MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	**July 16, 2026**		**Agenda Item 3*** **
Company	Midwater BESS, LLC		
Docket No.	IP-7138/ESS-24-294, TL-24-295 In the Matter of the Joint Application of Midwater BESS, LLC for a Site Permit and Route Permit for the up to 150 MW Midwater Energy Storage Project and Associated 161 kV Transmission Line in Freeborn County, Minnesota.		
Issues	1. Should the Commission adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations? 2. Should the Commission find that the environmental assessment and the record created at the public hearings address the issues identified in the scoping decision? 3. Should the Commission issue a site permit for the 150 MW energy storage system? 4. Should the Commission issue a route permit for the 161 kV transmission line?		
Staff	Jacques Harvieux	Jacques.harvieux@state.mn.us	651-201-2233

✓ **Relevant Documents**	**Date**
Midwater BESS, LLC – Site and Route Permit Application (14 parts)	November 19, 2024
DOC EERA – Comments – EERA Midwater Completeness Comments and Recommendations	December 11, 2024
Midwater BESS, LLC – Reply Comments	December 18, 2024
Order on Application Completeness	January 21, 2025
MN DNR – Comments – Natural Heritage Review Letter	March 7, 2025
MN DNR – Comments	March 7, 2025
MnDOT – Comments	March 10, 2025
Midwater BESS, LLC – Compliance Filing – Confirmation of SHPO Consultation	April 2, 2025
DOC EERA – Public Comment - Shell Rock Township Resolution	April 9, 2025
PUC – Public Comment – Butler County Board of Supervisors	April 15, 2025
DOC EERA – Comments – MPCA Comment	April 16, 2025
DOC EERA – Comments - Freeborn County Resolution	April 17, 2025
Midwater BESS, LLC – Comments	April 21, 2025
IUOE Local 49 and NCSRCC – Comments	April 21, 2025
PUC – Public Comment – Butler County Board of Supervisors	April 22, 2025
PUC – Ex Parte Communication – Mary Matze (Trade Secret)	April 22, 2025
PUC – Ex Parte Communication – Revised Nicole Eckstrom	April 22, 2025
DOC EERA – Comments – Shell Rock River Watershed District	April 24, 2025
DOC EERA – Comments – EERA Alternative Site Comment Letter	May 5, 2025
Order Establishing Advisory Task Force	June 2, 2025
PUC - Notice – Notice of Legislative Changes	July 9, 2025
PUC EIP – Report – Midwater BESS Citizen Advisory Task Force	November 14, 2025
PUC EIP – Scoping Decision – Midwater EA Scoping Decision	December 3, 2025
PUC EIP – Report – Midwater BESS Project – Environmental Assessment	February 17, 2026
Midwater BESS, LLC – Testimony – Midwater BESS Filing LTR with Direct Testimony of Mary Matze	February 27, 2026
PUC – Public Comment – City of Northwood	March 12, 2026
PUC EIP – Public Comment – Tim Kaasa BESS Comments	March 13, 2026
PUC EIP – Public Comment – Dawn Kaasa Comment	March 13, 2026
MN DNR – Comments	March 16, 2026
PUC EIP – Public Comment – Tim Kaasa Photographs	March 16, 2026

✓ **Relevant Documents**	**Date**
PUC – Public Comment – Albert Lea – Freeborn County Chamber of Commerce	March 16, 2026
Minnesota Interagency Vegetation Management Planning Working Group – Comments – VMPWG Hearing Comments	March 16, 2026
PUC EIP – Public Comment – EIP Comments	March 16, 2026
PUC – Public Comment – Tim Kaasa	March 17, 2026
PUC EIP – Public Comment – Agricultural Impact Management Plan for the Midwater BESS in Freeborn County	March 24, 2026
Midwater BESS, LLC – Other – Filing Letter with Proposed Findings of Fact, Conclusions of Law, and Recommendations	March 25, 2026
Midwater BESS, LLC – Comments – Response to Hearing Comments with Attachment 1	March 25, 2026
PUC – Ex Parte Communication – Leonard Wabasha	April 1, 2026
PUC EIP – Reply Comments – EIP Comments on the Draft Midwater FOF	April 13, 2026
Midwater BESS, LLC – Exhibits – Hearing – Filing Letter with Final Exhibit List	April 15, 2026
Midwater BESS, LLC – Other – Project Update Letter	April 15, 2026
CAH – Report – Findings of Fact, Conclusions of Law, and Recommendations	May 13, 2026
Midwater BESS, LLC – Exceptions to ALJ – Letter with Exceptions to Findings of Fact, Conclusions of Law, and Recommendations of ALJ	May 27, 2026
PUC EIP – Exceptions to ALJ – Exceptions to the ALJ Report for Midwater BESS	May 27, 2026

Attachments

Attachment A: Project Maps
Table 1: Exceptions to the ALJ Report
Table 2: Proposed Site Permit Conditions
Table 3: Proposed Route Permit Conditions
Attachment B: Proposed Site Permit
Attachment C: Proposed Route Permit

Statement of Issues

1. Should the Commission adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations?

2. Should the Commission find that the environmental assessment and the record created at the public hearings address the issues identified in the scoping decision?

3. Should the Commission issue a site permit for the 150 MW energy storage system?

4. Should the Commission issue a route permit for the 161 kV transmission line?

Project Description

The project is being proposed by Midwater BESS, LLC (Applicant), a wholly owned indirect subsidiary of Spearmint Energy Renewable Development Company, LLC (Spearmint Energy). Spearmint Energy is a next-generation renewable energy company that develops and installs battery energy storage facilities. The project as proposed is an up to 150 megawatt (MW) alternating current (AC) capacity battery energy storage system (BESS) facility with an associated approximately 2,668-foot 161 kilovolt (kV) high voltage transmission line (HVTL) that will connect the BESS to the ITC Midwest Glenworth Substation. In total the storage project is expected to occupy approximately 17 acres of privately-owned land that is currently enrolled in a Conservation Reserve Program (CRP) and has been removed from agricultural production by the underlying landowners.

The Applicant asserts the project is expected to contribute to Minnesota's transition to a carbon-free electricity supply by allowing wind and solar projects to continue to provide clean energy when they would otherwise be curtailed due to low demand. The Applicant claims that impacts of integration of the BESS to the grid will be positive and will (1) support the integration of renewable energy, (2) assist in frequency response and regulation, (3) reduce energy waste, and (4) improve grid resiliency. The entire project (BESS and HVTL facilities) from permitting to decommissioning is estimated to cost approximately $458 million.[1]

The initial schedule for the project anticipated receiving the permits needed from the Commission in the third quarter of 2025, beginning construction the first quarter of 2027, and commercial operation beginning the fourth quarter of 2027. Given that the Commission ordered an advisory task force in June of 2025[2], this anticipated schedule is no longer attainable. Since the conclusion of the advisory task force the Applicant has not provided a new anticipated schedule in the record, but considering the project is now being considered a full year from the initial estimation, Staff estimates that if the project is permitted, construction would likely begin the first quarter of 2028 with commercial operation beginning the fourth quarter of 2028. This estimate is based upon the time that was added to the process to accommodate the Citizens Advisory Task Force.

Staff notes that the permitting process for the proposed project has been increasingly controversial. The comments included in the relevant documents are those that were filed from officials and organizations. Hundreds of public comments were filed and summarized.

Pre-Application Outreach

As part of pre-Application efforts, Midwater BESS engaged with local, state, and federal regulatory stakeholders to introduce the Project, request comments, and solicit feedback.

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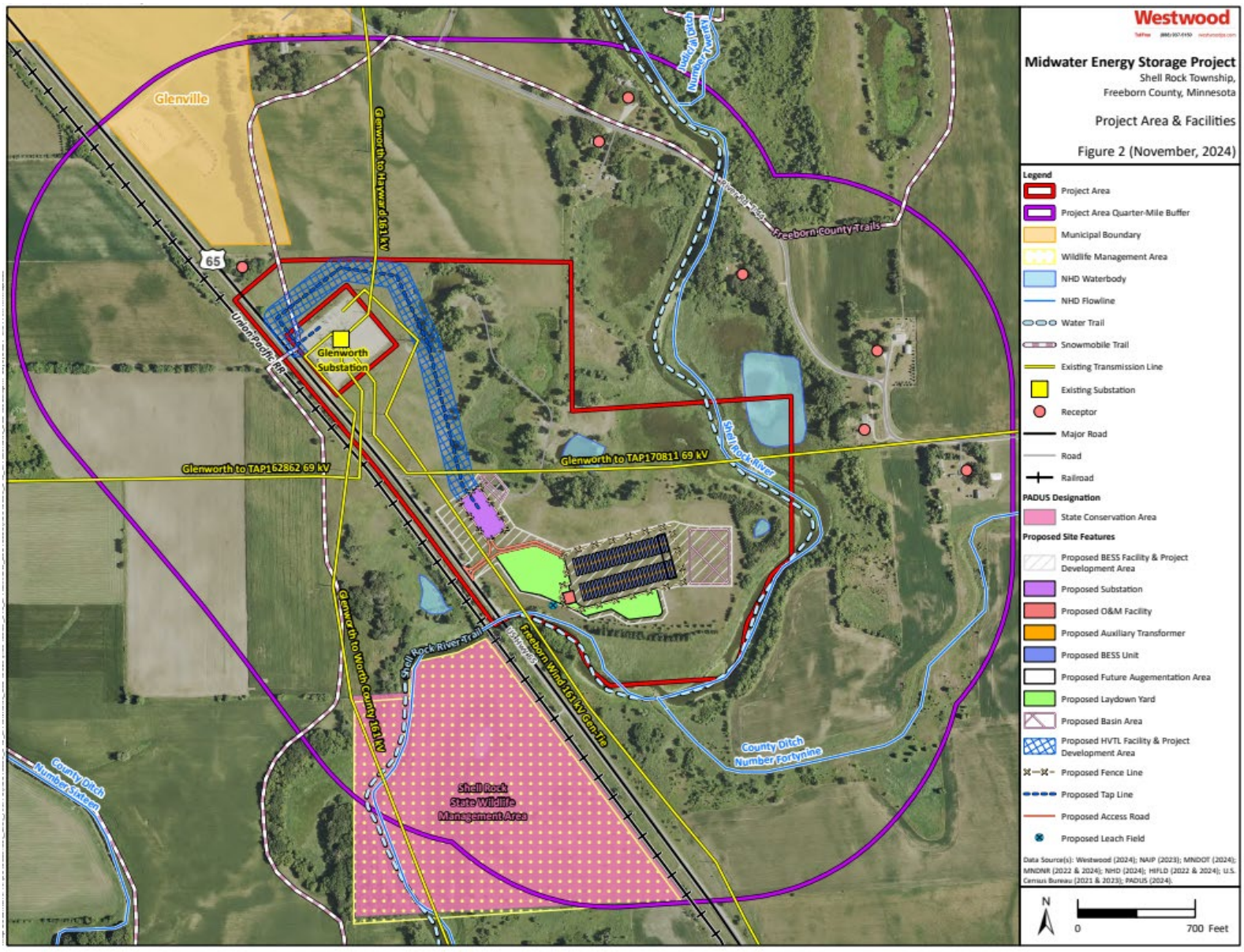
[1] Estimated Project Costs

[2] Commission Order Establishing Citizens Advisory Task Force

Additionally, Midwater BESS contacted the 11 recognized Minnesota Tribal Nations for comments. Outreach included sending mailed letters, and e-mails.[3] Leonard Wabasha from the Shakopee Mdewakanton Sioux Community was the only to respond. Mr. Wabasha requested a desktop archeological literature review. Mr. Wabasha indicated in an April 15, 2026 filing[4] they had no concerns.

Project Map



[3] Table 7.1-1 Tribal Coordination

[4] April 15, 2026 Project Update

Statutes and Rules

Site Permit

Under Minn. Stat. § 216E.03, subd. 1 (2023), in Minnesota, no person may construct an energy storage system (ESS) without a site permit from the Commission. Minn. Stat. § 216E.01, subd. 3a (2023), defines an ESS as equipment and associated facilities designed with a nameplate capacity of 10 MW or more and capable of storing generated electricity for a period of time and delivering electricity for use after storage. Midwater will have a nominal power rating of up to 150 MW AC and therefore requires a site permit from the Commission.

Alternative Review Process

Under Minn. Stat. § 216E.04, subd. 2 (3) and (9) (2023), an Energy Storage System (ESS) facility and 161 kilovolt (kV) transmission line, qualifies for review under the alternative permitting process described in Minnesota Statute 216E.04 and MN Rule 7850.2800 – .3900.

Route Permit

Under Minn. Stat. § 216E.03, subd. 2 the Commission must issue a route permit before a high-voltage transmission line may be constructed in Minnesota. The proposed project requires a route permit because it meets the definition of a high-voltage transmission line, as it is a transmission line with a capacity greater than 100-kV and a length greater than 1,500 feet.

Environmental Document

Minn. Stat. § 216E.04, subd. 5 (2023), requires preparation of an Environmental Assessment (EA) for projects being reviewed under the alternative permitting process. The Minnesota Department of Commerce (currently PUC-EIP) is responsible for preparing the EA on behalf of the Commission. The EA must provide information on the human and environmental impacts of the proposed project and of alternative sites; the feasibility of each alternative site considered; and mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified.

Certificate of Need

The Project is exempt from certificate of need requirements pursuant to Minn. Stat. § 216B.243, subd. 8(a)(9) because a certificate of need is not required for energy storage systems.

Procedural History

On November 19, 2024, the Applicant filed a Joint Application for the Site and Route Permits.

On November 21, 2024, the Applicant filed a Notice of Midwater BESS, LLC's Filing of a Joint Application for a Site Permit and Route Permit to persons interested in the Project, the Commission's Energy Facilities General List, local officials, tribes, and property owners in accordance with Minn. R. 7850.2100, subpt. 2.

On November 27, 2024, the Commission filed a Notice of Comment Period regarding the completeness of the Application, requesting initial comments by December 11, 2024, reply comments by December 18, 2024, and supplemental comments by January 6, 2025.

On December 11, 2024, PUC-EIP filed comments regarding the Application's completeness. PUC-EIP recommended that the Commission accept the Application as substantially complete. However, PUC-EIP also recommended that the Commission require the Applicant to continue working with PUC-EIP staff and provide supplemental information as necessary throughout the environmental review and permitting process. At the time of its comments on completeness, the PUC-EIP recommended that the Commission not appoint an advisory task force and request a full Administrative Law Judge report with findings, conclusions, and recommendations on the Project.

On December 18, 2024, the Applicant submitted reply comments regarding the completeness of its Application. The Applicant requested that the Commission find the Application to be substantially complete and approve its review under the alternative permitting process. The Applicant also requested the Commission find that an advisory task force is not warranted and to refer the matter to CAH for a public hearing and the preparation of a full Administrative Law Judge report.

On December 23, 2024, the Applicant submitted a Confirmation of Notice Compliance Filing for the Application.

On January 21, 2025, the Commission accepted the Site Permit Application as substantially complete via the consent order process. The Commission declined to appoint an advisory task force and requested a full administrative law judge report with findings, conclusions, and recommendations. Additionally, the Commission directed the Executive Secretary to issue an authorization allowing the Applicant to initiate consultation with the Minnesota State Historic Preservation Office (SHPO).

On February 7, 2025, the Commission issued a Notice of Public Information and Environmental Assessment (EA) Scoping Meetings for the Project scheduling the meetings for February 19, 2025 (in-person), and February 20, 2025 (remote-access) with public comments accepted through March 10, 2025.

On February 19, 2025, the Commission held an in-person public information and scoping meeting in Albert Lea, Minnesota. Four members of the public provided comments at the meeting.

On February 20, 2025, the Commission held the remote public Information and scoping meeting via WebEx. Approximately twelve members of the public attended the remote meeting.

On February 25, 2025, the Commission filed sample energy storage system site and transmission line route permits.

On March 7, 2025, the Minnesota Department of Natural Resources (DNR) filed comments on the Project. Additionally, DNR submitted a previous Natural Heritage Review for the Project completed on June 4, 2024.

On March 10, 2025, Minnesota Department of Transportation (MnDOT) filed its comments and recommendations on the Project.

