

**TOWN OF KIOWA, OKLAHOMA
KIOWA PUBLIC WORKS AUTHORITY
OPEN RECORDS ACT PRODUCTION RESPONSE**

September 14, 2026

Brian West
714 E. Osage Avenue
McAlester, OK 74501
brian@mcalester.net

Re: September 8, 2026 Open Records Act request - proposed IREN / Emerald ProjectCo data center south of Kiowa

Mr. West:

The Town of Kiowa and the Kiowa Public Works Authority have completed a reasonable search for records responsive to your September 8, 2026 request, including inquiry of employees who could reasonably possess responsive records. This production contains the responsive records located and in the possession, custody, or control of the Town or Authority at the time this response was prepared.

The enclosed materials constitute a single production responsive to your request. They are organized by record type and subject matter for ease of review.

Response by Request Category

Request Item	Response
1. Communications	Produced. The enclosed email, text-message, native .msg, and related attachment records contain the responsive communications located for the persons, entities, and search terms identified in your request.
2. Water availability / statements to developer	Produced. The June 1-2, 2026 "Water availability" chain states the RWD No. 11 contractual maximum of 4,000,000 gallons per month and average monthly usage of 2,456,739 gallons. The 1,543,261-gallon figure shown in that communication is the arithmetic difference between the contract ceiling and then-average usage (unused contractual headroom); it was not a source-yield, treatment-capacity, or will-serve determination and did not reserve water for the project. The draft non-binding LOI, exploratory bulk-water draft, and related communications are also produced. No executed water-supply agreement, approved LOI, reserved capacity, or binding will-serve commitment was located.
3. Rural Water District No. 11	Produced. The water-purchase contract, 2015 Settlement Agreement and Mutual Release, related boundary materials, and June 2026 usage/capacity communication are included. No separate analysis of simultaneous service to RWD No. 11 and the project was located beyond the records produced.
4. Capacity / engineering	Produced. Responsive records include the June 2026 water-availability calculation, Community Impact / Infrastructure Partnership proposal, Robert Vaughan engineering communications, and July 6, 2026 preliminary water and sewer improvement cost estimates. The engineer's July 6 planning-level estimates were approximately \$3.73 million for water improvements and \$2.16 million for sewer improvements; they were not an adopted capital plan or commitment. No separate formal yield study, water-loss study, or current water-source permit document was located in the records available for this production.
5. Meeting records	Produced to the extent located. Responsive calendar, invitation, meeting, and minute material located is included. The April 20, 2026 gathering at the Kiowa Police Department reflected in the email chain was an informal informational/community gathering and is addressed in the clarifying context below. No other Town Board or KPWA agenda, packet, minute entry, or recording mentioning the project was located after the search described above.
6. Confidentiality / NDA / exclusivity	No executed nondisclosure, confidentiality, or exclusivity agreement, and no separate request that the Town or KPWA enter into such an agreement, was located. The IREN draft LOI bears a sender-applied "Private & Confidential / For Discussion Purposes Only" legend; the Town/KPWA did not treat that legend as an executed confidentiality agreement or as a basis for withholding the responsive record.

Clarifying Context Regarding Certain Produced Records

April 20, 2026 informational community gathering at the Police Department. The gathering reflected in the April 2026 email chain was not convened as a meeting of the Town Board of Trustees or the Kiowa Public Works Authority. At no time was a majority or quorum of either governing body present together. No polling of members, deliberation by a majority, vote, consensus-building, commitment, or governmental action occurred. The gathering was arranged for informational and community-outreach purposes so local business owners and other community participants could hear project information directly, ask questions about potential local effects, and be better informed and prepared if the proposed project proceeded.

Open Meeting Act context. Under 25 O.S. § 304(2), a "meeting" for purposes of the Oklahoma Open Meeting Act requires the conduct of public-body business by a majority of the body being together. The Oklahoma Attorney General has explained that gatherings of less than a majority, including informational briefings, generally are not subject to the Act unless they are used as a device to circumvent the Act, poll members, or reach a consensus outside a public meeting. 2020 OK AG 4, ¶¶ 2-5, 8, 12. See also *Monkey Island Dev. Auth. v. Staten*, 2003 OK CIV APP 64, ¶ 13, 76 P.3d 84, 88. The circumstances described above involved none of those prohibited features. The informational/community-outreach purpose also accords with the policy stated in 25 O.S. § 302 of encouraging and facilitating an informed citizenry's understanding of governmental processes and problems.

