

## Staff Briefing Papers

Meeting Date March 9, 2023

Agenda Item 3\*\*

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Company Byron Solar, LLC

Docket No. IP7041/GS-20-763 (Site Permit)  
IP7041/CN-20-764 (Certificate of Need)  
IP7041/TL-20-765 (Route Permit)

**In the Matter of the Application of Byron Solar, LLC for a Certificate of Need, Site Permit, and Route Permit for the up to 200 MW Byron Solar Project and 345 kV Transmission Line in Dodge and Olmsted Counties, Minnesota**

Issues

1. Should the Commission adopt the administrative law judge's findings of fact, conclusions of law, and recommendation?
2. Should the Commission find that the environmental assessment and the record on this Project adequately address the issues identified in the Scoping Decision?
3. Should the Commission grant a certificate of need for the Byron Solar Project proposed in Dodge and Olmsted Counties, Minnesota?
4. Should the Commission grant a site permit for the up to 200 MW Byron Solar Project in Dodge County, Minnesota?
5. Should the Commission issue a route permit for the 345 kV high voltage transmission line for the proposed solar photovoltaic electric generating facility?

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### Relevant Documents

### Date

**Certificate of Need Application (5 parts - 1 Trade Secret, Docket 20-764)**

August 27, 2021

**Joint Application for a Site Permit and a Route Permit  
(29 parts, Dockets 20-763 & 20-765)**

August 30, 2021

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.



## Relevant Documents

	<b>Date</b>
<b>Order Accepting Applications, Setting Review Procedures, Authorizing Task Force, and Granting Variances</b>	November 17, 2021
<b>Notice of Public Information and Environmental Review Scoping Meeting (20-763 and 20-765)</b>	January 4, 2022
<b>Advisory Task Force Report</b>	March 4, 2022
<b>EERA Environmental Assessment Scoping Decision</b>	May 23, 2022
<b>EERA Letter to Landowners along Route Alternative</b>	May 24, 2022
<b>Notice of Comment Period on Certificate of Need Application</b>	May 26, 2022
<b>DER Comments on CN Application (20-764)</b>	June 15, 2022
<b>IUOE/NCSRC Comments on CN Application (20-764 and 20-765)</b>	June 15, 2022
<b>LIUNA Comments (20-764)</b>	June 16, 2022
<b>Byron Solar Reply Comments on CN Application (20-764)</b>	June 23, 2022
<b>EERA Environmental Assessment and Draft Site/Route Permits (7 parts)</b>	September 22, 2022
<b>Byron Solar – Update on Project Status at MISO</b>	October 4, 2022
<b>Byron Solar - Direct Testimony of Scott Wentzel (2 parts)</b>	October 11, 2022
<b>MN Land and Liberty Coalition Comments</b>	October 11, 2022
<b>Notice of Environmental Assessment Availability, Public Hearings and Comment Period</b>	October 24, 2022
<b>OAH Third Prehearing Order</b>	October 28, 2022
<b>Interagency Vegetation Management Plan Working Group Comments</b>	November 23, 2022
<b>MN DNR Comments</b>	November 23, 2022
<b>Dodge County Comments</b>	November 28, 2022
<b>IUOE/NCSRC Comments (20-765)</b>	November 29, 2022
<b>MNDoT Comments</b>	November 29, 2022
<b>EERA Comments and Draft Permit Markups (3 parts)</b>	November 29, 2022
<b>Byron Solar Response to Public Hearing Comments</b>	November 29, 2022
<b>Public Comment - John Wagner (Late Filed)</b>	December 1, 2022 <sup>1</sup>
<b>Byron Solar Proposed Findings of Fact, Conclusions of Law and Recommendations and Reply Comments (2 parts)</b>	December 9, 2022
<b>Byron Solar Errata to Proposed Findings of Fact</b>	December 14, 2022
<b>EERA Reply Comments and Site/Route Permit Markups (4 parts)</b>	December 23, 2022
<b>Office of Administrative Hearings Findings of Fact, Conclusions of Law, and Recommendations (ALJ Report)</b>	January 23, 2023

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<sup>1</sup> This comment was entered into the e-Dockets for Nos. 20-763 and 20-765 as “Public Comment – N. Foley”.



**Relevant Documents**

**Date**

**EERA Exceptions**

February 7, 2023

**Byron Solar Exceptions**

February 7, 2023

**Byron Solar – Late Filing on concurrence w EERA**

February 28, 2023

**EERA Reply to Byron Solar’s February 28 Late Filing**

March 1, 2023

**Attachments**

**A. Proposed Site Permit**

**B. Proposed Route Permit**

## **I. STATEMENT OF THE ISSUES**

1. Should the Commission adopt the administrative law judge's Findings of Fact, Conclusions of Law, and Recommendation?
2. Should the Commission find that the Environmental Assessment and the record on this Project adequately address the issues identified in the Scoping Decision?
3. Should the Commission grant a certificate of need for the Byron Solar Project proposed in Dodge and Olmsted Counties, Minnesota?
4. Should the Commission grant a site permit for the up to 200 MW Byron Solar Project in Dodge County, Minnesota?
5. Should the Commission issue a route permit for the 345 kV high voltage transmission line for the proposed solar photovoltaic electric generating facility?

## **II. PROJECT DESCRIPTION**

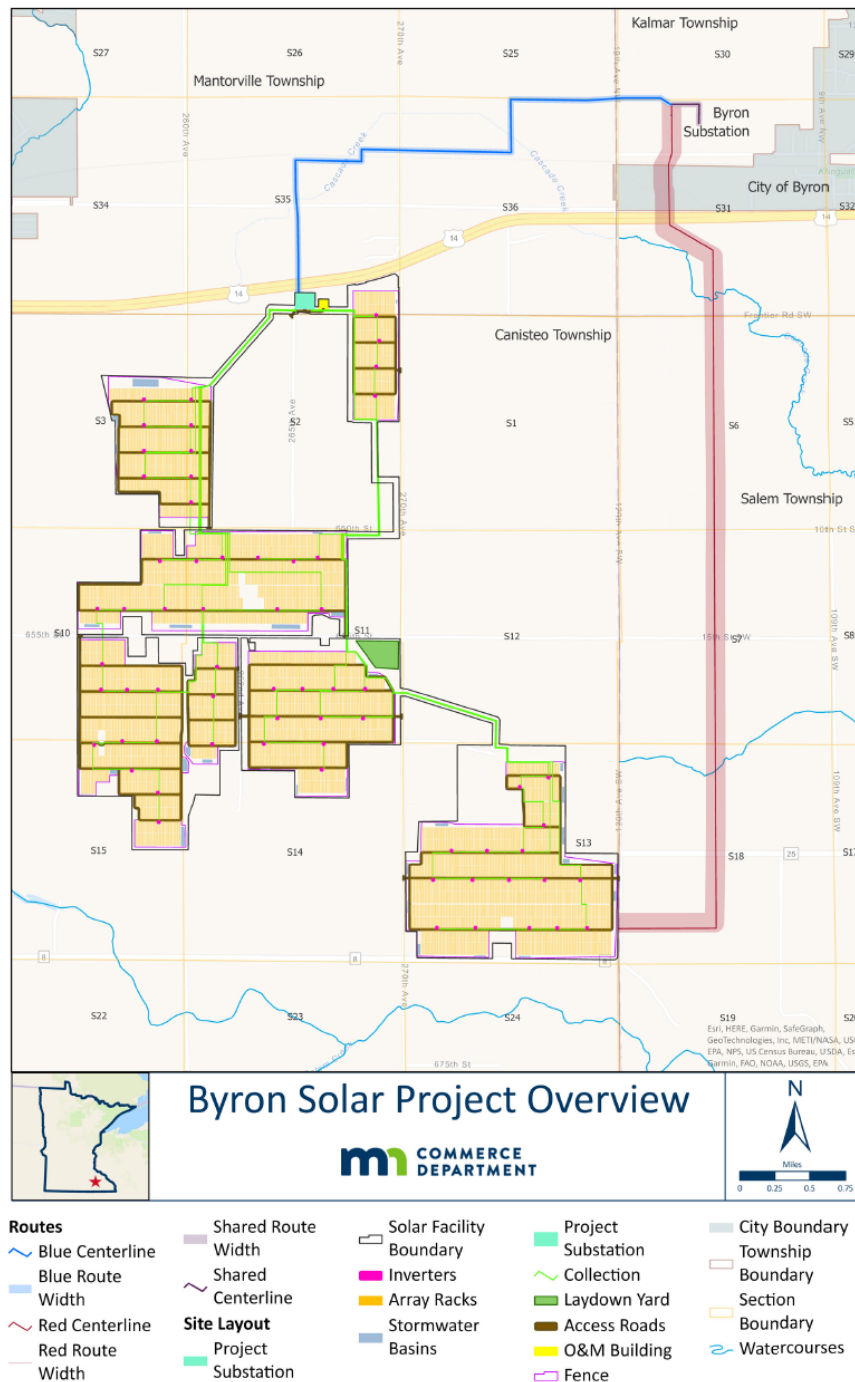
Byron Solar, LLC (Byron Solar, Byron, or Applicant), a wholly owned subsidiary of EDF Renewables, Inc., has proposed to construct and operate an up to 200-megawatt (MW) photovoltaic (PV) solar energy generating facility and associated facilities (Byron Solar Project, or project) in the townships of Canisteo and Mantorville in Dodge County.

The proposed project is composed of solar panels mounted on galvanized steel and aluminum racking systems installed on driven piles or ground screws for the foundations. A linear ground-mounted single-axis tracking system would allow the solar panels to track the sun from east to west. Solar panels would be accessible via a network of gravel access roads for maintenance purposes, and the portions of the facility occupied by equipment would be surrounded by security fencing. Stormwater from the site would be managed through a series of planned stormwater ponds. A new project substation would be constructed next to the proposed operations and maintenance facility.

Based on preliminary design, project facilities would be located within approximately 1801 acres of primarily agricultural land under an agreement with a landowner. Approximately 1552.6 acres would be developed within a fenced area and approximately 248.4 acres would remain undeveloped land.

The project includes a 3 to 4.5-mile 345 kilovolt (kV) high voltage transmission line and

associated facilities (HVTL) in Mantorville Township in Dodge County and in Kalmar Township in Olmsted County to interconnect the project to the transmission grid. The proposed route (the Blue Route) would begin at the project's proposed substation location and extend generally north and east for approximately three miles to connect to the point of interconnection at the existing Southern Minnesota Municipal Power Agency's Byron Substation in Olmsted County. An alternative route (the Red Route) was proposed by a member of the public and subsequently evaluated in the environmental analysis.



Byron Solar has filed applications for two generator interconnection agreements (GIAs) for the project with the Midcontinent Independent System Operator (MISO). Byron entered the interconnection requests into the MISO Definitive Planning Phase study process as queue positions J1124 in 2018 and J1534 in 2020. Byron signed a GIA for the first 100 MW of the solar project (queue position J1124) effective November 24, 2021. On October 4, 2022, Byron filed an update stating the remaining 100 MWs of the solar project are in the Definitive Planning Phase (DPP) 2020 cycle (queue position J1534) and that MISO's DPP schedule anticipates a GIA execution in April 2023.

Byron Solar anticipates that construction on the project will begin in early 2023 and be completed in time to begin operating at the end of 2024.

### III. PROCEDURAL HISTORY<sup>2</sup>

On October 12, 2020, Byron Solar filed a notice plan approval petition and an exemption request from certain certificate of need application requirements.<sup>3</sup>

Following a notice and comment period, the Commission Issued an order approving the notice plan and granting the exemption requests on January 15, 2021.<sup>4</sup>

On August 27, 2021, Byron Solar filed an application for a certificate of need for the project. According to Byron Solar, the project will provide energy and capacity to wholesale customers including utilities or commercial and industrial customers in Minnesota and the region that project a need for additional renewable energy.

On August 30, 2021, Byron Solar filed a joint site permit and high-voltage transmission line route permit application (joint applications). The applicant requested that the Commission consider the site permit and HVTL route permit under the Commission's alternative review processes.

On October 28, 2021, Commission staff included sample site and HVTL route permits in the

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<sup>2</sup> More information on the procedural history may be found in Section II of the ALJ Report e-Dockets No. [20231-192401-03](#), (Findings of Fact 3-61).

<sup>3</sup> Initial Filings – *Notice Plan Approval Request and Request for Exemption from Certain Application Requirements*, e-Dockets Nos. [202010-167232-01](#), [202010-167232-02](#), [202010-167235-01](#), and [202010-167235-02](#), October 12, 2020.

<sup>4</sup> The Commission accepted the submittal of alternative data or granted a partial exemption in several instances, *Order Approving Notice Plan, Approving Exemption requests, and Granting Variances*, e-Dockets No. [20211-169865-01](#), January 15, 2021.

briefing papers on acceptance of the joint application.<sup>5</sup>

On November 17, 2021, the Commission issued an order accepting applications, setting review procedures, authorizing task force, and granting variances. The order accepted the joint applications as complete; established joint informal and alternative review proceedings for the need, siting; and routing issues, including combined environmental review; authorized a citizen advisory task force; set additional requirements for the applicant; and granted variances to certain timing rules.

On January 4, 2022, Commission staff and Department of Commerce Energy Environmental Review and Analysis staff (EERA) issued a Notice of Public Information and Environmental Review Scoping Meeting. Commission and EERA staff held an in-person meeting in the city of Kasson on January 25, 2022, and a remote-access (online) meeting on January 26, 2022. A comment period was open through February 15, 2022 to receive comments on issues to be considered in the environmental assessment.

EERA established an Advisory Task Force (ATF) to assist the Commission in identifying impacts, issues of local concern, and mitigation measures that should be analyzed in the Environmental Assessment (EA), including additional route alternatives. The ATF was composed of representatives of Dodge and Olmsted counties, the cities of Kasson and Byron, Canisteo and Mantorville townships, and the Minnesota Department of Transportation (MNDOT). After EERA facilitated three meetings, the ATF report was issued on March 4, 2022. The report did not identify any additional route alternatives and included a ranking of issues along with potential mitigation measures. Task force members expressed concern about the lack of local control in the permitting process and noted unhappiness about the project received from constituents. Task force members also expressed concerns regarding impacts on agriculture and prime farmland, the need for increased intergovernmental communication, and the need for mitigation measures. The report emphasized that continued analysis and transparent decision-making are essential.

On May 5, 2022, upon reviewing EERA's comments and recommendations on scoping alternatives, the Commission met to consider the scope of the environmental assessment and took no action on the matter.<sup>6</sup>

On May 23, 2022, EERA filed the Environmental Assessment Scoping Decision (scoping

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<sup>5</sup> Staff Briefing Papers - Revised, e-Dockets No. [202110-179018-02](#), October 20, 2021.

<sup>6</sup> EERA comments and recommendations on scoping alternative, e-Dockets No. [20223-183952-03](#), March 18, 2022, and May 5, 2022 Minutes, e-Dockets No. [20231-192290-02](#), January 19, 2023.

decision). In addition to identifying the project's potential impacts and mitigation measures, the scoping decision added an additional HVTL route alternative (the Red Route) in response to a citizen's proposal.

On May 24, 2022, EERA filed a letter sent to landowners along the proposed Red Route that may be impacted by the project informing them of the scoping decision, the project review process, and opportunities for participation.

On May 26, 2022, the Commission issued a notice requesting comments on the merits of the certificate of need application. Initial comments were received through June 16, 2022, and reply comments were accepted through June 23, 2022.

On June 15, 2022, the Department of Commerce Division of Energy Resources (DER) filed comments recommending the Commission grant the certificate of need, provided the impacts detailed in the environmental report (ER) are acceptable.

On June 15, 2022, the International Union of Operating Engineers Local 49 and North Center States Regional Council of Carpenters (IUOE/NCSRC) filed comments in support of granting the certificate of need, citing the benefits of using local union workers on the project, the need to transition away from carbon-emitting energy sources, and the lack of risk to ratepayers because the applicant is an independent power producer.

On June 16, 2022, LIUNA Minnesota and North Dakota (LIUNA) filed comments supporting Byron Solar's certificate of need application. LIUNA noted several benefits of the project including Byron Solar's interconnection agreements, local labor, and positive economic benefits.

On June 23, 2022, Byron Solar filed reply comments in response to IUOE/NCSRC and LIUNA thanking them for their support. Byron Solar also expressed appreciation for DER's comprehensive analysis and agreed with its recommendation to grant a certificate of need for the project.

On September 22, 2022, EERA filed its Environmental Assessment (EA), a draft site permit and a draft route permit. The EA analyzed the potential impacts of the project and possible mitigation measures. The EA also analyzed the potential impacts of any alternatives contained in the Scoping Decision.

On October 3, 2022, the Commission and EERA issued a Notice of EA Availability, Public



Hearings and Comment Period.<sup>7</sup>

On October 4, 2022, Byron Solar filed an update on the project's interconnection status with MISO.<sup>8</sup>

On October 11, 2022, Byron Solar filed the direct testimony of Scott Wentzell. The testimony included a discussion of the project elements, Byron's analysis of the route alternative, the contents of the EA, and comments on the draft site and route permits.

On October 11, 2022, the Minnesota Land and Liberty Coalition (MLLC) filed comments in support of the project noting its importance for Minnesota's energy future and positive benefits such as creation of local construction jobs, benefits to the local economies, and income to local landowners.

On October 24, 2022, the Commission issued a Notice of Environmental Assessment Availability, Public Hearings and Comment Period notifying the public of the rescheduled November 9, 2022 in-person public hearing and the November 10, 2022 remote (online) public hearing. The Notice also extended the public comment period through November 29, 2022.

On October 28, 2022, Administrative Law Judge Barbara Case (ALJ) of the Office of Administrative Hearings (OAH) issued the Third Prehearing Order outlining the public hearing schedule.<sup>9</sup>

On November 9, 2022, a public hearing was held at the Events Sports Bar and Events Center in Kasson. Judge Case presided over the in-person public hearing.

On November, 10, 2022, Judge Case presided over a remote public hearing.

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<sup>7</sup> *Notice of Environmental Assessment Availability, Public Hearings and Comment Period*, e-Dockets No. [202210-189464-03](#), October 3, 2022.

<sup>8</sup> Byron Solar subsequently filed an informational update on its MISO interconnection status stating the remaining 100 MWs of the solar project are in the Definitive Planning Phase (DPP) 2020 cycle, and its MISO DPP schedule currently anticipates a GIA execution in July 2023. Byron Solar expects an update from MISO on March 23, 2023, e-Dockets No. [20232-193218-02](#), February 16, 2023.

<sup>9</sup> OAH issued its First Prehearing Order (eDockets No. [20225-185468-02](#), 5/2 /22) scheduled a date for the second prehearing conference. The Second Prehearing Order (eDockets No. [20226-186691-02](#), June 15, 2022) established the initial schedule for the public hearings. After the Commission issued a notice postponing the public hearing as originally scheduled in the October 3, 2022 Notice, (eDockets No. [202210-189860-02](#), October 17, 2022), the Third Prehearing Order was issued to modify the schedule for the public hearings.