On March 19, 2025, the Commission authorized the Applicant to initiate consultation with SHPO under Minn. Stat. § 138.665.

On March 24, 2025, the Commission issued a Notice of Additional Public Information and Environmental Assessment Scoping Meetings for the Project, scheduling an additional in-person for April 7, 2025, in Glenville, Minnesota. Additionally, the Commission extended the written comment period through April 21, 2025.[5]

On April 2, 2025, the Applicant submitted a compliance filing regarding its coordination with SHPO. The filing detailed consultation activities, such as the results of archaeological field survey, as well as findings and conclusions resulting from the consultation. The filing noted that SHPO reviewed the field survey findings and agreed that "no known or suspected archaeological resources will be affected by the Project." Additionally, the filing stated that SHPO confirmed "no properties listed in the National or State Registers of Historic Places, or within the Historic Sites Network will be affected by the Project."

On April 7, 2025, the Commission held an additional in-person public information and scoping meeting in City of Glenville, Minnesota. Approximately 80 members of the public attended the meeting. Nine members of the Public provided comments.

No site or route alternatives were proposed during the scoping process.

[5] The initial scoping meeting for the project was poorly attended, this was because the local community apparently had a scheduling conflict in attending, coupled with the statutory required noticing area (adjacent landowners). After this was brought to staff's attention, staff scheduled an additional in-person scoping meeting in Glenville, Minnesota.

On April 9, 2025, Shell Rock Township filed a resolution adopted during the Shell Rock Township board meeting on April 8, 2025, regarding the location of the Project. The resolution asserted that the BESS poses significant threats, including, but not limited to: environmental contamination, disruption of local wildlife habitats and biodiversity, river and soil contamination, aquifer contamination, and noise pollution from the operation of the BESS system.

On April 15, 2025, the Minnesota Pollution Control Agency (MPCA) indicated that MPCA staff had no comments on the Project.

On April 15, 2025, the Butler County, Iowa, Board of Supervisors filed a letter expressing concern that the Project, located near the Shell Rock River, might negatively affect the efforts of the Shell Rock River Watershed Management Coalition to maintain water quality.

Specifically, as a downstream community, Butler County's greatest concern is the possibility of heavy metal contamination of the Shell Rock River. Therefore, the Butler County Board of Supervisors requested that the Commission deny the Application to reduce the risk of heavy metal contamination.

On April 17, 2025, the Freeborn County Board of Commissioners filed a resolution opposing the Project due to potential risks to public health, safety, welfare, property and the environment. Specifically, the resolution stated, "Freeborn County Board of Commissioners finds that the proposed BESS project near Glenville, MN, as currently proposed and reviewed, is inconsistent with the County's goals and responsibilities regarding the protection of public health, safety, and welfare, and the promotion of responsible and compatible land use in this specific area."

On April 18, 2025, the Shell Rock River Watershed District (SRRWD) filed comments on the Project and specifically referenced two district rules. The SRRWD is a local government unit that has established rules and is guided by State-approved, comprehensive water management plans. First, the SRRWD highlighted its stormwater facilities maintenance requirements. Second, the SRRWD requested the Applicant comply with its more restrictive water quality treatment requirement by limiting stormwater pond discharges to 5.66 cubic feet per second per acre of treatment for a 1.25-inch or greater rainfall event.

During the extended EA scoping comment period from February 7 to April 21, 2025, members of the public submitted over three hundred written comments regarding the Project, including a petition requesting that the Commission deny the Joint Application. The Commission also received comments in support of the Project. The majority of comments in support of the Project were from outside of Freeborn County and outside of Minnesota.

On April 21, 2025, the International Union of Operating Engineers Local 49 (IUOE Local 49) and North Central States Regional Council of Carpenters (NCSRC of Carpenters) filed comments in support of the Project. Specifically, IUOE Local 49 and NCSRC of Carpenters "encouraged the Commission to adopt a scope for an environmental review that is reasonable and not overly burdensome for the Applicant or Department of Commerce."

On April 21, 2025, the Applicant submitted reply comments addressing the assertions in the Shell Rock Township Resolution and Freeborn County Resolutions that the Project will cause human and environmental impacts. Specifically, the Applicant asserted the claims made in the resolutions were untimely and pre-judge the potential Project impacts prior to the preparation of the EA. Additionally, the Applicant expressed disagreement with the Resolutions opposing the Project's development and encouraged the Township, County, and the public to review the complete EA to determine whether their concerns are justified. Finally, the Applicant reaffirmed its commitment to ongoing engagement with the Township, County, landowners and stakeholders throughout the remainder of the regulatory review process. This matter was assigned to Administrative Law Judge Jessica A. Palmer-Denig.

On May 1, 2025, Judge Palmer-Denig issued an Order for a prehearing conference to be held on May 28, 2025.

On May 5, 2025, PUC-EIP filed an Alternative Site Comment Letter, indicating the completion of the environmental assessment scoping process. Additionally, during the scoping process, PUC-EIP reported that no comments were received suggesting an alternative site for the proposed BESS Facility, nor an alternative route for the proposed HVTL. Consequently, PUC-EIP recommended that the scope of the EA include only the proposed BESS site and the proposed HVTL route identified by the Applicant in its joint application.

On May 9, 2025, the Commission issued a Notice of Commission Agenda Meeting for May 22, 2025. At the meeting the Commission considered: (1) the actions it should take concerning site and route alternatives to be evaluated in the environmental assessment for the Project; and (2) what actions it should take concerning other procedural items.

On May 27, 2025, Judge Palmer-Denig issued an Order canceling the prehearing conference scheduled for May 28, 2025, and stayed proceedings in this matter pending further direction from the Commission.

On June 2, 2025, the Commission issued an Order establishing a Citizens Advisory Task Force (Task Force), pursuant to Minn. R. 7850.3600 (2023).

On June 18, 2025, the Commission issued an Advisory Task Force Establishment and Charge Order, listing the governmental units from which up to 11 members of the Task Force will be solicited. The Charge Order also reiterated the scope and nature of the Task Force's responsibilities as outlined in the Commission's Order dated June 2, 2025.

On July 9, 2025, the Commission filed a notice of legislative changes indicating that as of July 1, 2025, EERA moved to the Commission to become the PUC-EIP.

On November 14, 2025, the Task Force submitted the Midwater Energy Storage Project Advisory Task Force Report (Task Force Report). The Task Force Report is organized into four sections: (1) Impacts and Issues to Study in the EA, (2) Mitigation Measures, (3) Identification of

Viable Alternatives Sites, and (4) Conclusions. The Task Force Report further stated that the Task Force "identified two potential alternative sites, but did not have the time, expertise, or perceived authority to directly solicit landowners and determine whether the sites were viable alternatives."

On December 1, 2025, Judge Palmer-Denig issued a second order for a prehearing conference scheduled for December 17, 2025.

On December 3, 2025, PUC-EIP issued the Notice of EA Scoping Decision for the Project. The Notice of Scoping Decision indicated that the EA was anticipated to be completed and issued in the first quarter of 2026. Additionally, the Notice of Scoping Decision outlined the scope of the EA and identified issues that would be outside the scope of the EA.

On December 22, 2025, the Commission approved the scope of the environmental assessment as recommended in PUC-EIP's December 3, 2025, proposed Notice of Scoping Decision.

On December 24, 2025, Judge Palmer-Denig issued the Scheduling Order for the Project.

On January 6, 2026, the matter was reassigned to Judge McKenzie.

On February 17, 2026, the Commission issued a Notice of Public Hearings and Availability of the Environmental Assessment for the Project. The Notice scheduled an in-person hearing for March 3, 2026, to be held in Glenville, Minnesota, and a virtual hearing for March 4, 2026. A written comment period was opened until March 16, 2026.

On February 19, 2026, PUC-EIP filed the EA for the Project. During the comment period between February 16, 2026, and March 16, 2026, members of the public submitted written comments regarding the Project. In addition, the City of Northwood, Iowa, and the Albert Lee-Freeborn County Chamber of Commerce submitted comments. Written comments are discussed below.

On February 27, 2026, Applicant filed the Direct Testimony of Mary Matze on behalf of Midwater with accompanying Schedules A-C. The Direct Testimony provided an overview and updates on the Project, addressed key safety standards for BESS, discussed coordination with SHPO and MDA, responded to the Task Force Report's recommendations, and provided comments on the proposed DSP and DRP outlined in the Project's EA.

On March 3, 2026, an in-person hearing on the Project was held in Glenville, Minnesota. At this hearing, several members of the public expressed concerns and provided comments about the Project. Furthermore, 13 public exhibits were filed (March 26, 2026, exhibits in eDockets) at the hearing.

On March 4, 2026, a virtual hearing on the Project was held remotely via Webex and telephone. One member of the public expressed concerns and provided comments on the Project.

Specifically, the commenter requested that the Commission deny the permits or require additional analysis of alternate sites.

The Commission filed the Notice of Public Hearings and Availability of EA in the EQB Monitor on March 24, 2026.

On March 24, 2026, PUC-EIP filed an email correspondence with Applicant, wherein PUC-EIP determined that an Agricultural Impact Management Plan (AIMP) was not required for the Project.

On March 25, 2026, the Applicant filed responses to public comments. Additionally, the Applicant filed its Proposed Findings of Fact, Conclusions of Law, and Recommendations.

On April 13, 2026, PUC-EIP filed comments in response to Applicant's Proposed Findings of Fact, Conclusions of Law, and Recommendations. PUC-EIP offered several edits and corrections to Applicant's Proposed Findings addressing formatting issues, missing words, and punctuation.

On April 15, 2026, Applicant filed a Project update letter, which included correspondence with Leonard Wabasha of the Shakopee Mdewakanton Sioux regarding Applicant's completed cultural resources report. The letter attached a response from Wabasha stating that "as long as there are no significant cultural archaeological sites in the project area of potential effect, he has no concerns."

Public Comments

The project is unique in that most comments that were made by members of the public were not based on any specific permit condition request but rather whether the project should be permitted and constructed at the proposed site at all. Due to the number of comments received from members of the public the comments have been organized and summarized below. Proposed permit conditions and the supporting parties can be found in table 2 and table 3 attached to this briefing paper.

State & Federal Agency Comments

DNR

The DNR provided comments regarding potential impacts to the environment and wildlife and other recommendations that should be considered in scoping for the EA, including fence height, chloride free dust suppression, downward lighting and limiting blue hue, water appropriations, wildlife friendly erosion control, vegetation management and avian flight diverters. DNR also submitted the Formal Natural Heritage Review for the Project it had provided to Midwater on

June 4, 2024, identifying sensitive species that may be present within the vicinity of the Project and provided recommendations to avoid impacts to those sensitive sites.[6][7]

The DNR filed comments again during the public hearing comment period. In their comments they proposed further revisions to the dust suppression special permit condition. Specifically, DNR recommended that the final route permit incorporate the requirement that the permittee use non-chloride products for dust control during construction. DNR also requested that the route permit contain the following language regarding rare species:

> The Permittee will comply with applicable [DNR] requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of EIP staff.

The ALJ noted in her report that the inclusion of the above condition is reasonable.

The DNR ended their comments by expressing support for the following special permit conditions:

1. Vegetation Management Plan
2. Security Fence
3. Avian Protection
4. Lighting
5. Bio-netting or Natural Netting

MnDOT

MnDOT requested that Midwater investigate access options from U.S. Highway 65 and design considerations regarding encroachment of MnDOT highway right-of-way (ROW). MnDOT also noted Midwater will need a MnDOT permit for pole placement of the HVTL in the highway right-of-way.[8]

MPCA

The MPCA indicated that they had no comments on the Project.

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6 DNR Scoping Comments - March 10, 2025

7 DNR - Natural Heritage Review

8 MnDOT Scoping Comments - March 10, 2025

PUC-EIP

PUC-EIP made recommendations for updates to the Decommissioning Plan. Specifically, PUC-EIP noted that the following areas did not meet expectations: project description, use of capacity, and permits and notifications. PUC-EIP also noted that the independent preparer met expectations, and that tasks and timing generally met expectations. Additionally, PUC-EIP noted that the following areas partially meet expectations: decommissioning objective, scheduled updates, and financial assurance. Lastly, PUC-EIP offered recommendations for cost estimates.

PUC-EIP provided responses to the direct testimony filed by Applicant regarding permit conditions for the Project. Specifically, under the emergency response plan, PUC-EIP supported Applicant's proposal to replace special conditions 5.6 (local firefighter training) and 5.7 (emergency planning and preparedness) with a single permit condition addressing emergency response measures for the Project. Regarding dry hydrant use, PUC-EIP supported the removal of special condition 5.9 (Dry Hydrant Use) and incorporating the feasibility assessment into the Applicant's proposed New Emergency Response Condition. Finally, with respect to surface and groundwater monitoring, PUC EIP also supported Applicant's suggested changes to the sampling and reporting schedule for emergency water monitoring.

Vegetation Management Plan Working Group (VMPWG)

VMPWG did not recommend any action by the Commission at this time but offered comments to support transparency in the record as VMPWG works with the Applicants to develop a VMP that meets pre-construction compliance filing requirements. VMPWG provided comments and recommendations that should be included in the preconstruction VMP submission. These comments and recommendations addressed: project description, site description, management units, site preparation, vegetation installation, seed mixes, visual screening, concrete and gravel components, herbicide use and weed control, vegetation management, monitoring and reporting, and regular/periodic updates to the vegetation management plan.

US Fish and Wildlife Service (USFWS)

USFWS provided comments and recommendations regarding the following matters: consulting a database to identify species that are either federally protected or proposed for protection; utilizing a bird database; obtaining eagle take permits; reducing habitat fragmentation; and promoting the preservation and enhancement of native plant communities.

Local & Regional Government Comments

Shell Rock Township[9]

The Shell Rock Township Board passed a Resolution regarding the Midwater BESS. Citing potential adverse effects to the environment and public safety, the resolution expressed the

[9] Shell Rock Township Resolution

Board's "firm opposition to the establishment of the BESS system in Shell Rock Township" and further urged the development of "alternative solutions that do not jeopardize the health and safety of the township and its residents.

Freeborn County Board of Commissioners[10]

The Freeborn County Board of Commissioners passed a "Resolution Opposing the Proposed Battery Energy Storage System ("BESS") Near Glenville, MN as Currently Proposed Docket Nos. ESS 24-294 and TL 24-295." The resolution expressed concern over the Project's scale and proximity to the community of Glenville, the Shell Rock River, and designated wildlife areas. The resolution discussed concerns about risks to public health, safety, welfare, property, and the environment due to the potential for toxic emissions, noise, thermal runaway events, fire, and explosions, as well as associated challenges for emergency response and evacuation. The resolution states the proposed site has exposure to severe weather that could damage the facility and increase the risk of environmental contamination.

Butler County Board of Supervisors[11]

The Butler County Board of Supervisors in Iowa submitted comments. They explained that the Shell Rock River flows through Butler County, Iowa, with four county-run campgrounds on the Shell Rock River which rely on the boating and fishing opportunities available on the river. Butler County is part of the Shell Rock River Watershed Management Coalition. The Board expressed concerns that a new project located so close to the river may negatively impact the work happening to ensure clean water. The Board requested the Application be denied.

Shell Rock River Watershed District (SRRWD)[12]

The SRRWD submitted comments referencing two rules related to the maintenance and design of stormwater facilities, including retention ponds. SRRWD requested that any retention ponds be designed to limit discharge to 5.66 cubic feet per second, per acre of treatment, for a 1.25-inch rain event and also requested that the ponds be equipped with "skimmers to further treat water before it is discharged."

Albert Lea-Freeborn County (ALFC) Chamber of Commerce[13]

The ALFC Chamber of Commerce filed a letter expressing support for the Project. Specifically, the letter highlighted that the Project will bring several benefits to ALFC, including: (1) strengthening the local tax base; (2) job creation and local spending; (3) stabilizing energy costs;

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10 Freeborn County Resolution

11 Butler County Board of Supervisors - April 15, 2025 Comments

12 Shell Rock River Watershed District - April 18, 2025 Comments

13 ALFC Chamber of Commerce - March 16, 2026 Comments

and (4) keeping Freeborn County competitive, as modern and resilient power grids are essential for attracting new industries and facilitating the growth of existing manufacturers.