June 15, 2026 draft Letter of Intent and exploratory bulk-water review. The draft LOI transmitted by IREN on June 15 was received as a proposed, expressly non-binding discussion document. It was not voted on, approved, accepted, executed, or otherwise acted upon by either the Town Board or KPWA, and it created no water-supply commitment. The June 17 bulk-water communication and draft that followed were exploratory materials prepared to identify legal, operational, contractual, engineering, and policy issues that would have to be considered if any future discussion were to continue. That communication expressly stated that no decision had been made and that the draft was not a recommendation or commitment. The sender-applied "Private & Confidential / For Discussion Purposes Only" legend on the draft LOI was not treated as an executed confidentiality agreement or as a basis for withholding the document from this production. No executed LOI, bulk-water agreement, or binding water-supply commitment was located.

June 16, 2026 project-support letter request. The "Open Letter to County Commissioners" was received from IREN as a request asking whether local supporters might be willing to add their names. Neither the Town Board nor KPWA took action to endorse, approve, adopt, or authorize that letter. No responsive record in Town/KPWA custody shows that a signed support letter or supporter list was returned by the Town or Authority, and the Town/Authority is not aware of any such return. The letter is produced because it is responsive to the request; its presence in the production should not be read as evidence of an official Town or KPWA endorsement or action.

Community Infrastructure Partnership proposal and budget-planning context. The proposal was prepared after Town officials were advised during the county TIF discussions that county-administered project-related or community-benefit funds were not guaranteed to Kiowa. Because the proposed project is outside Kiowa's corporate limits, the Town could not responsibly assume a particular county/TIF distribution as revenue when planning for increased traffic, police and fire demands, street and administrative costs, or utility-system impacts. That concern is consistent with the structure of the Oklahoma Local Development Act: tax increments are apportioned under an approved project plan and used for eligible project costs through the governing body's project-plan framework, rather than automatically distributed to a nearby municipality. See 62 O.S. §§ 853, 854, 861. The proposal therefore explored a voluntary impact-mitigation framework intended to identify how additional project-related municipal costs could be addressed without shifting those incremental costs to existing residents and utility customers. Nothing in the produced proposal conditions a Town/KPWA approval, permit, water commitment, or other governmental action on payment, and the proposal did not assert an entitlement to TIF proceeds.

Planning-level amounts and engineering review. The Community Infrastructure Partnership proposal was a discussion and planning document, not an adopted budget, contract, or final demand. The produced records show that the utility scope and cost figures were still being evaluated: after the draft was circulated, the Town engineer advised that the scope could increase and later provided preliminary estimates of approximately \$3.73 million for water improvements and \$2.16 million for sewer improvements. Those communications show an ongoing effort to identify potential infrastructure exposure and refine planning assumptions. No responsive record located shows that the Town Board or KPWA adopted, executed, or funded the Community Infrastructure Partnership proposal.

Water estimates distinguished from service commitments. The June 2, 2026 RWD No. 11 calculation reported the difference between the wholesale contract ceiling and then-average monthly usage. That arithmetic difference was contractual headroom; it was not a source-yield study, treatment-capacity determination, reservation of water, or will-serve commitment to IREN. The earlier Black Mountain records reflect the same distinction between preliminary engineering estimates and binding service commitments: an engineer stated that 40,000 gallons per day "should not be a problem," but when Black Mountain later requested a will-serve letter, KPWA expressly responded that it could not provide one and could only provide an estimate of water usage.

Production Format and Duplicates

Responsive email records are provided in readable PDF form, and native .msg files are included in the electronic package where available so that message metadata and embedded attachments remain intact. Substantive embedded attachments are also supplied separately for convenience. Exact duplicate copies, repetitive quoted email-chain content, automatic confidentiality notices, social-media icons, tracking graphics, and signature-logo images are not separately reproduced where they add no substantive responsive content.

Withholding and Redactions

No substantive responsive record located has been withheld in full. Limited redactions appearing in the production remove private contact information of current or former public employees where confidentiality is required by 51 O.S. § 24A.7(D), nonresponsive meeting-access credentials, and similar nonresponsive or protected information. Consistent with 51 O.S. § 24A.5, reasonably segregable nonexempt portions have been released. No substantive project-related content has been redacted.

The records include communications requesting legal review of proposed draft documents. No separate legal opinion or attorney response was located among the records searched.

This response reflects the records located as of September 14, 2026. If a responsive record is later located that was inadvertently omitted, it will be produced promptly.

Respectfully,
Town of Kiowa, Oklahoma