On November 23, 2022, the Interagency Vegetation Management Plan Working Group (VMPWG) filed comments on Byron Solar's Vegetation Management Plan (VMP) to clarify its expectations regarding the following VMP elements which it said required additional agency coordination to finalize the VMP prior to the construction: Management Objectives, Seed Mixes, Herbicides and Weed Control, Management Units, and Habitat-Friendly Solar.

On November 23, 2022, the Minnesota Department of Natural Resources (DNR) filed comments in support of the following conditions in the Draft Site Permit: Section 5.2 (Wildlife-Friendly Erosion Control), Section 5.4 (Loggerhead Shrike), Section 5.3.15 (Avian Flight Diverters and Section 4.3.6 (Snowmobile Trail). DNR also supported special conditions addressing lighting and dust control.

On November 28, 2022, Lauren Cornelius, Director of Environmental Services, filed comments on behalf of Dodge County. The comments discussed several potential project impacts and stated the project should be denied based on the prime farmland exclusion.

On November 29, 2022, MNDOT filed comments stating that both HVTL routes had similar effects on US Highway 14 and therefore it has no preference on which route is chosen for the project.

On November 29, 2022, EERA filed comments and markups of the draft site and route permits. EERA submitted comments on the draft decommissioning plan and proposed site and route permit conditions for the project. EERA summarized changes made to the sample site and route permits that were reflected in the draft site and route permits included with the EA. EERA proposed numerous site permit modifications to permit conditions, some of which were not in the draft site permits included in the EA.

On November 29, 2022, Byron Solar filed comments in response to oral public hearing comments. In its comments, Byron asserted that it is not appropriate to apply the Dodge County Zoning Ordinance to a utility-scale project.

On November 29, 2022, IUOE/NCSRC reiterated its continued support for the project based on high-quality job creation, assistance in meeting the state's renewable energy goals, and providing additional socioeconomic benefits.

On December 9, 2022, the Commission filed a late comment from J. Wagner urging the Commission to deny the permit request(s) for the project, citing the need for increased agricultural production due to climate change, noise, the negative impact to the benefits of living in the country, decreased property values, impact to wildlife and light reflections.

On December 9, 2022, Byron Solar filed reply comments including its proposed findings of fact, conclusions of law and recommendations.

On December 14, 2022, Byron Solar filed an erratum to its December 9, 2022, comments correcting them to express support for the Blue Route HVTL Alternative.

On December 23, 2022, EERA filed reply comments including proposed, red-lined findings of fact, draft site and route permits for the project.

On January 23, 2023, Judge Case of the OAH filed Findings of Fact, Conclusions of Law, and Recommendations (ALJ Report).

On February 7, 2023, EERA and Byron Solar filed Comments on the ALJ Report. EERA stated it had no objections to the ALJ Report, noting it concurred with Judge Case's recommendation that the Commission grant a site permit for the project and a route permit for the Blue Route. EERA enclosed a route map for inclusion in the route permit. EERA also included summary tables of compliance filings for both the route permit and site permit. Byron filed exceptions to the ALJ Report related to site permit conditions 2.2 (Project Ownership), 4.3.31 (Security Fencing), 5.5 (Visual Screening Plan), and 8.3 (Site Plan) and their corresponding findings and conclusions in the record.

On February 28, 2023, Byron Solar filed a letter indicating it had reached agreement with EERA on alternative permit condition language for each of the four items Byron Solar included in its exceptions based on newly provided site permit language.

On March 1, 2023, EERA informed the Commission it had reviewed Byron Solar's late-filed supplemental comments and confirmed its agreement with Byron's revised permit language proposed in the applicant's February 28, 2023, filing.

#### **IV. LEGAL STANDARD**

##### **A. Certificate of Need**

Minn. Stat. § 216B.243, subd. 2, provides that no large energy facility shall be sited or constructed in Minnesota without the issuance of a CN by the Commission. The Byron Solar Project is defined as a large energy facility under Minn. Stat. § 216B.2421, subd. 2(1), because it is an electric power generating plant with a capacity of 50 megawatts or more.

In assessing the need for a proposed large energy facility, the Commission must consider the factors listed under each of the criteria set forth in Minn. Stat. § 216B.243, subd. 3, and Minn. R. 7849.0120.

## **B. Site Permit**

Under Minn. Stat. § 216E.03, subd. 1, no large electric generating plant shall be sited or constructed without a site permit from the Commission. The Byron Solar Project is defined as a large electric power generating plant under Minn. Stat. § 216E.01, subd. 5, because it is a facility designed for and capable of operation at a capacity of 50 megawatts or more and as such requires a site permit.

The proposed Byron Solar Project is also defined as a solar energy generating system under Minn. Stat. § 216E.01, Subd. 9a because the primary purpose of the facility is to produce electricity by a combination of collecting, transferring, and converting solar-generated energy.

In determining whether to issue a site permit for a large electric power generating plant, the Commission must consider the factors under Minn. Stat. § 216E.03, subd. 7, and Minn. R. 7850.4100.

Minn. R. 7850.4400, Subp. 4 (Prime Farmland Exclusion) states:

No large electric power generating plant site may be permitted where the developed portion of the plant site, excluding water storage reservoirs and cooling ponds, includes more than 0.5 acres of prime farmland per megawatt of net generating capacity, or where makeup water storage reservoir or cooling pond facilities include more than 0.5 acres of prime farmland per megawatt of net generating capacity, unless there is no feasible and prudent alternative. Economic considerations alone do not justify the use of more prime farmland. "Prime farmland" means those soils that meet the specifications of Code of Federal Regulations 1980, title 7, section 657.5, paragraph (a). These provisions do not apply to areas located within home rule charter or statutory cities; areas located within two miles of home rule charter or statutory cities of the first, second, and third class; or areas designated for orderly annexation under Minnesota Statutes, section 414.0325.

Under Minn. R. 7850.4600, the Commission may impose conditions in any site permit for a large electric power generating plant as it deems appropriate and that are supported by the record.

### **C. Route Permit**

Minn. Stat § 216E.03, Subd. 2, provides that no high-voltage transmission line shall be sited or constructed in Minnesota without the issuance of a route permit by the Commission.

Under Minn. Stat. § 216E.01, subd. 4, a high-voltage transmission line is defined as a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more and is greater than 1,500 feet in length. The proposed project is a new, approximately 3-mile 345 kV single-circuit transmission line and, therefore, requires a route permit from the Commission.

The proposed project qualified for alternative review Minn. Stat. § 216E.04, Subd. 2 (4) because it is a high-voltage transmission line greater than 200 kV and less than five miles in length in Minnesota. Under the alternative permitting process: (1) the applicant is not required to propose alternative routes in its application but must identify other routes it examined and discuss the reasons for rejecting those routes; (2) an environmental assessment is prepared instead of an environmental impact statement; (3) a public hearing is conducted, but a contested case hearing is not required.

The proposed project is subject to Minn. Stat. Chapter 216E which requires that high-voltage transmission lines be routed in a manner consistent with the state's goals to conserve resources, minimize adverse human and environmental impacts, avoid other land use conflicts, and ensure the state's electric energy security and reliability through efficient, cost-effective power supply and electric transmission infrastructure. The statute also affords the Commission the authority to specify the design, route, right-of-way preparation, facility construction, and any other appropriate conditions it deems necessary when issuing a permit for a high-voltage transmission line. The operative rules for the review of high-voltage transmission line route permit applications are found in Minnesota Rules Chapter 7850.

### **D. Environmental Assessment**

The Byron Solar Project is being reviewed under the alternative permitting process established in Minn. Stat. § 216E.04, Subd. 2(8) because it is a proposed large electric power generating plant that is powered by solar energy,

Pursuant to Minn. R. 7850.3700, projects being reviewed under the alternative process require the preparation of an environmental assessment. The EA must provide information on the human and environmental impacts of the proposed project and of alternative sites or routes; the feasibility of each alternative site or route considered; and the mitigative measures that

could reasonably be implemented to minimize, mitigate, or avoid any adverse impacts identified.

Minn. R. 7849.1000 to 7849.2100, establishes the requirements concerning preparation of an environmental report (ER) for a large energy facility requiring a certificate of need. The ER must describe the human and environmental impacts of the proposed project associated with the size, type, and timing of the project; alternatives to the proposed project; and address measures to mitigate potential adverse impacts.

As provided under Minn. R. 7849.1900, when there are concurrent applications for a CN and a site or route permit, an EA may be prepared in lieu of the required ER. If the documents are combined, the procedures of parts 7850.3700 must be followed in conducting the environmental review; and the EA must include the analysis of alternatives required in the ER under Minn. R. 7849.1500.

At the time the Commission makes a final decision on whether to issue a site or route permit, it must determine whether the environmental assessment and the record created at the public hearing has addressed the issues identified in the Scoping Decision.

## **V. MERITS OF THE CERTIFICATE OF NEED**

### **A. DER Evaluation of Project Need**

Upon evaluation of the relevant statutory and rule requirements, DER concluded that Byron Solar had met the criteria under Minn. R. 7849.0120 required to establish need for the project and recommended that the Commission issue a certificate of need to Byron Solar upon consideration of the EA and determining that the project's benefits to society are compatible with protecting the natural environment, socioeconomic environment, and human health. Specifically, DER recommended that the Commission find:

- the probable result of denial would be an adverse effect upon the future adequacy, reliability, or efficiency of energy supply to the applicant, to the applicant's customers, or to the people of Minnesota and neighboring states;
- a more reasonable and prudent alternative to the proposed facility has not been demonstrated by a preponderance of the evidence in the record; and
- the record does not demonstrate that the design, construction, or operation of the proposed facility, or a suitable modification of the facility, will fail to comply with relevant policies, rules, and regulations of other state and federal agencies and local governments.

DER's June 15, 2022 filing includes an extensive evaluation of the project in relation to the individual criteria for need, links to planning process, alternatives, and policy analyses to support its recommendation.

### **B. Administrative Law Judge Evaluation of Project Need**

The ALJ Report also evaluated the need for the project and applied the criteria of Minn. R. 7849.0120.<sup>10</sup> The ALJ stated that Byron Solar had satisfied the criteria for a CN and a more reasonable and prudent alternative to address the needs met by the solar project was not demonstrated on the record. Accordingly, the ALJ recommended the Commission issue a certificate of need to Byron Solar and concluded that additional conditions upon its approval are unnecessary.

### **C. Public Comments on Project Need**

While numerous public comments expressed general support or opposition of the project, there were few comments related to the criteria for demonstration of need, or the factors regarding project size, type, or timing as included in the operative statutes or rules. Comments from IUOE/NCSRC, LIUNA, and MLLC supported the project in part based on the need to fulfill renewable energy objectives and emphasized its positive benefits. Almost all comments received were directed towards siting and/or routing criteria and are addressed below.

## **VI. PUBLIC HEARING AND ADMINISTRATIVE LAW JUDGE REPORT**

### **A. Public Hearing Comments**

Public Comments were gathered at the in-person and on-line public hearings and during the written comment periods.<sup>11</sup> In addition to general comments in support or opposition to the project, commenters at the in-person hearing identified numerous potential impacts, potential benefits and protentional mitigation measures. IUOE/NCSRC, LIUNA, and MLLC supported the project based on the need to fulfill renewable energy objectives and emphasized its positive benefits. Comments identified economic benefits such as jobs, tax revenue, local spending, a diverse source of income for landowners, impacts to the local agricultural economy, conversion of farmland, local land use regulations, potential human and environmental impacts, visual impacts, impacts to surface water and drainage, restoration following decommissioning,

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<sup>10</sup> See ALJ Report, Findings 129-223, Conclusions 1-11, and Recommendations.

<sup>11</sup> See Section VI. *Summary of Public Comments* (Findings 106-128) of the ALJ Report.

construction noise, the need for coordination with local governments, fencing, and weed management. Some commented on the availability and suitability of the Red Route for the HVTL. Commenters also expressed concerns about the proposed use of prime farmland as the site of the project, and its negative impacts to the availability of rental farmland and seed dealers. Commenters also insisted that all components of the project must be removed to restore the land to agricultural use. Some commenters asserted the project should comply with local ordinances.

During the remote public hearing, public commenters identified potential impacts from water overflow, use of prime farmland, stormwater runoff, local and state land use regulations, availability and suitability of other site or transportation alternatives, impact to property values, traffic impacts and complaint procedures.

### **C. Written Comments**

On November 23, 2022, EERA filed comments on behalf of the Interagency Vegetation Management Plan Working Group (VMPWG) on Byron Solar's Vegetation Management Plan. VMPWG is comprised of EERA, DNR, the Pollution Control Agency (PCA), and the Board of Water and Soil Resources (BWSR). VMPWG emphasized that Byron Solar's Vegetation Management Plan (VMP) needs significant work prior to its approval but did not recommend Commission action at this time. Based on its guidance document for Developing a Vegetation Establishment and Management Plan for Solar Facilities, VMPWG offered comments on the following topics: Management Objectives, Seed Mixes, Herbicides and Weed Control, Management Units, and Habitat Friendly Solar. VMPWG emphasized its commitment to working with applicants and permittees to ensure that site restoration is successful and meets the objectives laid out in the management plan. EERA recommended that Byron Solar work directly with the VMPWG to develop a plan that is achievable and that potentially meets the Habitat Friendly Solar standard. The VMPWG committed to providing additional review and recommendations to the Commission as part of EERA's preconstruction compliance review.

On November 23, 2022, DNR filed comments on snowmobile Trail 302, facility lighting, dust control, the loggerhead shrike, wildlife-friendly erosion control, and avian flight diverters. DNR supported the following conditions as written in the Draft Site Permit (DSP) and Draft Route Permit (DRP): DSP Section 5.2 and DRP Section 6.6 related to the Loggerhead Shrike, DRP Section 5.3.15 related to avian protection. DNR also recommended Byron undertake additional coordination with the Kasson-Mantorville Trails on Trail 302. DNR recommended a special permit condition requiring installation of shielded and downward-facing lighting that minimizes blue hue at the operations and maintenance facility and the project substation.



On November 28, 2022, Lauren Cornelius, Director of Environmental Services, filed comments on behalf of Dodge County. Topics included prime farmland, compliance with the Dodge County Zoning Ordinance performance standards for solar energy farms (40 kW or greater), surface water and potential impacts, compliance with the Minnesota noise standards, proximity to road right-of-way, and the need for contact personnel during the construction, life and decommissioning of the Project. The comments argued that the permissions needed for the project should be denied because it does not qualify for the prime farmland exclusion. Ms. Cornelius further argued that permit conditions should match Dodge County's solar garden performance standards, should require the removal of all project components in the decommissioning plan, should have no exceptions to the noise standards and should meet local zoning ordinances. The County asserted that there has been a lack of communication from the applicant to the County and community and requested there be greater communication throughout construction and the project life.

On November 29, 2022, MNDOT filed comments noting that both HVTL routes had similar effects on US Highway 14 and therefore it had no preference on which route is chosen for the project. MNDOT also advised Byron Solar to be aware of its varying right-of-way widths within the two proposed crossings across Highway 14 to avoid pole placements that would obstruct the sight distance of at-grade crossings.

On November 29, 2022, EERA filed comments on Byron Solar's proposed route and site permit conditions for the project.<sup>12</sup> EERA recommended modifications to the draft decommissioning plan and summarized the changes between the sample site and route permits in relation to the draft site and route permits included in the Environmental Assessment (EA) prepared for the Project. EERA included provisions for an independent third-party monitor for the project as a standard permit condition instead of as a special permit condition. EERA stated most of the proposed permit modifications were not intended to alter the substance of the permit conditions but were intended as technical changes for purposes of clarity or consistency.<sup>13</sup> EERA recommended special site permit conditions and provided markups of the draft site and route permits. EERA proposed numerous site permit modifications to draft site permit conditions, some of which were not otherwise considered in the EA.<sup>14</sup>

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<sup>12</sup> EERA's November 29, 2022, comments are comprised of three filings. A summary of recommended modifications to the decommissioning plan, draft site permit and HVTL route permit can be found in its Comments ([202211-190960-02](#)). EERA incorporated its proposed changes of the draft site permit ("markup") as Attachment A ([202211-190960-05](#)), and to the draft HVTL Route Permit as Attachment B ([202211-190960-08](#)).

<sup>13</sup> Proposed additional permit conditions and substantive changes to the permits are addressed in Byron Solar's reply comments below.

<sup>14</sup> ALJ Report, Finding 353.

On November 29, 2022, Byron Solar filed comments in response to oral comments received at the public hearings. Byron argued that its preference for the Blue Route was not solely based on cost as was suggested by some commenters and identified several non-economic factors that weighed in favor of its preference for the Blue Route.

Byron provided its rationale as to why it is not appropriate to apply the Dodge County Zoning Ordinance to a utility-scale project. Foremost among these is the statutory directive of Minn. Stat. § 216E.10, Subd. 1, under which the site and route permits issued by the Commission are the only site or route approvals required for construction of the solar facility and transmission line. Byron presented information to demonstrate that it considered the Dodge County setbacks during project design and committed to meeting those setbacks where feasible.

In response to questions raised during the hearings regarding the location of the project fence in relation to property lines, Byron Solar responded that the fence will not be located on property lines, but instead will be wholly located on the participating parcel and will be set back from the property line.

On November 29, 2022, IUOE/NCSRC reiterated its continued support for the project based on high-quality job creation, assistance in meeting the state's renewable energy goals, and providing additional socioeconomic benefits.

On December 9, 2022, the Commission filed comments received from J. Wagner. The comments discussed several topics including climate change, noise from the substation and construction, impact on property values, local wildlife, dust, and light reflection.

#### **D. Byron Solar Reply Comments**

In its December 9, 2022, reply comments, Byron Solar responded to comments received from EERA, DNR, MNDOT, VMPWG, Dodge County, and members of the public. Byron emphasized that the record demonstrates that the project has been designed, sited, and routed to avoid and/or minimize human and environmental impacts to the greatest extent practicable. Byron noted that no adverse comments from landowners along the Blue Route were received. According to Byron Solar, the project makes efficient use of available land and the solar resource while minimizing adverse human and environmental impacts. Byron included modifications to its proposed findings of fact, conclusions of law, and recommendations, along with its proposed draft site and route permits for the project in response to comments received.

## **Reply to EERA Comments**

Byron stated it largely agreed with EERA's recommendations and modifications. Byron provided redlined versions of the site and route permits that incorporated EERA's proposed changes that were not filed with the EA, as well as Byron's proposed changes to the permits. Byron's proposed modifications are summarized below.

### *Project Ownership (DSP Section 2.2)*

Byron supported removing EERA's proposed provisions requiring notification of changes to project ownership that would include affiliated entities.

### *Aesthetics (DSP Section 4.3.8)*

Byron recommended replacing the term "land management agencies" with the local unit of government with direct zoning authority for consultation on the Visual Screening Plan (VSP).

### *Soil Compaction (DSP Section 4.3.10)*

Byron proposed removing a redundant portion of the language related to when soil compaction minimization measures would be required.

### *Beneficial Habitat (DSP Section 4.3.16)*

Byron proposed removing the compliance filing requirement for meeting the BWSR's Habitat Friendly Solar Certification because the condition encourages but does not *require* compliance with the standards and instead requires consultation.

