Protection Program, Water Pollution Control Branch

573-526-1139 | dnr.mo.gov

MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

*Please take a few minutes to complete our Customer Satisfaction Survey. Thank you.*

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**From:** Mary Geeding [redacted]
**Sent:** Monday, November 16, 2026 3:53 PM
**To:** Wright, Sarah <Sarah.Wright@dnr.mo.gov>
**Cc:** Custodian of Record <custodianofrecord@dnr.mo.gov>
**Subject:** Re: FW: Request for response: Ameren Millcreek BESS, Lincoln County (USACE MVS-2026-426) - possible start week of Nov. 23

Hi Sarah,

Thank you again for getting back to me and taking the time to answer my questions. I really appreciate your help.

After going through your response and looking into MOR100098, I have a few more questions I'm hoping you can help clarify.

**1. Who actually holds MOR100098?**

***The responsible authority listed is Ameren Corporation. The permit certificate page is attached. It has not been modified or transferred.***

***https://dnr.mo.gov/water/business-industry-other-entities/permits-certification-engineering-fees/wastewater/area-wide-land-disturbance-mo-r100000***

I found an older copy of MOR100098 in a Missouri PSC filing that identifies Ameren Transmission Company of Illinois as the permit holder.

Since the Millcreek BESS and Quinn Switching Station project is being developed by Union Electric Company d/b/a Ameren Missouri, could you confirm who currently holds this permit and how it covers the Millcreek project?

Has the permit been modified, transferred, or updated since it was originally issued?

**2. The November 2 construction start date**

***The report covers 2026, Third Quarter, July-September. November 2 is a projected start date, they reported 0% work has been done. Specific borrow is not known from this report.***

You mentioned that Ameren's quarterly report lists a November 2, 2026 start date.

Could you clarify:

- What reporting period does that report cover, and when did DNR receive it?
- Was November 2 a projected start date or a reported actual start date?
- If it was an actual start, what work or land disturbance was reported?
- Could I obtain a copy of that quarterly report?

The reason I'm asking is that the PSC's October 21 order for EA-2026-0183 doesn't become effective until November 20.

The construction update I received from the county says Ameren plans to mobilize November 23 and begin construction November 30.

I'm not suggesting that the November 2 entry proves anything improper. I'm just trying to understand what Ameren reported to DNR and whether any actual work began before the PSC order became effective.

**3. Current permit expiration date**

What is the current expiration date of MOR100098? ***06/30/2027***

If construction continues beyond that date, will Ameren need to obtain renewed coverage? ***Yes.***

**4. Does the permit cover all the planned construction work?**

***Yes. The site SWPPP for the specific project will cover those items. If they make changes to the plan they need to update the individual SWPPP for the site. If the borrow area is under the ownership of the permit holder, it does not need to be under this specific permit. A separate responsible authority may need a permit for that soil disturbance. Fill from a different site is allowed to be use as fill.***

Does the area-wide permit cover the entire Millcreek BESS and Quinn Switching Station project, including:

- Equipment laydown and staging areas
- Temporary construction roads
- Stream crossings
- Placement of up to 80,000 cubic yards of imported fill
- Additional on-site borrow areas Ameren may decide to use

The construction update says Ameren is still optimizing its design and considering borrowing fill from other parts of the property.

If those areas weren't included in the original plans, would Ameren need to update its site-specific stormwater plan or notify DNR before disturbing them?

**5. Stormwater plan and inspections**

***The SWPPP must be developed prior to land disturbance for each project under the***

***MOR100098. Inspection frequency is laid out in the MOR100 permit. The basic timelines are: (a) At least once every seven (7) calendar days and within 48 hours after any storm event equal to or greater than a 2- year, 24-hour storm has ceased during a normal work day or within 72 hours if the rain event ceases during a non-work day such as a weekend or holiday; or (b) Once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches of precipitation or greater, or the occurrence of runoff from snowmelt.***

***Compliance is determined when the Regional Office team conducts an inspection. The MOR100 permit lays out all the record retention schedules for the permit holder. If MoDNR has the records they can be obtained through a sunshine request. These records can be viewed during an inspection by the Regional Office team. The permit holder's SWPPP will have the plans for the specific site.***

I understand from your response that DNR doesn't routinely require the SWPPP to be submitted, so I understand why you don't have one on file.

However, I would like to know how compliance is verified.

Does Ameren have to complete its site-specific SWPPP before any land disturbance begins?

- How frequently are site inspections required?
- Does Ameren have to maintain inspection logs and document corrective actions?
- Can a member of the public obtain the SWPPP, site map, inspection logs, or corrective-action records through DNR?
- If DNR doesn't have those documents, can the Department request and review them during an inspection?

With the amount of fill being brought in and the drainage toward Mill Creek, I'd particularly like to know whether the plan accounts for the final grading, erosion controls, stream crossings, and all proposed construction areas.

**6. Will DNR inspect the site?**

## The St. Louis Regional Office makes those decisions, I do not know the answer to these.

Does the St. Louis Regional Office have any plans to inspect Millcreek before or shortly after construction begins?

Would DNR consider an early compliance inspection to verify that the proper erosion and sediment controls are in place before substantial grading and fill operations begin?

**7. Construction stormwater versus permanent operating permits**

## *Yes, the MOR100 is the construction portion, with 401 (when necessary) covering crossing on waters covered by a USACE 404 permit. I asked out Industrial Permit team answer the rest of 7 and 8,*

This is something I especially want to make sure I'm understanding correctly.

My understanding is that MOR100 covers **construction stormwater**, but it does not necessarily authorize industrial stormwater discharges or process wastewater from the permanent battery facility once it begins operating.

You mentioned that the industrial permits team has not received an application for Millcreek.

Could you clarify:

- Will the permanent BESS and Quinn Switching Station require separate industrial stormwater permit coverage, or a no-exposure certification?
- Has DNR made a determination about whether that coverage will be necessary?
- Would equipment cleaning, coolant handling, transformer maintenance, or other activities involving potentially contaminated water require additional wastewater authorization if those activities result in regulated discharges?
- At what point must Ameren submit an application or obtain a determination about these operating permits?

I'm concerned about the possibility of construction moving forward before the permanent facility's water-management requirements have been established.

**8. Firewater containment and detention basins**

You mentioned that the industrial permits team may need to review the containment basins depending on what water they will hold, their design, and their location.

Ameren has told the PSC that it plans to have multiple detention basins capable of collecting, testing, and managing runoff during normal operations and emergency events.

Have any final basin designs, engineering calculations, or containment plans been submitted to DNR?

If the basins are intended to hold potentially contaminated fire-suppression water, would DNR need to review or approve their design before they are constructed?

I'm particularly interested in whether these are simply stormwater detention basins or whether they are also designed to contain contaminated emergency runoff without releasing it into nearby waterways.

**9. Section 401 certification and the Corps permit**

You also mentioned that DNR has not received notice of a Section 404 permit or a request for Section 401 certification for MVS-2026-426.

If DNR receives either one, could you let me know or direct me to a public system where I can follow the status? ***If we issue an individual 401 Water Quality Certification, it will be put on public notice, those can be found here: https://dnr.mo.gov/water/what-were-doing/public-notices***

I'd also appreciate confirmation of whether the proposed crossings qualify under Missouri's existing programmatic Section 401 certification or will require individual review. ***It will need to an individual review if it is not covered under a USACE Nation Wide Permit, or Regional General permit. The 401 conditions are pre-certified in those 404 permits from the USACE.***

**10. Silex drinking-water transmission main**

Could you please point me toward the appropriate person in DNR's Public Drinking Water Branch? ***I believe this was on a different sunshine request, and someone else was responding so that should clarify this.***

[Quoted text hidden]
MOR100098.pdf

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*[Omitted: a message sent by Applicant on November 18, 2026, at 7:14 p.m. The Department's attachment, MOR100098.pdf, is not reproduced here.]*

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**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

| | | |
|---|---|---|
| In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities and Battery Energy Storage Systems. | ) ) ) ) ) ) | File No. EA-2026-0183 |

# EXHIBIT B

to the Application of Mary E. Geeding for Rehearing and Clarification

Email from Chad M. LaMontagne, U.S. Army Corps of Engineers, St. Louis District, to another resident, with a copy to Applicant

November 6, 2026, 1:57 p.m.

*Printout from Applicant's email account, printed November 19, 2026. Page 1 and the signature on page 2 are reproduced; the message to which the email replies, which follows in the printout, is omitted and is available on request. The other recipient's name, both residents' email addresses, and the printout's web address are redacted.*

Gmail Mary Geeding [redacted]

# Ameren Millcreek BESS (MVS-2026-426)

**Lamontagne, Chad M CIV USARMY CEMVS (USA)** <Chad.M.Lamontagne@usace.army.mil>
To: [redacted]
Cc: [redacted]

Fri, Nov 6, 2026 at 1:57 PM

[redacted]

It sounds like you received the FOIA materials, that's good news. I was beginning to wonder. Once you've had time to review them, don't hesitate to reach out with some days of availability and we can set up a time to discuss them further. Let me tackle these recent questions, I'll use the same numbering that you used in your message:

1. No, the NWP 14 verification has not been issued. The Corps' responsibilities under Section 7 of the Endangered Species Act (General Condition 18) were completed. The project was submitted to the US Fish & Wildlife Service's IPaC website on 18 September 2026, and a "Not Likely to Adversely Affect" determination was concurred with under the condition that any tree clearing not occur within the bat roosting period: April 1st thru October 31st. The Species List & Concurrence Letter were included in the FOIA documents. The Corps' responsibilities under Section 106 of the National Historic Preservation Act (General Condition 20) are underway. Our archaeologist determined that a Phase 1 Cultural Resource Survey was needed for the site. The archaeological survey was submitted to us on 23 September 2026, and the architectural review was submitted to us on 28 October 2026. The Corps arrived at a finding of "No Historic Properties Affected". Those reports were submitted to the Tribes and the Missouri State Historic Preservation Office on 28 October 2026 for their 30-day review and comment period. The surveys were submitted to us after your FOIA request, so were not included in the documents you received.
2. The Cultural Resource Phase 1 Survey was submitted to our office after your FOIA request, so it was not included in the information sent to you. But if you look at the project boundary on pages 7-8 of the 149-page submittal from Missouri Ameren (dated 21 July 2026) the survey area boundary and the project boundary are very similar. The temporary mud mat locations are within the area that was surveyed for cultural resources as well as assessed for impacts to threatened and endangered species.
3. MoSHPO has not yet responded as of the date of this email. Oftentimes projects will qualify for multiple Nationwide Permits. A subdivision, for example, could qualify for NWP 14 or NWP 29.
4. The reports were submitted to 21 Tribes for their review and comment. Only 1 response has been received as of the date of this letter: The Osage Nation Historic Preservation Office responded on 4 November 2026 with a concurrence with the Corps' findings.
5. The same 149-page document referenced in #2 above has the culvert designs. Look at pages 133-136. Based on the intermittent flow regime, Missouri Regional Conditions require the culverts to pass ~50% of flow thru them. Stream 19D has an average width of 6', and the preliminary culvert design dated 17 July 2026 calls for (3) 54" culverts (just shy of 48 sq ft). Stream 25B has an average width of 5', and the preliminary culvert design dated 17 July 2026 calls for (3) 42" culverts (just shy of 30 sq ft). The culverts, as proposed, meet Missouri Regional Condition #1.