City of Northwood[14]

The City of Northwood in Iowa filed comments in opposition to the project. In their comments the City stated their opposition is based on the issues concerning location, safety, fire risk, environmental impacts on air and water quality, and emergency response limitations. The City urged the Commission to protect the health and safety of their community and reject the proposal.

Labor

International Union of Operating Engineers (IUOE) Local 49 and the NCSRC of Carpenters

Submitted written comments in support of the project and also commented orally at the February 19, 2025 and April 7, 2025, scoping meetings offering support of the project, thanking Spearmint Energy for their conversations that committed to prevailing wages, and utilizing local, trained professionals.

Written Scoping Comments from Members of the Public

In Support

General Comments. During the scoping comment period over 140 individuals submitted comments during the scoping period. The ALJ report noted that many of the individual comments in support of the Project were from outside of Freeborn County or the State of Minnesota. The ALJ further noted those comments discussed BESS facilities generally, opposed to the specific project site, and emphasized contributions to grid reliability, resiliency, energy cost control, pollution reduction, and integration of renewable energy. The comments further asked for a transparent review process that ensures safety while providing community and statewide energy benefits.

Philip Johnson. Philip Johnson from the Albert Lea Economic Development Agency expressed support for the Project noting benefits of adding resources to the State's renewable energy portfolio.

Comments Opposed

Petition Against Project. On March 12, 2025, a petition containing approximately 100 residents of the City of Glenville, Shell Rock, and Freeman Township in Freeborn County submitted a petition to the Commission. The petition requested the following:

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[14] City of Northwood - March 12, 2026 Comments

> "With thermal runaway risks, the surrounding wildlife environment, river and aquifer pollution, and the potential need for evacuation of Glenville and schools creates a bad situation. We ask you to deny this location to preserve the health of our community, natural resources, and our way of life."

General Comments Opposed. General written comments received during the scoping period expressed and listed numerous concerns with the proposed project. Including the following, Spearmint's lack of experience operating BESS facilities, noise pollution, thermal runaway, fire or explosion, proximity to the City of Glenville and area schools, inadequacy of emergency response planning and the resources needed to respond to such events, as well as the cost of recovery and remediation.

Further comments raised concerns about potential Native American burials (Staff notes there are no current concerns in the record from THPO, SHPO, or the 11 recognized Tribal communities in the State of Minnesota.), potential adverse environmental impacts to the aquifer, floodplains, fish, wildlife, agricultural land and livestock, negative impacts to the Shell Rock River.

Overall, written comments expressed a general fear of impacts to property values, student populations, school funding, and how the community would be compensated if anything of these things or a disaster occurred.

Members of the community also submitted a letter to Governor Walz and Lt. Governor Peggy Flanagan requesting the State institute a moratorium on the construction of BESS systems adjacent to waterbodies pending investigation of adverse health effects of BESS systems.

Oral Scoping Meeting Comments[15]

The initial scoping meeting for the project was poorly attended, this was because the local community apparently had a scheduling conflict in attending, coupled with the statutory required noticing area (adjacent landowners).[16]After this was brought to staff's attention, staff scheduled an additional in-person scoping meeting in Glenville, Minnesota.

The overall themes of the additional scoping meeting included skepticism and opposition to the proposed project. Topics mentioned included thermal runaway, potential contamination of the Shell Rock River, the proximity to homes and the nearby school, emergency response preparedness, noise impacts, and whether existing regulations adequately address long-term risks.

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[15] In-Person Scoping Meeting Transcript - April 7, 2026

[16] 216I subd. 8 (3) states, "provide notice of the application and description of the proposed project to each owner whose property is within or adjacent to the proposed site or route for the large energy infrastructure facility."

Commissioner Eckstrom. Freeborn County Commissioner Nicole Eckstrom provided the most extensive comments. Commissioner Eckstrom criticized the outreach of the Applicant throughout the process, stated that County Commissioners were not adequately engaged in project development, and argued that local government and residents were left playing "catch-up" on a complex project. Most notable were Commissioner Eckstrom' comments regarding flooding, where she explained that the County's drainage tile system is 110 years old and requires continuous upgrades, which makes flooding a significant issue.

Citizen's Advisory Task Force

On June 2, 2025, between the end of the scoping period and public hearing portion of the permitting process the Commission issued an order establishing a Citizen's Advisory Task Force. The Commission requested the Task Force examine and make recommendations on the following:

1. Identification of additional viable sites or routes in close proximity to the ITC Midwest Glenworth Substation that should be studied;

2. Identify potential appropriate permit conditions to mitigate stormwater runoff at the proposed site and any viable alternatives;

3. Identify potential appropriate permit conditions to mitigate local emergency response to any emergencies at the facility;

4. Identify potential appropriate permit conditions for setbacks from residences, schools, and commercial properties; and

5. Facilitate conversations with the City of Glenville and Freeborn County on any potential advantages for this economic development project being within city municipal services.

Task Force Report Conclusions

The Advisory Task Force Report[17] concluded the following:

1. Impacts on water resources, including the Shell Rock River, its watershed, and the state water trail, are paramount to the task force. Comprehensive and stringent requirements regarding water protection and prevention of potential pollution in stormwater runoff are essential to this project.

2. The task force expressed concerns about the potential impacts to wildlife habitat due to the nearby DNR wildlife management area. If the BESS is sited at the proposed location, the area cannot be a part of the conservation reserve program.

[17] Advisory Task Force Report - November 14, 2025

3. Fire safety and thermal events is a topic of interest to the task force. Many task force members are reassured by the decision to use lithium-iron technology on the site, as opposed to other BESS technologies. The task force agreed that the purchase of additional fire safety equipment and regular training for local firefighters should be permit conditions. Some task force members wanted to prepare for worst-case-scenario fire emergencies.

4. Several task force members expressed concern about the siting and permitting process not starting locally, including the lack of notice during the application process and the lack of local control in the permitting process. Task force members noted unhappiness about the project expressed to them by their constituents and by local officials, citing site location near the Shell Rock River and the DNR wildlife management area as a primary concern.

5. Establishing clear guidelines for clean-up costs for contamination during the lifetime of the BESS and decommissioning is important to the task force. The taskforce wants permit conditions that ensure no future tax burden on local communities.

6. The task force expressed a desire to work collaboratively with the applicant and with future site operators. They requested that local officials be put in regular contact with site operators to discuss topics such as emergency response plans, notification of contamination events or fire events, and decommissioning.

Staff notes that the report also included a Freeborn County a draft ordinance[18] that among other things and to ensure "adequate financial protection against risks associated with the construction, maintenance, decommissioning, and operation of the Energy Storage System" require the Applicant to maintain general liability insurance for bodily injury and property damage.

Staff notes that potential alternative sites[19] were suggested in the report, though because their viability was questioned regarding how they would specifically be acquired the alternative sites were not further investigated or developed and were not valuated in the environmental assessment.

Public Hearing Comments

Members of the public expressed concerns that the Project could cause long-lasting damage to the Shell Rock River, including downstream impacts into portions of the river in Iowa. Commenters expressed concern that the proposed stormwater measures would direct contaminants toward the river, potentially worsening pollution risks. Commenters were also concerned that a major Project failure combined with heavy rainfall could result in uncontrolled

[18] Advisory Task Force, Appendix I - Draft Ordinance

[19] Advisory Task Force Report, Appendix L - Alternative Site Suggestions

runoff containing contaminants reaching the river or the Project area being flooded. Some commenters questioned whether adequate planning exists for such scenarios. Furthermore, many commenters were skeptical that the information provided in the EA would be adequate in addressing their issues. A commenter identified 29 private water wells within one mile of the site, along with Glenville's two municipal supply wells, and argued that the EA understated the density of nearby drinking water sources.

Similarly, in written comments received, one of the most common concerns expressed by members of the public related to the proximity of the Project to the Shell Rock River and concerns that the Project operation will contaminate the river with toxic materials and/or heavy metals, including as a result of a fire, thermal runaway event, and/or flooding.

Commissioner Eckstrom[20]

Freeborn County Commissioner Nicole Eckstrom provided additional comments at the in-person public hearing. Among other things, Commissioner Eckstrom demonstrated frustration with the Advisory Task Force's assigned tasks and goals, and further frustrations with the Applicant. She explained that at the first meeting of the Task Force they were told to "come up" with ways to make it work at the proposed site. At the second meeting, the Task Force was told by the Applicant that they would consider alternative sites within a one-mile radius, and at the third meeting the Applicant told the Task Force that they would consider sites slightly further than a mile. Commissioner Eckstrom argued that the burden to find these alternative sites should have been on the Applicant given that the members of the task force from the community were not realtors nor had any specific expertise to go out and find land for this purpose. Commissioner Eckstrom further stated that the Commission should not be pressured to permit this project or make it work simply because no alternatives were identified.

Applicant Testimony & Hearing Reply Comments

Direct Testimony

The Applicant provided their direct testimony[21] before the public hearings. In their direct testimony the Applicant explained that the project area was chosen for its proximity to the ITC Midwest-Glenworth Substation (which has available capacity and low interconnection costs), a supportive landowner, and limited competition with other potential energy projects. The Applicant further explained that they would adhere to advances in technology, applicable codes/standards, and developing emergency response procedures to further reduce the likelihood of impacts associated with fire and battery thermal runaway induced events. The Applicant explains they contracted a consultant to perform a plume analysis[22]. The analysis

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[20] Public Hearing Transcript - Nicole Eckstrom

[21] Applicant Direct Testimony - February 27, 2026

[22] A plume analysis is the scientific and engineering process of modeling, tracking, and predicting how substances (such as gases, pollutants, or contaminants)} disperse into the environment.

found that no risks of heavy metals or other toxic particulates would be generated by a potential thermal runaway event.

In response to the Advisory Task Force report, the Applicant agreed with the proposed additions to the decommissioning plan (condition 9.1) guaranteeing financial surety to ensure proper decommissioning and restoration of the site when the project ceases operation. Though the Applicant disagreed that decommissioning surety should include costs for post-decommissioning water and soil testing and clean-up. The Applicant argued that in the event of a spill or release of a hazardous material from the Project, such an event would be governed by the EPA and the Minnesota Pollution Control Agency (MPCA). Section 5.12 of the DSP further requires surface water and groundwater testing after a thermal runaway event. Due to the "low risk" of environmental contamination the Applicant also disagreed with establishing a bond or fund that would cover environmental clean-up costs in the case of an emergency or remediation.

The Applicant also disagreed with section 5.9 of the DSP which requires Midwater BESS to conduct a feasibility assessment to evaluate the use of dry hydrants and drafting of water from the Shell Rock River for fire response. The Applicant argued that dry hydrants or drafting water from the Shell Rock River are not the best solutions for providing adequate water at the site in the event of an emergency. The Applicant committed to working with local emergency responders on an adequate solution. A possible solution mentioned would be to store water on site as a firefighting solution, in accordance with NFPA 1142.

Public Hearing Reply Comments

The Applicant in their hearing reply comments stated they have incorporated significant protection mechanisms into the design of the Project to avoid and minimize potential impacts to the Shell Rock River.[23] While the Applicant noted that the draft ordinance from Freeborn County does not require a setback from rivers or streams the nearest battery enclosure is 200-feet away from the river. Regarding fire risk, the Applicant explained that they will select safety equipment that is in compliance with safety codes, regulations, and industry recommendations. The Applicant further stated that the plume analysis conducted, "ultimately concluded that the potential impacts from toxic gases, including carbon monoxide, carbon dioxide, hydrogen, and trace volatile organic compounds and smoke associated with a worst-case BESS fire scenario would be localized and would not result in offsite impacts or acute inhalation risks." To further address these and other potential impact concerns the Applicant proposed to further modify permit condition 8.11 (see table 2).

Administrative Law Judge Report

The Commission requested an ALJ from the Court of Administrative Hearings preside over public hearings and prepare a report containing findings of fact, conclusions of law, and a

[23] Applicant Hearing Reply Comments - March 25, 2026

recommendation on the merits of the proposed project, including conditions to be included in the site and route permits. The ALJ's recommended conditions are included in the attached tables 2 and 3.

The ALJ recommended the Commission deny a site permit for the BESS facility and deny a route permit for the HVTL.

The ALJ concluded that:

1. Any of the forgoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.

2. The Commission has jurisdiction over the Applications pursuant to Minn. Stat. § 216E (staff notes that the ALJ references 216B.243 in their report, this is incorrect as 216B refers to Certificates of Need.)

3. Midwater, PUC-EIP, and the Commission provided all required notices for the Site Permits proceedings. (Staff notes the ALJ did not mention the route permit proceedings, but the Application was a joint filing.)

4. The record in this proceeding does not demonstrate that Midwater has satisfied the criteria for the issuance of a Site Permit for a BESS Facility or a Route Permit for the HVTL, as set forth in Minn. Stat. § 216E.03 and Minn. R. 7850.4000 and all other applicable legal requirements.

5. The Project presents the potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act and the Minnesota Environmental Policy Act.

Memorandum[24]

The ALJ provided a memorandum to provide further explanation of her decision. The Judge's reasoning for denying the permit is as follows:

1. The proposed site is 26 feet from a major watershed in the Mississippi River basin that has been the target of significant environmental remediation efforts, of which the environmental assessment (EA) only dedicates three and one-half pages to surface water impacts.

2. The section discussing surface water impacts in the EA is mostly conclusory and devoid of evidence supporting the assertion that even in a fire or thermal runaway event, impacts to surface waters will be localized and minimal.

[24] Administrative Law Judge Report, Memorandum - May 13, 2026

3. Local governments from two states have expressed well-grounded concerns that the site is vulnerable in the event of an accident or thermal runaway event and that contamination would spread into the watershed. The EA and record as a whole are not sufficient to dismiss those concerns or to properly consider them.

4. The impact of a thermal runaway event on the watershed as a whole must be considered for the EA to be adequate. No modeling on the dispersion of pollutants through the watershed was submitted into the record.

5. There is no evidence of the feasibility of remediating the watershed.

6. The EA and the Applicant also notably do not address the ATF's concern regarding who would pay for the remediation of the watershed or the recommendation for a bond.

7. The Applicant is not a large utility with significant resources, but rather a subsidiary formed for the purpose of this project.

8. Nothing in the record mitigates the legitimate concerns of local governments that the Applicant would have the resources necessary to complete cleanup and the parent company would be shielded from responsibility through the existing corporate structure.

9. The State's water resources are critical and irreplaceable.

Exceptions

Staff notes that the sections below highlight the Applicant's and PUC-EIP's arguments for (1) granting a site and route permit, and (2) finding the EA adequate. Specific requested language exceptions and their corresponding paragraph number are highlighted in the attached table 1.

Applicant Exceptions

In exceptions to the ALJ report the Applicant argued that they should be granted a site and route permit for the Project on the basis of the EA's conclusions and to be consistent with past Commission decisions, specifically the recently permitted Sherco BESS. The Applicant stated that the ALJ report makes several errors in concluding the EA is inadequate, specifically:

The Environmental Assessment Meets Legal Standards

An EA only needs to address issues identified in the approved Scoping Decision. The Scoping Decision required analysis of surface water, groundwater, and wetlands impacts. It did not require a watershed-wide contamination study or a detailed analysis of hypothetical cleanup costs after catastrophic failures. Therefore, the ALJ improperly judged the EA against standards that were never part of the approved scope.

The ALJ Relied on Worst-Case Scenarios

The project uses lithium iron phosphate (LFP) batteries, not nickel-manganese-cobalt (NMC) batteries the type of storage system that will be used for this project. LFP batteries do not contain heavy metals such as nickel, cobalt, and manganese. Much of the public concern about widespread contamination comes from incidents involving different battery types and chemistries. The EA modeled a credible worst-case event: a fire involving a single battery enclosure. Industry testing and standards indicate fire propagation from one enclosure to another is extremely unlikely.