### *Security Fence (DSP Section 4.3.31)*

Byron proposed to implement DNR's 2016 Commercial Solar Siting Guidance for establishing security fencing at the project. Byron stated it should not be asked to agree to provisions of updated guidance in advance of its being finalized or published.

### *Feeder Lines (DSP Section 4.4)*

Byron proposed to maintain flexibility in its choice of using a hybrid electrical collection system comprised of aboveground and belowground conductors as included in the sample site permit rather than being mandated to do so. The provision for requiring local or landowner approval and minimization of interference with agricultural operations would remain in either instance.

### *Visual Screening Plan (DSP Section 5.5)*

Byron noted that it has already developed and entered a screening plan into the record. Byron proposed several modifications to EERA's newly proposed special permit condition to separate the plan from the requirements of the VMP requirements, and to maintain the ability to work with individual landowners on screening. Byron proposed deletion of the requirement to

address local ordinances and setbacks because the site permit preempts all local ordinances. Byron noted that, in addition to the preemption issue, it would be unreasonable to apply the performance standards of a utility-scale solar project. Byron agreed it is reasonable to include the screening plan under Section 8.3 of the DSP.

#### *Site Plan (DSP Section 8.3)*

Byron objected to the removal of the 30-day Site Plan review provision as included in the Sample Site Permit that would allow for construction to commence irrespective of whether the Commission notified Byron that upon review it has determined the planned construction is consistent with the site permit provisions.

#### *Status Reports (DSP Section 8.4)*

Byron proposed to remove EERA's proposed modification to Section 8.4 of the sample permit which requires status report submittals begin upon issuance of the site permit and instead begin at the time of the preconstruction meeting. Byron stated their proposed changes are consistent with the corresponding condition in the draft route permit which required status reports to begin with submittal of the plan and profile.

#### *Site Final Restoration (DSP Section 9.2)*

Byron acknowledged EERA's agreement with proposed changes to Section 9.2 of the site permit that would confirm that decommissioning and restoration measures are governed by the most recently filed and accepted decommissioning plan.

#### *Aesthetics (Draft Route Permit Section 5.3.6)*

Byron agreed with EERA's assessment that the term "land management agencies" is a vague term and should be deleted from this section. Byron noted that a route permit would preempt any local ordinance addressing visual impacts. EERA's proposed changes would still require the permittee to consider input on visual impacts from local jurisdiction. Byron noted that EERA's proposed changes are not reflected in the DRP markup.

#### *Decommissioning (Draft Site Permit Section 9.1)*

Byron Solar largely agreed with EERA's comments on the project's decommissioning plan. Byron suggested modifications to EERA's recommendations on the following:

- Generation Output

In response to EERA's recommendation to identify the expiration date of any applicable Power Purchase Agreements (PPAs). Byron notes that this information may be trade secret thereby complicating the decommissioning plan which is a public document. According to Byron, the ceasing of operations is the more

appropriate trigger for decommissioning.

- Financial Assurance

In response to EERA's comment on financial assurance, Byron suggested that the beneficiary should be "the Commission or its designee" which is the approach taken by the Commission in other dockets. Byron acknowledged the validity of EERA's concern and suggested the issue be revisited with the 5-year reviews.

### **Reply to DNR Comments**

Byron Solar agreed to the following special conditions proposed by DNR.

#### *Wildlife-Friendly Control* (DSP, Section 5.2 and DRP Section 6.4)

DNR proposed the use of only "bio-netting" or "natural netting" and mulch products without synthetic (plastic) additives.

#### *Loggerhead Shrike* (DSP Section 5.4, DRP Section 6.6.)

DNR proposed avoidance of tree and shrub removal within Loggerhead Shrike habitat during the April through July breeding season.

#### *Avian Protection* (DRP Section 5.3.15)

DNR recommended the permittee consult with DNR to identify areas where bird flight diverters will be incorporated into the HVTL. DNR also recommended provisions for their placement, design, and standards.

Byron Solar proposed modifications to the following special conditions proposed by DNR.

#### *Snowmobile Trail* (DSP Section 5.6)

Byron proposed a new special condition in lieu of the DNR's example language and instead would require the permittee to coordinate with the local snowmobile trail association to reroute Snowmobile Trail 302 and provide documentation to the Commission of its efforts.

#### *Facility Lighting* (DSP Section 5.7)

Byron proposed a modification to DNR's sample language to capture DNR's intent such that it applies to the project substation and the operation and maintenance facility.

#### *Dust Control* (DSP Section 5.8)

Byron agreed to use non-chloride products for onsite dust control during construction.

### **Reply to MNDOT Comments**

Byron Solar expressed appreciation for MNDOT's comments and agreed to coordinate crossings

with the agency.

### **Reply to VMPWG Comments**

Byron Solar agreed to continue consultation with the VMPWG regarding the VMP for the project.

### **Reply to Dodge County Comments**

Byron provided replies to Dodge County's November 28, 2022, comments regarding the Dodge County Zoning Ordinance performance standards for solar energy farms (40 kilowatts or greater) and transmission lines. Byron Solar emphasized that the record reflects its documented efforts to engage with townships, neighboring landowners, and counties including Dodge County. Byron explained that many of Dodge County's performance standards are not appropriate for utility-scale solar projects. Byron stated it has complied with many of the Dodge County provisions and provided a rationale for those provisions that would not be observed. Byron emphasized that the Dodge County Zoning Ordinance performance standards for solar energy farms and transmission lines do not apply because the Commission's authority supersedes that of Dodge County.

Regarding the prime farmland issue, Byron asserted it had completed a detailed evaluation of potential alternative sites to avoid prime farmland, and the record demonstrates that there is no feasible and prudent alternative within a reasonable geographic area available to construct the project and not impact prime farmland. Byron emphasized that its leases have all been negotiated voluntarily with participating landowners and those landowners have determined that entering a solar lease is the highest and best use of their land, rather than remaining in crop production. Byron stressed that the land could be returned to agricultural use after the project is decommissioned. Byron argued that a finding of no feasible and prudent alternative to avoid the use of prime farmland is consistent with past Commission decisions.

Byron argued the intent of the prime farmland exclusion rule was intended to minimize "permanent" and "irreversible" impacts resulting from the siting of "conventional power plants" on prime farmland.<sup>15</sup> Byron noted the prime farmland exclusion rule does not contemplate this instance where full decommissioning and restoration of farmland at the end of the project's life since such concepts are not practical outcomes of conventional power plant siting.

Byron Solar characterized the difference between conventional power plants and solar energy

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<sup>15</sup> Byron Solar cited *Consideration sin Power Plant Siting, Cropland Preservation* (EQB Report). Minnesota Environmental Quality Board, 1980.

farms as “stark”. According to Byron, the project:

- will have a minimal physical impact on prime farmland that will be temporarily taken out of production;
- will be required by the Commission to be decommissioned at the end of its useful life and the land returned to prime farmland;
- will have minimal and/or temporary environmental impact, while providing net environmental benefits to water and soil quality; and
- is the result of arm’s length transactions with willing landowners to take farmland out of production on a temporary basis.

### **Reply to Public Comments**

Byron expressed appreciation for comments from IUOE/NCSRC in support of the project. Byron acknowledged the concerns raised in the late-filed December 1, 2022, public comment and noted that many of the issues have been addressed in the record.

In conclusion, Byron expressed appreciation for the opportunity to provide reply comments.

### **E. EERA Reply Comments**

EERA’s reply comments provided its analysis of the two HVTL route alternatives. EERA discussed the relative merits of the route alternatives with respect to the Commission’s decision criteria. EERA noted that most factors were similar for both routes but for some factors the Red Route posed greater potential impacts compared to the Blue Route (Land Use and Zoning, Tree Clearing, Geology and Groundwater, and Costs Dependent on Design and Route). EERA recommended the Commission select the Blue Route because it is likely to create fewer human and environmental impacts.

EERA’s proposed modifications comprised 91 findings of fact, 47 of which it deemed technical in nature.<sup>16</sup> EERA also proposed modifications to 7 proposed conclusions of law in the applicant’s proposed findings of fact, conclusions of law, and recommendations. EERA provided edited (strikethrough and underline) versions of the Byron’s proposed findings of fact, DSP and DRP incorporating EERA’s proposed edits.

EERA provided a response to clarify its position relative to concerns raised in Byron Solar’s

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<sup>16</sup> Because of the extensive nature of EERA’s proposed modifications, staff refers the reader to EERA’s December 23, 2022 reply comments for the complete comments. Requested changes to the ALJ Conclusions and DSP/DRP permit changes are identified in the Staff Analysis section below.

review of the draft decommissioning plan in section 9.1 of the DSP. EERA explained that the expiration date of any PPA is related to the timeframe for establishing the amount of required financial assurance not the date of the project's decommissioning. EERA noted the Commission's procedures for handling trade-secret information.

#### **F. Administrative Law Judge Report**

The Commission requested appointment of an ALJ to serve as the hearing examiner for a summary proceeding, and requested preparation of findings of fact, conclusions of law, and recommendation of a determination of need and preferred site and route permit conditions.

The ALJ Report includes a complete evaluation of the requisite criteria for granting a certificate of need. The ALJ also prepared findings of each of the criteria under Minn. Stat. § 216E.03, Subd. 7, and Minn. R. 7850.4100, that must be considered when issuing a site permit for a large electric power generating plant.

The report incorporated modifications to numerous findings as proposed by the applicant in response to comments from the parties. The ALJ noted that the applicant and EERA reached concurrence on almost all the proposed findings and incorporated them in the report.<sup>17</sup> Judge Case evaluated the position of the parties and made recommendations on 15 disputed permit conditions. The ALJ evaluated the proposed modifications to the draft site and route permits and provided recommendations on several disputed provisions. Notably, Judge Case determined the project would meet or exceed the requirements of all applicable federal, state, and local environmental laws and regulations, and supported the applicant's position that the site permit and route permit are the only site approval required for construction of the project.<sup>18</sup>

In making the recommendation, the ALJ Report, as summarized by staff, concluded that:

- The Commission and the ALJ have jurisdiction over Byron Solar's Certificate of Need and Joint Site/Route Permit applications.
- The Commission, DOC EERA and Byron Solar have complied with all notice and procedural requirements of Minnesota Statutes Chapter 216B, Minnesota Statutes Chapter 216E and Minnesota Rules Chapters 7829, 7849, and 7850.
- The ALJ conducted public hearings near the project site. Proper notice of the public hearing was given. The public had an opportunity to speak at the hearing

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<sup>17</sup> Finding 353 of the ALJ Report.

<sup>18</sup> ALJ Report Finding of Fact 220.



and to submit written comments.

- The EA was prepared under Minn. R. 7849.1200, subp. 2 and Minn. R. 7850.3700, .3900; and the record created at the public hearing and associated public comment period, address the issues identified in the scoping decision.
- The record in this proceeding demonstrates that Byron Solar has satisfied the criteria for: a certificate of need set forth in Minn. Stat. § 216B.243 and Minn. R. 7849.0120; a LEPPG site permit set forth in Minn. Stat. § 216E.04, subd. 8 (referencing Minn. Stat. § 216E.03, subd. 7) and Minnesota Rules chapter 7850; a route permit as set forth in Minn. Stat. § 216E.04, subd. 8 (referencing Minn. Stat. § 216E.03, subd. 7) and Minnesota Rules chapter 7850; and all other applicable legal requirements.
- The record demonstrates that there is not a feasible or prudent alternative to the Project under Minn. R. part 7850.4400, subp. 4 (the Prime Farmland Exclusion).
- No party or person has demonstrated by a preponderance of the evidence that there is a more reasonable and prudent alternative to address those needs met by the project.
- The Commission has the authority under Minn. Stat. § 216E.03, to place conditions in a large electric power generating plant site and route permit.

The ALJ recommended that the Commission (1) issue a certificate of need to Byron Solar, (2) issue a site permit to Byron Solar, and (3) issue a route permit for the associated 345-kilovolt transmission line utilizing the route proposed in the application (the Blue Route). The recommendation also included several special permit conditions for inclusion in the site and route permits as shown below. Staff refers the Commission to the ALJ Report for a complete summary of public comments and a complete analysis of the recommendations.

**Permit Amendments from the Applicant, EERA, ALJ and Agencies**

Permit	Section	Provision	Proposer	Supporters	Date
DSP	4.3.8	Visual Impacts	EERA	ALJ	12/23/2022
DSP	4.3.10	Soil Compacts	Byron	ALJ	
DSP	4.3.16	Beneficial Habitats	EERA	ALJ	12/23/2022
DSP	4.3.31	Security Fencing	EERA	ALJ	12/23/2022
DSP	4.4	Feeder Lines	Byron	ALJ	
DSP	8.3	Site Plan	EERA	ALJ	12/23/2022
DSP	8.4	Status Reports	EERA	ALJ	12/23/2022
DSP	9.2	Final Site Restoration	Byron	ALJ	
DSP	SPC 5.6	Snowmobile Trails	DNR/Byron	ALJ, EERA	12/23/2022
DSP	SPC 5.7	Lighting (O&M and Substation)	DNR/Byron	ALJ, EERA	
DSP	SPC 5.8	Dust Control Chemicals	DNR/Byron	ALJ	

DRP	5.3.6	Visual Impacts	EERA/Byron	ALJ	
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## VII. EXCEPTIONS TO ALJ REPORT

Under Minn. R. 7829.2700, exceptions to the ALJ Report must be filed within 15 days of the filing of the report for cases subject to statutory deadlines. The ALJ Report was filed on January 23, 2023.

### A. EERA Exceptions

EERA expressed appreciation for the comprehensive analyses within the ALJ Report and concurred with its recommendations. EERA provided route maps, and a summary table of compliance filings for both the site and route permits.

### B. Byron Solar Exemptions

Byron Solar also expressed appreciation for Judge Case’s analyses and recommendations in the ALJ Report. Byron Solar submitted comments and exceptions regarding findings, permit conditions and conclusions of law for four topics listed below.

#### 1. Change in Ownership Notification Requirements (*Site Permit Section 2.2, Finding 355 and new Conclusion*)<sup>19</sup>

According to the applicant, the modifications to Section 2.2 of the draft site permit included a new requirement beyond that of Section 12 of the draft site permit. Byron Solar stated it does not object to providing information in the event of a material change in project ownership but wishes to exclude project ownership transfers to affiliated interests. The applicant noted that upstream changes to affiliated entities are common and have no practical impact on Byron Solar or the operations of the project including project contacts and obligations to comply with existing permit conditions. Byron Solar recommended adding the words “to a non-affiliated entity” to limit the notification requirement of Section 2.2. The change would necessitate modifications of Finding 355 of the ALJ Report that changes the ALJ’s characterization of the notification requirement and deleting language regarding EERA’s disagreement over the draft site permit language. Finally, Byron would like to amend the Conclusions of Law with the following:<sup>20</sup>

<sup>19</sup> Byron Solar’s *Exceptions to ALJ Report*, pages 3-5.

<sup>20</sup> If the Commission agrees with Byron Solar, staff recommends this Conclusion be added as Number 26.a.

[26 \(a\). It is reasonable to amend the DSP to include the changes to Section 2.2 of the DSP regarding Project ownership as proposed by Byron Solar.](#)

**2. Security Fencing** (*Site Permit Section 4.3.31, Finding 359, and Conclusion 18*)<sup>21</sup>

Byron Solar disagrees with the proposed permit language related to security fencing. The applicant noted the proposed fencing was designed in accordance with DNR's 2016 Guidance for Commercial Solar Projects. Byron Solar asserted that there is no other guidance on the subject reflected in the record on which the Commission might base its decision. Byron Solar emphasized that the final security fence design would be made available far in advance of construction commencement and that subjecting the project to unknown, new, and late design requirements creates unreasonable regulatory uncertainty. Byron proposed modifications that would be in support of its position instead of those in EERA's. Byron proposed that Conclusion 18 in the ALJ Report be modified as follows:

18. It is reasonable to amend the DSP to include the changes to Section 4.3.31 of the DSP regarding security fencing as proposed in [Byron Solar's December 9, 2022, reply comments.](#) ~~EERA's December 23, 2022, reply comments.~~

**3. Visual Screening Plan** (*Sections 5.5 and 8.3, Finding 361, and Conclusion of Law 23*)<sup>22</sup>

Byron Solar took exception to the ALJ's recommendation related to a visual screening plan proposed by EERA. Byron noted that it has already developed a visual screening plan in coordination with neighboring landowners; and its plan would allow Byron to work with neighboring landowners to implement screening specific to that landowner. Byron recommends deleting the language referring to local ordinances and setbacks because the site permit preempts all local ordinances. Byron asserted that it demonstrated why it would be unreasonable to apply Dodge County's Zoning Ordinance to a utility-scale solar project. Byron emphasized that the Commission has not imposed a visual or vegetative screening requirement in any of its last six solar facility dockets. Byron proposed the following revisions to Conclusion 23 in the ALJ Report:<sup>23</sup>

23. It is reasonable to amend the DSP to include the special permit condition Section 5.5 of the DSP as proposed in ~~EERA's December 23, 2022~~ [Byron Solar's February 7, 2023, Exceptions filing.](#)

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<sup>21</sup> Ibid, page 6-7.

<sup>22</sup> Ibid, pages 8-12.

<sup>23</sup> Staff modified this language for accuracy by including redacted language.

#### **4. Site Plan (Section 8.3, Finding 365, and Conclusion of Law 20)<sup>24</sup>**

Byron requested the 30-day timeframe for the Commission’s review of the site plan as required in Section 8.3 be reinserted because otherwise the review period is left open-ended. Byron cited a recent Commission order approving the Hayward Solar Project in support of its position. Byron Solar emphasized that its need for certainty of the site plan review timeline is consistent with the Minnesota Legislature’s renewed push to build more renewable generation sources. Byron’s recommendation would modify the ALJ Report to reflect approval of a 30-day review period to Conclusion 20 of the ALJ Report:

20. It is reasonable to amend the DSP to include the changes to Section 8.3 of the DSP regarding the site plan as proposed by [Byron Solar](#) - ~~EERA~~ in its December 9~~23~~, 2022, reply comments.

Byron Solar requested that the Commission adopt the ALJ Report including its proposed revisions and grant the certificate of need, site permit, and route permit for the Byron Solar Project.

### **VIII. BYRON SOLAR LATE FILING UPDATING EXCEPTIONS STATUS**

In its February 28, 2023 late filing, Byron Solar indicated it had reached agreement with EERA staff on alternative permit condition language for each of the four items Byron Solar included in its exception including: (1) when the permittee must notify the Commission of a change in project ownership; (2) security fencing; (3) the visual screening plan; and (4) the timeline for agency review of the pre-construction site plan filing. Byron’s proposed language is shown below.<sup>25</sup> Byron argued that pursuant to Minn. R. 7829.0420, there is good cause not to exclude this late filing because it reflects the results of compromise and is provided more than 24-hours before the Commission meeting, giving all participants an opportunity to review the language and address it during oral arguments.