Take care,

[redacted]

Chad LaMontagne, PWS

US Army Corps of Engineers

Regulatory Project Manager

CEMVS-RD

1222 Spruce Street

St. Louis, Missouri 63103

*[Omitted by Applicant: the message to which this email replies, which follows in the printout (pages 2–3).]*

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

| | | |
|---|---|---|
| In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities and Battery Energy Storage Systems. | ) ) ) ) ) ) | File No. EA-2026-0183 |

# EXHIBIT C

to the Application of Mary E. Geeding for Rehearing and Clarification

Lincoln County Emergency Management, "Executive Summary, Ameren Missouri Millcreek BESS Project, Meeting No. 1 – Response to Lincoln County's Six Public Safety and Emergency Response Requests"

Document properties dated September 24, 2026

*Reproduced from the Word file as received, converted to PDF without alteration of content.*

**Lincoln County**
**Emergency Management**

**911 Professional Parkway**
**Troy, MO 63379**
**636-528-6182**

**Quentin Laws**
**Director**

**qlaws@lincolncomo.gov**
**www.lcmoema.com**

**Executive Summary**

**Ameren Missouri Millcreek BESS Project**

**Meeting No. 1 – Response to Lincoln County's Six Public Safety and Emergency Response Requests**

- **Purpose and Overall Meeting Outcome**
    - Ameren Missouri provided substantive responses to Lincoln County's six requested public safety, emergency-management, fire-response, and cost-recovery commitments for the proposed Millcreek Battery Energy Storage System.
    - The discussion produced affirmative agreement or substantial conceptual concurrence on Requests **1, 2, 4, and 5**.
    - Request **3** remains partially unresolved pending additional technical evaluation by Ameren.
    - Request **6** remains unresolved, with Ameren declining to make an affirmative contractual commitment during the meeting and referring the matter for further legal review.
    - Ameren's representations during the meeting were generally consistent with technical positions subsequently or previously placed into the Missouri Public Service Commission record regarding project-specific hazard analysis, responder coordination, emergency planning, defensive fire strategy, water supply, and engineered runoff containment.
- **Request No. 1 – Final Site-Specific Hazard Mitigation and Emergency Response Plan**
    - **Status: Agreed in Principle**
    - Ameren agreed in principle to development of a **site-specific Hazard Mitigation Plan/Hazard Mitigation Analysis and stand-alone Emergency Response Plan** for the Millcreek facility.
    - Ameren indicated that the Millcreek planning framework will incorporate operational experience, lessons learned, and response-planning methodologies from other Ameren BESS installations scheduled to enter commercial service before Millcreek.
    - The emergency-response component will be developed collaboratively with affected Lincoln County first-response agencies rather than solely as an internal Ameren document.
    - Ameren's PSC testimony independently states that each BESS project will receive a **site-specific Hazard Mitigation Analysis** evaluating the actual battery equipment, site

configuration, separation distances, failure modes, explosion-control systems, and engineered protective measures.

- Ameren further states that the Hazard Mitigation Analysis will be performed by a firm **independent of the engineering, procurement, and construction contractor and the fire-alarm system engineer of record**, and completed during project design before BESS equipment is delivered to the site.
- Ameren's filed design criteria incorporate **NFPA 855**, applicable International Fire Code provisions, UL-listed equipment, physical thermal-runaway propagation testing, engineering review, emergency-response planning, commissioning requirements, and Authority Having Jurisdiction review.
- Ameren has represented to the PSC that the Millcreek facility is expected to contain approximately **240 outdoor-rated battery enclosure skids** using lithium iron phosphate battery technology.

- **Request No. 2 – Contaminated Firewater and Runoff Management**
  - **Status: Substantially Addressed in Principle**
  - Ameren presented preliminary engineering drawings and discussed the site's proposed stormwater and emergency-water containment architecture.
  - Preliminary design concepts include an engineered detention/containment basin with **externally accessible isolation valves**, allowing runoff to be retained onsite rather than automatically discharged following an emergency.
  - The design discussion contemplated containment not only for normal stormwater conditions but also for water generated during emergency defensive operations.
  - Ameren's PSC testimony states that Millcreek will incorporate **containment barriers within or around battery and transformer equipment** and multiple detention basins capable of collecting, testing, and managing runoff during both routine operations and emergency conditions.
  - Ameren's filed hydrologic study evaluates the approximately **40-acre Millcreek site** using a two-dimensional HEC-RAS hydrologic/hydraulic model and specifically evaluates the site under a **100-year, 24-hour storm event**, providing additional design-basis information for subsequent drainage engineering.
  - Preliminary plans presented during the meeting also identify an approximately **30,000-gallon dedicated fire-response water storage tank**, including provisions for winter-weather operability through tank heating.

**Quentin Laws**
**Director**

**qlaws@lincolncomo.gov**
**www.lcmoema.com**

- The 30,000-gallon water supply is independently confirmed in Ameren's PSC testimony. Ameren describes the tank as an immediately available source for **defensive firefighting operations and exposure cooling**, reducing dependence upon tanker-shuttle operations from local departments.
- Final documentation should still define containment capacity, sampling protocols, isolation-valve procedures, contaminated-water characterization, pumping/removal responsibilities, transportation, final disposal, and post-incident environmental clearance.

- **Request No. 3 – Air Monitoring and Protective-Action Capability**
  - **Status: Partial Agreement / Additional Ameren Research Required**
  - Ameren was materially less definitive regarding a complete commitment to the County's requested air-monitoring capability.
  - Ameren indicated additional internal technical evaluation will be required before committing to specific monitoring instrumentation, deployment responsibilities, detection capabilities, or equipment procurement.
  - Outstanding issues include identification of target compounds, fixed versus mobile detection systems, real-time monitoring methodology, responder access to readings, monitoring locations, and concentration thresholds associated with evacuation, shelter-in-place, roadway closure, or expansion of an exclusion zone.
  - **Significant progress was nevertheless achieved on atmospheric consequence analysis:** Ameren agreed to retain an **independent third party to conduct plume/dispersion modeling** for the Millcreek project.
  - The modeling should provide a technical basis for protective-action distances and permit response plans to account for variable wind speed, wind direction, atmospheric stability, terrain, release duration, and credible thermal-runaway/off-gassing scenarios.
  - Ameren's PSC filings describe extensive battery monitoring at the cell and module level, including surveillance of **temperature, current, voltage, state of charge, and other operating parameters**, with battery-management-system capability to identify abnormal conditions and isolate affected components.
  - The remaining County concern is therefore principally **offsite consequence monitoring and responder-accessible atmospheric intelligence**, rather than internal battery-condition monitoring.
  -

**Lincoln County**
**Emergency Management**

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**Director**

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**www.lcmoema.com**

- **Request No. 4 – Firefighting Water Supply and Response Strategy**
    - **Status: Agreed in Principle**
    - Ameren's response incorporates the engineered water-supply measures addressed under Request No. 2 and the emergency-response planning framework addressed under Request No. 1.
    - Ameren agreed in principle to development of a **stand-alone, site-specific operational response strategy** in conjunction with Lincoln County emergency-response agencies.
    - Ameren agreed to direct participation with first responders through technical-response discussions, facility walkthroughs, operational familiarization, plan updates, and continuing coordination as project design progresses.
    - Ameren's publicly filed response doctrine is predominantly **defensive rather than offensive**: establish isolation, secure the affected area, protect exposures, prevent propagation, and allow the facility's engineered containment and safety systems to operate rather than requiring firefighters to directly attack an involved battery enclosure.
    - Ameren has represented that its proposed layout incorporates approximately **16 feet of separation between battery containers** in side-to-side and front-to-front orientations and approximately **25 feet between feeder groups**, exceeding manufacturer minimum spacing.
    - Ameren has also represented that it will maintain a minimum **500-foot setback from BESS equipment to habitable structures on nonparticipating properties**, with the Millcreek battery area approximately **1,500 feet from the nearest occupied building** under the configuration described in its PSC testimony.
    - These engineering controls are intended to support a strategy centered upon isolation, exposure protection, thermal monitoring, perimeter control, and prevention of cascading thermal propagation.
- **Request No. 5 – Responder Training, Site Familiarization, and Exercises**
    - **Status: Agreed**
    - Ameren agreed to the County's request for first-responder training and operational familiarization.
    - The commitment includes continued technical engagement with affected agencies, in-person facility and response walkthroughs, and recurring updates as equipment selection, engineering, and emergency-response planning mature.

- Ameren's PSC testimony separately states that project-specific emergency-response plans will be developed with local responders and that safety training will be provided **before commencement of BESS operations**.
- Ameren has further represented that local responders will receive safety documentation, facility tours, responder training, project-specific emergency information, and continuing coordination through the design and construction process.
- Ameren's PSC testimony also states that the company has committed to supplying **reasonable project-specific equipment identified by local responders through the emergency-planning process**, an important element for subsequent capability-gap discussions.

- **Request No. 6 – Responder Capability and Emergency Cost-Recovery Agreement**
  - **Status: No Agreement Reached / Legal Review Pending**
  - Ameren representatives were notably cautious and did **not** agree during the meeting to enter into the broader written capability and emergency cost-recovery agreement requested by Lincoln County.
  - The discussion included Missouri's statutory hazardous-substance cost-recovery framework and the general principle commonly characterized as **"spiller pays."**
  - Ameren advised that its attorneys would further evaluate the County's request and the applicable statutory obligations.
  - Missouri Revised Statutes §260.546 provides that, following a qualifying hazardous-substance release, the person having control of the hazardous substance may be liable for **reasonable and necessary costs** incurred by a political subdivision or qualifying volunteer fire organization in securing the emergency and conducting cleanup, including certain materials, supplies, and contractual services. The statute contains documentation requirements and excludes certain ordinary or duplicative service costs.
  - RSMo §260.530 separately establishes strict liability to the State of Missouri for reasonable state cleanup costs under specified hazardous-substance-emergency circumstances.
  - The statutory framework does **not itself resolve the County's broader request for a pre-incident written agreement** addressing capability-gap mitigation, specialized equipment, extraordinary mutual-aid expenditures, environmental contractors, replacement of contaminated equipment, prolonged incident-command operations, or other project-specific costs.

**Quentin Laws**
**Director**

**qlaws@lincolncomo.gov**
**www.lcmoema.com**

- Request No. 6 should therefore remain formally **open** until Ameren provides a written response following counsel review.