Environmental Impacts Would Be Localized, Not Watershed-Wide

Any fire would likely be confined to a single enclosure. Smoke and soot dispersion modeling showed impacts diminish rapidly away from the source. No heavy metals are expected to be released because of the LFP chemistry. Any soot would primarily be carbon-based ash and would settle near the site. Therefore, contamination of the entire Shell Rock River watershed is not a realistic outcome. Their conclusion is that impacts would be: localized, short-term, manageable, and reversible.

Existing Engineering Controls Already Address Water Protection

The Applicant argued that the ALJ overlooked multiple safeguards built into the project. Those safeguards include: (1) Stormwater retention basins designed to capture runoff. (2) Monitoring of groundwater and stormwater after any emergency event. (3) Pollutant action thresholds established with regulators. (4) Surface and Groundwater Monitoring Plans. (5) Emergency response planning coordinated with local agencies. The Applicant's position is that even if contaminants were released, the permit conditions provide mechanisms to detect, contain, and remediate them before they reach the river***.***

The Project is Consistent With Other Recently Approved BESS Projects

The Applicant argued the PUC would be treating this project differently from similar projects already approved. Their primary example is the proposed 600-MW Sherco battery storage project. They noted that: Sherco uses the same LFP battery technology, Sherco is using the same enclosure design, Sherco is located adjacent to the Mississippi River and within a Wild and Scenic River area, yet the Commission recently approved Sherco. The Applicant argued that denying their permit while approving Sherco would be inconsistent.

Alternative Sites Were Not Required

A major criticism from local officials was that the developer failed to adequately evaluate alternative locations. The Applicant responded that: The Commission-approved Scoping Decision explicitly stated the EA would evaluate only the proposed site. Alternative sites were therefore outside the scope of the EA. The Citizens Advisory Task Force discussed alternatives

but did not identify a viable alternative location. While evaluating more sites might have been "prudent," it was not legally required.

Financial Responsibility Concerns Are Speculative

The ALJ raised concerns about who would pay for cleanup decades into the future. The Applicant argued: The project is expected to cost approximately $459 million. The company will need sufficient financing to build and operate it. Since the EA shows impacts would be localized rather than catastrophic, concerns about financing massive watershed cleanup efforts are based on an unsupported scenario.

PUC-EIP Exceptions

In their exceptions PUC-EIP disagreed with the ALJ's conclusion that the EA is inadequate and provided the following arguments:

The ALJ Applied a Higher Standard Than Required for an EA

PUC-EIP staff argued that the ALJ was asking the EA to prove things that environmental review is not designed to prove. Their position was that the EA's purpose is to identify likely impacts, mitigation measures, and permit conditions—not to provide exhaustive engineering analyses of every hypothetical accident scenario or future cleanup effort. PUC-EIP maintained that the EA contained the information necessary for Commission decision-making and supplementation is not necessary.

Groundwater Impacts Were Adequately Analyzed

One of the ALJ's major criticisms was that the EA did not adequately explain why a thermal runaway event or battery fire would not contaminate groundwater. PUC-EIP disagreed. PUC-EIP argued that: (1) The EA analyzed potential groundwater impacts. (2) The air-quality and dispersion modeling supported the conclusion that impacts would be minimal. (3) The EA's conclusion that thermal events would be acute, short-term events rather than ongoing contamination sources was supported by the record. (4) PUC-EIP also suggested the ALJ's reasoning implicitly assumed that a damaged facility would simply be left in place after an accident, allowing contamination to persist, and called that assumption unfounded because damaged equipment would be removed and the site restored to a safe condition (Special Condition 5.12).

The Use of Permit Conditions to Address Mitigations

A major theme in PUC-EIP's exceptions is that the ALJ evaluated risks without giving enough weight to the permit conditions that would govern the project. PUC-EIP emphasized that the Applicant would be required to submit Commission-approved plans, including: (1) Emergency Response Plans (section 8.11). (2) Surface and Groundwater protection measures (section 5.5, 5.6, 5.7, 5.12). (3) Extraordinary-event reporting requirements (section 8.12). These plans

would specifically address contamination of groundwater, surface water, and wetlands. PUC-EIP argued that the draft permit conditions are themselves mitigation measures and should be considered part of the environmental protection framework**.**

Firefighting Guidance and Containment Measures Are Not Contradictory

The ALJ criticized the EA for stating that emergency response procedures could include containment and disposal of firefighting runoff while industry guidance often recommends allowing battery fires to burn out. PUC-EIP said those concepts are not inconsistent. According to PUC-EIP: (1) Allowing a fire to burn out addresses firefighter safety and fire suppression tactics. (2) Containment and management of runoff addresses environmental protection. (3) Both actions can occur simultaneously or sequentially depending on circumstances. (4) Therefore, the EA's discussion of containment measures was not incompatible with accepted battery-fire response practices.

The ALJ Overstated Uncertainty About Cleanup and Reporting

The ALJ criticized the EA for not explaining what "prompt remediation" means and for not identifying who would pay for cleanup. PUC-EIP responded that: (1) The draft permit already defines reporting requirements. (2) Extraordinary events must be reported within 24 hours. (3) State law independently requires immediate reporting of spills that could affect waters of the state. (4) Nothing in the permit relieves the company of obligations to comply with MPCA, MDH, or local emergency-response requirements. In short, EIP asserted that the regulatory framework already answers many of the concerns raised by the ALJ.

Contamination Would Not Spread Throughout the Watershed

The ALJ found the record insufficient to conclude that contaminants from a thermal runaway event would not reach the Shell Rock River watershed or groundwater. PUC-EIP expressly disagreed. PUC-EIP pointed to: (1) Air-quality modeling, (2) Contaminant dispersion analysis, (3) Site design, (4) Stormwater controls, and (5) Draft permit conditions as evidence supporting the conclusion that impacts would remain localized and manageable.

Wetlands Were Adequately Addressed

The ALJ concluded that the EA failed to sufficiently analyze how nearby wetlands interact with the Shell Rock River watershed and how a fire could affect those wetlands. PUC-EIP disagreed with this conclusion. PUC-EIP acknowledged that wetlands and the river are hydrologically connected but argued that: (1) The EA's modeling showed contaminants would not be expected to affect resources outside the facility footprint. (2) Permit conditions would adequately protect wetlands, surface waters, and related resources.

Staff Discussion

The ALJ concluded that the environmental assessment on the Midwater project is inadequate and concluded that the site and route permits for the project should be denied. The ALJ found that the EA's analysis and discussion of the potential impacts to surface water of a fire or runaway event was largely conclusory and devoid of supporting evidence. The Judge asserted in her memorandum that the impact of a thermal runaway event and its impact on the watershed as a whole is necessary in order for the EA to be found adequate. Specifically, the ALJ found that "no modeling on the dispersion of pollutants through the watershed was submitted into the record" and "there is also no evidence on the feasibility of remediating the watershed, the timeline required to do so, or the costs of remediation." Staff recommends the Commission review the Report in its entirety.

The Applicant and the PUC-EIP filed extensive and detailed exceptions to the ALJ Report. Staff will not repeat the detailed responses here. Both entities argued that the EA and the record created at the public hearing address the issues and alternatives identified in the scoping decision and address the requirements in Minnesota Rule 7850.3700, subp. 4 which reads as follows:

Subp. 4. **Content of environmental assessment**. The environmental assessment must include:

A. a general description of the proposed facility;

B. a list of any alternative sites or routes that are addressed;

C. a discussion of the potential impacts of the proposed project and each alternative site or route on the human and natural environment;

D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative site or route analyzed;

E. an analysis of the feasibility of each alternative site or route considered;

F. a list of permits required for the project; and

G. a discussion of other matters identified in the scoping process.

In addition, the draft site and route permits contain several provisions that mitigate potential impacts from the BESS Facility and HVTL.

For discussion purposes, the BESS industry currently uses two main types of lithium-ion batteries:

Nickel Manganese Cobalt (NMC): Nickel is the primary source of energy in NMC batteries, but manganese and cobalt are required to stabilize and provide the desired power output. Because cobalt is expensive, these batteries typically use eight parts nickel to one part each of

manganese and cobalt (8:1:1). NMC have a high energy density, which means that they can store energy in a smaller package, making them suitable for electric vehicles and consumer electronics such as smartphones and laptops.

Lithium-Iron Phosphate (LFP): LFP batteries are comprised of roughly equal parts of iron and phosphate. Relative to NMC technology, LFP batteries are more chemically stable and less prone to thermal runaway events and combustion, and the components of LFP batteries are cheaper and generally considered to be less toxic. LFP batteries are commonly used in energy storage facilities.

The Applicant has proposed using lithium-iron phosphate technology for the project.

Air Quality Modeling

A central feature of the EA analysis is the air quality modeling conducted regarding the potential accident conditions at the facility. The modeling included the following assumptions:

- If a thermal event or fire occurs it will be short term and will remain contained to a single BESS cabinet;
- Cabinets will be spaced to ensure that the thermal event will not propagate to other cabinets
- The spacing between cabinets greatly reduces the risk of an expanded or complete facility fire
- The air quality modeling evaluated a five-hour burn duration with constant emission including multiple pollutants with adjusted wind speed and direction;
- The modeling indicates there would be minimal air pollution impacts outside the project footprint under each scenario modeled;
- Given the short duration of the fire event and the minimal amount of air pollutants emitted from the fire the resulting plume fraction subject to near source deposition, on land or surface waters would be minimal

Commission staff agrees with PUC-EIP staff that the analysis in the EA was commensurate with the site's sensitivity and the project's potential risks, including applicable permitting criteria. Commission staff agree that the EA provided a thorough and reasonable evaluation of the project, including the facility's characteristics as well as addressing foreseeable environmental risks and impacts, including mitigation.

The ALJ concluded that these risks warranted a more extensive level of analysis than was provided in the EA. The Scoping Decision of the Midwater BESS EA did not specifically list watershed impacts or the feasibility and cost of remediation in the event of a fire or thermal runaway event. The EA instead analyzed the BESS during normal operations and worst-case

accident scenarios finding that the impacts would be minimal. The proposed draft site permit contains several conditions for detecting contamination and remediation.

Commission staff agrees with PUC-EIP that the characterization of impacts in the EA is supported by the analysis provided in the EA. Commission staff highlights the following conditions in the draft BESS Site Permit that address potential impacts:

Section	Condition
4.5.1	Safety Codes and Design Requirements
5.5	Hazard Mitigation Analysis
5.6	Local Firefighter Training
5.7	Emergency Planning and Preparedness
5.8	Site Monitoring
5.9	Dry Hydrant Use
5.12	Surface and Groundwater Monitoring
8.11	Emergency Response Plan
8.12	Extraordinary Events

Finally, Commission staff agrees with PUC-EIP that the EA, the draft site permit conditions, and the record of the proceeding demonstrate that project impacts have been adequately assessed and that the identified mitigation measures required in the draft site permit sufficiently mitigate the potential impacts of the BESS facility.

Specifically, Commission staff recommends that the environmental assessment and the record created at the public hearings address the issues and alternatives identified in the scoping decision.

Sherco BESS Project Comparison

In its exceptions, the Applicant suggested that the Commission's recent approval of the 600 MW Sherco South and West Energy Storage Project in the City of Becker near the Mississippi River establishes a precedent for approving the Midwater BESS Project near the Shell Rock River.

Commission staff disagrees with this assertion. Each project application is reviewed on its own characteristics and merits by the Commission. While both projects are near a river system, the Sherco BESS project components are significantly further away from the Mississippi River than the Midwater BESS is from the Shell Rock River and the land features, and elevation of the project are site specific and quite different.

For the Sherco BESS project:

- The nearest BESS container is around 1,100 feet from the Mississippi River (Attachment A, Figure 1.)
- The Mississippi River is around 400 feet from the edge of the project boundary (Attachment A, Figure 2.)
- The Southern edge of the project site is around 954 feet above mean sea level. (Attachment A, Figure 4.)
- The Mississippi River channel lies within a valley approximately 30 feet lower than the project site. (Attachment A, Figure 4.)
- The riverbank is approximately 922 feet above sea level. (Attachment A, Figure 4.)
- The land between the Mississippi River and the project site is forested which provides a filter strip for potential contaminants.
- The Sherso BESS project will include five stormwater detention basins (3 between the project site & the River) is not within any floodplains, or the 100yr flood zone. (Attachment A, Figure 1 and Figure 6.)

For the Midwater BESS Project:

- The nearest BESS container is approximately 150 feet from the Shell Rock River[25]
- The Shell Rock River is approximately 26 feet from the proposed BESS facility development area[26]
- The Project area is crossed by the Shell Rock River in two locations (Attachment A, Figure 3.)
- The Project area has around a 10-foot varying elevation increase from the Shell Rock River (Attachment A, Figure 5.)
- The Project is surrounded and bordered by the 100-year floodplain on three sides and crossed by the floodplain at the HVTL development area (Attachment A, Figure 7.)
- Historical records indicate the Shell Rock River as having historical floods as recently as 2016 and 2008, cresting above 20 feet during both events[27]
- The Midwater BESS Project will include two stormwater detention basins (Attachment A, Figure 3.)

[25] Proximity of Locations to Project - Application pp. 64-65

[26] Shell Rock River Distance - Application pp. 124

[27] Shell Rock River Historic Crest Records

Staff Proposed Permit Conditions

If the Commission decides to approve the permits, Staff has provided additional permit conditions to be made as part of the site permit and are included in table 2, table 3, and the proposed permits:

Parental Guaranty – Special Condition 5.23 (Site Permit)

As the ALJ cites the environmental concerns of the Enbridge decision in her report, where the ALJ in that case found the EIS inadequate because it failed to address the potential impact of an oil spill into the Lake Superior Watershed. In the same case the Commission decided to order the parent company financially liable. In this case Spearmint Energy, LLC, will be required to sign a parental guaranty. The guaranty will legally bind the parent company to cover environmental damages or failures related to the project construction and operation if the local subsidiary exhausts its financial resources.

Staff proposes the following language:

The Parental Guaranty required by the July 16, 2026, order will obligate Midwater BESS, LLC's (Midwater) parent company, Spearmint Energy, LLC (Guarantor), to pay for environmental damages arising out of the construction or operation of the new battery energy storage system (BESS) if Midwater is unable to pay. This includes damages caused by any failure by Midwater to follow the requirements under the site or route permit for the new battery energy storage system, such as failure to remove the BESS at the end of its service life. The July 16, 2026, order also requires ongoing reporting so that the Commission can ensure that Spearmint Energy, LLC has sufficient financial resources and insurance to cover a worst-case-scenario event. The State of Minnesota, Shell Rock Township, City of Glenville, Freeborn County, and any other municipalities identified as being impacted by damages caused by the construction of or operation of the new BESS shall be designated beneficiaries.

Stormwater Basins – Special Condition 5.24 (Site Permit)

The Advisory Task Force in their report proposed the following:

Water Resources.[28] Design and installation of a stormwater runoff pond that is gated for onsite control during any potential contamination event, lined underneath, and effective for a 1.5-inch rainfall event.

The report also provided the following context: This 1.5-inch value, referred to as the Design Rainfall Depth, reflects the Water Quality Volume (QV) design standard used by the Shell Rock River Watershed District. It is greater than the 1-inch practice currently followed by the Minnesota Pollution Control Agency. This practice is based on the recognition that the first 1.5

[28] Advisory Task Force - pp. A-11

inches of runoff typically carries most of the pollutants (sediments, oils, nutrients, etc.) that are washed off an impervious surface during a storm.

Though the record shows that in the comments submitted by the Shell Rock River Watershed District (SRRWD)[29] that the specification is in fact 1.25."

The Applicant in their direct testimony and proposed findings refuted the 1.5" standard, stating that the increased design value was made in error, and the 1.25" design is what was intended. PUC-EIP in their reply to the Applicant's proposed findings stated they believe the 1.5" design standard was in fact what was intended by the CATF as the SRRWD's initial comment was discussed at length during the CATF meetings and it was preferred over the SRRWD 1.25" standard.

Due to the context provided by the PUC-EIP regarding the CATF meetings Staff believes the 1.5" value is what was intended and proposes the following language:

The Applicant shall construct their stormwater basins to accommodate a 1.5" rainfall, inline with the specifications and recommendations made by the Citizens Advisory Task Force.