#### **1. Site Permit Section 2.2 (Project Ownership)**

Byron noted EERA’s position that a primary objective of this condition is to ensure that a project’s current contact information is available for compliance purposes, and to make sure that any new “owners” are aware of, and affirm commitment to, permit obligations. EERA staff

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<sup>24</sup> Ibid, pages 12-14.

<sup>25</sup> Staff has not quoted the entirety of the proposed deleted site permit language included in Byron’s February 28<sup>th</sup> filing except where necessary for clarity. Previous versions of the text are included above.

proposed revising Section 2.2 to more closely mirror similar language that has been included in wind site permits regarding notification of ownership changes. Additionally, EERA staff agreed that a certification that the permittee reads, understands, and can comply with the plans and procedures of the permit was sufficient without refiling existing compliance plans. Byron Solar agreed that the revised language is clearer and avoids unnecessary filings and dropped its request to exclude transfers to affiliated entities.

At least 14 days prior to the pre-construction meeting, the Permittee shall file a description of its ownership structure, identifying, as applicable:

- (a) the owner(s) of the financial and governance interests of the Permittee;
- (b) the owner(s) of the majority financial and governance interests of the Permittee's owners; and
- (c) the Permittee's ultimate parent entity (meaning the entity which is not controlled by any other entity).

The Permittee shall notify the Commission of:

- (a) a change in owner(s) of the majority\* financial or governance interests in the Permittee; or
- (b) a change in owner(s) of the majority\* financial or governance interests of the Permittee's owners; or
- (c) a sale which changes the ultimate parent entity of the Permittee. \*When there are only co-equal 50/50 percent interests, any change shall be considered a change in majority interest.

Also, in the event of an ownership change, the Permittee must provide the Commission with a certification that it has read, understands and is able to comply with the plans and procedures it filed and all conditions of this permit.<sup>26</sup>

## **2. Security Fencing (DSP Section 4.3.31)**

Byron Solar asserted that DNR's updated guidance on solar fencing has not been published and is not reflected in this record. According to Byron Solar, agreement was reached with EERA upon the following proposed language for Section 4.3.31 of the DSP (redline changes shown against the condition recommended by the ALJ).

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<sup>26</sup> Staff notes that this paragraph was included as text (not underlined) and believes it should be edited for clarity and included in the site permit if the Commission approves the other Section 2.2 site permit language proposed by the applicant.

#### 4.3.31 Security Fencing

The Permittee shall design the security fence surrounding the solar energy generating system to minimize the visual impact of the Project while maintaining compliance with the National Electric Safety Code. The Permittee shall develop a final fence plan for the [specific site](#) ~~that is consistent with DNR guidance for commercial solar facilities and is done~~ in coordination with EERA and the DNR. The final fence plan shall be submitted to the Commission as part of the site plan pursuant to Section 8.3.

Additionally, EERA staff stated that it was neutral regarding the addition of the following special condition language which would apply specifically to Byron Solar, based on the record built in this case:

[Special Condition 5.9 Security Fencing](#)

[The final fence plan for the site shall be consistent with the proposal included in the August 30, 2021 Site Permit Application and within the parameters laid out in the 2016 Commercial Solar Siting Guidance.](#)

Byron Solar asserted that is appropriate to include this special condition language in Section 5.9, in addition to the general permit language in Section 4.3.31, based on the administrative record, which demonstrates that Byron Solar considered and applied the DNR's 2016 Commercial Solar Siting Guidance in its fence design. According to Byron, including this special condition language clarifies which standards are applicable for this Project and avoids further debate over this issue during the final design and compliance phases prior to construction.

### 3. Visual Screening Plan (DSP Section 5.5)

Although Byron Solar and EERA agreed that the visual screening plan should be separate from the VMP, EERA continued to desire that the separate Visual Screening Plan include some additional discussion of management of the screening, where applicable. Byron Solar and EERA staff also agreed that the location of trees and shrubs included in the Visual Screening Plan within the Project site should be included in the site plan filed under Section 8.3 of the DSP.

#### 5.5 Visual Screening Plan

The Permittee shall develop a site-specific Visual Screening Plan. The Visual Screening Plan shall be designed and managed to mitigate visual impacts to adjacent residences ~~and consider local government ordinances and setbacks.~~ [The visual screening plan shall at minimum include:](#)

[a\) objectives for screening of nearby residences; and](#)

b) a description of the types of trees and shrub species to be used, the location of plantings, and plans for installation, establishment and maintenance. The location of trees and shrubs included in the Visual Screening Plan that are located within the Permittee's site control shall be included in the Site Plan filed under Section 8.3.

At least 14 days prior to the pre-construction meeting, the Permittee shall file:

- a) the Visual Screening Plan;
- b) documentation of coordination between landowners within 500 feet of the site boundary and Dodge County Office of Environmental Services; and
- c) an affidavit of its distribution of the Visual Screening Plan to landowners within 500 feet of the site boundary and Dodge County Environmental Services.

## **IX. STAFF ANALYSIS**

Based on the information in the joint applications, the analysis provided in the environmental assessment, public comments, testimony, the ALJ Report and other evidence in the record, staff provides the discussion below.

### **A. Environmental Assessment**

An application for a certificate of need requires an ER, while an application for site and route permits require preparation of an EA. Because Byron Solar applied for a certificate of need and site and route permits, the Commission requested that an EA be prepared in lieu of an ER.

Accordingly, the EA was directed to be prepared following the procedures under Minn. R. 7850.3700 and to include the analysis of alternatives required in an ER.

Staff has reviewed the EA and agrees with the ALJ that EERA conducted an appropriate environmental analysis of the project for purposes of these proceedings, and that the EA satisfies the requirements under Minn. R. 7849.1200, 7850.3700 and Minn. R. 7850.3900. The EA did not identify any unique or significant environmental impacts from the construction and operation of the project that could not be properly mitigated.

- The EA discussed potential alternatives to the project such as a 200-megawatt large wind energy conversion system, a 200-megawatt solar facility in a different location, and the no-build alternative.
- No information was submitted into the record that contested the

information and analysis contained in the EA.

- The ALJ Report concluded that the EA and the record created at the public hearing addressed the issues identified in the scoping decision.

Therefore, staff recommends the Commission, in accordance with Minn. R. 7850.3900, subp. 2, find that the EA and the supporting record adequately address the issues identified in the scoping decision.

If the Commission does not find the EA complete, it must identify the reasons it is not complete and request that the EA be revised or supplemented. In that case, a schedule for revising or supplementing the EA would need to be determined and the Commission would need to revisit its decisions after completion of the revised EA.

## **B. Certificate of Need**

The Commission directed that the certificate of need application be reviewed using the informal review process and requested the ALJ to prepare findings of fact, conclusions of law, and recommendations.

Staff agrees with the recommendation of the DER and the ALJ that Byron Solar has demonstrated that the project meets the criteria set forth under Minn. Stat. §216B.243 and Minn. R. 7849.0120. Staff agrees that, based on a consideration of the factors set forth in Minn. R. 7849.0120(C), the EA and evidence in the record demonstrates that the project will provide benefits to society in a manner compatible with protecting the natural and socioeconomic environments, including human health. Therefore, staff agrees with DER, EERA and the ALJ that the Commission should issue a certificate of need to Byron Solar, LLC, for the up to 200 MW Byron Solar Project.

If the Commission decides to issue a certificate of need it must make written findings with respect to the criteria set forth in Minn. R. 7849.0120. If the Commission denies the certificate of need application, it must state the reasons for the denial.

## **C. ALJ Report and Site Permit**

Staff has examined the full record in this case and agrees with the ALJ's conclusions that the Commission has jurisdiction over the Project, that the applicant and the Commission have complied with all procedural requirements under statute and rule, that the Commission has the authority to place conditions in site and route permits, that are reasonable and appropriate and that the draft site permit contains important mitigation measures and other reasonable conditions.



Except as noted below, staff believes the EERA's changes to the sample permit as reflected in the DSP and its subsequent revisions are appropriate and justified in the record. Staff agrees with the Applicant and EERA that a site permit and a route permit should be granted with the appropriate conditions for this project.

Staff agrees with the recommended special permit conditions proposed by DNR and supported by the ALJ and EERA. The Commission may wish to confirm DNR's agreement regarding the special conditions 5.6, 5.7, and 5.8 of the site permit as modified by the applicant and supported by the ALJ.

#### **D. Staff Response to Exceptions and Byron Solar's Late Filing**

Staff has also reviewed the applicant's exceptions to the ALJ Report and offers the following comments. Staff believes that potentially affected parties are entitled to an opportunity to respond to Byron Solar's February 28, 2023 late filing during oral argument.

##### *Change in Ownership Notification Requirements*

Staff agrees with the ALJ that the notification requirement upon change of project ownership is not an onerous obligation. Staff believes the requirement for notification of a permit transfer to affiliated interest(s) is justified to ensure the Commission's authority to investigate and undertake enforcement actions remains intact. Similarly, the provision is useful should the Commission choose to evaluate the ability of any new owner(s) to comply with its obligations under the terms of the project permits. Staff recommends the Commission take no action on the exception request and late-filed language for Section 2.2. Staff suggests it is in the public interest for the Commission to understand the complete project ownership through its construction, operation, and decommissioning. Lastly, staff believes the filing of updated plans to reflect accurate contact information is a reasonable expectation for purposes of transparency.

##### *Security Fencing*

Staff initially agreed with the ALJ and EERA's positions that the site permit condition should not identify a specific DNR guidance document, and instead encourage coordination with DNR and EERA prior to submittal of the site plan to the Commission as per Section 8.3 of the site permit. Staff recommends no action on this item.

Staff was notified by DNR that it had updated its guidance for commercial solar project on

February 27, 2023.<sup>27</sup> Upon review of the document and further conversation with DNR, the document includes numerous updated provisions including:

- Comprehensive description of the early coordination process
- Explanation of the new Natural Heritage Review Process (Minnesota Conservation Explorer)
- Inclusion of available data layers to identify high value resources
- Revised recommendations
  - Perimeter Fencing
  - Wildlife Friendly Erosion Control
- Additional recommendations (not included in the 2016 guidance) regarding:
  - Facility Lighting
  - Snowmobile Trail Reroutes/Closures
  - Dust Control
  - Water Appropriation, Permits, Licenses
  - Avian Flight Diverters (some solar facilities need transmission lines)
- New Vegetation Management Plan requirement

#### *Visual Screening Plan*<sup>28</sup>

Staff agrees with the applicant that the site permit should have separate visual screen plan requirements from those of the VMP in part because, as a special permit condition, the VSP's provisions take precedence over those in the VMP. Staff agrees that it is appropriate to require Byron to identify and consider input pertaining to visual impacts from landowners and the local units of government. Staff agrees with EERA that this does not confer final authority on the matter to the local government.

Staff notes that this topic should also be subject to further consideration as part of the Commission's review of DNR's updated solar guidance as described above.

#### *Site Plan*<sup>29</sup>

Staff agrees with the ALJ and EERA that the Commission's explicit approval of the site plan is an appropriate prerequisite prior to commencement of construction. Staff recommends the Commission take no action on this exemption request.

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<sup>27</sup> February 27, 2023 email correspondence with Cynthia Warzecha (DNR). DNR's updated guidance document is available at: [https://files.dnr.state.mn.us/publications/ewr/commercial\\_solar\\_siting\\_guidance.pdf](https://files.dnr.state.mn.us/publications/ewr/commercial_solar_siting_guidance.pdf).

<sup>28</sup> Ibid, pages 8-12.

<sup>29</sup> Ibid, pages 12-14.

## **X. DECISION OPTIONS**

### **ALJ Report**

1. Adopt the ALJ Report to the extent it is consistent with the Commission's decisions in this proceeding. (ALJ)
2. Adopt the following modifications to the ALJ's findings as proposed by Byron Solar in its February 7, 2023 exemptions as modified by its February 28, 2023 filing:
  - a. Change in Ownership Notification Requirements, *DSP Section 2.2 and Finding 355*
  - b. Security Fencing, *Site Permit Section 4.3.31, Finding 359, and Conclusion of Law 18*
  - c. Visual Screening Plan, *Sections 5.5 and 8.3, Finding 361, and Conclusion of Law 23)*
  - d. Site Plan, *Section 8.3, Finding 365, and Conclusion of Law 20*

### **Environmental Assessment**

3. Find that the Environmental Assessment and the record created at the public hearing address the issues identified in the Scoping Decision. (ALJ, Byron Solar, EERA)
4. Find the Environmental Assessment is not complete, identify the deficiencies and request that the Environmental Assessment be revised or supplemented, and determine a schedule for its completion. (Dodge County)

### **Certificate of Need**

5. Grant a Certificate of Need to Byron Solar, LLC for the Byron Solar Project in Dodge and Olmsted counties, Minnesota. (ALJ, Byron Solar, EERA, LIUNA, IOUE)
6. Do not grant a Certificate of Need for the Byron Solar Project. (Dodge County)

### **Site Permit**

7. Issue the attached site permit for the up to 200 MW Byron Solar Project, with modifications reflecting the Commission's decisions in this proceeding.
8. Deny a site permit for the applicant's Byron Solar Project. (Dodge County)

### **Route Permit**

9. Issue the attached route permit that identifies the Blue Route proposed by the applicant for its Byron Solar Project transmission line that includes specific requirements and conditions. *(ALJ, EERA, Byron Solar)*
10. Issue a route permit that identifies the Red Route proposed by a member of the public for the Byron Solar Project transmission line that includes specific requirements and conditions. *(Dodge County)*

### **Independent Third-Party Monitor**

11. Require Byron Solar, LLC to hire an independent third-party monitor as proposed by EERA and require EERA to file a summary on the use of a monitor upon completion of the monitor's activities. *(ALJ, EERA)*
12. Deny EERA's proposal to require an independent third-party monitor. *(Byron Solar)*

### **Administrative**

13. Authorize Commission staff to modify the findings of fact, conclusions of law, and the proposed Site and Route Permits to correct typographic and formatting errors, improve consistency, and ensure agreement with the Commission's final order in this matter.

Staff Recommendation: 1, 3, 5, 7, 9, 11, and 13.

**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**SITE PERMIT FOR A  
SOLAR ENERGY GENERATING SYSTEM**

**IN  
DODGE COUNTY**

**ISSUED TO  
BYRON SOLAR, LLC**

**PUC DOCKET NO. IP-7041/GS-20-763**

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850 this site permit is hereby issued to:

**BYRON SOLAR, LLC**

The Permittee is authorized by this site permit to construct and operate an up to 200-megawatt solar energy generating system and associated facilities. The solar energy generating system and associated facilities shall be built and operated within the site identified in this permit and as portrayed in the official site maps, and in compliance with the conditions specified in this permit.

This site permit shall expire 30 years from the date of this approval.

Approved and adopted this \_\_\_\_ day of \_\_\_\_\_

BY ORDER OF THE COMMISSION

---

Will Seuffert,  
Executive Secretary

To request this document in another format such as large print or audio, call 651-296-0406 or 800-657-3782 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

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**ATTACHMENTS**

- Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities
- Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities
- Attachment 3 – Site Maps

PROPOSED SITE PERMIT



## **1 SITE PERMIT**

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Byron Solar, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes the Byron Solar, LLC to construct and operate an up to 200-megawatt (MW) solar energy generating system and associated facilities in Dodge County, Minnesota, and as identified in the attached site maps, hereby incorporated into this document (Byron Solar Project, henceforth known as Project).

### **1.1 Preemption**

Pursuant to Minn. Stat. § 216E.10, this permit shall be the sole site approval required for the location, construction, and operation of the solar energy generating system and this permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

## **2 PROJECT DESCRIPTION**

The Project is an up to 200 MW solar energy generating system with associated facilities to be located on approximately 1,800 acres. The primary components of the solar energy generating system and associated facilities include:

- (a) photovoltaic panels affixed to a linear ground-mounted single-axis tracking system;
- (b) power inverters and transformers;
- (c) belowground electrical collection and communication lines;
- (d) security fencing;
- (e) a project substation;
- (f) access roads and parking lot;
- (g) up to five weather stations;
- (h) an operation and maintenance building;
- (i) stormwater ponds

### **2.1 Project Location**

The project is located in the following:

County	Township Name	Township	Range	Section
Dodge	Canisteo	106N	16W	2, 3, 10, 11, 12, 14, 15
Dodge	Mantorville	107N	16W	35

## 2.2 Project Ownership

The Permittee shall identify the Project’s ownership structure including any parent entity, majority or controlling interest to the Commission at least 14 days prior to the pre-construction meeting.

In the event of an ownership change such as the sale of a parent entity, majority or controlling interest, the Permittee shall identify the new Project’s ownership structure, provide the name and contact information for the site manager, as described in Section 4.3.2, and either a current version with e-docket reference, or a revised version of the following to the Commission:

- (a) vegetation management plan, as described in Section 4.3.17;
- (b) complaint procedures, as described in Section 7 and Attachment 1;
- (c) emergency response plan, as described in Section 8.10; and
- (d) decommissioning plan, as described in Section 9.

Also, in the event of an ownership change, the Permittee must provide the Commission with a certification that it has read, understands and is able to comply with the plans and procedures it filed and all conditions of this permit.

## 3 DESIGNATED SITE

The site designated by the Commission for the Project is the site depicted on the site maps attached to this permit.

The site maps show the Project Boundary and the approximate location of the solar energy generating system and associated facilities within the Project Boundary. The Commission sought to locate the solar energy generating system and associated facilities in a way that minimizes the overall potential human and environmental impacts of the Project, which were evaluated in the permitting process. The Project Boundary serves to provide the Permittee with the flexibility to make minor adjustments to the layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. The Permittee

shall make any modification to the location of the solar energy generating system or associated facilities in such a manner to have comparable overall human and environmental impacts and shall specifically identify them in the site plan pursuant to Section 8.3.

#### **4 GENERAL CONDITIONS**

The Permittee shall comply with the following conditions during construction and operation of the solar energy generating system and associated facilities over the life of this permit.

##### **4.1 Permit Distribution**

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner or designee that is within or adjacent to the permitted site.

##### **4.2 Access to Property**

The Permittee shall contact landowners prior to entering the property or conducting maintenance within the site, unless otherwise negotiated with the affected landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

##### **4.3 Construction and Operation Practices**

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

###### **4.3.1 Field Representative**

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible

by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to the preconstruction meeting. The Permittee shall provide the field representative's contact information to affected landowners within or adjacent to the Project Boundary, local government units and other interested persons 14 days prior to the preconstruction meeting. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, local government units and other interested persons. The Permittee shall file with the Commission an affidavit of distribution of its field representative's contact information at least 14 days prior to the pre-construction meeting and upon changes to the field representative.

#### **4.3.2 Site Manager**

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this permit during the commercial operation and decommissioning phases of the project. This person shall be accessible by telephone or other means during normal business hours for the life of this permit.

The Permittee shall file the name, address, email, phone number, and emergency phone number of the site manager with the Commission at least 14 days prior to the pre-operation meeting. The Permittee shall provide the site manager's contact information to landowners, within or adjacent to the Project Boundary, local government units and other interested persons at least 14 days prior to the pre-operation meeting. The Permittee may change the site manager at any time upon notice to the Commission, landowners within or adjacent to the Project Boundary, local government units, and other interested persons. The Permittee shall file with the Commission an affidavit of distribution of its site manager's contact information at least 14 days prior to the pre-operation meeting and upon changes to the site manager.