- **Additional Technical and Operational Matters**
  - Ameren agreed to procure **third-party plume/dispersion modeling** rather than relying exclusively upon internal consequence assessments.
  - Offsite atmospheric monitoring was discussed as a distinct operational requirement associated with protective-action decision making.
  - First-responder communications architecture was discussed, including interoperability and the transmission of actionable site information to responding agencies.
  - A dedicated responder **staging area** was discussed to establish an organized location outside the immediate hazard area for fire, EMS, law enforcement, HazMat, command, and mutual-aid resources.
  - Lincoln County responders will have input into the contents and configuration of Ameren's proposed **onsite emergency/incident-response information box**, providing responders with immediate access to critical facility documentation during an incident.
  - Thermal-imaging capability was discussed for remote evaluation of battery enclosures and identification of abnormal heat signatures without unnecessarily committing personnel into the hazard area.
  - Ameren's technical filings describe a multilayered battery-safety architecture incorporating **LFP chemistry, individual-cell monitoring, automatic isolation capability, outdoor-rated enclosure systems, UL 1642, UL 1973, UL 1741, UL 9540 and UL 9540A testing, NFPA 855 compliance, International Fire Code requirements, site-specific hazard analysis, enhanced equipment spacing, emergency planning, and responder training**.

- **Executive Assessment for the County Commission**
  - Ameren demonstrated substantial movement toward Lincoln County's requested emergency-planning framework.
  - **Requests 1, 2, 4, and 5:** substantial conceptual or affirmative agreement.
  - **Request 3:** partial progress, including third-party plume modeling, but no final commitment regarding the complete air-monitoring equipment and protective-action capability requested by the County.

**Lincoln County**
**Emergency Management**

**911 Professional Parkway**
**Troy, MO 63379**
**636-528-6182**

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- **Request 6:** unresolved and requiring written follow-up from Ameren following legal review.
- The principal remaining objective should be converting verbal and conceptual agreements into **written, project-specific commitments with defined deliverables, responsible parties, completion dates, and pre-energization milestones**.
- Until those commitments are reduced to final written form, the meeting should be characterized as significant progress in technical coordination rather than final closure of Lincoln County's six requested public-safety conditions.

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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# EXHIBIT D

to the Application of Mary E. Geeding for Rehearing and Clarification

Lincoln County Emergency Management, "Executive Summary, Millcreek Battery Energy Storage System, Multi-Agency Emergency Response and Operational Coordination Meeting"

Document properties dated September 24, 2026

*Reproduced from the Word file as received, converted to PDF without alteration of content.*

**Lincoln County**
**Emergency Management**

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**Troy, MO 63379**
**636-528-6182**

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**Executive Summary**

**Millcreek Battery Energy Storage System**

**Multi-Agency Emergency Response and Operational Coordination Meeting**

- **Meeting Purpose**
    - Multi-agency technical and operational briefing conducted with Ameren Missouri regarding the proposed Millcreek Battery Energy Storage System.
    - Primary objective was to familiarize Lincoln County emergency-response organizations with the proposed facility, identify operational concerns from the responder perspective, and establish issues requiring resolution prior to facility energization and commercial operation.
    - The meeting represented a transition from conceptual project discussion to **incident-specific operational planning, site-access considerations, responder integration, and pre-incident coordination**.
- **Participating Emergency-Response Agencies**
    - Lincoln County Emergency Management Agency
    - Lincoln County 911
    - Lincoln County Fire Protection District No. 1
    - Northwest Fire Protection District
    - Lincoln County Ambulance District
    - Lincoln County Sheriff's Office
    - Hawk Point Fire Protection District
- **Project and Facility Technical Briefing**
    - Ameren provided a detailed presentation concerning the physical configuration, electrical architecture, operational parameters, and emergency-response considerations associated with the proposed Millcreek facility.
    - Ameren's Missouri Public Service Commission filings identify Millcreek as a **250-megawatt, four-hour lithium iron phosphate battery energy storage facility**, representing approximately **1,000 megawatt-hours of energy-storage capability**.

- The project is expected to consist of approximately **240 outdoor-rated battery enclosure skids**, incorporating battery modules, battery-management systems, thermal-management equipment, electrical controls, sensors, and associated protective systems.
- Ameren presented the proposed electrical configuration, including the relationship between the BESS facility, transmission infrastructure, and the proposed **Quinn Switching Station**, which Ameren identifies as the point of interconnection with its existing **161-kV transmission system**.
- Discussion included:
  - Battery enclosure configuration
  - Electrical collection and transmission systems
  - Facility operating parameters
  - Operational temperature considerations
  - Summer and winter operating conditions
  - Internal roadway configuration
  - Emergency-vehicle access
  - Site security
  - Battery-block arrangement
  - Separation distances
  - Exclusion-zone considerations
  - Fire and thermal-event response
  - Ameren emergency response
  - Remote system monitoring
  - 911 notification procedures
- Ameren advised that the facility would incorporate **continuous 24-hour monitoring**, allowing abnormal equipment conditions to be identified through the system's monitoring and control architecture.
- Ameren's PSC testimony states that individual battery cells are monitored for parameters including **temperature, current, voltage, state of charge, and other**

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**performance characteristics**, with the battery-management system capable of identifying abnormal conditions and isolating affected components.

- Ameren's formal PSC testimony identifies **lithium iron phosphate, or LFP, chemistry** as the proposed battery chemistry and describes a multilayered safety architecture involving cell-level monitoring, module isolation, fire and gas detection, thermal-management systems, automatic protective controls, and physical separation between battery units.

- **Fire Protection and Thermal-Runaway Response**
  - Ameren provided advanced discussion concerning battery fires, thermal runaway, propagation control, and the intended role of local fire-service personnel during a significant battery event.
  - Ameren's PSC filings describe the intended response posture as predominantly **defensive**, emphasizing:
    - Scene isolation
    - Establishment and maintenance of an exclusion perimeter
    - Protection of adjacent exposures
    - Prevention of propagation
    - Thermal surveillance
    - Utilization of engineered facility safety systems
    - Avoidance of unnecessary direct responder engagement with an actively involved battery enclosure
  - Ameren states that its response philosophy is intended to permit engineered containment, separation distances, and battery-protection systems to function while limiting responder exposure to thermal, electrical, explosion, and off-gassing hazards.
  - Ameren has represented to the PSC that Millcreek will utilize approximately **16 feet of separation between individual battery containers** in both front-to-front and side-to-side orientations, with approximately **25 feet of separation between feeder groups** to provide additional protection against propagation.
  - Ameren has additionally committed to a minimum **500-foot separation between BESS equipment and habitable structures on non-participating property**.

- Ameren's testimony states that the current Millcreek configuration places the battery equipment approximately **1,500 feet from the nearest occupied building**.
- Ameren's safety specifications require compliance with applicable provisions of:
  - NFPA 855
  - International Fire Code
  - UL 1642
  - UL 1973
  - UL 1741
  - UL 9540
  - UL 9540A
- UL 9540A testing specifically evaluates thermal-runaway behavior, heat release, flammable-gas generation, propagation within battery assemblies, and potential effects upon adjacent equipment under intentionally induced failure conditions.

- **Responder Access and Site Operations**
  - Substantial discussion occurred regarding the practical ability of fire, EMS, law enforcement, 911, and emergency-management personnel to safely access and operate within the facility during an emergency.
  - Topics included:
    - Primary and secondary site access
    - Gate access
    - Emergency ingress and egress
    - Apparatus maneuverability
    - Responder staging
    - Exclusion-zone establishment
    - Seasonal accessibility
    - Winter snow and ice conditions
    - Ameren personnel response time

- Facility monitoring
- Emergency contact procedures
- Coordination with Lincoln County 911

o Particular attention was given to ensuring that local agencies are not dependent upon the physical arrival of an Ameren employee before gaining access to critical emergency-response infrastructure.

o Ameren's PSC testimony states that local responders are to have access to **project-specific emergency-response information before the facility begins operation** and that emergency planning will be developed directly with local responders.

- **Highway 61 and Construction-Phase Safety**

o Emergency-response agencies discussed construction traffic and potential impacts to **U.S. Highway 61**, particularly during delivery of transformers, battery skids, electrical equipment, and other oversized or overweight components.

o Issues discussed included:

- Heavy truck movements
- Turning movements at site access points
- Traffic congestion
- Construction-zone safety
- Emergency-vehicle access during construction
- Potential traffic incidents involving oversized loads
- Coordination between Ameren, contractors, law enforcement, and roadway authorities

o Ameren has represented to the PSC that project transportation will comply with Missouri transportation standards and that required permits will be obtained for heavy loads.

o Ameren further states that roadway surveys will be performed **before and after construction**, with project-related roadway damage repaired by Ameren to meet or exceed pre-construction condition.

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- **Action Item No. 1 – Emergency Incident Response Box**
  - **Status: Agreement in Principle**
  - The proposed facility will contain an onsite emergency-response information box intended to provide critical information and materials to responding personnel.
  - Responders identified immediate, independent access to this box as an operational requirement.
  - Ameren agreed in principle to provide keys or equivalent controlled access to designated Lincoln County emergency-response organizations.
  - Ameren also agreed in principle to allow local first responders to participate in determining the **final physical location of the emergency-response box**.
  - Final placement should account for:
    - Access from outside the primary hazard area
    - Prevailing responder approach routes
    - Potential thermal or plume exclusion zones
    - Accessibility during power loss
    - Accessibility during nighttime operations
    - Accessibility during severe weather
    - Ability to retrieve information without entering the secured battery field
  - Recommended contents for final coordination include:
    - Current facility site plan
    - Battery-block identification
    - Electrical one-line diagrams appropriate for responders
    - Emergency shutdown information
    - Utility isolation points
    - Fire-water system information
    - Safety Data Sheets
    - Emergency contact information

- Hazards and exclusion distances
- Incident-response procedures
- Facility access keys or access instructions
- Locations of containment valves and critical infrastructure

- Ameren's PSC record expressly states that the company intends to provide local responders with safety documentation, facility-specific emergency information, training, facility visits, and continuing coordination prior to operation.

- **Action Item No. 2 – Independent Access to Fire-Water Infrastructure**
  - **Status: Unresolved**
  - Responders requested consideration of a **separate keyed emergency entrance** providing direct access to the dedicated fire-water storage and containment area.
  - No final agreement was reached regarding this request.
  - The operational concern is that responders must be capable of accessing emergency water resources without unnecessary entry into, or transit through, areas potentially affected by battery failure, electrical hazards, thermal runaway, smoke, or hazardous off-gassing.
  - Ameren has represented to the PSC that approximately **30,000 gallons of dedicated emergency water storage** will be maintained onsite to support defensive firefighting operations and exposure cooling.
  - Winter accessibility was identified as an additional operational concern.
  - Snow accumulation could prevent emergency access to gates, hydrant connections, fire-water infrastructure, or responder staging areas during a winter incident.
  - The meeting identified the need for pre-operational coordination concerning snow removal from public roadways through the emergency-access interface.
  - **Required Follow-Up**
    - Determine whether a dedicated fire-service entrance will be incorporated into final design.
    - Determine key, lock-box, electronic, or Knox-style access methodology.
    - Determine which agencies will receive access credentials.

