"Oversight Review: Rapid City Municipal TIF Realignment and Non-Compliance with State Cost-Internalization Mandates."

Madam Chair, Senator Howard, and Members of the Committee:

My name is William Waggoner, and I stand before you today as a resident of Rapid City and Black Hawk to present undeniable evidence of systemic project scope creep, municipal financial manipulation, and an institutional rush by the Rapid City government to evade the statutory intent of **Senate Bill 228**.

On April 15, 2026, the Rapid City Legal and Finance Committee was formally placed on notice. During the public comment period, a mass infrastructure deficit regarding our city's TIF practices was explicitly read into the record. Despite this direct warning, local officials chose to immediately push forward, voting to expand and amend the East Anamosa Street TIF, **TIF #84**.

The depth of this warning is further validated by a separate, formal document authored by **Paul E. Evans**, which was submitted directly to the city the ~~very next~~ day, ~~**April**~~ June **16, 2026**. This consecutive filing provides independent verification of the exact infrastructure deficits and boundary overreaches we called out, permanently cementing a multi-source paper trail into the city's records.

This was not a good-faith administrative decision by local leadership. It was a calculated, pre-emptive strike to beat the clock on this legislature's landmark reform, Senate Bill 228. By rushing these multi-million dollar adjustments through committee before the July 1st enactment deadline, Rapid City officials sought to shield private corporate entities from stricter geographic boundaries and lower cost-inflation caps this body fought to establish.

They used the East Anamosa TIF as a financial conduit, expanding project scopes mid-stream to absorb and grade land for private corporate industrial developments—including data center footprints—that could never financially support their own infrastructure front-end costs. To mask the resulting deficits in the East Anamosa corridor, the city has actively used taxpayer sales tax dollars via our Capital Improvement Plan to backfill the holes. This is a text-book financial shell game, shifting the burden of corporate development directly onto the backs of working-class citizens.

When I brought this infrastructure data to light, the immediate reaction from city administration was not transparency. It was an immediate string of unsolicited, private meeting invitations from the city finance director, attempting to manage and mitigate a citizen witness outside the view of the public record. In fact, minutes after my comment, before the session even ended, the director emailed my personal account to pull me off the floor. I have attached a physical copy of this timestamped digital invitation to my testimony today as irrefutable proof of immediate administrative panic.

But the laws of South Dakota are clear, and they do not bow to backdoor municipal damage control:

- Under **SDCL § 3-24-6**, my good-faith disclosure is completely immune from civil liability.
- Under the **Uniform Public Expression Protection Act**—the anti-SLAPP law enacted on July 1st—any retaliatory litigation from these corporate actors or the city faces immediate dismissal and mandatory penalty recovery.

- Under **SDCL § 3-16-9**, state public policy strictly prohibits municipal bodies from executing any form of professional suppression or coercion against individuals exposing an abuse of public funds.
  Because the mass infrastructure deficit was placed on the official city record prior to their pre-July 1st rush, the city's claim to a grandfather clause defense is completely voided. They acted with full knowledge of the statutory infraction.

  Therefore, I am formally asking this committee to take two immediate oversight actions:

- **First:** Direct the Auditor General to initiate an immediate, independent forensic review of Rapid City's TIF District #84 project plan modifications and the corresponding balancing mechanisms within the Capital Improvement Plan to ensure public funds match state parameters.
- **Second:** Recommend a programmatic evaluation of local public-private partnerships, such as those with Elevate Rapid City, to establish clearer guidelines for municipal contract compliance and ensure public investments drive broader community growth. The local ordinance updates passed by Rapid City Council may allow their members to hide their votes in silence, but they cannot hide from the oversight of this state.

  Thank you, and I am open to any questions the committee may have.

Laws prior to SB 228

Violation 1: Illegal Cross-District Fund Transfers

- **Statute: SDCL 11-9-5** and **SDCL 11-9-25**
- **Legal Requirement:** Tax increment revenues must be deposited into a special fund dedicated *solely* to the specific district from which they were generated. These funds must be used exclusively to pay for project costs incurred *within* or directly attributable to that specific, legally defined geographic boundary.
- **The Violation:** The East Anamosa Street Corridor TIF and the Catalyst District TIF are separate, non-contiguous entities with distinct project plans. Redirection of **$19.4 million** from the East Anamosa fund to the Catalyst District treats restricted TIF revenues as a general municipal slush fund, violating the boundary-specific mandates of the law.