Decision Options

ALJ Report

1. Adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation to the extent they are consistent with the Commission's decision. (ALJ)

And

2. Adopt the following modifications to the ALJ Report (**See Table 1 attached to briefing paper**):

    a. Midwater's proposed modifications to the ALJ's findings (E1–E22) (Midwater)

    Or

    b. PUC EIP's proposed modifications to the ALJ's findings (E25–E58) (PUC-EIP)

    And

[29] Shell Rock River Watershed District - Storm Water Facilities

3. Reject the ALJ's conclusion of law ¶ 4, and conclude that the record demonstrates that Midwater has satisfied the criteria and legal requirements for issuance of a Site Permit for the BESS Facility and a Route Permit for the HVTL (E23). (Midwater)

And

4. Reject the ALJ's conclusion of law ¶ 5, and conclude that the Project, with the permit conditions adopted herein, does not present the potential for pollution, impairment, or destruction of the environment as defined in the Minnesota Environmental Rights Act and will not significantly affect the quality of the environment under the Minnesota Environmental Policy Act (E24). (Midwater)

Or

5. Conclude that there is no feasible and prudent alternative to the Project and the Project, with the permit conditions adopted herein, is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's concern for the protection of its air, water, land, and other natural resources under the Minnesota Environmental Rights Act and the Minnesota Environmental Policy Act. (ALJ)

6. Do not adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendation.

Environmental Assessment

7. Determine that the Environmental Assessment and the record created at the public hearings and subsequent comment period address the issues identified in the Scoping Decision. (Midwater, PUC-EIP)

[Or, if the Commission does not select Option 2, it must identify the reasons and request that the Environmental Assessment be revised or supplemented.]

8. Determine that the Environmental Assessment and the record created at the public hearings and the subsequent comment period do not address the issues identified in the Scoping Decision for the following reasons: (ALJ)

[identify the reasons] **and**

9. Request that PUC-EIP prepare a supplement to the Environmental Assessment that addresses the identified deficiencies.

Site Permit

10. Issue the Proposed Site Permit attached to these briefing papers for the proposed 150 MW Midwater Energy Storage Project. (Midwater, ALFC, IUOE Local 49, NCSRCC)

And

11. Adopt the following permit conditions **(see Table 2 attached to these briefing papers):**
   a. P1 – P22

Or

12. Deny the requested Site Permit. (ALJ, Shell Rock Township, Freeborn County Board of Commissioners, Butler County Board of Supervisors, City of Northwood)

Route Permit

13. Issue the Proposed Route Permit attached to these briefing papers for the proposed associated 161 kV transmission line to the Midwater Energy Storage Project. (Midwater, ALFC, IUOE Local 49, NCSRCC)

And

14. Adopt the following permit conditions **(see Table 3 attached to these briefing papers):**
   a. P23 – P25

Or

12. Deny the requested Route Permit. (ALJ, Shell Rock Township, Freeborn County Board of Commissioners, Butler County Board of Supervisors, City of Northwood)

Attachment A:

Project Maps

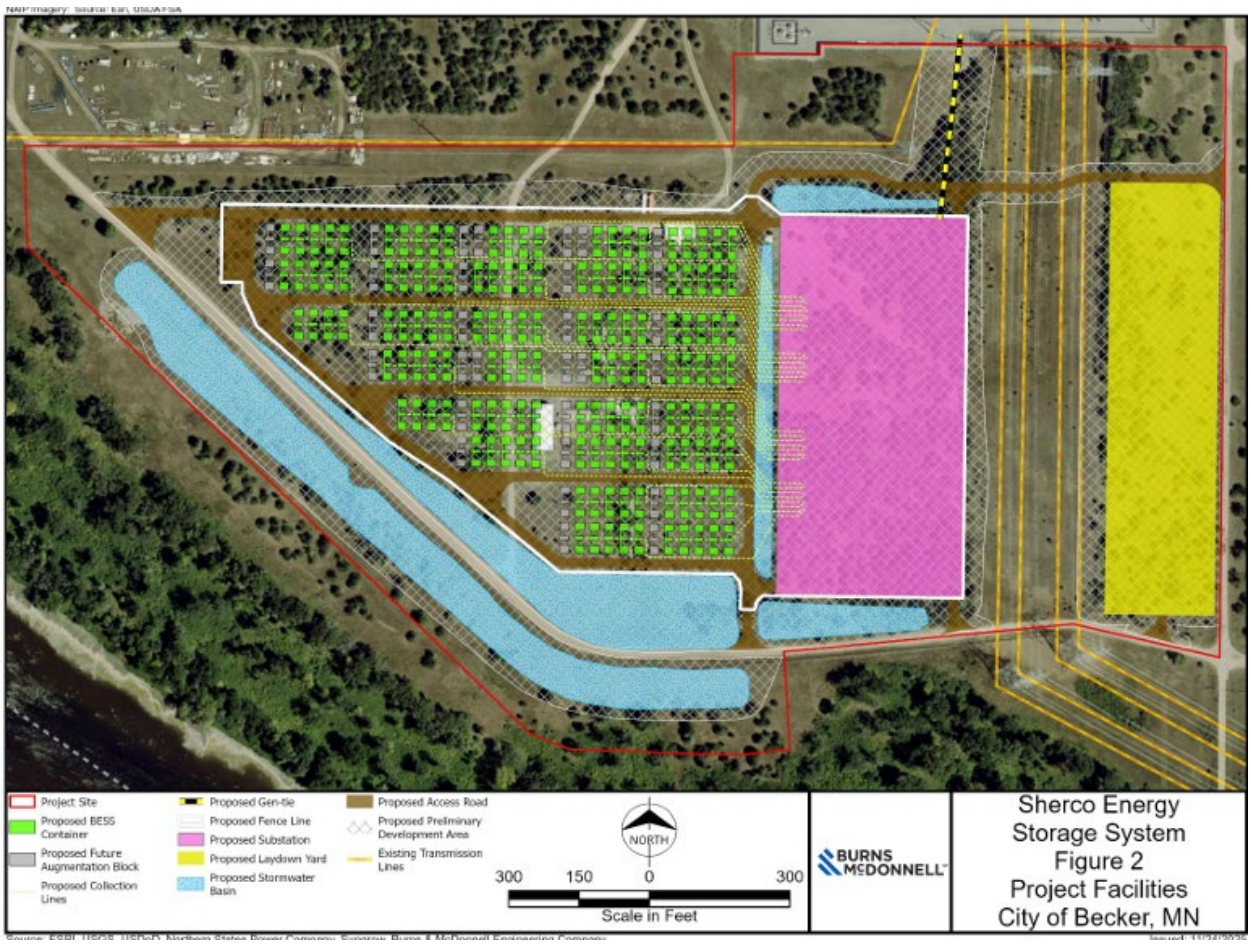

Figure 1. Sherco BESS Project Facilities.

Figure 2. Sherco BESS Project Boundary Distance to River.

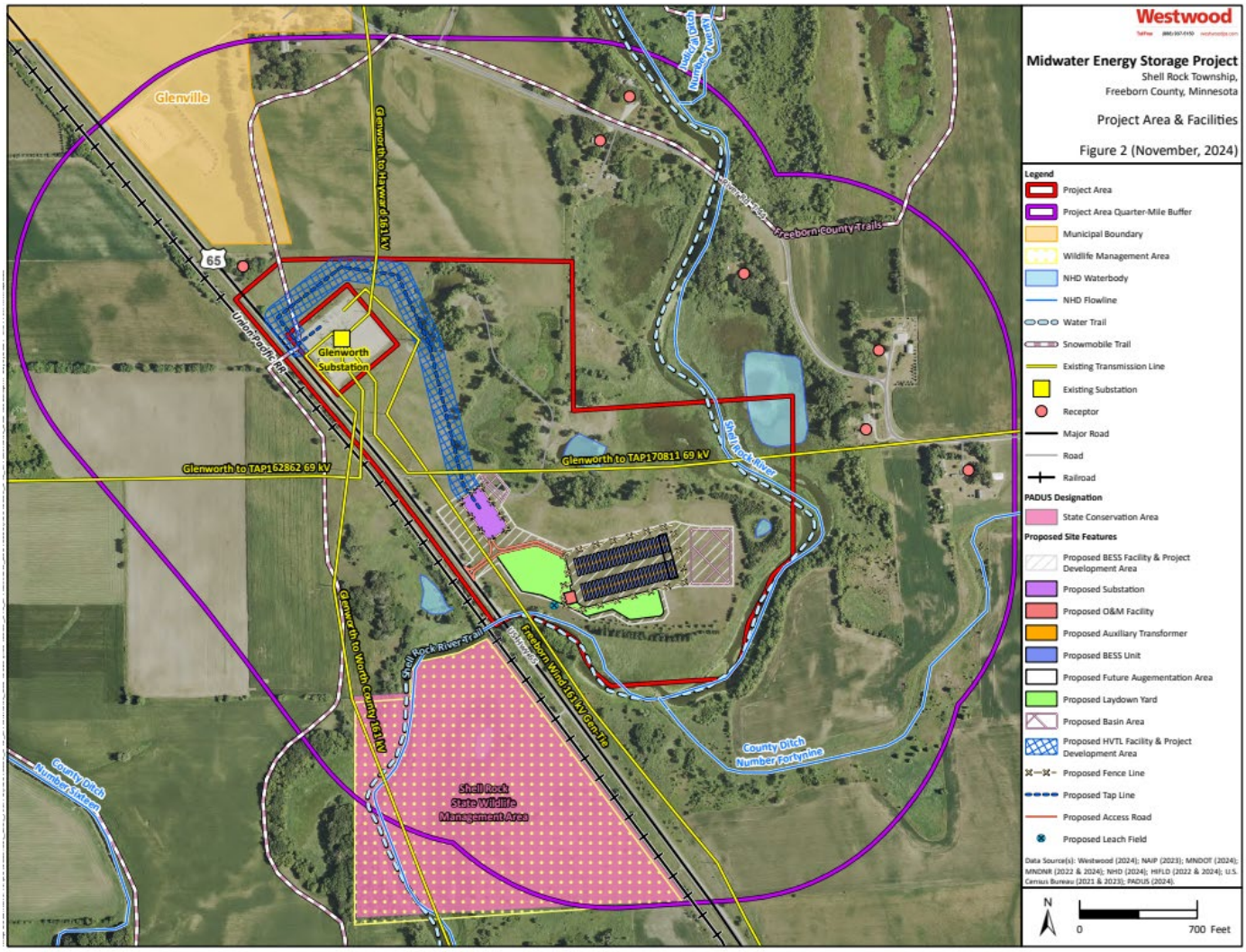

Figure 3. Midwater BESS Project Facilities.

Figure 2 - Existing Conditions (2021 FSA Photo)

Figure 4. Sherco BESS Topographic Elevation.

Figure 5. Midwater BESS Topographic Elevation.

Figure 11: Water Resources and Delineated Features Map

Figure 6. Sherco BESS Floodplain Map.

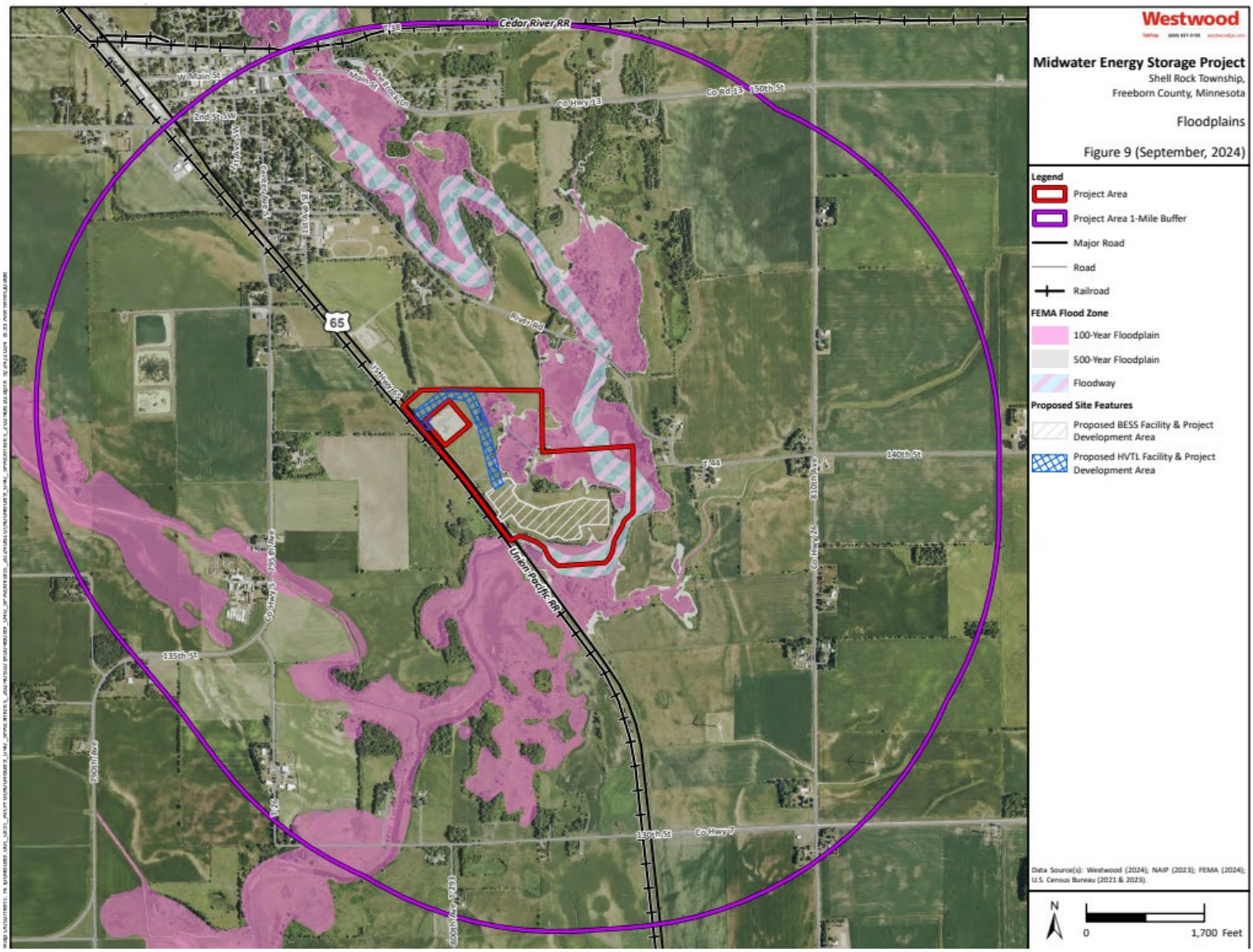

Figure 7. Midwater BESS Floodplain Map.