- Establish snow-removal responsibilities.
- Coordinate with the Lincoln County Highway Department/road crews before facility operation.
- Identify minimum emergency-access widths and areas requiring priority snow clearance.
- Incorporate winter-access responsibilities into the final Emergency Response Plan.

- **Action Item No. 3 – Definition and Management of Contaminated Firewater**
  - **Status: Unresolved / Technical and Regulatory Clarification Required**
  - Responders identified a significant unresolved issue concerning the regulatory and operational definition of **contaminated firewater** following a battery thermal event.
  - Ameren's current design contemplates utilizing water principally for **exposure protection and cooling of adjacent equipment**, rather than direct extinguishment of an involved battery enclosure.
  - The meeting raised the question of whether water applied only to an uninvolved or exposure-threatened battery enclosure must nevertheless be treated as contaminated runoff when generated within the operational footprint of a battery-fire incident.
  - Additional questions requiring resolution include:
    - What contaminants would trigger classification of runoff as contaminated?
    - What analytical parameters will be sampled?
    - What concentrations constitute reportable levels?
    - Who performs field sampling?
    - Who determines whether retained water can be discharged?
    - What Missouri Department of Natural Resources notification thresholds apply?
    - At what point does Ameren notify DNR?
    - Who is responsible for containment, pumping, transportation, treatment, and disposal?
    - How will runoff from exposure cooling be differentiated from water directly contacting damaged battery material?

- Will all water generated within an affected battery block be presumptively retained pending analytical testing?

- Ameren's PSC testimony states that the site will incorporate containment barriers around battery and transformer equipment and **multiple detention basins designed to collect, test, and manage runoff**, including runoff generated during emergency conditions.
- The outstanding issue is therefore not whether containment is contemplated, but rather the **decision criteria, analytical methodology, regulatory reporting threshold, and ultimate disposition of retained water** following an incident.
- This issue should be definitively resolved with Ameren and the Missouri Department of Natural Resources and incorporated into the final site-specific Emergency Response Plan.

- **911 Notification and Ameren Response**
  - Detailed discussion occurred regarding:
    - Initial alarm transmission
    - Ameren internal notification
    - Lincoln County 911 notification
    - Emergency contact hierarchy
    - After-hours events
    - Remote monitoring
    - Ameren personnel response
    - Information that dispatchers and responding command officers will require during the initial operational period
  - Responders emphasized the importance of 911 receiving **actionable technical information**, rather than a generic facility alarm.
  - Future response planning should establish:
    - A dedicated 24/7 Ameren emergency telephone number
    - Primary and secondary contacts
    - Procedures for automatic or immediate notification to Lincoln County 911

  - Identification of the affected battery block
  - Nature of the detected abnormality
  - Known temperature or thermal condition
  - Fire/gas alarm status
  - Electrical isolation status
  - Recommended initial exclusion distance
  - Ameren representative estimated time of arrival
- These procedures should ultimately be incorporated into both the Ameren Emergency Response Plan and Lincoln County 911 dispatch protocols.

- **Training and Responder Familiarization**
  - A substantial portion of the meeting focused on the level of training necessary for Lincoln County emergency responders before Millcreek becomes operational.
  - Participating agencies expressed significant interest in obtaining **hands-on familiarity with an operating utility-scale BESS facility**, rather than relying exclusively upon classroom instruction, diagrams, or manufacturer presentations.
  - Ameren agreed to identify an operational BESS facility with a **comparable scale, configuration, and operational layout**.
  - Ameren agreed in principle to facilitate introductions with the operating entity so Lincoln County response agencies can potentially conduct an onsite visit.
  - Such a visit would allow responders to physically evaluate:
    - Battery enclosure dimensions
    - Actual unit spacing
    - Apparatus access
    - Gate configuration
    - Internal road dimensions
    - Emergency shutdown systems
    - Fire-water infrastructure
    - Incident-response box configuration

  - Thermal-monitoring capabilities
  - Electrical hazards
  - Staging requirements
  - Command-post positioning
  - Realistic exclusion distances
  - Noise and operating conditions
  - Overall facility scale
- Ameren's formal PSC testimony already commits the company to responder training, safety documentation, facility tours, equipment review, continuing coordination, and project-specific emergency-response planning before operations commence.
- Ameren has also represented to the PSC that it will provide **reasonable project-specific equipment identified by local responders through the emergency-planning process**.

- **Pre-Operational Priorities Identified**
  - Finalize responder access to the onsite incident-response information box.
  - Obtain responder participation in final placement of the incident-response box.
  - Resolve whether a separate emergency entrance will be provided for fire-water infrastructure.
  - Establish winter snow-removal and emergency-access responsibilities.
  - Coordinate emergency-access requirements with Lincoln County road personnel.
  - Establish the technical definition of contaminated firewater.
  - Determine applicable sampling, reporting, containment, and disposal protocols.
  - Obtain Missouri DNR clarification regarding reportable contamination and notification requirements.
  - Finalize 24/7 Ameren-to-911 notification procedures.
  - Establish primary and redundant Ameren emergency contacts.
  - Define Ameren response expectations and estimated personnel response capabilities.
  - Establish site-specific exclusion-zone methodology.

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- Finalize responder staging locations.
- Complete responder training.
- Conduct site walkthroughs before energization.
- Facilitate a visit to a comparable operational BESS facility.
- Incorporate all resolved items into the final **site-specific Hazard Mitigation Analysis and Emergency Response Plan** before commercial operation.

- **Executive Summary**
  - The meeting was productive and materially advanced coordination between Ameren Missouri and Lincoln County's emergency-response community.
  - Ameren provided a considerably more detailed technical explanation of the proposed Millcreek BESS and afforded responders the opportunity to evaluate the facility from an operational rather than purely developmental perspective.
  - Multiple responder concerns were addressed through technical explanation, while several practical issues were identified that require further resolution before facility operation.
  - No issue identified during the meeting appeared incapable of further technical or operational resolution; however, **emergency access, winter access, contaminated-water protocols, 911 integration, and responder training remain necessary pre-operational planning items**.
  - Continued direct participation by Lincoln County first responders will be necessary as the project advances from preliminary design into final engineering.
  - The principal objective moving forward should be to ensure that the final facility design and Emergency Response Plan reflect **actual Lincoln County response capabilities, access limitations, communications procedures, seasonal conditions, command requirements, and responder safety considerations**, rather than relying exclusively upon generic BESS emergency-response standards.

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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# EXHIBIT E

to the Application of Mary E. Geeding for Rehearing and Clarification

Email from Chad M. LaMontagne, U.S. Army Corps of Engineers (the sender of Exhibit B), to Applicant, with Applicant's email of that morning to which it replies

November 19, 2026, 1:19 p.m.

*Pages 1–3 of a 17-page printout from Applicant's email account, printed November 19, 2026, at 4:48 p.m.; the remaining pages are omitted and are available on request. Applicant's message, which transmitted the photographs in Exhibit F, appears in Applicant's sent mail at 11:25 a.m.; the header quoted in the reply shows 11:26 a.m. Applicant's email address and telephone number, the names and addresses of other recipients, and the printout's web address are redacted.*

Gmail Mary Geeding [redacted]

# Ameren Millcreek BESS (MVS-2026-426)

**Lamontagne, Chad M CIV USARMY CEMVS (USA)** <Chad.M.Lamontagne@usace.army.mil>
To: Mary Geeding [redacted]
Cc: [redacted]

Thu, Nov 19, 2026 at 1:19 PM

Mary,

Thank you for the photos. That activity is certainly beyond what I would like to see prior to the NWP verification, and I am going to reach out to Ameren today. I'll look at your other comments as I get time.

Take care,

Chad LaMontagne, PWS

US Army Corps of Engineers

Regulatory Project Manager

CEMVS-RD

1222 Spruce Street

St. Louis, Missouri 63103

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**From:** Mary Geeding [redacted]
**Sent:** Thursday, November 19, 2026 11:26 AM
**To:** Lamontagne, Chad M CIV USARMY CEMVS (USA) <Chad.M.Lamontagne@usace.army.mil>
**Cc:** [redacted]
**Subject:** Re: [Non-DoD Source] Re: Ameren Millcreek BESS (MVS-2026-426)

Hi Chad,

Thank you again for your detailed response on November 17 regarding the Millcreek BESS project and your willingness to meet with us.

I am reaching out because we have photographs and video documenting active earthmoving and land disturbance at the proposed Millcreek BESS site in Lincoln County.

The photographs show excavators operating, topsoil being removed, exposed soil, grading, and other earthmoving activity near the roadway and farther into the property. This appears to extend beyond simply staging equipment or

[redacted]

conducting surveys.

I am attaching the photographs and video for your review and would appreciate clarification about whether these activities are permitted at this stage.

In your November 17 email, you specifically stated:

**“The NWP 14 for this project has not yet been verified.”**

You also explained that coordination with Missouri SHPO and the Tribes remained pending, that you did not want land disturbance before completion of the Section 106 review, and that you had not received erosion-control, stabilization, and restoration plans for the temporary crossings.

With that in mind, I have several questions:

1. **Current permit status:** Has Ameren received NWP 14 verification or any other Corps authorization for the proposed crossings since your November 17 response? If so, could you provide the issuance date, authorized work areas, and applicable conditions?
2. **Active land disturbance:** Based on the attached photographs and video, does the excavation and grading appear to extend into or near any jurisdictional streams, drainage features, or proposed temporary crossing locations identified in MVS-2026-426? Could the Corps compare these locations with the existing delineation and crossing drawings?
3. **Section 106 review:** Has consultation with SHPO and the Tribes been completed? If not, could the ongoing excavation affect the area being reviewed for historic or archaeological resources? Is this activity permissible before that review is completed?
4. **Section 7 review:** Has the endangered-species review been completed, and are there any restrictions relevant to the current land-disturbing activities?
5. **Construction plans and erosion controls:** Have you received any updated grading plans, construction drawings, temporary crossing plans, or erosion-control and restoration plans from Ameren since your previous email? If not, how can the Corps determine whether the current work is consistent with the plans under review?
6. **Inspection and compliance:** Would the Corps be able to review this activity promptly or request an explanation from Ameren identifying exactly what work is occurring and under what authorization? If work is occurring within the Corps’ jurisdiction without required authorization, what corrective measures would be appropriate?

I understand that your regulatory authority is limited and that some upland grading may fall outside the Corps’ jurisdiction. I am not assuming that all of the activity is necessarily a violation. However, given the ongoing federal review and the visible disturbance, I believe it is important to determine whether any regulated work has begun prematurely or whether the activity could affect the pending environmental and cultural-resource reviews.

If the work falls outside the Corps’ authority, could you advise which agency would be responsible for verifying compliance?

My concern is that land disturbance occurring before the required reviews are completed could potentially affect resources those reviews are intended to protect.