Violation 2: Material Breach of Approved Project Plans

- **Statute: SDCL 11-9-13** and **SDCL 11-9-18**
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Violation 3: Unlawful Commingling of General Revenues to Absorb Private TIF Debt

- **Statute: SDCL 11-9-30** and General Municipal Accounting Standards
- **Legal Requirement:** TIF districts are designed by law to be self-sustaining. The debt incurred by a TIF must be paid back purely through the incremental property taxes generated by the development within that specific district's footprint.
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SB 135

Overview of the Conflict

Evidence from recent public proceedings and local development debates indicates an effort by the Rapid City government to locate a commercial data center within the **Catalyst District TIF (Tax Increment Financing)** framework. This mechanism relies on public taxpayer-backed financing to fund site preparation, grading, and utility extensions, which presents a direct conflict with the cost-internalization mandates established under Senate Bill 135 (2026). [1, 2, 3, 4]

Statutory Violations & Financial Exploitation Mechanisms

1. Subversion of Section 3 (Ratepayer & Infrastructure Protections)

- **The Law:** Section 3 explicitly dictates that any data center utilizing **10 MW or more** of peak demand must completely internalize and independently fund its own electrical and structural utility infrastructure costs. [1, 2]
- **The TIF Loophole:** By utilizing the **$84 million Catalyst District TIF**, municipal planners are attempting to divert future property tax increments—which would otherwise fund public services, school districts, and county operations—to absorb the heavy upfront capital expenditures required for the site. This acts as an indirect public subsidy, shifting financial burdens onto the broader taxpayer base. [1, 2, 3, 4]

2. Evasion of Legislative Intent regarding Tax Incentives

- During the 2026 legislative session, the South Dakota Legislature aggressively rejected industry proposals (such as *SB 239*) that sought to grant sales and equipment tax write-offs to data center operators. [1]
- The implementation of a local TIF amendment to absorb development costs bypasses this legislative blockade. It essentially creates a hyper-local corporate welfare package that contradicts the state's intent to keep these projects strictly self-funded. [1, 2]

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Exhibit A

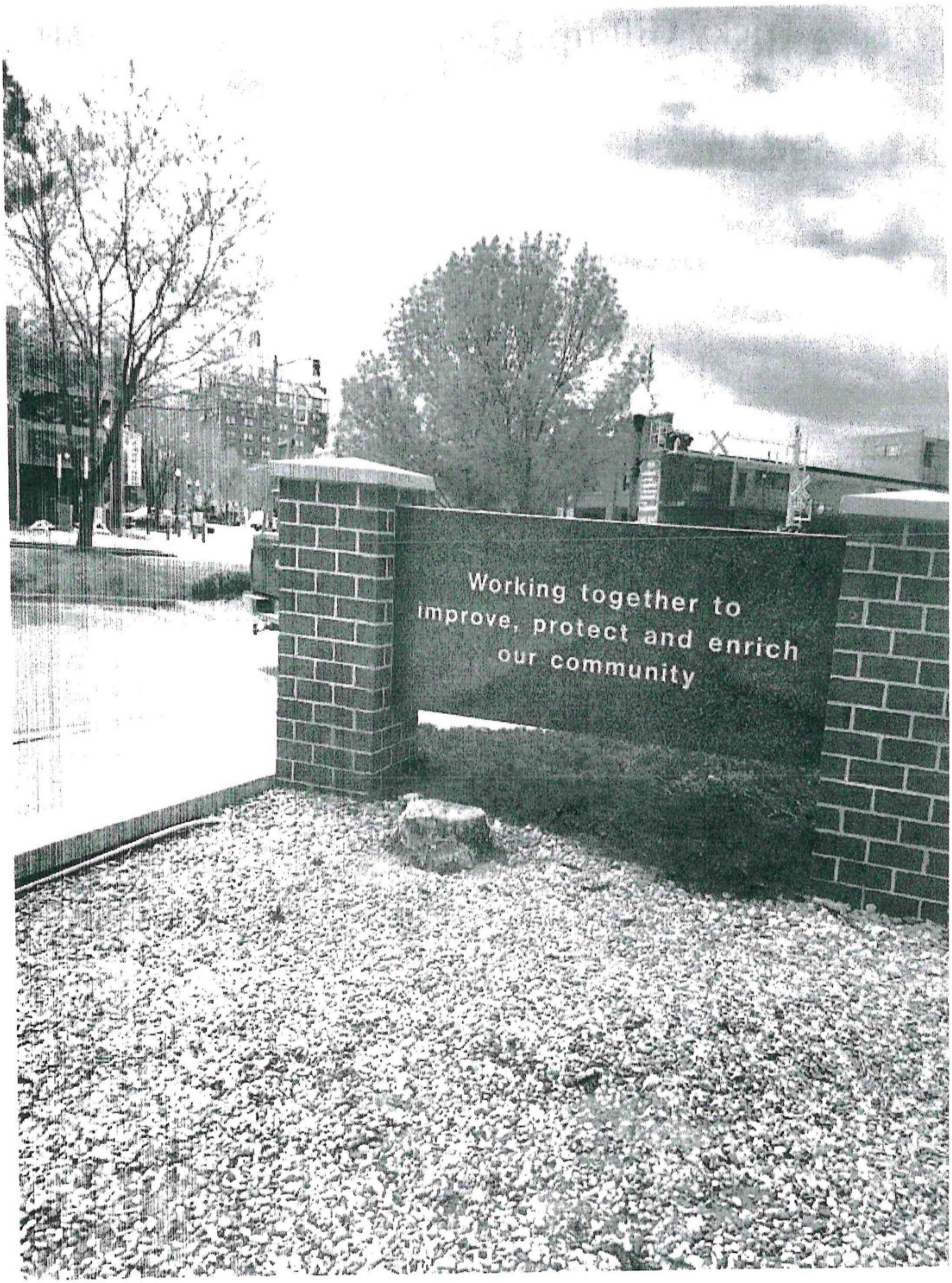
Working together to
improve, protect and enrich
our community