Table 1: Exceptions to ALJ Report			
ID	ALJ Report Location	Sponsor	Recommended Modification to ALJ Report
E1	130	Midwater	~~The EA in this case was lacking and did not address many of the specific concerns raised by commentors. The EA was also conclusory and many of its assertions were unsupported. It would be reasonable for the Commission to require further assessment of watershed impacts and the feasibility and cost of remediation in the event of a fire or thermal runaway event. However, based on the evidence in the record the Commission may assess the Project on the record using the criteria and factors set out above.~~
E2	151	Midwater	~~While the~~ The EA found that construction and normal operation of the Project is not anticipated to impact or alter the work life and leisure pursuits of residents or visitors in the Project Area or affect land use in such a way as to impact the underlying culture or community unity of the area, ~~the EA did not adequately address the risks to the Shell Rock River watershed in the event of a fire or thermal runaway event.~~
E3	53	Midwater	The value residents put on the character of the landscape within which they live is subjective, meaning its relative value depends upon the perception and psychological responses unique to individuals. ~~A significant number of local residents~~ Commenters have expressed that project construction will change their perception of the immediate area's character thus potentially eroding their sense of place. Because of the relatively small size of the project and distance from homes, businesses and recreational resource, project impacts to cultural resources and activities are anticipated to be negligible to minimal.
E4	159	Midwater	Freeborn County is currently undertaking the development and enactment of an ordinance to regulate siting and operation of Energy Storage Systems. As of this time, the ordinance has not been passed. ~~However, the Project would present potentially nonconforming actions under the ordinance, if passed.~~
E5	178	Midwater	~~It should be noted that the ATF and many commentors expressed concerns about a fire or thermal runaway event. While normal operation may not impact property values, residents' concerns that the pollution caused by a catastrophic thermal runaway event would significantly decrease nearby property values are not unfounded. The EA did not adequately address the feasibility, timeline, or costs of remediation after an emergency event.~~ The record demonstrates that Applicant has taken steps to avoid and minimize impacts to property values, and that no additional mitigation is proposed.
E6	205	Midwater	BESS are a relatively new technology and ongoing research is shaping industry standards that continue to reduce incident risk and address safety concerns. This is particularly present in the battery-type selected for the BESS. The BESS will use LFP technology. LFP batteries have a higher thermal runaway temperature, making them more stable and less prone to fire.284 However, ~~"LFP batteries are more hazardous in terms of combustion and explosion compared to NCM batteries."285~~
E7	208	Midwater	~~While the Applicant has proposed measures to mitigate the risk of thermal runaway occurring, it must be acknowledged that thermal runaway and fire~~

			~~are known and potential risks of any BESS system. A site permit analysis must consider the impacts of such an event should it occur.~~
E8	209	Midwater	~~The EA and the record as a whole do not contain analysis of how a thermal event or fire would impact the Rock River Watershed. Predictive modeling about the dispersion of pollutants through the watershed, as well study of the feasibility, methods, and costs of cleanup, have not been submitted. The EA's conclusory statements that pollution would be localized and short term are simply unsupported in the record.~~
E9	219	Midwater	The EA ~~claims that~~ found that in the event of a thermal runway event ~~under this~~ scenario, environmental impacts are potentially significant in the short term, but largely confined to the Project site, and reversible through emergency service response and related remediation activities, as needed. ~~However, these statements are conclusory and unsupported. The EA does not address whether contamination to the Shell Rock River watershed can be remediated and ignores contamination being transported downriver far from the project site and throughout the watershed. The presence of the Shell Rock River makes this site significantly different from other BESS sites.~~
E10	220	Midwater	Midwater ~~argues it~~ will coordinate with the local fire departments to ensure an adequate water supply at the BESS in the event of a fire. Potential solutions include providing a permanently filled frost-protected water tank at the Project site filled by water truck or an onsite water well over the course of days, shuttling water from the City of Glenville with existing fire department equipment and providing a back-up water truck for use by local emergency responders.298 ~~This acknowledgement that water would be used in the event of a fire again suggests contaminated water could reach the Shell Rock River in an emergency. The close proximity of the project to the City of Glenville would also necessitate prioritizing human health and safety over environmental protection in the event of an emergency. The record is not sufficient to conclude that the Albert Lea Fire Department or the Glenville Volunteer Fire Department would have any ability to mitigate or prevent contamination to the Shell Rock River watershed in the event of a fire or thermal runaway event.~~
E11	233	Midwater	~~While the~~ The EA determined claims fire or thermal runaway impacts would be short-lived and localized to the site, with normal recreation expected to resume once the site is safe, ~~these statements are not supported with evidence. The EA does not address contamination traveling downstream in the Shell Rock River watershed or the feasibility, cost, or timeline to remediate that contamination. Downstream local governments expressed significant concern regarding the impact an emergency event could have on their local tourism.~~
E12	235	Midwater	The EA determined ~~claims~~ that recreational activities in the project area are largely related to recreational activities including, fishing, hunting and boating. Activities in the project area are typically associated with the Shell Rock River State Water Trail and the Shell Rock wildlife management area.83 ~~lands or opportunities are located within or adjacent to the HVTL or BESS. However, this disregards water recreation activities on the Shell Rock River~~

			~~such as boating and fishing. These activities were cited as major concerns to residents.~~
E13	257	Midwater	~~There is insufficient evidence to conclude that soot generated from an accident scenario would not settle or be deposited in the Shell Rock River.~~
E14	266	Midwater	The EA concludes ~~claims~~ that the level of impact is: [A]nticipated to be minimal under typical or atypical operation scenarios; however, in an accident scenario, impacts may be significant, affecting air, water, and land resources, though reversible and likely short-term. Direct impacts to surface waters are not expected. Indirect impacts to surface waters might occur. These impacts will be short-term, of a small size, and localized. Impacts can be mitigated.
E15	275	Midwater	In the Draft Site Permit, the following sections address surface water and flood plains: Section 4.3.11 (Soil Erosion and Sediment Control); Section 4.3.23 (Restoration); and Section 5.12 (Surface and Groundwater Monitoring). The ~~Judge does not find that~~ proposed permit conditions can mitigate the ~~significant~~ risks to the Shell Rock River in the event of a thermal runaway event, fire, or significant accident.
E16	267	Midwater	~~These EA statements on the impacts of an accident scenario are conclusory and not supported by evidence. The close proximity of the project to the Shell Rock River indicates water contamination is probable in a fire or thermal runaway event and the EA does not address whether water contamination can be mitigated, how downstream impacts would be mitigated, or who would bear the cost of such efforts. The applicant acknowledges that potential impacts resulting from a significant thermal runaway event include stormwater runoff carrying pollutants such as electrolytes, coolant, or BESS debris that could reach the Shell Rock River and that long-term deposition impacts are possible.~~
E17	290	Midwater	~~While the~~ The EA characterizes thermal runaway events as "acute and short-term occurrences rather than chronic sources of contamination" that will not impact groundwater~~, this characterization is not supported in the record. Thermal runaway may result in contamination, which, if left untreated, can become a chronic source of contamination. The EA and the record as a whole do not discuss methods or timelines for remediation after a thermal event~~.
E18	295	Midwater	Fire suppression water represents a more credible liquid release scenario than electrolyte itself. Water used during an emergency response could entrain combustion byproducts, particulate matter, or trace metals. Site design features, including two stormwater detention basins, are intended to manage runoff and prevent uncontrolled discharge ~~to soil.~~373 The stormwater detention basins will discharge treated stormwater to ~~However,~~ the Shell Rock River ~~is the receiving water for facility stormwater runoff.~~374
E19	297	Midwater	The EA provides ~~claims~~ that any significant release would be promptly reported and remediated in accordance with MPCA and MDH requirements. ~~However, there is no detail about the feasibility of remediating the watershed, discussion of who would pay for that remediation, or what "prompt" means.~~
E20	299	Midwater	A thermal runaway event involving a single BESS enclosure represents a credible worst-case safety scenario. The record is ~~in~~sufficient to conclude

			that liquid releases associated with thermal runaway would not reach the Shell Rock River and watershed or result in ongoing contamination that may impact groundwater.
E21	308	Midwater	~~The EA does not adequately address how the wetlands interact with the Shell Rock River watershed as a whole, or the potential for a fire or thermal runaway event to impact wetlands.~~
E22	451	Midwater	The evidence in the record demonstrates that the EA is ~~in~~adequate. The EA and the record created at the public hearing and during the subsequent comment period ~~do not~~ appropriately address the issues raised in the Scoping Decision.
E23	Conclusions of Law 4	Midwater	The record in this proceeding ~~does not~~ demonstrates that Midwater has satisfied the criteria for the issuance of a Site Permit for a BESS Facility and a Route Permit for the HVTL, as set forth in Minn. Stat. § 216E.03 and Minn. R. 7850.4000 and all other applicable legal requirements.
E24	Conclusions of Law 5	Midwater	The Project does not present~~s~~ the potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act and the Minnesota Environmental Policy Act.
E25	130	PUC-EIP	The EA in this case ~~was lacking and did not~~ addressed many of the specific concerns raised by commentors. The impacts analyzed in the EA and their characterizations are supported by the sources noted in EA, particularly the Appendix F plume analysis for a thermal runaway event. ~~was also conclusory and many of its assertions were unsupported.~~ It would be reasonable for the Commission to inquire as to ~~require further assessment of watershed impacts and the feasibility and~~ cost of remediation in the event of a fire or thermal runaway event. However, based on the evidence in the record the Commission may assess the Project on the record using the criteria and factors set out above.
E26	151	PUC-EIP	~~While t~~The EA found that construction~~, and~~ normal operation, and non normal operation of the Project ~~is~~ are not anticipated to impact or alter the work life and leisure pursuits of residents or visitors in the Project Area or affect land use in such a way as to impact the underlying culture or community unity of the area., ~~the EA did not adequately address the risks to the Shell Rock River watershed in the event of a fire or thermal runaway event.234~~
E27	152	PUC-EIP	The EA analyzed the risks of a BESS fire or thermal runaway event.235 The EA evaluated potential impacts on human and environmental resources, including cultural resources such as the Shell Rock River.236 A plume analysis of a thermal runaway fire event indicated that gaseous pollutant concentrations diminish rapidly with distance and hazardous exposure limits are not sustained at or beyond the site boundary for any modeled scenario.237
E28	153	PUC-EIP	The EA's plume analysis indicated that any soot emitted from a thermal runaway fire event would remain low, localized and short-lived, with any soot accumulation occurring at or very near the project site.238 The plume analysis indicated that no heavy metals or other toxic particulates were identified as part of the soot cloud; soot would be primarily carbon-based, i.e., carbon soot.239

E29	154	PUC-EIP	The draft site permit for the project, included in the EA and as amended by post-hearing comments, includes several permit conditions designed to mitigate potential human and environmental impacts including impacts to the Shell Rock River.240 These special permit conditions include Section 5.12 Surface and Groundwater Monitoring and 8.11 Emergency Response Plan.241 Section 5.12 requires a water monitoring plan that is responsive to any non-normal or accident conditions at the BESS. Section 8.11 requires an emergency response plan developed in consultation with local emergency responders. The plan provides for equipment, training, and planning necessary to respond to non normal or accident conditions at the BESS.
E30	155	PUC-EIP	The EA's plume analysis notes that it does not assess the fate and transport of carbon soot that may be deposited onto the Shell Rock River and throughout the Shell Rock River watershed.242 However, based on the EA's plume analysis of gases and soot indicating that combustion products remain on or very near the project site, the plume analysis finding that soot would be primarily carbon-based, and the special permit conditions in the draft site permit, the EA appropriately concludes that impacts to cultural values are anticipated to be minimal.
E31	182	PUC-EIP	It should be noted that the ATF and many commentors expressed concerns about a fire or thermal runaway event. While normal operation may not impact property values, residents' concerns that the pollution caused by a catastrophic thermal runaway event would significantly decrease nearby property values are not unfounded. ~~The EA did not adequately address the feasibility, timeline, or costs of remediation after an emergency event.~~
E32	183	PUC-EIP	The EA analyzed the risks of a BESS fire or thermal runaway event.263 A plume analysis of a thermal runaway fire event indicated that gaseous pollutant concentrations diminish rapidly with distance and hazardous exposure limits are not sustained at or beyond the site boundary for any modeled scenario.264
E33	184	PUC-EIP	The EA's plume analysis indicated that any soot emitted from a thermal runaway fire event would remain low, localized and short-lived, with any soot accumulation occurring at or very near the project site.265 The plume analysis indicated that no heavy metals or other toxic particulates were identified as part of the soot cloud; soot would be primarily carbon-based, i.e., carbon soot.266
E34	185	PUC-EIP	The draft site permit for the project, included in the EA and as amended by post-hearing comments, includes several permit conditions designed to mitigate potential human and environmental impacts including 8.11 Emergency Response Plan.267 Section 8.11 requires an emergency response plan developed in consultation with local emergency responders. The plan provides for equipment, training, and planning necessary to respond to non-normal or accident conditions at the BESS.
E35	186	PUC-EIP	Based on the EA's plume analysis of selected gases and soot indicating that combustion products remain on or very near the project site, the air quality plume simulation analysis finding that soot would be primarily carbon-based, and the special permit conditions in the draft site permit, the EA appropriately concludes that impacts to property values are anticipated to be minimal.

E36	217	PUC-EIP	The EA and the record as a whole ~~do not~~ contain analysis of how a thermal event or fire would impact the Shell Rock River ~~Watershed~~. The EA analyzed the risks of a BESS fire or thermal runaway event.301 The EA evaluated potential impacts to human and environmental resources, including the Shell Rock River.302 A plume analysis of a thermal runaway and fire event indicated that gaseous pollutant concentrations diminish rapidly with distance and hazardous exposure limits are not sustained at or beyond the site boundary for any modeled scenario.303
E37	218	PUC-EIP	The EA's plume analysis indicated that any soot emitted from a thermal runaway event or fire would remain low, localized and short-lived, with any soot accumulation occurring at or very near the project site. The plume analysis indicated that no heavy metals or other toxic particulates were identified as part of the soot cloud; soot would be primarily carbon-based, i.e., carbon soot.
E38	219	PUC-EIP	The draft site permit for the project, included in the EA and as amended by post-hearing comments, includes several permit conditions designed to mitigate potential human and environmental impacts including 8.11 Emergency Response Plan. Section 8.11 requires an emergency response plan developed in consultation with local emergency responders. The plan provides for equipment, training, and planning necessary to respond to non-normal or accident conditions at the BESS.
E39	220	PUC-EIP	The EA's plume analysis notes that it does not assess the fate and transport of carbon soot that may be deposited onto the Shell Rock River and throughout the Shell Rock River watershed. However, based on the EA's plume analysis of gases and soot indicating that combustion products remain on or very near the project site, the plume analysis finding that soot would be primarily carbon-based, and the special permit conditions in the draft site permit, the EA appropriately concludes that impacts ton public health and safety are anticipated to be minimal.
E40	221	PUC-EIP	~~Predictive modeling about the dispersion of pollutants through the watershed, as well study of t~~The feasibility, methods, and costs of cleanup for a BESS fire or thermal runaway, have not been ~~submitted~~explicitly analyzed in the EA. Sections 9.1 and 9.2 of the draft site permit require that the Permittee provide for the decommissioning of the project and restoration of the site. Project components must be dismantled and removed; the site must be restored and reclaimed to pre-project conditions. These sections of the draft site permit apply throughout the life of the project.
E41	222	PUC-EIP	~~The EA's conclusory statements that pollution would be localized and short term are simply unsupported in the record.~~
E42	232	PUC-EIP	The EA claims that under this scenario, environmental impacts are potentially significant in the short term, but largely confined to the Project site, and reversible through emergency service response and related remediation activities, as needed.313 ~~However, these statements are conclusory and unsupported.~~
E43	233	PUC-EIP	The EA analyzed the risks of a BESS fire or thermal runaway event.314 A plume analysis of a thermal runaway fire event indicated that gaseous pollutant concentrations diminish rapidly with distance and hazardous exposure limits

			are not sustained at or beyond the site boundary for any modeled scenario.315
E44	234	PUC-EIP	The EA's plume analysis indicated that any soot emitted from a thermal runaway fire event would remain low, localized and short-lived, with any soot accumulation occurring at or very near the project site.316 The plume analysis indicated that no heavy metals or other toxic particulates were identified as part of the soot cloud; soot would be primarily carbon-based, i.e., carbon soot.317
E45	235	PUC-EIP	The EA does not ~~address whether~~ anticipate contamination ~~to~~ of the Shell Rock River ~~watershed can be remediated~~under normal, non-normal, and accident conditions. The EA does not assess the fate and transport of carbon soot that may be deposited onto the Shell Rock River and throughout the Shell Rock River watershed.318 ~~and ignores contamination being transported downriver far from the project site and throughout the watershed.~~
E46	236	PUC-EIP	BESS have been permitted by the Commission and are being constructed in a variety of locations and environmental settings in Minnesota.319 These settings include a BESS to be constructed on the Mississippi River in a manner similar to that proposed for the Midwater project.320 ~~The presence of the Shell Rock River makes this site significantly different from other BESS sites.~~
E47	250	PUC-EIP	Downstream local governments expressed significant concern regarding the impact an emergency event could have on their local tourism.334 T~~While t~~he EA claims fire or thermal runaway impacts would be short-lived and localized to the site, based on a plume analysis, with normal recreation expected to resume once the site is safe, ~~these statements are not supported with evidence.335 The EA does not address contamination traveling downstream in the Shell Rock River watershed or the feasibility, cost, or timeline to remediate that contamination. Downstream local governments expressed significant concern regarding the impact an emergency event could have on their local tourism.336~~
E48	274	PUC-EIP	~~There is insufficient evidence to conclude that soot generated from an accident scenario would not settle or be deposited in the Shell Rock River~~ Based on the EA's plume analysis of a BESS fire or thermal runaway event, air quality and related particulate deposition impacts are localized to the project area. Impacts to the Shell Rock River and watershed are anticipated to be minimal.
E49	284	PUC-EIP	The characterization of potential impacts to surface waters in the EA is appropriately supported by analysis in the EA. The EA analyzed the risks of a BESS fire or thermal runaway event.368 A plume analysis of a thermal runaway fire event indicated that gaseous pollutant concentrations diminish rapidly with distance and hazardous exposure limits are not sustained at or beyond the site boundary for any modeled scenario.369 Further, the plume analysis indicated that any soot emitted from a thermal runaway fire event would remain low, localized and short-lived, with any soot accumulation occurring at or very near the project site.370 The plume analysis indicated that no heavy metals or other toxic particulates were identified as part of the soot cloud; soot would be primarily carbon-based, i.e., carbon soot.371 ~~These EA statements on the impacts of an accident scenario are conclusory and not~~