#### **4.3.3 Employee Training and Education of Permit Terms and Conditions**

The Permittee shall train and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the solar energy generating system of the terms and conditions of this permit. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.4 Independent Third-Party Monitor**

Prior to any construction, the Permittees shall propose a scope of work and identify one independent third party monitor on behalf of the Department of Commerce. The scope of work shall be developed in consultation with and approved by the Department of Commerce. This third-party monitor will report directly to and will be under the control of the Department of Commerce with costs borne by the Permittee. The Permittee shall file the scope of work, and the name, address, email, phone number, and emergency phone number of the third-party monitor with the Commission at least 14 days prior to the pre-construction meeting, and upon changes to the scope of work or third-party monitor contact information.

#### **4.3.5 Public Services and Public Utilities**

During construction, the Permittee shall minimize any disruption to public services and public utilities. To the extent disruptions to public services or public utilities occur these ~~will~~ shall be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate mitigation measures if not already considered as part of this permit.

The Permittee shall cooperate with county and city road authorities to develop appropriate signage and traffic management during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.6 Temporary Workspace**

The Permittee shall select temporary workspace and equipment staging areas that limit the removal and impacts to vegetation. The Permittee shall not site temporary workspace in wetlands or native prairie as defined in sections 4.3.10 and 4.3.11. The Permittee shall site temporary workspace to comply with standards for development of the shorelands of public waters as defined in Section 4.3.10.

The Permittee shall obtain temporary easements outside of the authorized Project Boundary from affected landowners through rental agreements as these are not provided for in this permit.

#### **4.3.7 Noise**

The Permittee shall comply with noise standards established under Minn. R. 7030.0010 to 7030.0080, at all times and at all appropriate locations during operation of the Project. Construction and maintenance activities shall be limited to daytime working hours to the extent practicable.

#### **4.3.8 Aesthetics**

The Permittee shall consider input pertaining to visual impacts from landowners and the local unit of government having direct zoning authority over the area in which the Project is located when developing the Visual Screening Plan required in Section 5.5. The permittee shall use care to preserve the natural landscape, minimize tree removal and prevent any unnecessary destruction of the natural surroundings in the vicinity of the Project during construction and operation.

#### **4.3.9 Topsoil Protection**

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands.

#### **4.3.10 Soil Compaction**

The Permittee shall implement measures to minimize soil compaction of all lands utilized for Project construction and travelled on by cranes, heavy equipment, and heavy trucks.

#### **4.3.11 Soil Erosion and Sediment Control**

The Permittee shall implement erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the facility disturbs more than one acre of land or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan (SWPPP) that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats,

stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

#### **4.3.12 Public Lands**

In no case shall photovoltaic tracker rows and associated facilities including foundations, access roads, underground cable, and transformers, be in the public lands identified in Minn. R. 7850.4400, subp. 1, or in federal waterfowl production areas. Photovoltaic tracker rows and associated facilities shall not be in the public lands identified in Minn. R. 7850.4400, subp. 3, unless there is no feasible and prudent alternative.

#### **4.3.13 Wetlands and Water Resources**

The Permittee shall not place the solar energy generating system or associated facilities in public waters and public waters wetlands, as shown on the public water inventory maps prescribed by Minnesota Statutes Chapter 103G, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE), and local units of government as implementers of the Minnesota Wetlands Conservation Act. The Permittee shall locate the solar energy generating system and associated facilities in compliance with the standards for development of the shorelands of public waters as identified in Minn. R. 6120.3300, and as adopted, Minn. R. 6120.2800, unless there is no feasible and prudent alternative.

The Permittee shall construct in wetland areas during frozen ground conditions, to the extent feasible, to minimize impacts. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. The Permittee shall contain and manage soil excavated from the wetlands and riparian areas in accordance with all applicable wetland permits. The Permittee shall access wetlands and riparian areas using the shortest route possible to minimize travel through wetland areas and prevent unnecessary impacts.

The Permittee shall restore wetland and water resource areas disturbed by construction activities to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. The Permittee shall meet the USACE, DNR, and local units of government requirements.

#### **4.3.14 Native Prairie**

The Permittee shall not place the solar energy generating system or associated facilities in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and not located in areas enrolled in the Native Prairie Bank Program. The Permittee shall not impact native prairie during construction activities, as defined in Minn. Stat. § 216E.01, unless addressed in a prairie protection and management plan.

The Permittee shall prepare a prairie protection and management plan in consultation with the DNR if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the Project Boundary. The Permittee shall file the prairie protection and management plan with the Commission at least 30 days prior to submitting the site plan required by Section 8.3 of this permit. The prairie protection and management plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the DNR, and the Commission.

#### **4.3.15 Vegetation Removal**

The Permittee shall minimize the number of trees removed in selecting the site layout specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and other vegetation, to the extent that such actions do not violate sound engineering principles or interfere with the safe operation of the Project.

#### **4.3.16 Beneficial Habitat**

The Permittee shall implement site restoration and management practices that provide for native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators; and that enhances soil water retention and reduces storm water runoff and erosion. To ensure continued management and recognition of beneficial habitat, the Permittee is encouraged to meet the standards for Minnesota's Habitat Friendly Solar Program by submitting project plans, seed mixes, a completed project planning assessment form, and any other applicable documentation used to meet the standard to the Board of Water and Soil Resources (BWSR). If the Permittee chooses to participate in Minnesota's Habitat-Friendly Solar Program, it shall file documents required to be filed with BWSR for meeting and maintaining Habitat Friendly Solar Certification with the Commission.



#### **4.3.17 Vegetation Management Plan**

The Permittee shall develop a vegetation management plan (VMP), in coordination with the Department of Commerce, and the Vegetation Management Working Group (VMWG), using best management practices established by the DNR and BWSR. The Permittee shall file the VMP and documentation of the coordination efforts between the Permittee and the coordinating agencies with the Commission at least 14 days prior to the pre-construction meeting. Landowner-specific vegetation requests resulting from individual consultation between the Company and a landowner need not be included in the Vegetation Management Plan. The Permittee shall provide all landowners within the Project Boundary with copies of the VMP. The Permittee shall file with the Commission an affidavit of its distribution of the VMP to landowners at least 14 days prior to the pre-construction meeting.

The VMP must include the following:

- (a) management objectives addressing short term (year 0-5, seeding and establishment) and long term (year 5 through the life of the Project) goals;
- (b) a description of planned restoration and vegetation management activities, including how the site will be prepared, timing of activities, how seeding will occur (broadcast, drilling, etc.), and the types of seed mixes to be used;
- (c) a description of how the site will be monitored and evaluated to meet management goals;
- (d) a description of the management tools used to maintain vegetation (e.g., mowing, spot spraying, hand removal, fire, grazing, etc.), including the timing and frequency of maintenance activities;
- (e) identification of the third-party (e.g., consultant, contractor, site manager, etc.) contracted for restoration, monitoring, and long-term vegetation management of the site;
- (f) identification of on-site noxious weeds and invasive species (native and non-native) and the monitoring and management practices to be utilized; and
- (g) a marked-up copy of the site plan showing how the site will be revegetated and that identifies the corresponding seed mixes.

Best management practices should be followed concerning seed mixes, seeding rates, and cover crops.

#### **4.3.18 Agricultural Impact Mitigation Plan**

The Permittee shall develop an agricultural impact mitigation plan (AIMP) in coordination with the Minnesota Department of Agriculture (MDA). The Permittee shall provide landowners within the Project Boundary with a copy of the AIMP. The Permittee shall file with the Commission the AIMP and an affidavit of the AIMP distribution to landowners at least 14 days prior to the pre-construction meeting.

#### **4.3.19 Application of Pesticides**

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the MDA, DNR, and the U.S. Environmental Protection Agency (EPA). Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner at least 14 days prior to pesticide application on their property. The Permittee may not apply any pesticide if the landowner request that there be no application within the landowner's property. The Permittee shall provide notice of pesticide application to landowners and beekeepers operating apiaries within three miles of the Project Boundary at least 14 days prior to such application. The Permittee shall keep pesticide communication and application records and provide them upon the Commission's request.

#### **4.3.20 Invasive Species**

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission 14 days prior to the pre-construction meeting.

#### **4.3.21 Noxious Weeds**

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil, the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.22 Roads**

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city, or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the Project. The Permittee shall not haul oversize or overweight loads associated with the Project without required permits and approvals.

The Permittee shall locate all perimeter fencing and vegetative screening in a manner that does not interfere with routine road maintenance activities and allows for continued safe travel on public roads.

The Permittee shall construct the fewest number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.23 Archaeological and Historic Resources**

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the facility. If a resource is encountered, the Permittee shall consult with the State Historic Preservation Office (SHPO) and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with the SHPO and State Archaeologist requirements.

Prior to construction, the Permittee shall train workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. The Permittee shall not resume construction at such location until authorized by local law enforcement or the State Archaeologist. The Permittee shall keep records of compliance with

this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.24 Interference**

If interference with radio or television, satellite, wireless internet, GPS-based agriculture navigation systems or other communication devices is caused by the presence or operation of the project, the Permittee shall take whatever action is feasible to restore or provide reception equivalent to reception levels in the immediate area just prior to the construction of the project. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.25 Restoration**

The Permittee shall restore the areas affected by construction of the Project to the condition that existed immediately before construction began to the greatest extent possible. The time period to complete restoration may be no longer than 12 months after the completion of construction, unless otherwise negotiated with the affected landowner. Restoration shall be compatible with the safe operation, maintenance and inspection of the Project. Within 60 days after completion of all restoration activities, the Permittee shall notify the Commission in writing of the completion of such activities.

#### **4.3.26 Cleanup**

The Permittee shall remove and properly dispose of all construction waste and scrap from the site and all premises on which construction activities were conducted upon completion of each task. The Permittee shall remove and properly dispose of all personal litter, including bottles, cans, and paper from construction activities on a daily basis.

#### **4.3.27 Pollution and Hazardous Wastes**

All appropriate precautions to protect against pollution of the environment shall be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and operation of the facility.

#### **4.3.28 Damages**

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.29 Public Safety**

The Permittee shall provide educational materials to landowners within and adjacent to the Project Boundary and, upon request, to interested persons about the Project and any restrictions or dangers associated with the Project. The Permittee shall also implement any necessary safety measures such as placing warning signs and gates for traffic control or to restrict public access. The Permittee shall submit the location of all underground facilities, as defined in Minn. Stat. § 216D.01, subd. 11, to Gopher State One Call following the completion of the construction of the Project. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **4.3.30 Site Identification**

The Permittee shall mark the solar energy generating system with a clearly visible identification number and or street address.

#### **4.3.31 Security Fencing**

The Permittee shall design the security fence surrounding the solar energy generating system to minimize the visual impact of the Project while maintaining compliance with the National Electric Safety Code. The Permittee shall develop a final fence plan for the site that is consistent with DNR guidance for commercial solar facilities and is done in coordination with EERA and the DNR. The final fence plan shall be submitted to the Commission as part of the site plan pursuant to Section 8.3.

### **4.4 Feeder Lines**

The Permittee may use a hybrid electrical collection system of aboveground and belowground conductors to balance direct and indirect aesthetic impacts, electrical interference potential, bird collisions and electrocution, and soil impacts.

The Permittee may use overhead or underground feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid. The Permittee shall place overhead and underground feeder lines that parallel

public roads within the public right-of-way or on private land immediately adjacent to the road. The Permittee shall obtain approval from the landowner or government unit responsible for the affected right-of-way.

The Permittee shall locate feeder lines in such a manner as to minimize interference with agricultural operations including, but not limited, to existing drainage patterns, drain tile, future tiling plans, and ditches. The Permittee shall place safety shields on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines with the site plan pursuant to Section 8.3.

#### **4.5 Safety Codes and Design Requirements**

The Permittee shall design the solar energy generating system and associated facilities to meet or exceed all relevant local and state codes, Institute of Electrical and Electronics Engineers, Inc. standards, the National Electric Safety Code, and North American Electric Reliability Corporation requirements. The Permittee shall keep records of compliance with these standards and provide them upon the request of Department of Commerce or Commission staff.

#### **4.6 Other Permits and Regulations**

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. The Permittee shall submit a copy of such permits to the Commission upon request.

### **5 SPECIAL CONDITIONS**

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

#### **5.1 Karst Geography**

The Permittee shall file a geotechnical investigation report prepared for the Project construction area by a third-party geotechnical engineer or authorized representative. The report shall include methodology, results, and conclusions drawn from the geotechnical

investigation with recommendations on project design and construction. The Permittee shall file the geotechnical report with the Commission at least 14 days prior to the pre-construction meeting.

The permittee shall not locate project infrastructure within 150 feet of documented active karst features and avoid all construction activity within 150 feet of documented active karst features. Active karst is defined as areas underlain by carbonate bedrock with less than 50 feet of sediment cover.

## **5.2 Wildlife-Friendly Erosion Control**

The Permittee shall use only “bio-netting” or “natural netting” types and mulch products without synthetic (plastic) fiber additives.

## **5.3 Northern Long-Eared Bat**

For Project construction, the Permittee shall comply with the U.S. Fish and Wildlife Service guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.

## **5.4 Loggerhead Shrike**

The permittee shall avoid tree and shrub removal within suitable Loggerhead Shrike habitat during the April through July breeding season. If tree or shrub removal will occur during the breeding season, the permittee shall coordinate with DNR to identify potentially suitable habitat and ensure that a qualified surveyor inspects the trees/shrubs for active nests prior to removal.

## **5.5 Visual Screening Plan**

The Permittee shall develop a site-specific Visual Screening Plan. The Visual Screening Plan shall be designed and managed to mitigate visual impacts to adjacent residences and consider local government ordinances and setbacks.

At least 14 days prior to the pre-construction meeting the Permittee shall file:

- a) the Visual Screening Plan,
- b) documentation of coordination between landowners within 500 feet of the site boundary and Dodge County Office of Environmental Services, and

- c) an affidavit of its distribution of the Visual Screening Plan to landowners within 500 feet of the site boundary and Dodge County Environmental Services.

The Permittee shall work with landowners and use the Department of Commerce Guidance for Developing a Vegetation Establishment and Management Plan for Solar Facilities to develop the Visual Screening Plan. At minimum the Visual Screening plan shall include:

- a) management objectives for the screening of nearby residences;
- b) a description of planned restoration and vegetation management activities at the screening locations, including how the screening locations will be prepared, timing of activities, how planting will occur, the types of tree and shrub species to be used, plans for watering and other maintenance;
- c) a description of how the screening will be monitored and evaluated to meet management objectives; and
- d) a marked-up copy of the site plan showing the location of the tree and shrub species.

The Permittee shall file documentation of coordination between landowners within 500 feet of the site boundary and Dodge County Office of Environmental Services at least 14 days prior to the pre-construction meeting with its VMP submittal. The Permittee shall provide a copy of the Visual Screening Plan to all landowners within 500 feet of the site boundary and Dodge County Environmental Services and shall file with the Commission an affidavit of its distribution of the Visual Screening Plan to landowners within 500 feet of the site boundary and Dodge County Environmental Services at least 14 days prior to the pre-construction meeting with its VMP submittal. The location of trees and shrubs included in the Screening Plan shall be included in the Site Plan filed under Section 8.3.

#### **5.6 Snowmobile Trail**

The Permittee shall coordinate with local snowmobile trail association to reroute Snowmobile Trail 302. At least 14 days prior to the preconstruction meeting, the Permittee shall provide the Commission with documentation identifying efforts to reroute the snowmobile trail.

#### **5.7 Facility Lighting**

The Permittee must use shielded and downward facing lighting and LED lighting that minimizes blue hue at the project substation and operations and maintenance facility. Downward facing lighting must be clearly visible on the site plan submitted for the project.

#### **5.8 Dust Control**



The Permittee shall utilize non-chloride products for onsite dust control during construction.

## **6 DELAY IN CONSTRUCTION**

If the Permittee has not commenced construction or improvement of the site within four years after the date of issuance of this permit the Permittee shall file a report on the failure to construct and the Commission shall consider suspension of the permit in accordance with Minn. R. 7850.4700.

## **7 COMPLAINT PROCEDURES**

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

## **8 COMPLIANCE REQUIREMENTS**

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

### **8.1 Pre-Construction Meeting**

Prior to the start of any construction, the Permittee shall participate in a pre-construction meeting with the Department of Commerce and Commission staff to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. Within 14 days following the pre-construction meeting, the Permittee shall file a summary of the topics reviewed and discussed and a list of attendees with the Commission. The Permittee shall indicate in the filing the construction start date.

### **8.2 Pre-Operation Meeting**

At least 14 days prior to commercial operation of the Project, the Permittee shall participate in a pre-operation meeting with the Department of Commerce and Commission staff to coordinate field monitoring of operation activities for the Project. Within 14 days following the pre-operation meeting, the Permittee shall file a summary of the topics reviewed and discussed and a list of attendees with the Commission.

### **8.3 Site Plan**

At least 30 days prior to the pre-construction meeting, the Permittee shall file with the Commission, and provide the Department of Commerce, and the County(s) where the Project is located with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations the solar energy generating system and associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the Project Boundary, solar energy generating system and associated facilities layout in relation to that approved by this permit.

The Permittee may not commence construction until 30 days has expired or until the Commission has notified the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes to its site plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

### **8.4 Status Reports**

The Permittee shall file monthly status reports on progress regarding site construction with the Commission. Reports shall begin with the pre-construction meeting and continue until completion of restoration. Reports shall describe construction activities and progress, and activities undertaken in compliance with this permit. Reports shall include text and photographs.

If the Permittee does not commence construction of the Project within six months of the permit issuance, the Permittee shall file status reports on the anticipated timing of construction every six months beginning with the issuance of this permit until the pre-construction meeting. The status updates shall include information on the Project's Midcontinent Independent System Operator (MISO) interconnection process

## **8.5 Labor Statistic Reporting**

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the Project. The reports shall:

- (a) detail the Permittee’s efforts and the site contractor’s efforts to hire Minnesota workers; and
- (b) provide an account of:
  - (i) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. § 290.01, subd. 7;
  - (ii) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the Project; and
  - (iii) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

## **8.6 In-Service Date**

At least three days before the facility is to be placed into service, the Permittee shall notify the Commission of the date on which the facility will be placed into service and the date on which construction was completed.

## **8.7 As-Builts**

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

## **8.8 GPS Data**

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the solar energy generating system.

## **8.9 Project Energy Production**

The Permittee shall, by February 1st following each complete or partial year of project operation, file a report with the Commission on the monthly energy production of the facility including:

- (a) the installed nameplate capacity of the permitted facility;
- (b) the total daily energy generated by the facility in MW hours;
- (c) the total monthly energy generated by the facility in MW hours;
- (d) the monthly capacity factor of the facility;
- (e) yearly energy production and capacity factor for the facility;
- (f) the average monthly and average annual solar strength gradient measured in kWh/m<sup>2</sup>/Day observed at the facility;
- (g) the operational status of the facility and any major outages, major repairs, or performance improvements occurring in the previous year; and
- (h) any other information reasonably requested by the Commission.