Exhibit B

William Waggoner <williamwaggoner213470@gmail.com>

Mon, Jun 15, 10:33 AM

to Ainslie

So I've been reading the start of the east anamosa street TID. All three packets of this proposal. And I see a lot of concerning information. Now I know why you thanked me. I feel it's about the new law that goes into effect july 1st of 2026. SB 228.

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Ainslie Daniel

Tue, Jun 16, 1:18 PM

Do you have any questions on the information? Daniel Daniel Ainslie Finance Director City of Rapid City – Finance Offi

William Waggoner

Fri, Jun 26, 11:21 P

William Waggoner <williamwaggoner213470@gmail.com> Mon, Jun 15, 10:33 AM

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Tue, Jun 16, 1:18 PM
Do you have any questions on the information? Daniel Daniel
Ainslie Finance Director City of Rapid City – Finance Office O: 605-394-4143 | Daniel.ainslie@rcgov.

William Waggoner
Fri, Jun 26, 11:21 PM
Let's get through the Holiday! Then we Will have some serious discussions. Y'all are to easy.

Ainslie Daniel
Mon, Jun 29, 9:25 PM
to me

Sounds good

I'm pretty open the morning of the 10th as of right now.
Thanks

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to me

Good evening,
Please let me know when you would be available for a call to discuss your questions.
I am open most of Friday if you have any time available.
Thanks
Daniel

Daniel Ainslie
Finance Director
City of Rapid City – Finance Office

O: 605-394-4143 | Daniel.ainslie@rcgov.org
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Wed, Jun 3, 8:48 PM

No problem See you Friday

William Waggoner <williamwaggoner213470@gmail.com>

Fri, Jun 5, 1:20 PM

to Ainslie

I want to thank you once again. For the me today. I have expressed to thousands of people the meeting went well. I also told them. That we discussed on you making another explanation on the TID. By the reactions of the people. I feel this will help ease the pain/ confusion of the people of this TID. And could make it a way better backing by the people for the people.

One attachment • Scanned by Gmail

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City of Rapid City America's 250th Birthday Celebratory logo that features a dinosaur outline and the words Rapid City, South Dakota.

Daniel Ainslie

Finance Director

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O: 605-394-4143 | Daniel.ainslie@rcgov.org

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Exhibit C

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rcgov.org

26RZ016 - 26RZ018

MCMAHON INV. INC
22345 W. NIKE RD.
RAPID CITY, SD 57701

June 18, 2026

City of Rapid City
Department of Community Development
300 6th St
Rapid City, SD 57701

This letter is in response to the letter I received from you on **NOTICE OF HEARING FOR REZONING REQUEST** by Avid4 Engineering,Inc for Elevate Rapid City. See: File Number 26RZ016, 26RZ017 and 26RZ018.