**Would you please review the attached documentation and advise whether any immediate site inspection, consultation with Ameren, or other action is warranted?**

I would also appreciate having these photographs and this correspondence included in the administrative record for MVS-2026-426.

Thank you again for your time, transparency, and assistance. I appreciate your willingness to answer our questions and help us understand what is and is not authorized.

Sincerely,

Mary Geeding

[redacted]

[redacted]
Lincoln County, Missouri

Image

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Image

2694497757439635987.jpeg

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**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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# EXHIBIT F

to the Application of Mary E. Geeding for Rehearing and Clarification

Photographs taken at the Millcreek BESS project site on the morning of November 19, 2026, by area residents and provided to Applicant

November 19, 2026

*Applicant sent these photographs to the U.S. Army Corps of Engineers at about 11:25 a.m. on November 19, 2026 (Exhibit E). Reproduced as received, resized only; one duplicate image omitted. Captions are Applicant's descriptions of what each photograph shows.*



**Photograph F-1.** View from the road along the field fence toward equipment, vehicles and a transmission structure ahead at right.




**Photograph F-2.** An excavator bearing the name "Castle" working in the roadside ditch beside a transmission structure, with a worker in a safety vest at the road edge; ground at left cleared to bare soil.



**Photograph F-3.** Cleared ground with mounded soil and pink survey stakes; a track-type tractor, pickup truck and utility vehicle beyond.




**Photograph F-4.** A Cat 315F excavator bearing the name "Castle" and a Takeuchi track loader on cleared ground.



**Photograph F-5.** Excavator bucket and track-loader blade on cleared soil, with pink survey stakes.



**Photograph F-6.** A track loader carrying vegetation and soil across a cleared, staked area; soil stockpiles at right.



**Photograph F-7.** A black fabric fence on wooden stakes (silt fence) inside the field fence; beyond it, cleared ground and a long row of removed soil and vegetation.



**Photograph F-8.** Stacked sections of large corrugated pipe in the field.



**Photograph F-9.** Additional large pipe sections on the hilltop.




**Photograph F-10.** A worker in a safety vest bearing the name "Castle" holding a GPS survey receiver beside a utility pole, with a trailer-mounted reel and a pickup truck.




**Photograph F-11.** A semi-tractor with a lowboy trailer on the road, a worker in a safety vest, an excavator in the field, and portable toilets at the roadside.

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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# EXHIBIT G

to the Application of Mary E. Geeding for Rehearing and Clarification

Still frames from a video recorded by Applicant from a vehicle on the road beside the Millcreek BESS project site

November 17, 2026, 1:47:28 p.m. (Central)

*The video file's embedded metadata records an Apple iPhone 15 Pro, a creation date of 2026-11-17T13:47:28-0600, and a location of 39.1690, -90.9829 (stated horizontal accuracy 5 meters), about 324 meters from the project coordinates stated in the Company's Waters Delineation Report (39.1664, -90.9812; Item 43, Attachment B, § 1.0). Frames are cropped to the field area; each label gives the frame's position in the 28-second video. The complete original file is available to the Commission on request.*



**Frame G-1 (video time 0:07.000).** A track-type tractor with a front blade on bare ground in the field, with soil mounds and a cleared strip at left.



**Frame G-2 (video time 0:08.678).** Rows of disturbed soil extending across the field beyond the fence line; equipment at the far left edge.



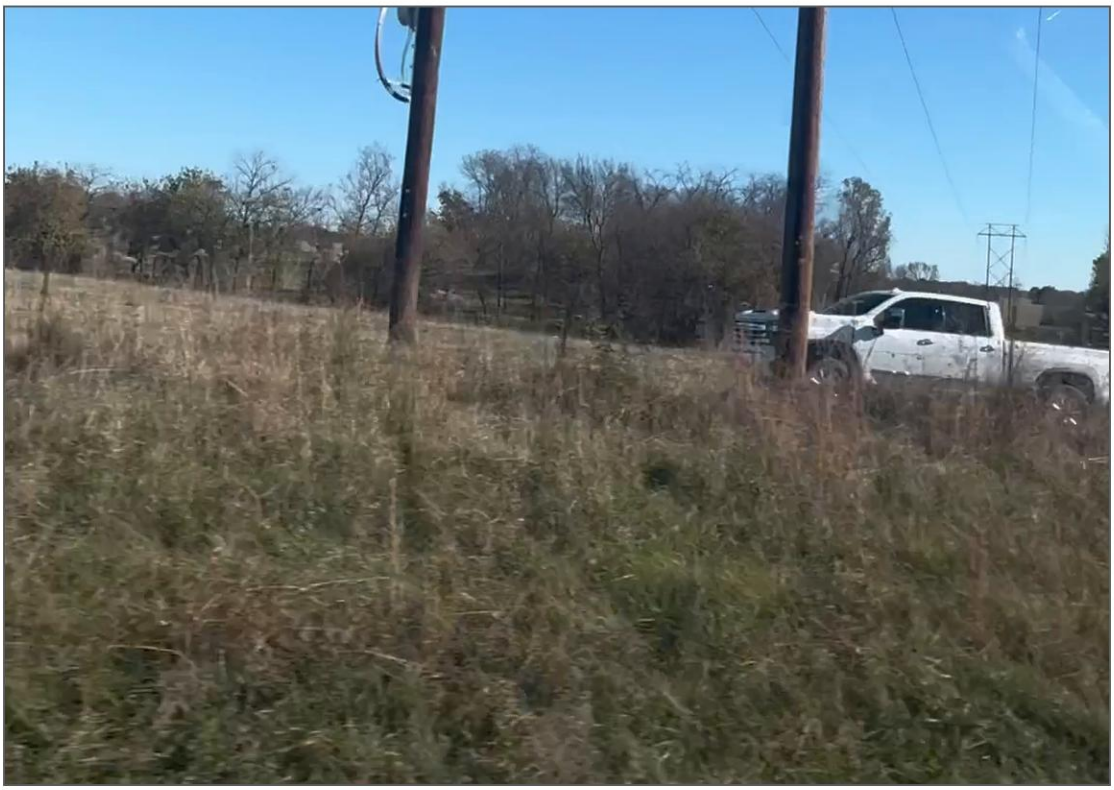
**Frame G-3 (video time 0:11.480).** A track loader on a strip of bare soil running into the field, with rows of disturbed soil at left.



**Frame G-4 (video time 0:13.647).** A pickup truck and a survey instrument on a yellow tripod in the field.




**Frame G-5 (video time 0:16.648).** Two portable toilets bearing "R&R" and a gray portable unit set in the field beside a utility pole.



**Frame G-6 (video time 0:18.483).** A wooden H-frame transmission structure, with a white pickup truck in the field beyond it.

**BEFORE THE PUBLIC SERVICE COMMISSION**
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# EXHIBIT H

to the Application of Mary E. Geeding for Rehearing and Clarification

Photographs taken by an area resident at the Millcreek BESS project site and provided to Applicant

November 19, 2026, about 2:57 p.m. (Central)

*The photographer reports the time and place and retains the original files. These copies were received through a messaging application, which removed the embedded date, time and location data. The photographs were also provided to the U.S. Army Corps of Engineers project manager. Page 1 reproduces both photographs as received, resized only; page 2 shows enlarged details. Captions are Applicant's descriptions of what each photograph shows.*



**Photograph H-1.** View from the road: a crushed-rock pad at the field entrance beside a wood H-frame transmission structure and a utility pole, with a red tracked machine on the pad, a rock stockpile, pickup trucks, and workers in safety vests and hard hats.



**Photograph H-2.** View from inside a vehicle: a crushed-rock pad marked with tire and track impressions; beyond it, a yellow excavator and a yellow track loader, pickup trucks, a worker in a safety vest and hard hat, soil piles, and a stake with orange flagging.



**Detail H-1a.** Enlargement of Photograph H-1, cropped and enlarged with no other alteration: the crushed-rock pad, rock stockpile, red tracked machine and workers beside the transmission structure.



**Detail H-2a.** Enlargement of Photograph H-2, cropped and enlarged with no other alteration: the crushed-rock pad in the foreground, with the excavator, track loader, pickup truck and soil piles beyond.

**BEFORE THE PUBLIC SERVICE COMMISSION**
**OF THE STATE OF MISSOURI**

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| In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Permission and Approval and Certificates of Public Convenience and Necessity Authorizing it to Construct Renewable Generation Facilities and Battery Energy Storage Systems. | ) ) ) ) ) ) | File No. EA-2026-0183 |

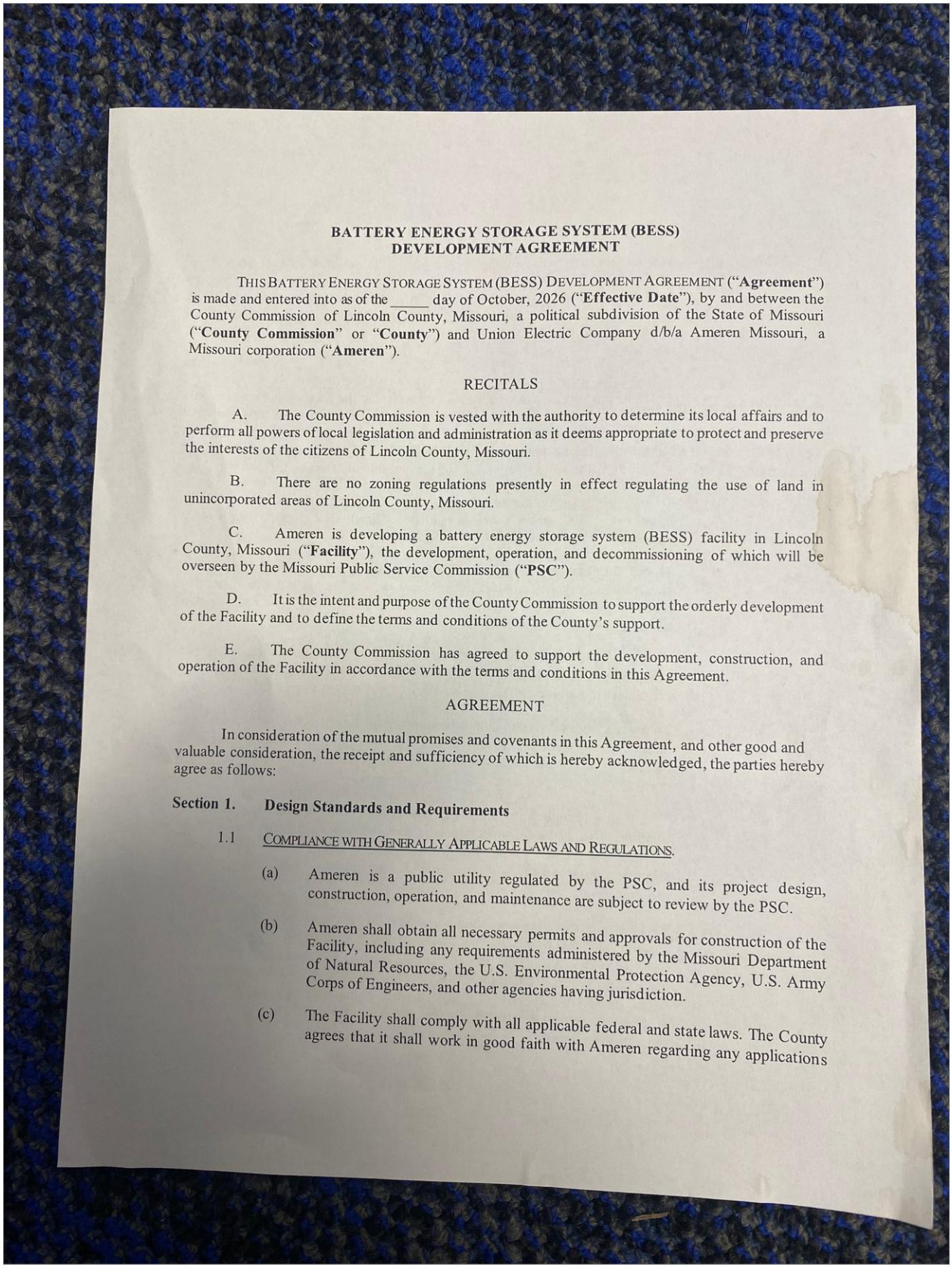
# EXHIBIT I

to the Application of Mary E. Geeding for Rehearing and Clarification

Proposed Battery Energy Storage System (BESS) Development Agreement between the County Commission of Lincoln County, Missouri, and Union Electric Company d/b/a Ameren Missouri (draft)