			~~supported by evidence. The close proximity of the project to the Shell Rock River indicates water contamination is probable in a fire or thermal runaway event and the EA does not address whether water contamination can be mitigated, how downstream impacts would be mitigated, or who would bear the cost of such efforts.~~
E50	285	PUC-EIP	The applicant acknowledges that potential impacts resulting from a significant thermal runaway event may include stormwater runoff carrying pollutants such as electrolytes, coolant, or BESS debris that could reach the Shell Rock River if proper emergency response measures are not employed.372 ~~and that long~~ If proper measures are employed, water runoff from emergency response activities would not contain contaminants.373 Short-term deposition impacts to water quality are unlikely, ~~possible~~, given the localized nature of air pollutant dispersion and deposition.
E51	293	PUC-EIP	In the Draft Site Permit, the following sections address surface water and flood plains: Section 4.3.11 (Soil Erosion and Sediment Control); Section 4.3.23 (Restoration); and Section 5.12 (Surface and Groundwater Monitoring).384 These conditions, in combination with other permit conditions ~~Judge does not find that proposed permit conditions can~~ mitigate the ~~significant~~ risks to the Shell Rock River in the event of a thermal runaway event, fire, or significant accident.
E52	299	PUC-EIP	According to the MDH MWI, no wells are located within the Project Area. Within one mile of the Project Area, there are 18 wells, including 16 active domestic wells, one active test well, and one sealed environmental borehole. An additional 11 wells were identified in the area that are not currently part of the MWI.390 These wells were drilled to depths ranging from approximately 15 to 160 feet, with an average depth to bedrock of approximately 84 feet below ground surface. The shallowest active domestic well identified in the MWI reaches 90 feet below ground surface.391
E53	308	PUC-EIP	~~While t~~The EA characterizes thermal runaway events as "acute and short-term occurrences rather than chronic sources of contamination" that will not impact groundwater. , ~~t~~This characterization is ~~not~~ supported ~~in the record~~ by analysis in the EA.399 Thermal runaway may result in contamination, which, if left untreated, can become a chronic source of contamination. However, an assumption that the Permittee, in coordination with local emergency responders would not respond to a thermal runaway, and that the Permittee would not properly remove all damaged components from the site such that the project could return to a safe operating state is unfounded. The draft site permit requires an emergency response plan.400 The permit also requires the reporting of any extraordinary events to the Commission.401 Further, the Commission retains authority to modify any conditions of the permit for, among other reasons, the endangerment of human health or the environment by operation of the project.402 ~~The EA and the record as a whole do not discuss methods or timelines for remediation after a thermal event.403~~
E54	314	PUC-EIP	The EA claims that "emergency response procedures typically include isolation, containment, and proper disposal of firefighting runoff where practicable."410 This discussion of emergency response procedures is ~~However, it is unclear how this is feasible or~~ consistent with the industry

			guidance recommendation "that responders keep a safe distance, monitor the situation, and allow the fire to burn out naturally as the batteries release their stored energy."411 Allowing the fire to burn out minimizes any firefighting runoff that needs to be isolated or contained.
E55	315	PUC-EIP	The EA claims that any significant release would be promptly reported and remediated in accordance with MPCA and MDH requirements.412 The Permittee is subject to, among other state regulations, the Duty to Notify, Avoiding Water Pollution statute, which requires the Permittee to notify the MPCA immediately when a spill could pollute waters of the state.413 This statute applies to potentially contaminated firefighting waters. ~~However, there is no detail about the feasibility of remediating the watershed, discussion of who would pay for that remediation, or what "prompt" means.~~
E56	326	PUC-EIP	The EA's plume analysis ~~does not adequately address~~ demonstrates that ~~how the wetlands interact with the Shell Rock River watershed as a whole, or the potential for~~ potential impacts from a fire or thermal runaway event are localized to the facility footprint and will not~~to~~ adversely impact wetlands.424
E57	468	PUC-EIP	The EA process is the alternative environmental review approved ~~by the Environmental Quality Board~~ for BESS and HVTL. The Commission is required to determine the completeness of the EA. An EA is complete if it and the record address the issues and alternatives identified in the Scoping Decision.551
E58	469	PUC-EIP	The evidence in the record demonstrates that the EA is ~~inadequate~~ complete. The EA and the record created at the public hearing and during the subsequent comment period ~~do not appropriately~~ address the issues raised in the Scoping Decision.

Proposed Site Permit Conditions						
ALJ Recommended Conditions						
ID	**Issue**	**Sponsor**	**ALJ Report Finding**	**Location in Proposed Site Permit**	**Recommended Permit Condition Language**	**Comments**
P1	Tiered Vegetative Buffer	Midwater, PUC-EIP	358	5.2	The Permittee shall include a vegetative landscape buffer ~~surrounding~~ between the security fence of the BESS and US Highway 65 to mitigate visual impacts to occupants of cars travelling on US Highway 65 and between the security fence of the BESS and Shell Rock River to mitigate visual impacts to users of the Shell Rock River. The vegetative buffer shall consist of three (3) distinct rows of plantings designed to provide year-round screening. The Permittee shall coordinate with the Freeborn County Office of Environmental Services to complete the following: • Determine that plant species are compatible, native or locally appropriate species; • Planting layout details; and, • Vegetative buffer maintenance plan details.	Red language = proposed by Midwater Green language = proposed by PUC-EIP **The ALJ finds PUC-EIP and Midwater's combined proposed changes for Section 5.2 of the Draft Site Permit are reasonable.**

					Additionally, the Permittee shall ensure that the vegetative buffer is consistent with ITC Midwest standards for transmission line clearances.	
P2	Emergency Response Plan	Midwater	363	8.11	The Permittee shall prepare an Emergency Response Plan (ERP) in consultation with the emergency responders having jurisdiction over the Project prior to construction. The plan developed shall have a process for (1) identifying any specialized equipment gaps, such as hose nozzles and emergency event gas monitoring equipment, for responding to emergencies at the BESS; (2) acquiring the equipment at permittee's expense; and (3) providing any training for the specialized equipment at the Permittee's expense. The plan shall also indicate that the annual training of emergency service personnel with site operators must be done at the Permittee's expense. 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	In coordination with local emergency responders and PUC-EIP, Midwater developed a single condition that incorporates the elements of draft permit conditions 5.6, 5.7, and 5.9. Removing 5.6, 5.7, and 5.9, and incorporating all into 8.11. **The ALJ finds PUC-EIP and Midwater's proposed changes for Sections 5.6, 5.7, 5.9 and 8.11 of the Draft Site Permit are reasonable.**

					and a revised ERP, if any, at least 14 days prior to the pre-operation meeting. At least 14 days prior to the pre-operation 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.	
P3	Vegetative Management Plan	DNR	367	5.11	The Permittee shall develop a vegetation management plan (VMP), in coordination with Commission staff, and the Vegetation Management Working Group, 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.	Midwater proposed removal of Draft Site Permit Section 5.11 to align with both MDA comments and recommendations and a Site Permit issued by the Commission for another standalone BESS project in Olmsted County, Minnesota. The MDA agreed

					Landowner-specific vegetation requests resulting from individual consultation between the Company and a landowner need not be included in the VMP. The Permittee shall provide all landowners within the Designated Site 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 (e.g., broadcast, drilling, etc.), and the types of seed mixes to be used; c) a description of how the site will be monitored and	that Draft Site Permit Section 5.11 is not necessary in the Draft Site Permit.439 However, the DNR requested Draft Site Permit Section 5.11 also be incorporated into the Draft Route Permit. Midwater supports the DNR's request. **The ALJ finds Section 5.11 will remain in the Draft Site Permit and is reasonable.**

					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.	

					h) the vegetative buffer required by Section 5.2 of this permit.	
P4	Surface and Groundwater Monitoring	Midwater, PUC-EIP	370	5.12	At least 14 days prior to the pre-construction meeting, the Permittee shall file a Surface and Groundwater Monitoring Plan (SGMP). The SGMP shall be designed to detect, evaluate, and respond to any potential impacts to surface water or groundwater resulting from construction, operation, or emergency events at the facility. The SGMP must be prepared in coordination with the Minnesota Pollution Control Agency and the Shell Rock River Watershed District. The SGMP must identify groundwater monitoring locations, stormwater basin sampling points, sampling parameters, methods, and frequencies needed to detect potential impacts. Pollutant concentration action levels must be established in coordination with the MPCA and SRRWD. The SGMP must include procedures for baseline, routine, and event-based monitoring, as well as defined	**The ALJ finds PUC-EIP and Midwater's proposed changes for Section 5.12 of the Draft Site Permit are reasonable.**

					response actions if action levels are exceeded. Monitoring results must be reported annually to the SRRWD and the Commission; ~~results must be reported~~ samples must be collected after ~~within 24 hours upon~~ an emergency event at the BESS facility in accordance with the plan. The Permittee shall, within thirty days of the emergency event, file ~~16~~ the results of samples collected after an emergency event with the report required under Section 8.12 of this permit. The plan may be modified as needed based on monitoring results, site conditions, or regulatory requirements.	
P5	Tree Replacement Plan	Midwater	373	5.13	In the event that tree removal is required for construction and operation of the BESS, the permittee, in coordination with the MDNR and Freeborn County, will develop a tree replacement plan to replace any trees that are removed for the construction of the project and file the plan with the Commission at least 14 days before the preconstruction meeting. Replacement trees may be planted on public lands with	**The ALJ finds Midwater's proposed change for Section 5.13 of the Draft Site Permit is reasonable.**

					the permission of the public entity/owner. Replacement trees can be planted as part of the required Visual Screening Plan or may be planted on public lands with the permission of the public entity/owner.	
P6	Site Plan	Midwater	376	8.3	At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission, and provide the ~~counties~~ county, township and local emergency responders serving the area where the Project will be constructed with a Site Plan that includes specifications and drawings for site preparation and grading; specifications and locations of the energy storage system and associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the Designated Site, energy storage system, and associated facilities layout in relation to that approved by this site permit.	**The ALJ finds Midwater's proposed change for Section 8.3 of the Draft Site Permit is reasonable.**
P7	Dust Control	DNR	379	5.17	The Permittee shall minimize and avoid, if possible, the use or chloride based dust control chemicals (i.e., calcium chloride,	**The ALJ finds DNR's proposed change for Section 5.17 of the Draft Site**

					magnesium chloride). The Permittee shall utilize non-chloride products for onsite dust control during construction.	**Permit is reasonable.**
P8	Endangered Species	DNR	381	5.21	The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of EIP staff.	**The Judge finds DNR's proposed addition of a special condition to the Draft Site Permit on endangered species is reasonable.**
P9	Pollution Study	ALJ	382	5.22	The Applicant is required to study the dispersion of pollutants in the Shell Rock River watershed so it would be available in the event of a fire or thermal event.	**Should the Commission approve the site permit against the Court's recommendation, the ALJ urges the Commission to require study of pollution dispersion in the Shell Rock River watershed so**

						it would be available in the event of a fire or thermal event.
Staff Recommended Permit Conditions						
P10	Lighting	DNR	N/A	5.1	Permittees must use shielded and downward facing lighting and LED lighting that minimizes blue hue at the gate locations, BESS enclosures, and along fence lines. Downward facing lighting must be clearly visible on the plan and profile submitted for the Project.	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**
P11	Pre-Construction Noise Modeling and Impact Assessment	PUC-EIP	N/A	5.3	The Permittee shall file a noise impact assessment at least 14 days prior to the pre-construction meeting. The noise impact assessment shall summarize the results from noise propagation modeling that incorporates noise inputs from the selected equipment and the facility layout shown in the site plans required in Section 8.3 of this permit. The permittee shall file an updated noise impact assessment including any revisions to selected equipment or facility layout prior to any modifications to the facility over its operating life.	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**

P12	Noise Studies and Noise Mitigation	PUC-EIP	N/A	5.4	The Permittee shall file a proposed methodology for the conduct of a post-construction noise study at least 14 days prior to the pre-construction meeting. The Permittee shall develop the post-construction noise study methodology in consultation with Commission staff. The Permittee must conduct the postconstruction noise study and file with the Commission the completed post-construction noise study within 18 months of commencing commercial operation. The BESS facilities and associated facilities shall be placed and operated such that the Permittee shall, at all times, comply with noise standards established by the MPCA. Operation of the facility shall be modified, or project components shall be removed from service if necessary to comply with these noise standards.	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**
P13	Hazard Mitigation Analysis	PUC-EIP	N/A	5.5	The Permittee shall file a Hazard Mitigation Analysis detailing the results of the equipment testing, and the risks associated with the technology, along with an affidavit	**Staff believes the ALJ inadvertently left the condition out of recommendation**

					of distribution of the Hazard Mitigation analysis to emergency responders with jurisdiction over the project, at least 30 days prior to the pre-construction meeting.	**but Staff believes its inclusion is reasonable.**
P14	Site Monitoring	PUC-EIP	N/A	5.8	Within thirty (30) days of commercial operation, the Permittee shall install and place into service a meteorological station and an on-site, continuous recording camera system. The camera system must provide adequate site coverage that can be monitored remotely by both the facility management team and a third party. The Permittee shall consult with the Minnesota Pollution Control Agency (MPCA) to develop the on-site meteorological station. Consultation will support selection of appropriate meteorological equipment suitable for the intended purpose, data parameters, siting, and station placement to ensure data representativeness and adequacy.	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**
P15	Bio-Netting or Natural Netting	DNR	N/A	5.14	The Permittee is required to use wildlife-friendly erosion controls. The Permittee shall use only "bio-netting" or "natural netting" types	**Staff believes the ALJ inadvertently left the condition out of**

					of erosion control materials and mulch products without synthetic (plastic) fiber additives.	**recommendation but Staff believes its inclusion is reasonable.**
P16	Unanticipated Discoveries Plan	PUC-EIP	N/A	5.15	Prior to construction, the Permittee shall survey areas of construction activity within undisturbed land that have not been surveyed. The Permittee shall develop an Unanticipated Discoveries Plan (UDP) to identify guidelines to be used in the event previously unrecorded archeological or historic properties, or human remains, are encountered during construction, or if unanticipated effects to previously identified archaeological or historic properties occur during construction. This is in addition to and not in lieu of any other obligations that may exist under law or regulation relating to these matters. The UDP shall describe how previously unrecorded, non-human burial, archaeological sites found during construction shall be marked and all construction work must stop at the discovery location. The Permittee shall file	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**

					the UDP with the Commission at least 14 days prior to the preconstruction meeting.	
P17	Security Fencing	DNR	N/A	5.16	The Permittee shall design the security fence surrounding the energy storage system to minimize the visual impact of the Project while maintaining compliance with the National Electric Safety Code. The Permittee shall incorporate opacity strips in the facility's chain-link security fence to further enhance visual screening. The Permittee shall develop a final fence plan for the specific site in coordination with the DNR. The final fence plan shall be submitted to the Commission as part of the Site Plan pursuant to Section 8.3.	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**
P18	Battery Augmentation	PUC-EIP	N/A	5.18	The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall demonstrate	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**

					compliance with the noise impact assessment submitted to the Commission as required in Section 5.2 of this permit.	
P19	Offtake Agreement	PUC-EIP	N/A	5.19	In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, including as an example, registration as a market participant with MISO or other Regional Transmission Organization or Independent	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**

					System Operator. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within four years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having an offtake agreement, or some other enforceable mechanism. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.	
P20	Annual Report	PUC-EIP	N/A	5.20	The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly availability of the facility including: a) the installed nameplate capacity of the permitted facility;	**Staff believes the ALJ inadvertently left the condition out of recommendation but Staff believes its inclusion is reasonable.**

					b) the monthly and annual availability of the facility; c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and d) any other information reasonably requested by the Commission. The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.	
P21	Parental Guaranty	Staff	N/A	5.23	The Parental Guaranty required by the July 16, 2026, order will obligate Midwater BESS, LLC's (Midwater) parent company, Spearmint Energy, LLC (Guarantor), to pay for environmental damages arising out of the construction or operation of the new battery energy storage system (BESS) if Midwater is unable to pay. This includes damages caused by any failure by Midwater to follow the requirements under the site or route permit for the new	

					battery energy storage system, such as failure to remove the BESS at the end of its service life. The July 16, 2026, order also requires ongoing reporting so that the Commission can ensure that Spearmint Energy, LLC has sufficient financial resources and insurance to cover a worst-case-scenario event. The State of Minnesota, Shell Rock Township, City of Glenville, Freeborn County, and any other municipalities identified as being impacted by damages caused by the construction of or operation of the new BESS shall be designated beneficiaries.	
P22	Stormwater Basins	Staff	N/A	5.24	The Applicant shall construct their stormwater basins to accommodate a 1.5" rainfall, in line with the specifications and recommendations made by the Citizens Advisory Task Force.	