McMAHON INVESTMENT INC. DOES NOT WANT ANYTHING TO DO WITH THIS AT ALL OR ELEVATE RAPID CITY. IF ANY OF MY PROPERTY IS INVOLVED IN THIS, PLEASE REMOVE MY PROPERTY FROM THIS IMMEDIATELY.

McMahon Inv. Inc.

Paul E. Evans
Paul E. Evans
President

Uniform Expression Act — Anti-Retaliation Liability

Under the Uniform Expression Act, **government bodies, public officials, and corporate entities are prohibited from retaliating against individuals who engage in protected expressive activity**, including reporting concerns, submitting documentation, or raising statutory violations.

Retaliatory actions may include:

- Interference with a person's ability to communicate concerns
- Threats, intimidation, or coercion
- Administrative obstruction or punitive treatment
- Employment-related retaliation
- Attempts to suppress or discredit submitted evidence

When retaliation occurs, the Act provides that **the responsible entity may face immediate civil liability**, including:

- Direct lawsuits filed by the affected individual
- Statutory damages where applicable
- Injunctive relief
- Court-ordered corrective action
- Attorney's fees and costs

This framework ensures that individuals who bring forward concerns — including those involving TIF practices, statutory compliance, or government operations — are **protected by law**, and that any retaliatory conduct by government or corporate actors carries **real and enforceable consequences**.

DATE: April 13, 2026

TO: Pennington County Board of Commissioners

ATTN: Chairman Weifenbach & Commissioners

ADDRESS: 130 Kansas City St, Suite 100, Rapid City, SD 57701

FROM: William Waggoner

111 New York St, Rapid City, SD 57701

williamwaggoner213470@gmail.com

RE: FINAL NOTICE OF LIABILITY: SDCL TITLE 46, SB 135 (2026), SDCL § 1-27-1, AND 18 U.S.C. §§ 241–242

Dear Commissioners,

This serves as a formal demand for the Pennington County Board of Commissioners to stay all permitting and infrastructure concessions for hyperscale data centers. This demand is based on the Board's failure to provide the mandatory hydrologic and operational data required under South Dakota law and the federal protections afforded to the citizens of this county.

I. THE PUBLIC TRUST AND STATUTORY WATER PRIORITY

Pursuant to SDCL § 46-1-3, all water within South Dakota is the property of the people, held in trust by the state. SDCL § 46-1-5 establishes that domestic use is the paramount use of water. The Board has no legal authority to subordinate domestic and agricultural water security to the industrial appropriative needs of a private entity without clear, empirical proof that the public's primary interest is not being compromised.

II. REBUTTAL OF "CLOSED-LOOP" SYSTEM IMPACTS

The applicant's characterization of "closed-loop" technology does not exempt this project from environmental or administrative oversight. We demand a full accounting of the following:

Chemical Blowdown Discharge: Under SDCL § 34A-2, the Board must disclose the chemical composition of concentrated wastewater (biocides/anti-corrosives) and the projected impact of its discharge into the local water table.

Grid Impact and Rate-Payer Liability: Closed-loop systems are energy-intensive. Pursuant to SDCL § 49-34A, we demand a study on how this load will impact grid stability and residential utility rates.

Industrial Acoustic Nuisance: 24/7 low-frequency noise from industrial heat exchangers constitutes a Public Nuisance under SDCL § 21-10-1.

III. MANDATORY DISCLOSURE UNDER THE SUNSHINE LAW (SDCL § 1-27-1)

Per SDCL § 1-27-1 and the Data Center Bill of Rights (SB 135, 2026), the public is entitled to the following records currently in the Board's possession or control:

Verified Operational Consumption: Raw water usage data from the applicant's existing, currently operating facilities in other jurisdictions.

Pre-Operation Hydrologic Baselines: Certified data proving current aquifer levels to ensure future depletion is actionable. Failure to produce these records within ten (10) business days will be deemed a willful violation of the Sunshine Law.