Draft before the Lincoln County Commission at its November 10, 2026 meeting

*Photographs of a paper copy provided by a Lincoln County official and sent to Applicant. The draft is unsigned: its date line reads "_____ day of October, 2026," and it ends "[signatures follow]" with no signature page. Six photographs, one per page of the draft, reproduced as received and resized only.*



**BATTERY ENERGY STORAGE SYSTEM (BESS)**
**DEVELOPMENT AGREEMENT**

THIS BATTERY ENERGY STORAGE SYSTEM (BESS) DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into as of the _____ day of October, 2026 ("**Effective Date**"), by and between the County Commission of Lincoln County, Missouri, a political subdivision of the State of Missouri ("**County Commission**" or "**County**") and Union Electric Company d/b/a Ameren Missouri, a Missouri corporation ("**Ameren**").

RECITALS

A. The County Commission is vested with the authority to determine its local affairs and to perform all powers of local legislation and administration as it deems appropriate to protect and preserve the interests of the citizens of Lincoln County, Missouri.

B. There are no zoning regulations presently in effect regulating the use of land in unincorporated areas of Lincoln County, Missouri.

C. Ameren is developing a battery energy storage system (BESS) facility in Lincoln County, Missouri ("**Facility**"), the development, operation, and decommissioning of which will be overseen by the Missouri Public Service Commission ("**PSC**").

D. It is the intent and purpose of the County Commission to support the orderly development of the Facility and to define the terms and conditions of the County's support.

E. The County Commission has agreed to support the development, construction, and operation of the Facility in accordance with the terms and conditions in this Agreement.

AGREEMENT

In consideration of the mutual promises and covenants in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**Section 1. Design Standards and Requirements**

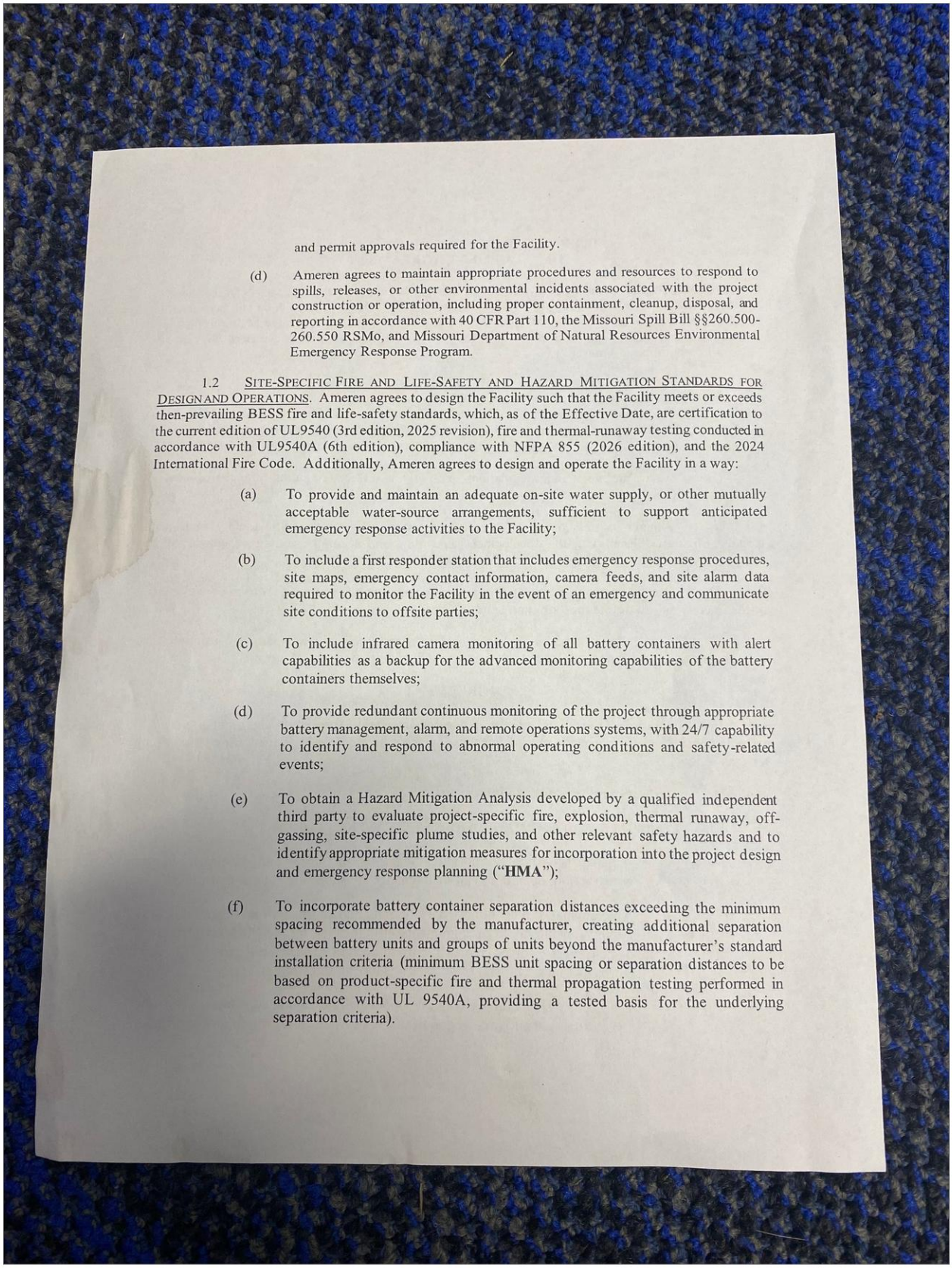
1.1 COMPLIANCE WITH GENERALLY APPLICABLE LAWS AND REGULATIONS.

(a) Ameren is a public utility regulated by the PSC, and its project design, construction, operation, and maintenance are subject to review by the PSC.

(b) Ameren shall obtain all necessary permits and approvals for construction of the Facility, including any requirements administered by the Missouri Department of Natural Resources, the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and other agencies having jurisdiction.

(c) The Facility shall comply with all applicable federal and state laws. The County agrees that it shall work in good faith with Ameren regarding any applications

**Photograph I-1.** Page 1 of the draft, as received.



and permit approvals required for the Facility.

(d) Ameren agrees to maintain appropriate procedures and resources to respond to spills, releases, or other environmental incidents associated with the project construction or operation, including proper containment, cleanup, disposal, and reporting in accordance with 40 CFR Part 110, the Missouri Spill Bill §§260.500-260.550 RSMo, and Missouri Department of Natural Resources Environmental Emergency Response Program.

1.2 SITE-SPECIFIC FIRE AND LIFE-SAFETY AND HAZARD MITIGATION STANDARDS FOR DESIGN AND OPERATIONS. Ameren agrees to design the Facility such that the Facility meets or exceeds then-prevailing BESS fire and life-safety standards, which, as of the Effective Date, are certification to the current edition of UL9540 (3rd edition, 2025 revision), fire and thermal-runaway testing conducted in accordance with UL9540A (6th edition), compliance with NFPA 855 (2026 edition), and the 2024 International Fire Code. Additionally, Ameren agrees to design and operate the Facility in a way:

(a) To provide and maintain an adequate on-site water supply, or other mutually acceptable water-source arrangements, sufficient to support anticipated emergency response activities to the Facility;

(b) To include a first responder station that includes emergency response procedures, site maps, emergency contact information, camera feeds, and site alarm data required to monitor the Facility in the event of an emergency and communicate site conditions to offsite parties;