This information shall be considered public and must be filed electronically.

#### **8.10 Emergency Response**

The Permittee shall prepare an Emergency Response Plan (ERP) in consultation with the emergency responders having jurisdiction over the Project prior to construction. The Permittee shall file the ERP, along with any comments from emergency responders, to the Commission at least 14 days prior to the pre-construction meeting and a revised ERP, if any, at least 14 days prior to the pre-operation meeting. At least 14 days prior to the pre-construction meeting the Permittee shall file with the Commission an affidavit of the distribution of the ERP to emergency responders and Public Safety Answering Points (PSAP) with jurisdiction over the Project. The Permittee shall obtain and register the Project address or other location indicators acceptable to the emergency responders and PSAP having jurisdiction over the Project.

#### **8.11 Extraordinary Events**

Within 24 hours of discovery of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to: fires, solar panel collapse, acts of sabotage, collector or feeder line failure, and injured worker or private person. The Permittee shall, within 30 days of the occurrence, file a report with the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

#### **8.12 Wildlife Injuries and Fatalities**

The Permittee shall report any wildlife injuries and fatalities to the Commission quarterly.

### **9 DECOMMISSIONING AND RESTORATION**

#### **9.1 Decommissioning Plan**

The Permittee shall comply with the provisions of the most recently filed and accepted decommissioning plan. The initial version of the decommissioning plan was submitted for this Project as Appendix H of the August 30, 2021, Site Permit Application. The Permittee shall file an updated decommissioning plan incorporating comments and information from the permit application process and any updates associated with the final construction plans, with the Commission at least fourteen 14 days prior to the pre-construction meeting. The Permittee shall update and file the decommissioning plan with the Commission every five years following the commercial operation date.

The decommissioning plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration. The decommissioning plan shall provide an itemized breakdown of costs of decommissioning all Project components, which shall include labor and equipment. The decommissioning plan shall identify cost estimates for the removal of solar panels, racks, underground collection cables, access roads, transformers, substations, and other Project components. The decommissioning plan may also include anticipated costs for the replacement of panels or repowering the Project by upgrading equipment.

The Permittee shall also submit the decommissioning plan to the local unit of government having direct zoning authority over the area in which the Project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the Project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

## **9.2 Site Final Restoration**

Upon expiration of this permit or upon termination of operation of the project, the Permittee shall have the obligation to dismantle and remove from the site all solar panels, mounting steel posts and beams, inverters, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment in accordance with the most recently filed and accepted decommissioning plan. To the extent feasible, the Permittee shall restore and reclaim the site to pre-project conditions. Landowners may require the site be returned to agricultural production or may retain restored prairie vegetation, or other land uses as agreed to between the landowner and the Permittee. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. All such agreements between the Permittee and the affected landowner shall be submitted to the Commission prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within 18 months of termination.

The Permittee shall restore the site in accordance with the requirements of this condition and file a notification of final restoration completion to the Commission within 18 months of termination of operation of the Project.

## **9.3 Abandoned Solar Installations**

The Permittee shall notify the Commission of any equipment that is abandoned prior to termination of operation of the Project. Equipment shall be considered abandoned after one year without energy production and the land restored pursuant to Section 9.2 unless a plan is submitted to and approved by the Commission outlining the steps and schedule for returning the equipment to service.

# **10 COMMISSION AUTHORITY AFTER PERMIT ISSUANCE**

## **10.1 Final Project Boundary**

After completion of construction the Commission shall determine the need to adjust the final Project Boundary required for the Project. This permit may be modified, after notice and opportunity for hearing, to represent the actual Project Boundary required by the Permittee to operate the Project authorized by this permit.

### **10.2 Expansion of Site Boundaries**

No expansion of the site boundary described in this permit shall be authorized without the approval of the Commission. The Permittee may submit to the Commission a request for a change in the boundary of the site for the project. The Commission will respond to the requested change in accordance with applicable statutes and rules.

### **10.3 Periodic Review**

The Commission shall initiate a review of this permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this permit. No modification may be made except in accordance with applicable statutes and rules.

### **10.4 Modification of Conditions**

After notice and opportunity for hearing this permit may be modified or amended for cause, including but not limited to the following:

- (a) violation of any condition in this permit;
- (b) endangerment of human health or the environment by operation of the project; or
- (c) existence of other grounds established by rule.

### **10.5 More Stringent Rules**

The issuance of this permit does not prevent the future adoption by the Commission of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

### **10.6 Right of Entry**

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- (c) To sample and monitor upon the facilities easement of the property.
- (d) To examine and copy any documents pertaining to compliance with the conditions of this Permit.

## **11 PERMIT AMENDMENT**

This permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

## **12 PERMIT TRANSFER**

The Permittee may request at any time that the Commission transfer this permit to another person or entity (transferee). In its request, the Permittee must provide the Commission with:

- (a) the name and description of the transferee;
- (b) the reasons for the transfer;
- (c) a description of the facilities affected; and
- (d) the proposed effective date of the transfer.

The transferee must provide the Commission with the name and contact information for the site manager, as described in Section 4.3.2, and either a current version with e-docket reference, or a revised version of the following:

- (a) VMP, as described in Section 4.3.17;
- (b) complaint procedures, as described in Section 7 and Attachment 1;
- (c) ERP, as described in Section 8.10; and
- (d) decommissioning plan, as described in Section 9.

## **13 REVOCATION OR SUSPENSION OF THE PERMIT**



The Commission may initiate action to revoke or suspend this permit at any time. The Commission shall act in accordance with the requirements of Minn. R. 7850.5100, to revoke or suspend the permit.

**14 EXPIRATION DATE**

This permit shall expire 30 years after the date this permit was approved and adopted.

PROPOSED SITE PERMIT

Proposed Permit

**ATTACHMENT 1**

Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

**B. Scope**

This document describes complaint reporting procedures and frequency.

**C. Applicability**

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

**D. Definitions**

**Complaint:** A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

**Substantial Complaint:** A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

**Unresolved Complaint:** A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

**Person:** An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

## **E. Complaint Documentation and Processing**

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all complaint submittals. The name and contact information for the representative shall be kept current in eDockets.
2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
  - a. name, address, phone number, and email address;
  - b. initial date of the complaint;
  - c. tract, parcel number, or address of the complaint;
  - d. a summary of the complaint; and
  - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - a. docket number and project name;
  - b. name of complainant, address, phone number and email address;
  - c. precise description of property or parcel number;
  - d. name of permittee representative receiving complaint and date of receipt;
  - e. nature of complaint and the applicable permit condition(s);
  - f. summary of activities undertaken to resolve the complaint; and
  - g. a statement on the final disposition of the complaint.

## **F. Reporting Requirements**

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

**Immediate Reports:** All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email

subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

**Monthly Reports:** During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of one year following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

#### **G. Complaints Received by the Commission**

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

#### **H. Commission Process for Unresolved Complaints**

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate persons if it determines that the

complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

**I. Permittee Contacts for Complaints and Complaint Reporting**

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or [publicadvisor.puc@state.mn.us](mailto:publicadvisor.puc@state.mn.us). The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

Proposed Permit

Permit Compliance Filings<sup>1</sup>

Permittee: Byron Solar, LLC

Permit Type: Solar Energy Generating System

Project Location: Dodge County

PUC Docket Number: IP-7041/GS-20-763

Due Date		Compliance Filing Description (Permit Section)	
<b>Pre-Construction</b>	w/in 30 days of permit issuance	①	distribution of permit and complaint procedures (4.1)
	as needed	⚠	delay in construction report (6) - if no construction w/in 4 years of permit issuance
		⚠	<i>if participating</i> habitat friendly solar certification documents (4.3.16)
	30 days prior to site plan submittal	⚠	<i>if required</i> prairie protection and management plan (4.3.14)
	every 6 months	⚠	Pre-Construction Status Reports (8.4), <i>if no construction w/in 6 months of permit issuance</i>
	30 days prior to pre-construction meeting	①	site plan (8.3) with final fence plan (4.3.31) collector and feeder line engineering drawings (4.4) downward facing lighting (5.7) ⚠ significant changes to site plan must be filed at least 5 days before implementation (8.3)
	14 days prior to pre-construction meeting	①	identify project owner (2.2) ⚠ submit changes
		①	identify field representative and affidavit of distribution (4.3.1) ⚠ submit changes
		①	3 <sup>rd</sup> party monitor scope of work and contact Info (4.3.4) ⚠ submit changes
		①	VMP and affidavit of distribution (4.3.17)
		①	AIMP and affidavit of distribution (4.3.18)
		①	invasive species prevention Plan (4.3.20)
		①	Visual Screening Plan, results of coordination and affidavit of distribution (5.5)
		①	snowmobile trail reroute efforts (5.6)
		①	ERP and affidavit of distribution (8.10)
①		updated decommissioning plan (9.1)	
①	geotechnical investigation report (5.1)		
14 days after pre-construction meeting	①	pre-construction meeting summary (8.1)	

<sup>1</sup> This compilation of permit compliance filings is provided for the convenience of the Permittee and the Commission. It is not a substitute for the permit; the language of the permit controls.


Due Date		Compliance Filing Description (Permit Section)	
Pre-Operation	as needed	▲	extraordinary events (8.11) notify w/in 24 hours and file report within 30 days
		▲	immediate complaint report (Attach 1) – report same day or next if substantial complaint received after business hrs
	monthly	🔄	status report (8.4) – beginning after pre-construction meeting
		🔄	complaint report (Attach 1) – by the 15 <sup>th</sup> of each month, reduced recordkeeping possible
	quarterly	🔄	labor statistic report (8.5) – w/in 45 days of quarter end
	14 days prior to pre-operation meeting	①	designate site manager and affidavit of distribution (4.3.2)
		▲	ERP and affidavit of distribution (8.10) – if revised from pre-construction meeting
	14 days after pre-operation meeting	①	pre-operation meeting summary (8.2)
at least 3 days before operation	①	notice of in-service date and construction completion (8.6)	

Due Date		Compliance Filing Description (Permit Section)	
Restoration	as needed	▲	extraordinary events (8.11) notify w/in 24 hours and file report within 30 days
		▲	immediate complaint report (Attach 1) – report same day or next if substantial complaint received after business hrs
	monthly	🔄	status report (8.4)
		🔄	complaint report (Attach 1) – by the 15 <sup>th</sup> of the month, reduced recordkeeping possible
	w/in 90 days of construction end	①	as-builts (8.7)
		①	GPS data (8.8)
	w/in 60 days of restoration completion	①	completion of restoration activities notification (4.3.25)

Due Date		Compliance Filing Description (Permit Section)	
Operation	as needed	▲	if participating, habitat friendly solar certification documents (4.3.16)
		▲	extraordinary events (8.11) notify w/in 24 hours and file report within 30 days
		▲	immediate complaint report (Attach 1) – report same day or next if substantial complaint received after business hrs
		▲	abandoned equipment notification (9.3)
	monthly	🔄	complaint report (Attach 1) – by the 15 <sup>th</sup> of each month reduced recordkeeping possible
	quarterly	🔄	wildlife injuries and fatalities (8.12)
annually	🔄	project energy production report (8.9) – by Feb 1	

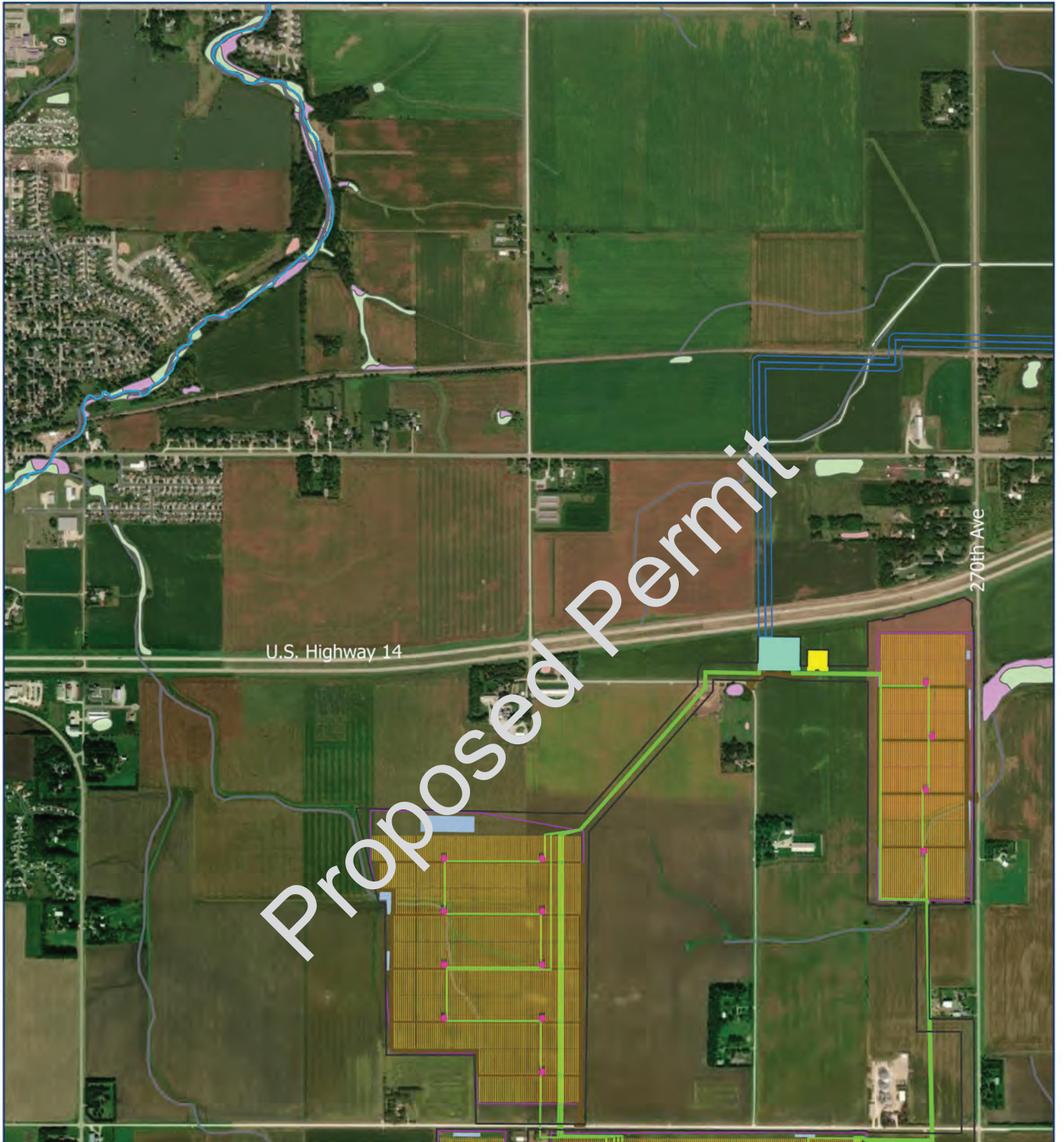
Key: 🔄 recurring submittal ① one-time submittal ▲ situation-dependent submittal



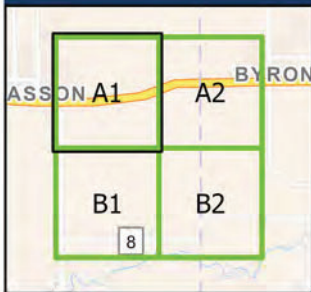
every 5 years		updated decommissioning plan (9.1)
w/in 18 months of permit termination	①	site restoration (9.2)

<b>Decommissioning &amp; Final Restoration</b>	①	final restoration agreements with landowners (9.2) – before beginning restoration
	①	notification of final restoration completion (9.2) – within 18 months of project termination

DRAFT



Byron Solar Project Detail Map A1

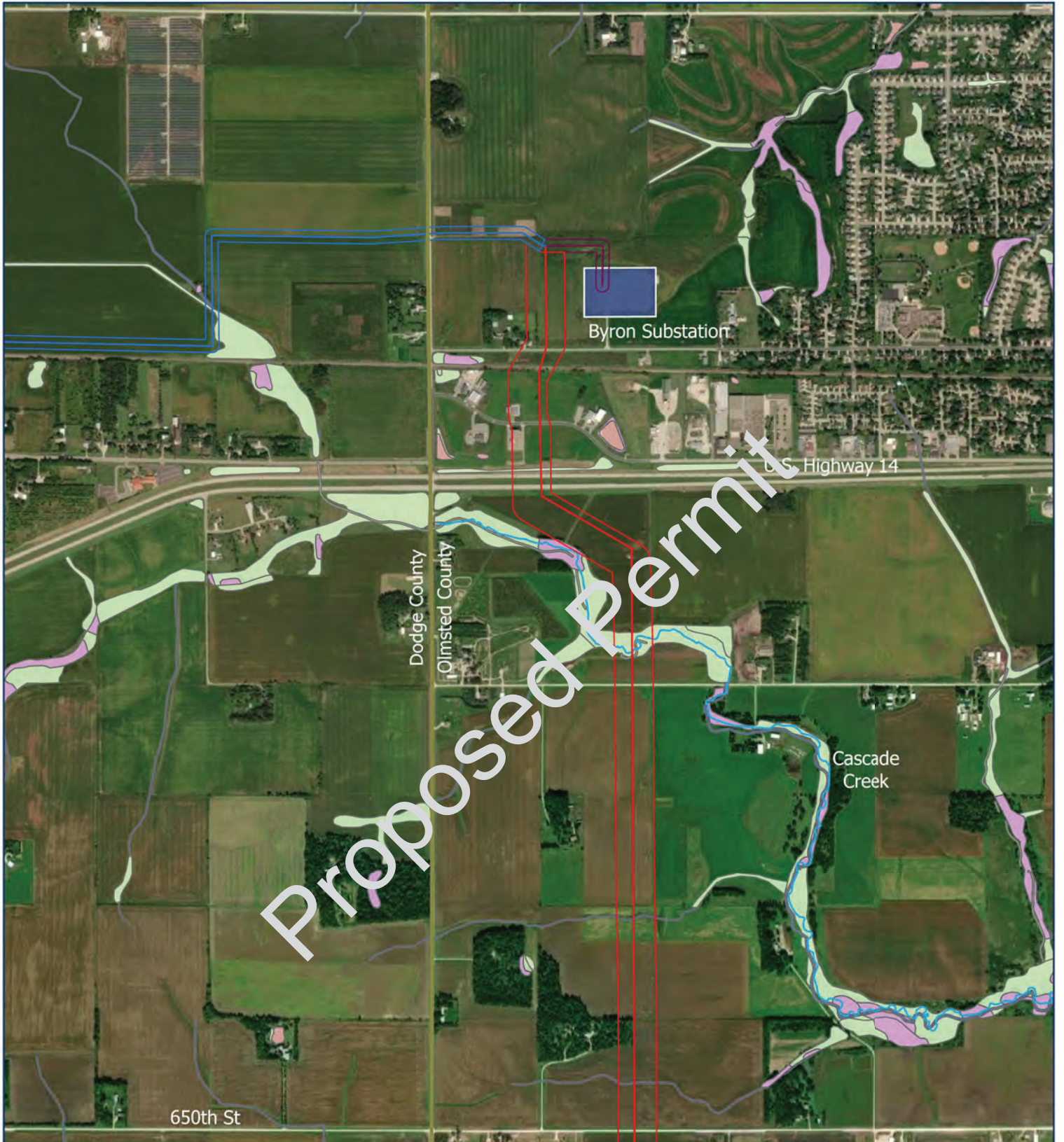


- |                         |                             |                                   |
|-------------------------|-----------------------------|-----------------------------------|
| Blue Route Width        | Proposed Project Substation | Freshwater Emergent Wetland       |
| Blue Centerline         | Collection                  | Freshwater Forested/Shrub Wetland |
| Solar Facility Boundary | Access Roads                | Freshwater Pond (wetland)         |
| Inverters               | O&M Building                | Riverine (wetland)                |
| Array Racks             | Fence                       |                                   |
| Stormwater Basins       | Watercourses                |                                   |