IV. NOTICE OF FEDERAL CRIMINAL LIABILITY (18 U.S.C. §§ 241–242)
Notice is hereby given that any official acting under "Color of Law" to deprive citizens of protected property interests (water rights) or to bypass mandatory transparency statutes (SB 135) may be subject to federal prosecution:

18 U.S.C. § 242: Criminalizes the willful deprivation of rights by any person acting under color of law.

18 U.S.C. § 241: Criminalizes a conspiracy by two or more persons to injure, oppress, or intimidate citizens in the free exercise of their legal rights.

V. FINAL DEMAND FOR PERFORMANCE AND INDEMNITY BONDING
As a condition of further permitting, we demand the Board require the applicant to post an Indemnity Bond of no less than $250,000,000 to cover potential aquifer remediation and infrastructure damage. Proceeding without such financial security constitutes a failure to act in "good faith" (SDCL § 22-11-5) and represents an oppression of public rights (SDCL § 3-17-6).

CONCLUSION
The Board is on notice that all future actions regarding data center permitting must comply with the transparency and priority-of-use mandates of South Dakota law. Failure to adhere to these statutes may result in personal and official liability.

Sincerely,

FORMAL OBJECTION: UNMITIGATED GRID STRAIN AND PUBLIC NUISANCE

TO: The City of Rapid City Planning Commission, Mayor, and City Council
FROM: William Waggoner, Resident and Citizen Watchdog
SUBJECT: Structural Violations of SDCL Chapter 21-10 by Sequitor Edge Data Center

1. The Opening Reality and Good Faith Shield

I am filing this formal notice in accordance with **SDCL 3-24-6**, which grants complete protection to citizens furnishing information in good faith to protect public infrastructure.

Because Sequitor Edge claims a completely closed-loop system, physics dictates they must rely on a hybrid air-cooled filtration system. According to data from the **Open Compute Project**, the global authority on advanced data center hardware, closed-loop facilities operating without evaporative water towers are forced to utilize massive mechanical air compressors, giant fans, and heavy chemical mixtures to reject server heat. Lobbyists frame this as a low-impact project to bypass water concerns, but industry data proves they are simply trading a water crisis for an unmitigated **energy crisis** and a severe local **noise crisis**.

2. Severe Electrical Grid Strain

Air-cooled systems carry a severe energy penalty. On hot summer days—when our local consumer grid is already strained by residential air conditioning—these massive cooling banks must draw peak power continuously to prevent server failure. This introduces an unprecedented energy drain, directly threatening the grid stability and monthly utility rates of everyday Black Hills Energy customers in Rapid City.

3. Statutory Violations of SDCL Chapter 21-10

Because a closed-loop design mandates heavy air-cooled infrastructure, these giant fans create a continuous, low-frequency roar. This configuration directly triggers South Dakota's strict data center public nuisance laws under **SDCL 21-10**: [1]

- **The 1-Mile Buffer:** State law explicitly prohibits data centers within one mile of a residential zone. This site layout must be audited. [1, 2, 3]
- **The 45 Decibel Ceiling:** Continuous operational noise cannot exceed 45 decibels at the nearest residential property line. These industrial chillers cannot meet this quiet standard without cost-prohibitive containment. [1]
- **Automatic Nuisance:** Under Section 4 of the statute, any facility violating these thresholds is legally declared an automatic public nuisance, revoking its right to operate.

4. Formal Demands for the CUP Audit

Under the newly enforced Conditional Use Permit safety audits, I formally demand the City require Sequitor Edge to provide three certified items before any permits are issued:

1. **A Peak-Summer Grid Assessment** detailing the exact electrical draw of their air compressors and the impact on consumer rates.

2. **An Acoustic Model** proving the facility will remain under 45 decibels at the property boundary.
3. **A Spill Containment Plan** showing physical catchment basins to prevent industrial chemical fluids from rupturing into our municipal water systems.

   I formally request that this notice be entered into the permanent public record of this meeting, and that the Planning Commission provide a written response detailing how each of these three safety criteria will be verified during the Conditional Use Permit process.

   Thank you.

Laws prior to SB 228

Violation 1: Illegal Cross-District Fund Transfers

- **Statute: SDCL 11-9-5** and **SDCL 11-9-25**
- **Legal Requirement:** Tax increment revenues must be deposited into a special fund dedicated *solely* to the specific district from which they were generated. These funds must be used exclusively to pay for project costs incurred *within* or directly attributable to that specific, legally defined geographic boundary.
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