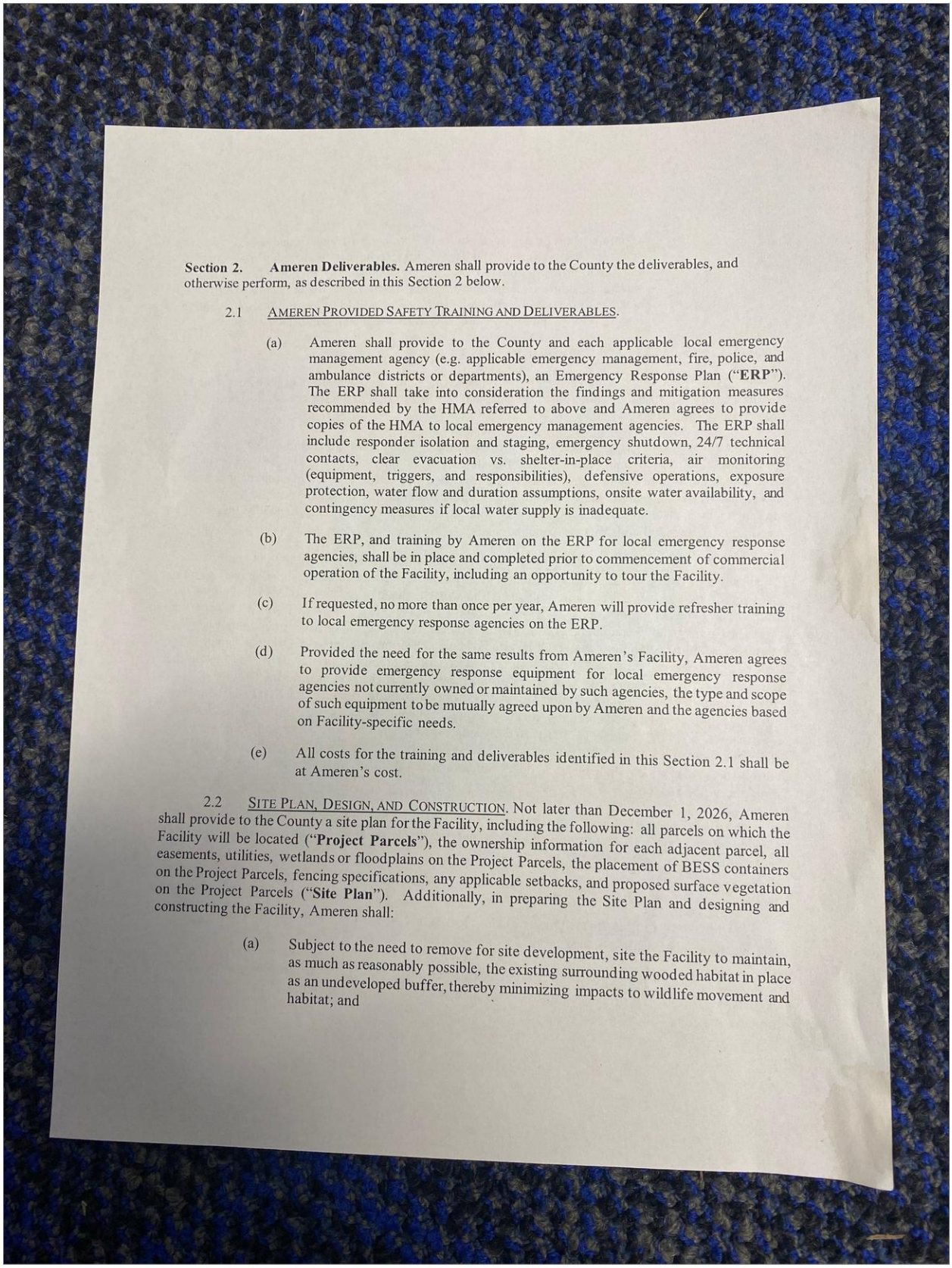
(c) To include infrared camera monitoring of all battery containers with alert capabilities as a backup for the advanced monitoring capabilities of the battery containers themselves;

(d) To provide redundant continuous monitoring of the project through appropriate battery management, alarm, and remote operations systems, with 24/7 capability to identify and respond to abnormal operating conditions and safety-related events;

(e) To obtain a Hazard Mitigation Analysis developed by a qualified independent third party to evaluate project-specific fire, explosion, thermal runaway, off-gassing, site-specific plume studies, and other relevant safety hazards and to identify appropriate mitigation measures for incorporation into the project design and emergency response planning ("**HMA**");

(f) To incorporate battery container separation distances exceeding the minimum spacing recommended by the manufacturer, creating additional separation between battery units and groups of units beyond the manufacturer's standard installation criteria (minimum BESS unit spacing or separation distances to be based on product-specific fire and thermal propagation testing performed in accordance with UL 9540A, providing a tested basis for the underlying separation criteria).

**Photograph I-2.** Page 2 of the draft, as received.



**Section 2. Ameren Deliverables.** Ameren shall provide to the County the deliverables, and otherwise perform, as described in this Section 2 below.

2.1 AMEREN PROVIDED SAFETY TRAINING AND DELIVERABLES.

(a) Ameren shall provide to the County and each applicable local emergency management agency (e.g. applicable emergency management, fire, police, and ambulance districts or departments), an Emergency Response Plan ("**ERP**"). The ERP shall take into consideration the findings and mitigation measures recommended by the HMA referred to above and Ameren agrees to provide copies of the HMA to local emergency management agencies. The ERP shall include responder isolation and staging, emergency shutdown, 24/7 technical contacts, clear evacuation vs. shelter-in-place criteria, air monitoring (equipment, triggers, and responsibilities), defensive operations, exposure protection, water flow and duration assumptions, onsite water availability, and contingency measures if local water supply is inadequate.

(b) The ERP, and training by Ameren on the ERP for local emergency response agencies, shall be in place and completed prior to commencement of commercial operation of the Facility, including an opportunity to tour the Facility.

(c) If requested, no more than once per year, Ameren will provide refresher training to local emergency response agencies on the ERP.

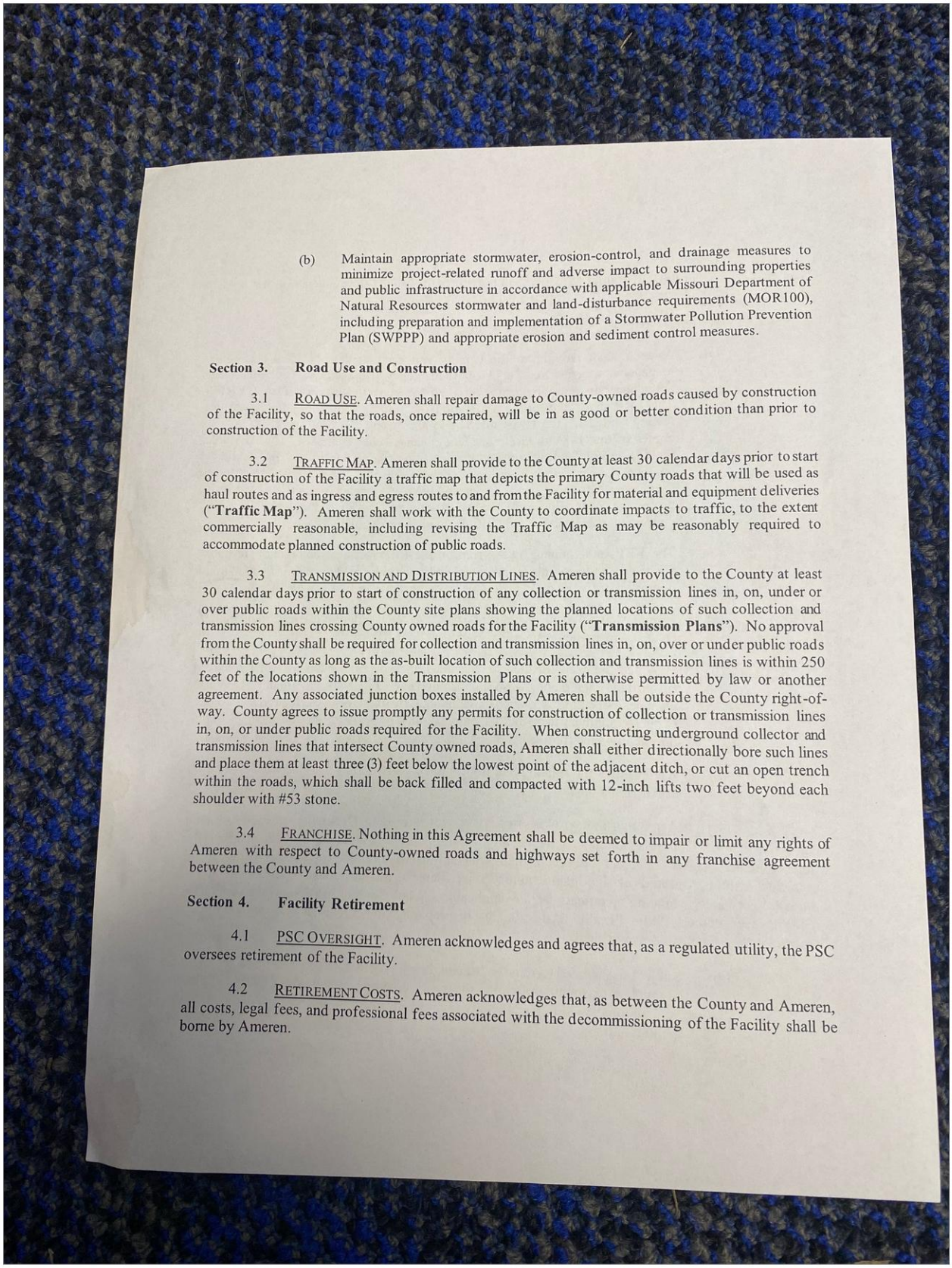
(d) Provided the need for the same results from Ameren's Facility, Ameren agrees to provide emergency response equipment for local emergency response agencies not currently owned or maintained by such agencies, the type and scope of such equipment to be mutually agreed upon by Ameren and the agencies based on Facility-specific needs.

(e) All costs for the training and deliverables identified in this Section 2.1 shall be at Ameren's cost.

2.2 SITE PLAN, DESIGN, AND CONSTRUCTION. Not later than December 1, 2026, Ameren shall provide to the County a site plan for the Facility, including the following: all parcels on which the Facility will be located ("**Project Parcels**"), the ownership information for each adjacent parcel, all easements, utilities, wetlands or floodplains on the Project Parcels, the placement of BESS containers on the Project Parcels, fencing specifications, any applicable setbacks, and proposed surface vegetation on the Project Parcels ("**Site Plan**"). Additionally, in preparing the Site Plan and designing and constructing the Facility, Ameren shall:

(a) Subject to the need to remove for site development, site the Facility to maintain, as much as reasonably possible, the existing surrounding wooded habitat in place as an undeveloped buffer, thereby minimizing impacts to wildlife movement and habitat; and

**Photograph I-3.** Page 3 of the draft, as received.



(b) Maintain appropriate stormwater, erosion-control, and drainage measures to minimize project-related runoff and adverse impact to surrounding properties and public infrastructure in accordance with applicable Missouri Department of Natural Resources stormwater and land-disturbance requirements (MOR100), including preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) and appropriate erosion and sediment control measures.

**Section 3. Road Use and Construction**

3.1 ROAD USE. Ameren shall repair damage to County-owned roads caused by construction of the Facility, so that the roads, once repaired, will be in as good or better condition than prior to construction of the Facility.

3.2 TRAFFIC MAP. Ameren shall provide to the County at least 30 calendar days prior to start of construction of the Facility a traffic map that depicts the primary County roads that will be used as haul routes and as ingress and egress routes to and from the Facility for material and equipment deliveries ("**Traffic Map**"). Ameren shall work with the County to coordinate impacts to traffic, to the extent commercially reasonable, including revising the Traffic Map as may be reasonably required to accommodate planned construction of public roads.

3.3 TRANSMISSION AND DISTRIBUTION LINES. Ameren shall provide to the County at least 30 calendar days prior to start of construction of any collection or transmission lines in, on, under or over public roads within the County site plans showing the planned locations of such collection and transmission lines crossing County owned roads for the Facility ("**Transmission Plans**"). No approval from the County shall be required for collection and transmission lines in, on, over or under public roads within the County as long as the as-built location of such collection and transmission lines is within 250 feet of the locations shown in the Transmission Plans or is otherwise permitted by law or another agreement. Any associated junction boxes installed by Ameren shall be outside the County right-of-way. County agrees to issue promptly any permits for construction of collection or transmission lines in, on, or under public roads required for the Facility. When constructing underground collector and transmission lines that intersect County owned roads, Ameren shall either directionally bore such lines and place them at least three (3) feet below the lowest point of the adjacent ditch, or cut an open trench within the roads, which shall be back filled and compacted with 12-inch lifts two feet beyond each shoulder with #53 stone.