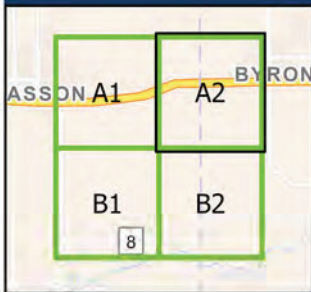
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**mi** COMMERCE DEPARTMENT



Byron Solar Project Detail Map A2



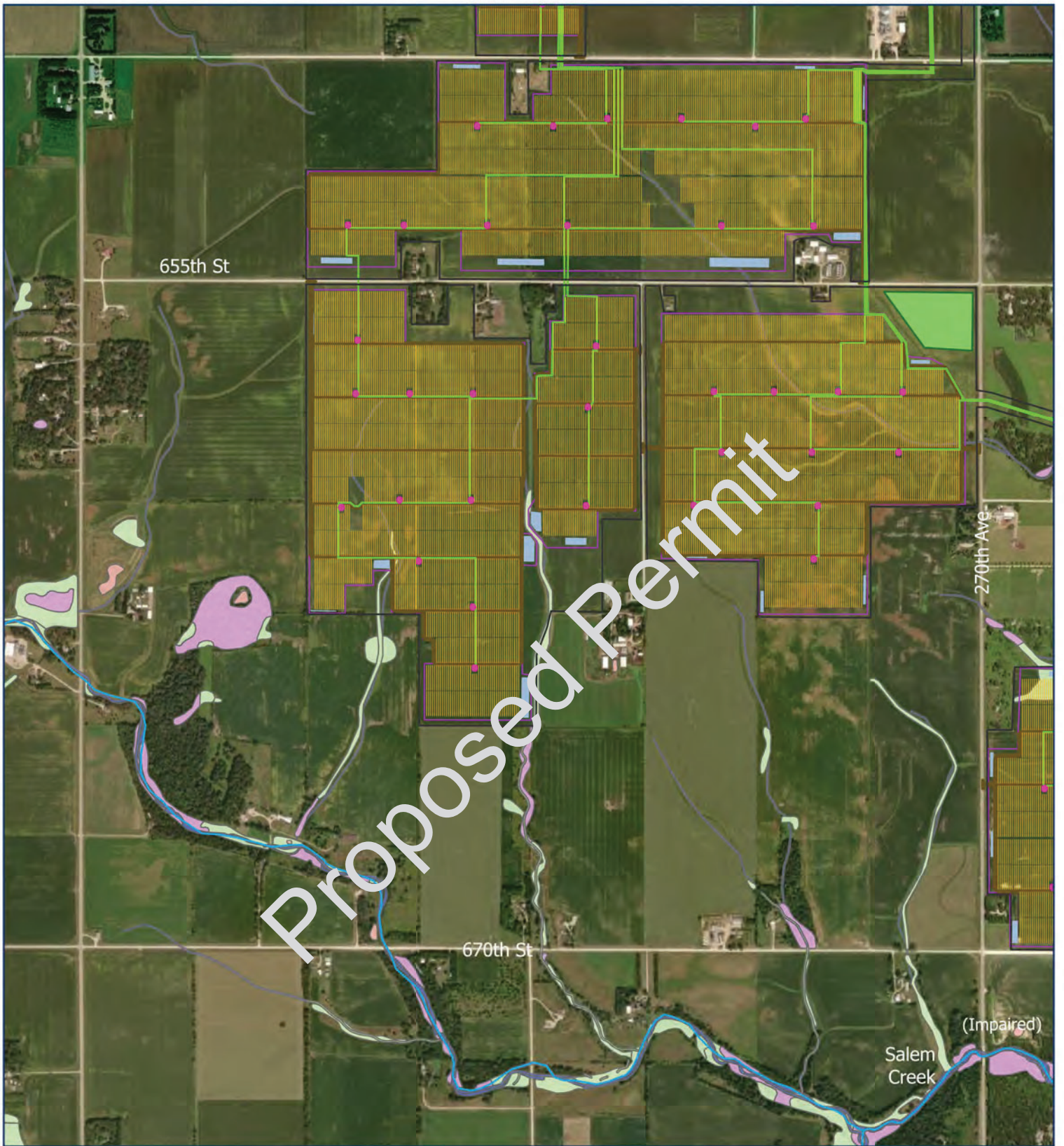
- Blue Route Width
- Blue Centerline
- Red Route Width
- Red Centerline
- Shared Route Width
- Shared Centerline
- Byron Substation
- Watercourses
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond (wetland)
- Riverine (wetland)

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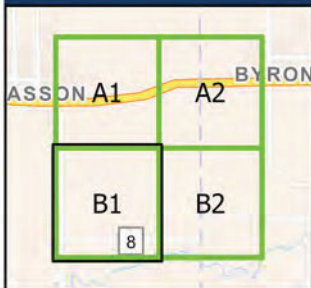
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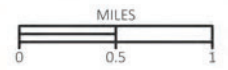
**mi** COMMERCE DEPARTMENT

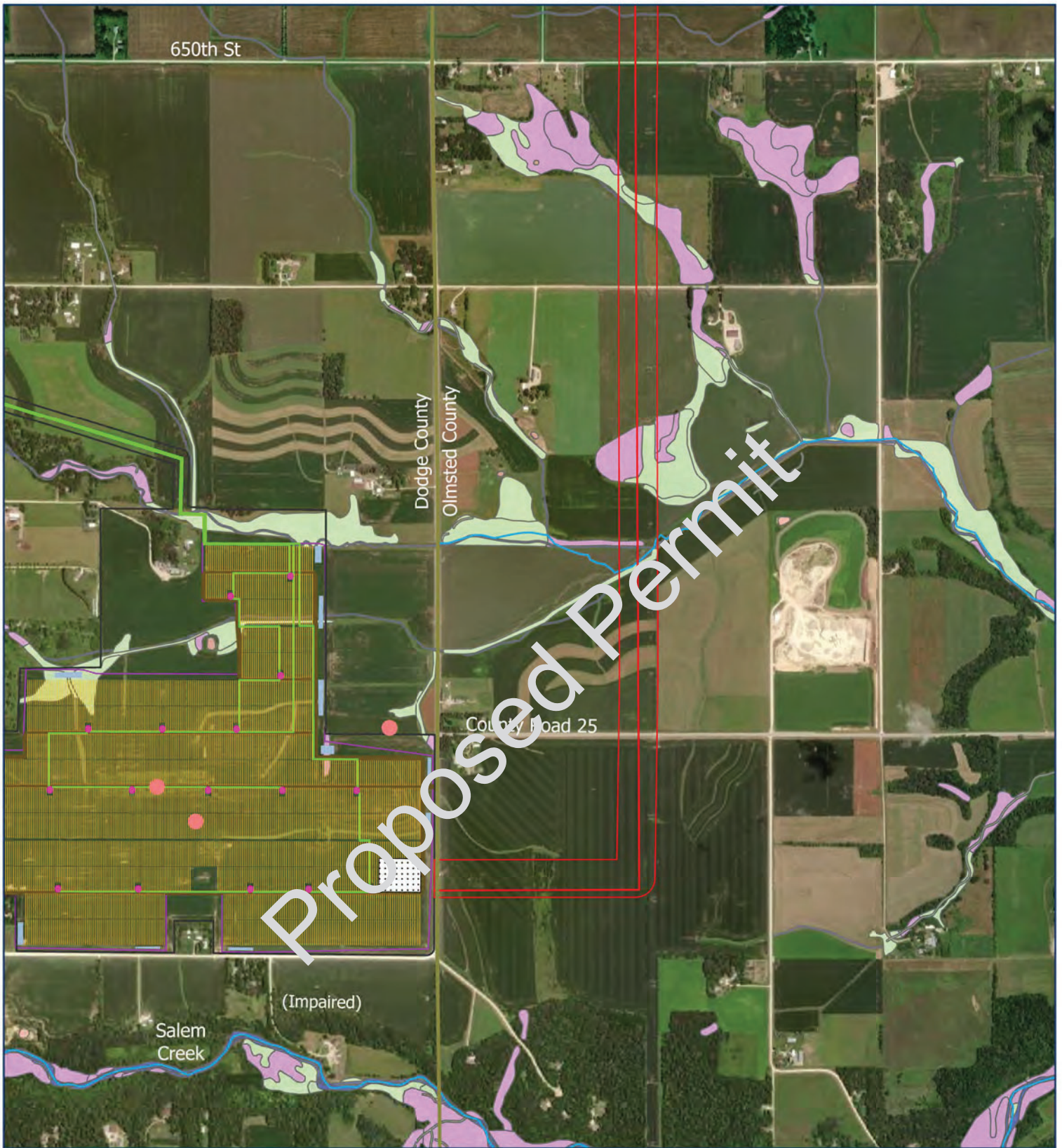


Byron Solar Project Detail Map B1

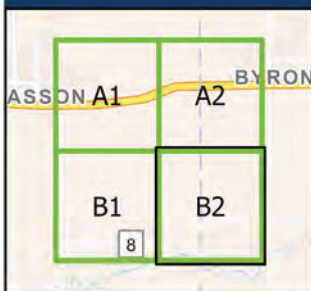


- |                         |                             |                                    |
|-------------------------|-----------------------------|------------------------------------|
| Solar Facility Boundary | Access Roads                | Freshwater Forested/ Shrub Wetland |
| Inverters               | Fence                       | Freshwater Pond (wetland)          |
| Array Racks             | Watercourses                | Riverine (wetland)                 |
| Stormwater Basins       | Freshwater Emergent Wetland |                                    |
| Collection              | Laydown Yard                |                                    |





Byron Solar Project Detail Map B2



- |                                  |                               |                                      |
|----------------------------------|-------------------------------|--------------------------------------|
| ● Sinkholes                      | ■ Stormwater Basins           | ■ Freshwater Forested/ Shrub Wetland |
| □ Red Route Width                | ■ Collection                  | ■ Freshwater Pond (wetland)          |
| — Red Centerline                 | ■ Access Roads                | ■ Riverine (wetland)                 |
| ■ Alternative Project Substation | ■ Fence                       |                                      |
| ■ Solar Facility Boundary        | ■ Watercourses                |                                      |
| ■ Inverters                      | ■ Freshwater Emergent Wetland |                                      |
| ■ Array Racks                    |                               |                                      |



**STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION**

**ROUTE PERMIT FOR A  
HIGH-VOLTAGE TRANSMISSION LINE AND ASSOCIATED FACILITIES**

**IN  
DODGE AND OLSTED COUNTIES**

**ISSUED TO  
BYRON SOLAR, LLC**

**PUC DOCKET NO. IP7041/TL-20-765**

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850 this route permit is hereby issued to:

**BYRON SOLAR, LLC**

Byron Solar, LLC is authorized by this route permit to construct and operate approximately three miles of new overhead 345 kilovolt (kV) transmission line, which will connect the proposed Byron Solar, LLC Substation to the existing Southern Minnesota Municipal Power Agency Substation in Section 35 of Mantorville Township in Dodge County

The high-voltage transmission line and associated facilities shall be built within the route identified in this permit and as portrayed on the route maps and in compliance with the conditions specified in this permit.

Approved and adopted this \_\_\_\_ day of [Month, Year]

BY ORDER OF THE COMMISSION

---

Will Seuffert,  
Executive Secretary

To request this document in another format such as large print or audio, call 651-296-0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) for assistance.

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**ATTACHMENTS**

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedure for Permitted Energy Facilities

Attachment 3 – Route Permit Maps



# 1 ROUTE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to Byron Solar, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes Byron Solar, LLC to construct and operate an approximately 3-mile 345 kV high-voltage transmission line, which will connect the proposed Byron Solar, LLC Substation to Southern Minnesota Municipal Power’s Agency’s (SMMPA’s) existing Byron Substation located just west of the City of Byron, Minnesota, and as identified on the attached Route Maps, hereby incorporated into this document as Attachment 3.

## 1.1 Pre-emption

Pursuant to Minn. Stat. § 216E.10, this permit shall be the sole route approval required to be obtained by the Permittee for construction of the transmission facilities and this permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose governments.

# 2 PROJECT DESCRIPTION

The project consists of approximately three miles of 345 kV transmission line between the proposed Byron Solar, LLC Substation on a parcel in SE1/4 SE1/4 of Section 35, Township 106N, Range 16W in Mantorville Township and the existing SMMPA Byron Substation in Dodge County and Section 31 of Kalmar Township in Olmsted County.

## 2.1 Project Location

The project is located in the following:

County	Township Name	Township	Range	Section(s)
Dodge	Mantorville	107N	16W	25. 35, 36
Olmsted	Kalmar	107N	15W	31

## 2.2 Substations and Associated Facilities

The Byron Solar, LLC Substation will contain two medium power transformers located near the center of the Byron Solar, LLC substation that will step-up the power generated from the Solar Facilities from 34.5 kV to 345 kV. From the Byron Solar, LLC Substation the transmission line will carry power to the Byron Substation located immediately adjacent to the eastern end of the transmission line where it will connect to the energy grid.

### 2.3 Structures

The 345-kV transmission line will consist of single circuit, weathering steel monopole structures spaced approximately 230 to 975 feet apart. Transmission structures will typically range in height from 90 to 170 feet above ground depending upon the terrain and environmental constraints (such as stream crossings and required angle structures).

### 2.4 Conductors

The single-circuit structures will have three single-conductor phase wires and additional shield/communication wires. The phase wires will have a diameter of approximately 795 kcmil and will be composed of several wire strands of different metals. Permittee will use a single 48 fiber optical ground wire and an additional 3/8" EHS 7-strand steel overhead ground wire for additional shielding.

The table below details specifics on the various structure and conductor types as presented in the route permit application.

Line Type	Conductor	Structure		Foundation	Height (Feet)	Span (Feet)
		Type	Material			
345 kV Single Circuit	795 kcmil ACSR	Monopole	Weathered Steel	Direct Embed and Drilled Piers	90 - 170	230-975

## 3 DESIGNATED ROUTE

The route designated by the Commission in this permit is the route described below and shown on the Route Maps in Attachment 3 of this permit. The route is generally described as follows:

The route begins at the project substation located in Section 36 of Mantorville Township, just south of U.S. Highway 14 near 640th St and 265th Ave. From the project substation the route travels north crossing U.S. Highway 14 and then through agricultural fields for about 0.6 miles, crosses County Road 34 and then turns east for approximately one mile along a railroad, turning north along a section line for approximately 0.25 miles, before turning east for approximately one mile.

The final alignment must be located within this designated route. The identified route widths on the attached route maps provide the Permittee with flexibility for minor adjustments of the alignment or right-of-way to accommodate landowner requests and unforeseen conditions. The final alignment (i.e., permanent and maintained rights-of-way) will be located within this designated route unless otherwise authorized by this permit or the Commission.

#### **4 RIGHT-OF-WAY**

This Permit authorizes the Permittee to obtain a new permanent right-of-way for the transmission line up to 150 feet in width. The permanent right-of-way is typically 75 feet on both sides of the transmission line measured from its centerline.

The Project's anticipated alignment is intended to minimize potential impacts relative to criteria identified in Minn. R. 7850.4100. The actual right-of-way will generally conform to the anticipated alignment identified on the Route Maps, unless changes are requested by individual landowners and agreed to by the Permittee or for unforeseen conditions that are encountered or as otherwise provided for by this permit.

Any right-of-way modifications within the designated route shall be located to have comparable overall impacts relative to the factors in Minn. R. 7850.4100, as does the right-of-way identified in this permit, and shall be specifically identified and documented in and approved as part of the plan and profile submitted pursuant to Section 9.1 of this permit.

Where the transmission line parallels existing highway and other road rights-of-way, the transmission line right-of-way shall occupy and utilize the existing right-of-way to the maximum extent possible; consistent with the criteria in Minn. R. 7850.4100 and the other requirements of this permit; and for highways under the jurisdiction of the Minnesota Department of Transportation, the procedures for accommodating utilities in trunk highway rights-of-way.

##### **4.1 Route Width Variations**

Route width variations may be allowed to accommodate the potential site-specific constraints listed below. These constraints may arise from any of the following:

1. Unforeseen circumstances encountered during the detailed engineering and design process.
2. Federal or state agency requirements.

3. Existing infrastructure within the route, including but not limited to railroads, natural gas and liquid pipelines, high voltage electric transmission lines, or sewer and water lines.

Any alignment modifications arising from these site-specific constraints that would result in right-of-way placement outside of the designated route shall be specifically reviewed by the Commission under Minn. R. 7850.4900.

## **5 GENERAL CONDITIONS**

The Permittee shall comply with the following conditions during construction and operation of the transmission line and associated facilities over the life of this permit.

### **5.1 Permit Distribution**

Within 30 days of permit issuance, the Permittee shall send a copy of the permit and the complaint procedures to any regional development commission, county auditor and environmental office, and city and township clerk in which any part of the site is located.

Within 30 days of permit issuance, the Permittee shall provide all affected landowners with a copy of this permit and the complaint procedures. In no case shall the landowner receive this route permit and complaint procedures less than five days prior to the start of construction on their property. An affected landowner is any landowner that is within or adjacent to the permitted route.

At the time of first contact, the Permittee shall also provide all affected landowners with a copy of the Department of Commerce's Rights-of-Way and Easements for Energy Facility Construction and Operation Fact Sheet.

Within 30 days of permit issuance, the Permittee shall file with the Commission an affidavit of its distribution of this permit, complaint procedures and fact sheet.

### **5.2 Access to Property**

The Permittee shall contact the landowner prior to entering or conducting maintenance within the landowner's property, unless otherwise negotiated with the landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

### **5.3 Construction and Operation Practices**

The Permittee shall follow those specific construction practices and material specifications described in Byron Solar, LLC's Application to the Commission for a route permit for the Byron Solar Project, dated August 30, 2021, and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

#### **5.3.1 Field Representative**

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this permit during construction of the project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative 14 days prior to commencing construction. The Permittee shall provide the field representative's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commencing construction. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, residents, local government units and other interested persons. The Permittee shall file an affidavit of distribution of its field representative's contact information with the Commission at least 14 days prior to commencing construction and upon changes to the field representative.

#### **5.3.2 Employee Training and Education of Permit Terms and Conditions**

The Permittee shall inform and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the transmission line of the terms and conditions of this permit. The Permittee shall keep records of compliance with this section and provide them upon request of Department of Commerce or Commission staff.

#### **5.3.3 Public Services, Public Utilities, and Existing Easements**

During construction, the Permittee shall minimize any disruption to public services or public utilities. To the extent disruptions to public services or public utilities occur these will be temporary, and the Permittee will restore service promptly. Where any impacts to utilities have

the potential to occur the Permittee will work with both landowners and local agencies to determine the most appropriate transmission structure placement.

The Permittee shall consult with landowners, townships, cities, and counties along the route and consider concerns regarding tree clearing, distance from existing structures, drain tiles, pole depth and placement in relationship to existing roads and road expansion plans.

The Permittee shall cooperate with county and city road authorities to develop appropriate signage and traffic management during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce of Commission staff.

#### **5.3.4 Temporary Work Space**

The Permittee shall limit temporary easements to special construction access needs and additional staging or lay-down areas required outside of the authorized right-of-way. Temporary space shall be selected to limit the removal and impacts to vegetation. Temporary easements outside of the authorized transmission line right-of-way will be obtained from affected landowners through rental agreements and are not provided for in this permit.

Temporary driveways may be constructed between the roadway and the structures to minimize impact using the shortest route possible. Construction mats should be used to minimize impacts on access paths and construction areas.

#### **5.3.5 Noise**

The Permittee shall comply with noise standards established under Minn. R. 7030.0010 to 7030.0080 at all times and at all appropriate locations during operation of the Project. Construction and maintenance activities shall be limited to daytime working hours to the extent practicable.

#### **5.3.6 Aesthetics**

The Permittee shall consider input pertaining to visual impacts from landowners' local units of government having direct zoning authority over the area in which the Project is located prior to final location of structures, rights-of-way, and other areas with the potential for visual disturbance. Care shall be used to preserve the natural landscape, minimize tree removal and prevent any unnecessary destruction of the natural surroundings in the vicinity of the project

during construction and maintenance. The Permittee shall work with landowners to locate the high-voltage transmission line to minimize the loss of agricultural land, forest, and wetlands, and to avoid homes and farmsteads. Structures shall be placed at a distance, consistent with sound engineering principles and system reliability criteria, from intersecting roads, highways, or trail crossings.

#### **5.3.7 Soil Erosion and Sediment Control**

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency Construction Stormwater Program. If construction of the Project disturbs more than one acre of land, or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the facilities shall be returned to pre-construction conditions.

#### **5.3.8 Wetlands and Water Resources**

The Permittee shall implement wetland impact avoidance measures during design and construction of the transmission line will include spacing and placing the power poles at variable distances to span and avoid wetlands, watercourses, and floodplains. Unavoidable wetland impacts because of the placement of poles shall be limited to the immediate area around the poles. To minimize impacts, construction in wetland areas shall occur during frozen ground conditions where practicable and shall be according to permit requirements by the applicable permitting authority. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and not placed back into the wetland or riparian area. Wetlands and riparian areas shall be accessed using the shortest route possible to minimize travel through wetland areas and prevent unnecessary impacts. No staging or stringing set up

areas shall be placed within or adjacent to wetlands or water resources, as practicable. Power pole structures shall be assembled on upland areas before they are brought to the site for installation.

The Permittee shall restore wetland and water resource areas disturbed by construction activities to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. The Permittee shall meet all requirements of the U.S. Army Corps of Engineers, Minnesota Department of Natural Resources, and local units of government.

### **5.3.9 Vegetation Management**

The Permittee shall minimize the number of trees to be removed in selecting the right-of-way specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and vegetation in areas such as trail and stream crossings where vegetative screening may minimize aesthetic impacts, to the extent that such actions do not violate sound engineering principles or system reliability criteria.

Tall growing species located within the transmission line right-of-way that endanger the safe and reliable operation of the transmission facility will be removed by the Permittee. The Permittee shall leave undisturbed, to the extent possible, existing low growing species in the right-of-way or replant such species in the right-of-way to blend the difference between the right-of-way and adjacent areas, to the extent that the low growing vegetation that will not pose a threat to the transmission facility or impede construction.

### **5.3.10 Application of Pesticides**

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture, Minnesota Department of Natural Resources, and the U.S. Environmental Protection Agency. Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner or designee to obtain approval for the use of pesticide at least 14 days prior to any application on their property. The landowner may request that there be no application of pesticides on any part of the site within the landowner's property. The Permittee shall provide notice of pesticide application to affected landowners and known beekeepers operating apiaries within three miles of the project site at least 14 days



prior to such application. The Permittee shall keep pesticide communication and application records and provide them upon the request of Department of Commerce or Commission staff.

#### **5.3.11 Invasive Species**

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by Project construction activities and file with the Commission at least 14 days prior to the plan and profile required under Section 9.1 of this Permit.

#### **5.3.12 Noxious Weeds**

The Permittee shall take all reasonable precautions against the spread of noxious weeds during all phases of construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **5.3.13 Roads**

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the Project. Oversize or overweight loads associated with the facility shall not be hauled across public roads without required permits and approvals.

The Permittee shall construct the fewest number of site access roads required. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

#### **5.3.14 Archaeological and Historic Resources**

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the transmission facility. If a resource is encountered, the Permittee shall contact and consult with the State Historic Preservation Office and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize project impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.

Prior to construction, workers shall be trained about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist. Construction at such location shall not proceed until authorized by local law enforcement or the State Archaeologist. The Permittee shall not resume construction at such location until authorized by local law enforcement or the State Archeologist. The Permittee shall keep records of compliance with this section and provide them upon the request of the Department of Commerce or Commission staff.

#### **5.3.15 Avian Protection**

The Permittee in cooperation with the Minnesota Department of Natural Resources shall identify areas of the project where bird flight diverters will be incorporated into the transmission line design to prevent large avian collisions attributed to visibility issues. Standard transmission design shall incorporate adequate spacing of conductors and grounding devices in accordance with Avian Power Line Interaction Committee standards to eliminate the risk of electrocution to raptors with larger wingspans that may simultaneously come in contact with a conductor and grounding devices.

#### **5.3.16 Restoration**

The Permittee shall restore the right-of-way, temporary workspaces, access roads, abandoned right-of-way, and other public or private lands affected by construction of the transmission line. Restoration within the right-of-way must be compatible with the safe operation, maintenance, and inspection of the transmission line. Within 60 days after completion of all restoration activities, the Permittee shall advise the Commission in writing of the completion of such activities.

### **5.3.17 Cleanup**

The Permittee shall remove and properly dispose of all waste and scrap from the right-of-way and all premises on which construction activities were conducted and properly disposed of upon completion of each task. The Permittee shall remove all personal litter, including bottles, cans, and paper from construction activities daily.

### **5.3.18 Pollution and Hazardous Wastes**

All appropriate precautions to protect against pollution of the environment must be taken by the Permittee. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all wastes generated during construction and restoration of the right-of-way.

### **5.3.19 Damages**

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

## **5.4 Electrical Performance Standards**

### **5.4.1 Grounding**

The Permittee shall design, construct, and operate the transmission line in a manner so that the maximum induced steady-state short-circuit current shall be limited to five milliamperes root mean square (rms) alternating current between the ground and any non-stationary object within the right-of-way, including but not limited to large motor vehicles and agricultural equipment. All fixed metallic objects on or off the right-of-way, except electric fences that parallel or cross the right-of-way, shall be grounded to the extent necessary to limit the induced short-circuit current between ground and the object so as not to exceed one milliamperes rms under steady state conditions of the transmission line and to comply with the ground fault conditions specified in the National Electric Safety Code (NESC). The Permittee shall address and rectify any induced current problems that arise during transmission line operation.

### **5.4.2 Electric Field**

The transmission line shall be designed, constructed, and operated in such a manner that the electric field measured one meter above ground level immediately below the transmission line shall not exceed 8.0 kV/m rms.

#### **5.4.3 Interference with Communication Devices**

If interference with radio or television, satellite, wireless internet, GPS-based agriculture navigation systems or other communication devices is caused by the presence or operation of the transmission line, the Permittee shall take whatever action is necessary to restore or provide reception equivalent to reception levels in the immediate area just prior to the construction of the line. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

### **5.5 Other Requirements**

#### **5.5.1 Safety Codes and Design Requirements**

The transmission line and associated facilities shall be designed to meet or exceed all relevant local and state codes, the NESC, and North American Electric Reliability Corporation (NERC) requirements. This includes standards relating to clearances to ground, clearance to crossing utilities, clearance to buildings, strength of materials, clearances over roadways, right-of-way widths, and permit requirements. The transmission line shall be equipped with protective devices to safeguard the public if an accident occurs.

#### **5.5.2 Other Permits and Regulations**

The Permittee shall comply with all applicable state rules and statutes. The Permittee shall obtain all required permits for the project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations. A list of the permits known to be required is included in the permit application. The Permittee shall submit a copy of such permits upon request of Department of Commerce or Commission staff.

## **6 SPECIAL CONDITIONS**

Special conditions shall take precedence over other conditions of this permit should there be a conflict.

### **6.1 Vegetation Management Plan**

The Permittee shall develop a vegetation management plan (VMP), in coordination with the Department of Commerce, and the Vegetation Management Working Group (VMWG), using best management practices established by the DNR and BWSR. The Permittee shall file the VMP and documentation of the coordination efforts between the Permittee and the VMWG with the Commission at least 14 days prior to the plan and profile required under Section 9.1 of this permit. Landowner-specific vegetation requests resulting from individual consultation between the Company and a landowner need not be included in the Vegetation Management Plan. The Permittee shall provide all landowners along the route with copies of the VMP. The Permittee shall file an affidavit of its distribution of the VMP to landowners with the Commission at least 14 days prior to the plan and profile.

The VMP must recognize landowner preferences and include the following:

- (a) short term and long-term management objectives;
- (b) a description of planned restoration and vegetation activities, including how the route will be prepared, timing of activities, and how seeding will occur (broadcast, drilling, etc.), and the types of seed mixes to be used;
- (c) a description of how the route will be monitored and evaluated to meet management objectives;
- (d) a description of management tools used to maintain vegetation (e.g., mowing, spot spraying, hand removal, etc.), including timing/frequency of maintenance activity;
- (e) identification, monitoring and management plan for noxious weeds and invasive species (native and non-native) on route; and
- (f) a plan showing how the route will be revegetated and corresponding seed mixes. Seed mixes, seeding rates, and cover crops should follow best management practices.

### **6.2 Independent Third-Party Monitor**

Prior to any construction, the Permittee shall propose a scope of work and identify one independent third party monitor on behalf of the Department of Commerce. The scope of work shall be developed in consultation with and approved by the Department of Commerce. This third-party monitor will report directly to and will be under the control of the Department of Commerce with costs borne by the Permittee. The Permittee shall file the scope of work, and the name, address, email, phone number, and emergency phone number of the third-party monitor with the Commission at least 14 days prior to the plan and profile required under Section 9.1 of this permit, and upon changes to the scope of work or third-party monitor contact information.

### **6.3 Karst Geology**

The Permittee shall file a geotechnical investigation report prepared for the Project construction area by a third-party geotechnical engineer or authorized representative. The report shall include methodology, results, and conclusions drawn from the geotechnical investigation with recommendations on project design and construction. The Permittee shall file the geotechnical report with the Commission at least 14 days prior to the plan and profile required under Section 9.1 of this permit.

The Permittee shall not locate project infrastructure within 150 feet of documented active karst features and avoid all construction activity within 150 feet of documented active karst features. Active karst is defined as areas underlain by carbonate bedrock with less than 50 feet of sediment cover.

#### **6.4 Wildlife-Friendly Erosion Control**

The Permittee shall use only “bio-netting” or “natural netting” types and mulch products without synthetic (plastic) fiber additives.

#### **6.5 Northern Long-Eared Bat (NLEB)**

For Project construction, Permittees shall comply with the U.S. Fish and Wildlife Service guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.

#### **6.6 Loggerhead Shrike**

The Permittee shall avoid tree and shrub removal within suitable Loggerhead Shrike habitat during the April through July breeding season. If tree or shrub removal will occur during the breeding season, the Permittee shall coordinate with DNR to identify potentially suitable habitat and ensure that a qualified surveyor inspects the trees/shrubs for active nests prior to removal.

### **7 DELAY IN CONSTRUCTION**

If the Permittee has not commenced construction or improvement of the route within four years after the date of issuance of this permit the Permittee shall file a report on the failure to construct and the Commission shall consider suspension of the permit in accordance with Minn. R. 7850.4700.

### **8 COMPLAINT PROCEDURES**

Prior to the start of construction, the Permittee shall submit to the Commission the procedures that will be used to receive and respond to complaints. The procedures shall be in accordance

with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this permit.

Upon request, the Permittee shall assist the Commission with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

## **9 COMPLIANCE REQUIREMENTS**

Failure to timely and properly make compliance filings required by this permit is a failure to comply with the conditions of this permit. Compliance filings must be electronically filed with the Commission.

### **9.1 Plan and Profile**

At least 30 days before right-of-way preparation for construction begins on any segment or portion of the project, the Permittee shall provide the Commission with a plan and profile of the right-of-way and the specifications and drawings for right-of-way preparation, construction, structure specifications and locations, cleanup, and restoration for the transmission line. The documentation shall include maps depicting the plan and profile including the right-of-way, alignment, and structures in relation to the route and alignment approved per this permit.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the Permittee intends to make any significant changes in its plan and profile or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

### **9.2 Status Reports**

The Permittee shall file with the Commission monthly status reports on progress regarding finalization of the route, design of structures, and construction of the transmission line. Reports shall begin with the submittal of the plan and profile for the Project and continue until completion of restoration. Reports shall describe construction activities and progress and activities undertaken in compliance with this permit. Reports shall include text and photographs.

### **9.3 Notification to Commission**

At least three days before the line is to be placed into service, the Permittee shall notify the Commission of the date on which the line will be placed into service and the date on which construction was complete.

### **9.4 As-Builts**

Within 90 days after completion of construction, the Permittee shall submit copies of all final as-built plans and specifications developed during the project.

### **9.5 GPS Data**

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (e.g., ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the transmission line and each substation connected.

### **9.6 Right of Entry**

The Permittee shall allow Commission designated representatives to perform the following, upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards.

- a. To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- b. To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- c. To sample and monitor upon the facilities easement of the property.
- d. To examine and copy any documents pertaining to compliance with the conditions of this permit.

## **10 PERMIT AMENDMENT**



This permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required.

#### **11 TRANSFER OF PERMIT**

The Permittee may request at any time that the Commission transfer this permit to another person or entity (transferee). In its request, the Permittee must provide the Commission with:

- a. the name and description of the transferee;
- b. the reasons for the transfer;
- c. a description of the facilities affected; and
- d. the proposed effective date of the transfer.

The transferee must provide the Commission with a certification that it has read, understands and is able to comply with the plans and procedures it filed, and all conditions of the permit.

#### **12 REVOCATION OR SUSPENSION OF THE PERMIT**

The Commission may initiate action to revoke or suspend this permit at any time. The Commission shall act in accordance with the requirements of Minn. R. 7850.5100, to revoke or suspend the permit.

Proposed Permit

**ATTACHMENT 1**

Complaint Handling Procedures for Permitted Energy Facilities

**MINNESOTA PUBLIC UTILITIES COMMISSION  
COMPLAINT HANDLING PROCEDURES FOR  
PERMITTED ENERGY FACILITIES**

**A. Purpose**

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

**B. Scope**

This document describes complaint reporting procedures and frequency.

**C. Applicability**

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

**D. Definitions**

**Complaint:** A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

**Substantial Complaint:** A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

**Unresolved Complaint:** A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

**Person:** An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

## **E. Complaint Documentation and Processing**

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all complaint submittals. The name and contact information for the representative shall be kept current in eDockets.
2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
  - a. name, address, phone number, and email address;
  - b. initial date of the complaint;
  - c. tract, parcel number, or address of the complaint;
  - d. a summary of the complaint; and
  - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
  - a. docket number and project name;
  - b. name of complainant, address, phone number and email address;
  - c. precise description of property or parcel number;
  - d. name of permittee representative receiving complaint and date of receipt;
  - e. nature of complaint and the applicable permit condition(s);
  - f. summary of activities undertaken to resolve the complaint; and
  - g. a statement on the final disposition of the complaint.

## **F. Reporting Requirements**

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

**Immediate Reports:** All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email

subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

**Monthly Reports:** During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of one year following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

#### **G. Complaints Received by the Commission**

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

#### **H. Commission Process for Unresolved Complaints**

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate persons if it determines that the

complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

**I. Permittee Contacts for Complaints and Complaint Reporting**

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or [publicadvisor.puc@state.mn.us](mailto:publicadvisor.puc@state.mn.us). The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

Proposed Permit

Permit Compliance Filings<sup>1</sup>

Permittee: Byron Solar, LLC

Permit Type: High-Voltage Transmission Line and Associated Facilities

Project Location: Dodge and Olmsted Counties

PUC Docket Number: IP7041/TL-20-765

Due Date		Compliance Filing Description (Permit Section)	
<b>Pre-Construction</b>	w/in 30 days of permit issuance	①	distribution of permit, complaint procedures, and factsheet (5.1, 8)
	as needed	⚠	delay in construction report (7) - if no construction w/in 4 years of permit issuance
	14 days prior to plan and profile submittal	①	identify field representative and affidavit of distribution (5.3.1)
		⚠	submit changes
		①	invasive species prevention plan (5.3.11)
		①	VMP and affidavit of distribution (6.1)
		①	3 <sup>rd</sup> party monitor scope of work and contact Info (6.2)
	①	submit changes	
①	geotechnical investigation report (6.3)		
monthly after plan and profile submittal	🔄	status report (9.2)	
30 days prior to right-of-way preparation	①	plan and profile (9.1)	
	⚠	submit changes at least 5 days before implementation	
<b>Construction &amp; Restoration</b>	as needed	⚠	immediate complaint report (Attach 1) – report same day or next if substantial complaint received after business hrs
	monthly through restoration	🔄	status report (9.2)
		🔄	complaint report (Attach 1)
	w/in 90 days of construction end	①	as-builts (9.4)
		①	GPS data (9.5)
	w/in 60 days of restoration completion	①	completion of restoration activities notification (5.3.16)
at least 3 days before operation	①	notice of in-service date and construction completion (9.3)	

<sup>1</sup> This compilation of permit compliance filings is provided for the convenience of the Permittee and the Commission. It is not a substitute for the permit; the language of the permit controls.

Attachment A: Draft Route Permit Map



<b>Byron Solar Route Map</b> 	Route Width	Solar Facility Boundary	Project Substation
	Centerline		Watercourses

Esri, Garmin, FAO, NOAA, USGS, EPA, Maxar