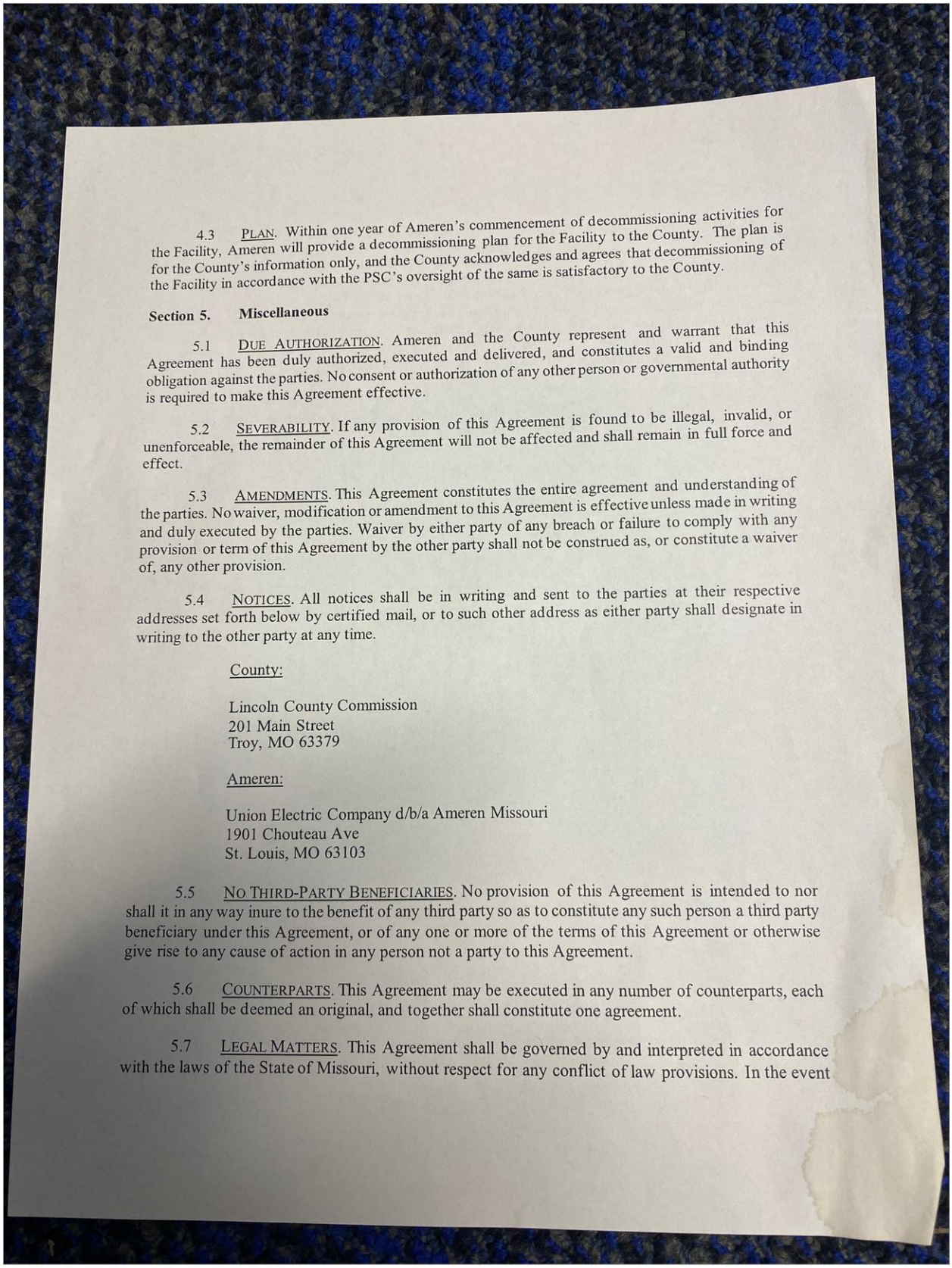
3.4 FRANCHISE. Nothing in this Agreement shall be deemed to impair or limit any rights of Ameren with respect to County-owned roads and highways set forth in any franchise agreement between the County and Ameren.

**Section 4. Facility Retirement**

4.1 PSC OVERSIGHT. Ameren acknowledges and agrees that, as a regulated utility, the PSC oversees retirement of the Facility.

4.2 RETIREMENT COSTS. Ameren acknowledges that, as between the County and Ameren, all costs, legal fees, and professional fees associated with the decommissioning of the Facility shall be borne by Ameren.

**Photograph I-4.** Page 4 of the draft, as received.



4.3 PLAN. Within one year of Ameren's commencement of decommissioning activities for the Facility, Ameren will provide a decommissioning plan for the Facility to the County. The plan is for the County's information only, and the County acknowledges and agrees that decommissioning of the Facility in accordance with the PSC's oversight of the same is satisfactory to the County.

**Section 5. Miscellaneous**

5.1 DUE AUTHORIZATION. Ameren and the County represent and warrant that this Agreement has been duly authorized, executed and delivered, and constitutes a valid and binding obligation against the parties. No consent or authorization of any other person or governmental authority is required to make this Agreement effective.

5.2 SEVERABILITY. If any provision of this Agreement is found to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected and shall remain in full force and effect.

5.3 AMENDMENTS. This Agreement constitutes the entire agreement and understanding of the parties. No waiver, modification or amendment to this Agreement is effective unless made in writing and duly executed by the parties. Waiver by either party of any breach or failure to comply with any provision or term of this Agreement by the other party shall not be construed as, or constitute a waiver of, any other provision.

5.4 NOTICES. All notices shall be in writing and sent to the parties at their respective addresses set forth below by certified mail, or to such other address as either party shall designate in writing to the other party at any time.

County:

Lincoln County Commission
201 Main Street
Troy, MO 63379

Ameren:

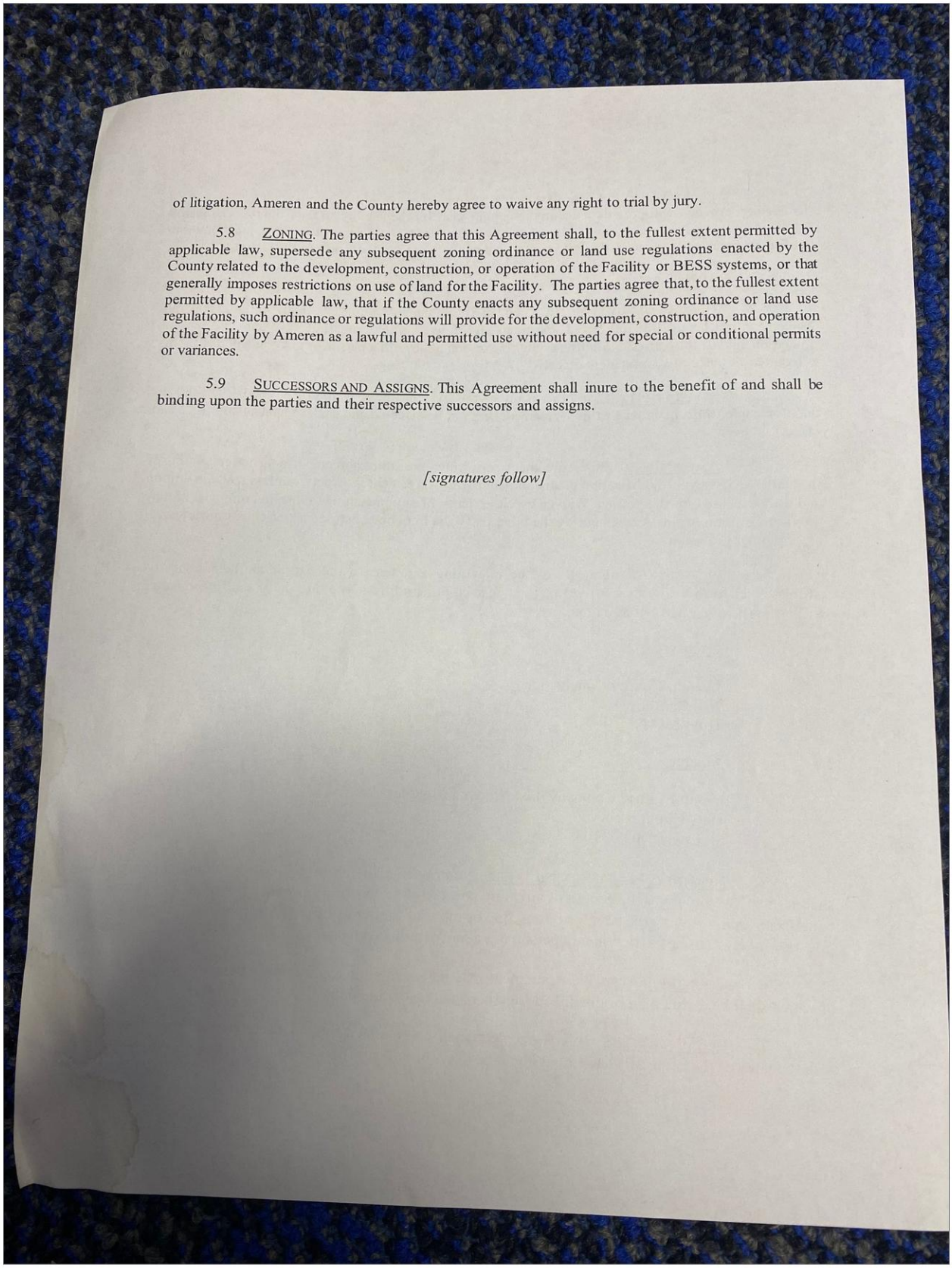
Union Electric Company d/b/a Ameren Missouri
1901 Chouteau Ave
St. Louis, MO 63103

5.5 NO THIRD-PARTY BENEFICIARIES. No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any third party so as to constitute any such person a third party beneficiary under this Agreement, or of any one or more of the terms of this Agreement or otherwise give rise to any cause of action in any person not a party to this Agreement.

5.6 COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and together shall constitute one agreement.

5.7 LEGAL MATTERS. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri, without respect for any conflict of law provisions. In the event

**Photograph I-5.** Page 5 of the draft, as received.



of litigation, Ameren and the County hereby agree to waive any right to trial by jury.

5.8 ZONING. The parties agree that this Agreement shall, to the fullest extent permitted by applicable law, supersede any subsequent zoning ordinance or land use regulations enacted by the County related to the development, construction, or operation of the Facility or BESS systems, or that generally imposes restrictions on use of land for the Facility. The parties agree that, to the fullest extent permitted by applicable law, that if the County enacts any subsequent zoning ordinance or land use regulations, such ordinance or regulations will provide for the development, construction, and operation of the Facility by Ameren as a lawful and permitted use without need for special or conditional permits or variances.

5.9 SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

*[signatures follow]*

**Photograph I-6.** Page 6 of the draft, as received.