Proposed Route Permit Conditions						
ALJ Recommended Conditions						
ID	**Issue**	**Sponsor**	**ALJ Report Finding**	**Location in Proposed Route Permit**	**Recommended Permit Condition Language**	**Comments**
P23	Vegetative Management Plan	DNR	441	6.1	The Permittee shall develop a vegetation management plan (VMP), in coordination with Commission staff, and the Vegetation Management Working Group, 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 VMP. The Permittee shall provide all landowners within the Designated Site 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 Judge finds Section 5.11 in the Draft Site Permit should be added to the Draft Route Permit and is reasonable.**

					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 (e.g., 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. h) the vegetative buffer required by Section 5.2 of this permit.	
P24	Dust Control	DNR	444	6.2	The Permittee shall minimize and avoid, if possible, the use or chloride based dust control chemicals (i.e., calcium chloride, magnesium chloride). The Permittee shall utilize non-chloride products for onsite dust control during construction.	**The ALJ finds the revised language to Draft Site Permit Section 5.17 should be added to the Draft Route Permit and is reasonable.** Staff believes the mention of 5.11 at 444 is a typo and 5.17 is meant by the ALJ.
P25	Endangered Species	DNR	446	6.3	The Permittee will comply with applicable Minnesota Department of Natural	**The Judge finds DNR's proposed addition of a special condition to the**

					Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of EIP staff.	**Draft Route Permit for a special condition on endangered species is reasonable.**

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR
~~[PROJECT NAME]~~ MIDWATER ENERGY STORAGE PROJECT

AN ENERGY STORAGE SYSTEM IN
~~[COUNTY]~~ FREEBORN COUNTY

ISSUED TO
MIDWATER BESS, LLC

PUC DOCKET NO. ~~[Docket Number]~~ ESS-24-294

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

~~[Permittee]~~ Midwater BESS, LLC

~~[Permittee]~~ Midwater BESS, LLC is authorized by this site permit to construct and operate ~~[Provide a description of the project authorized by the Minnesota Public Utilities Commission]~~ the Midwater Energy Storage Project, a battery energy storage system (BESS) with a nominal power rating of up to 150 MW alternating current (AC) with approximately 600 megawatt-hours (MWh) of energy capacity on a site of approximately 17 acres in Shell Lake Township, Freeborn County

The energy storage system shall be constructed and operated within the site identified in this site permit and in compliance with the conditions specified in this site permit.

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

Approved and adopted this ____day of [Month, Year]

BY ORDER OF THE COMMISSION

_____
Sasha Bergman,
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 for assistance.

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~~SAMPLE~~ PROPOSED **PERMIT** ~~[Project Name and PUC Docket No.]~~ Midwater Energy Storage Project, Docket No. ESS-24-294

1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to ~~[Permittee Name]~~ Midwater BESS, Inc. (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This site permit authorizes the Permittee to construct and operate ~~[Provide a description of the project as authorized by the Commission]~~ a 150-megawatt battery energy storage system (BESS) in Shell Rock Township, Freeborn County, Minnesota. (~~[Project Name, if applicable,~~ Midwater Energy Storage Project, henceforth known as Project). The energy storage system shall be constructed and operated within the site identified in this site permit and in compliance with the conditions specified in this site permit.

1.1 Pre-emption

Pursuant to Minn. Stat. § 216E.10, this site permit shall be the sole site approval required for the location, construction, and operation of the energy storage system and this site 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 is a 150-megawatt battery energy storage system (BESS) in Shell Rock Township, Freeborn County, Minnesota. In addition to batteries, racking, and enclosures, the facility will also include inverters and transformers, electrical feeder lines, a project substation, stormwater drainage basins, storage and parking areas, and fencing surrounding the perimeter of the facility. Midwater BESS may construct an operations and maintenance facility at the site or may lease existing space nearby to house operations and maintenance materials. The facility will be connected to the electric grid through a tap line of approximately 2,668 feet between the project substation and the adjacent Glenworth Substation.

The Project is located in the following:

County	Township Name	Township	Range	Section
Freeborn	Shell Rock Township	101N	20W	7, 8, and 17

2.1 Project Ownership

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 the owner(s) of the majority* financial or governance interests in the Permittee; or
(b) a change in the 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.

In the event of an ownership change, the new Permittee must provide the Commission with a certification that it has read, understands, and is able to comply with the conditions of this permit.

3 DESIGNATED SITE

The site designated by the Commission for the Project is depicted on the site maps attached to this site permit (Designated Site). The site maps show the approximate location of the energy storage system and associated facilities within the Designated Site and identify a layout that seeks to minimize the overall potential human and environmental impacts of the Project, as they were evaluated in the permitting process.

The Designated Site 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. Any modification to the location of a photovoltaic tracker row or associated facility shall be done in such a manner as to have human and environmental impacts that are comparable to those associated with the layouts on the maps attached to this site permit. The Permittee shall identify any modifications 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 energy storage system over the life of this site permit.

4.1 Site Permit Distribution

Within 30 days of issuance of this site permit, the Permittee shall provide all affected

landowners with a copy of this site permit and the complaint procedures. An affected landowner is any landowner or designee that is within or adjacent to the permitted site. In no case shall a landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. The Permittee shall also provide a copy of this site permit and the complaint procedures to the applicable regional development commissions, county environmental offices, and city and township clerks. The Permittee shall file with the Commission an affidavit of its site permit and complaint procedures distribution within 30 days of issuance of this site permit.

4.2 Access to Property

The Permittee shall notify landowners prior to entering or conducting maintenance within their property, unless otherwise negotiated with the landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of ~~Minnesota Department of Commerce (Department of Commerce) staff 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 permitting record for this Project unless this site permit establishes a different requirement in which case this site permit shall prevail.

4.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this site 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 at least 14 days prior to the pre-construction meeting. The Permittee shall provide the field representative's contact information to affected landowners, local government units and other interested persons at least 14 days prior to the pre-construction 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 site 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 site permit.

The Permittee shall file the name, address, email, phone number, and emergency phone number of the site manager with the Commission within 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 - Site 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 energy storage system of the terms and conditions of this site permit. The Permittee shall keep records of compliance with this section and provide them upon the request of ~~Department of Commerce staff or~~ Commission staff.

4.3.4 Independent Third-Party Monitoring

Prior to any construction, the Permittee shall propose a scope of work and identify an independent third-party monitor to conduct Project construction monitoring on behalf of the ~~Department of Commerce~~ Commission. The scope of work shall be developed in consultation with and approved by ~~the Department of Commerce~~ Commission staff. This third-party monitor will report directly to and will be under the control of ~~the Department of Commerce~~ Commission staff with costs borne by the Permittee. ~~Department of Commerce~~ Commission staff shall keep records of compliance with this section and will ensure that status reports detailing the construction monitoring are filed with the Commission in accordance with scope of work approved by ~~the Department of Commerce~~ Commission staff.

4.3.5 Public Services, Public Utilities, and Existing Easements

During Project 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 shall be temporary, and the Permittee shall restore service promptly. Where any impacts to utilities have the potential to occur the Permittee shall work with both landowners and local entities to determine the most appropriate mitigation measures if not already considered as part of this site 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 staff 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 4.3.13 and 4.3.14. The Permittee shall site temporary workspace to comply with standards for development of the shorelands of public waters as defined in Section 4.3.13. The Permittee shall obtain temporary easements outside of the authorized Project Boundary from affected landowners through rental agreements. Temporary easements are not provided for in this site 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. The Permittee shall limit construction and maintenance activities 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. 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 utilized for Project construction unless otherwise negotiated with affected landowner.

4.3.10 Soil Compaction

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the Project's life and shall confine compaction to as small an area as feasible. The Permittee shall use soil decompaction measures on all lands utilized for Project construction

and travelled on by heavy equipment (*e.g.*, cranes and heavy trucks), even when soil compaction minimization measures are used.

4.3.11 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) 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 Project shall be returned to pre-construction conditions.

4.3.12 Public Lands

In no case shall the energy storage system and associated facilities including foundations, access roads, underground cable, and transformers, be located 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 located 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 energy storage 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 energy storage 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 in order 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, Minnesota Board of Water and Soil Resources, and local government wetland and water resource requirements.

4.3.14 Native Prairie

The Permittee shall not place the energy storage 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 site 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 Management

The Permittee shall disturb or clear vegetation within the Designated Site only to the extent necessary to assure the safe construction, operation, and maintenance of the Project. The Permittee shall minimize the number of trees removed within the Designated Site specifically preserving to the maximum extent practicable windbreaks, shelterbelts, and living snow fences.

4.3.16 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 requests that there be no application of pesticides within the landowner's property. The Permittee shall provide notice of pesticide application to landowners and beekeepers operating known apiaries within three miles of the pesticide application area 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 staff or~~ Commission staff.

4.3.17 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 and file it with the Commission at least 14 days prior to the pre-construction meeting. The Permittee shall comply with the most recently filed Invasive Species Prevention Plan.

4.3.18 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 staff or~~ Commission staff.

4.3.19 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 Project shall not be hauled across public roads 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 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 staff or~~ Commission staff.

4.3.20 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to archaeological and historic resources when constructing the Project. In the event that 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 SHPO and State Archaeologist requirements.

Prior to construction, the Permittee shall train workers 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 staff or~~ Commission staff.

4.3.21 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 necessary 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 staff or~~ Commission staff.

4.3.22 Drainage Tiles

The Permittee shall avoid, promptly repair, or replace all drainage tiles broken or damaged during all phases of the Project's life 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 staff or~~ Commission staff.

4.3.23 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. 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 file with the Commission a Notice of Restoration Completion.

4.3.24 Cleanup

The Permittee shall remove and properly dispose of all construction waste and scrap from the right-of-way 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 daily.

4.3.25 Pollution and Hazardous Wastes

The Permittee shall take all appropriate precautions to protect against pollution of the environment. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all waste generated during construction and restoration of the Project.

4.3.26 Damages

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

4.3.27 Public Safety

The Permittee shall provide educational materials to landowners within and adjacent to the Designated Site 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 restricting public access. The Permittee shall file with the Commission an affidavit of its public safety notifications at least 14 days before the pre-construction meeting.

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.

4.3.28 Site Identification

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

4.4 Collector and Feeder Lines

The Permittee may use overhead or underground collector and feeder lines to carry power from an internal Project interconnection point to the energy storage system. The Permittee shall place overhead and underground collector and 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 collector and 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 collector and 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 Other Requirements

4.5.1 Safety Codes and Design Requirements

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

4.5.2 Other Permits and Regulations

The Permittee shall comply with all applicable state statutes and rules. 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.

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission an Other Permits and Regulations Submittal that contains a detailed status of all permits, authorizations, and approvals that have been applied for specific to the Project. The Other Permits and Regulations Submittal shall also include the permitting agency name; the name of the permit, authorization, or approval being sought; contact person and contact information for the permitting agency or authority; brief description of why the permit, authorization, or approval is needed; application submittal date; and the date the permit, authorization, or approval was issued or is anticipated to be issued.

The Permittee shall demonstrate that it has obtained all necessary permits, authorizations, and approvals by filing an affidavit stating as such and an updated Other Permits and Regulations Submittal prior to commencing Project construction. The Permittee shall provide a copy of any such permits, authorizations, and approvals at the request of ~~Department of Commerce staff or~~ Commission staff.

5 SPECIAL CONDITIONS

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

5.1 Lighting

Permittees must use shielded and downward facing lighting and LED lighting that minimizes blue hue at the gate locations, BESS enclosures, and along fence lines. Downward facing lighting must be clearly visible on the plan and profile submitted for the Project.

5.2 Tiered Vegetative Buffer

The Permittee shall include a vegetative landscape buffer ~~surrounding~~ between the security fence of the BESS and US Highway 65 to mitigate visual impacts to occupants of cars travelling on US Highway 65 and between the security fence of the BESS and Shell Rock River to mitigate visual impacts to users of the Shell Rock River. The vegetative buffer shall consist of three (3) distinct rows of plantings designed to provide year-round screening. The Permittee shall coordinate with the Freeborn County Office of Environmental Services to complete the following:

- Determine that plant species are compatible, native or locally appropriate species;

- Planting layout details; and,
- Vegetative buffer maintenance plan details. Additionally, the Permittee shall ensure that the vegetative buffer is consistent with ITC Midwest standards for transmission line clearances.

5.3 Pre-Construction Noise Modeling and Impact Assessment

The Permittee shall file a noise impact assessment at least 14 days prior to the pre-construction meeting. The noise impact assessment shall summarize the results from noise propagation modeling that incorporates noise inputs from the selected equipment and the facility layout shown in the site plans required in Section 8.3 of this permit. The permittee shall file an updated noise impact assessment including any revisions to selected equipment or facility layout prior to any modifications to the facility over its operating life.

5.4 Noise Studies and Noise Mitigation

The Permittee shall file a proposed methodology for the conduct of a post-construction noise study at least 14 days prior to the pre-construction meeting. The Permittee shall develop the post-construction noise study methodology in consultation with Commission staff. The Permittee must conduct the postconstruction noise study and file with the Commission the completed post-construction noise study within 18 months of commencing commercial operation. The BESS facilities and associated facilities shall be placed and operated such that the Permittee shall, at all times, comply with noise standards established by the MPCA. Operation of the facility shall be modified, or project components shall be removed from service if necessary to comply with these noise standards.

5.5 Hazard Mitigation Analysis

The Permittee shall file a Hazard Mitigation Analysis detailing the results of the equipment testing, and the risks associated with the technology, along with an affidavit of distribution of the Hazard Mitigation analysis to emergency responders with jurisdiction over the project, at least 30 days prior to the pre-construction meeting

~~5.6 Local Firefighter Training~~

~~The Permittee shall provide regular training on battery technology used in the BESS and associated facility technology for local firefighting crews and emergency services personnel. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.~~

~~5.7 Emergency Planning and Preparedness~~

~~The Permittee shall calculate appropriate waterflow in gallons per minute (gpm) needed to cool a BESS unit and mitigate runoff. In addition, the Permittee shall purchase specialized hose nozzles for local fire response authorities to control gpm if necessary. Waterflow and any specialized equipment shall be part of the firefighter training required by Section 5.6 of this permit.~~

5.8 Site Monitoring

Within thirty (30) days of commercial operation, the Permittee shall install and place into service a meteorological station and an on-site, continuous recording camera system. The camera system must provide adequate site coverage that can be monitored remotely by both the facility management team and a third party. The Permittee shall consult with the Minnesota Pollution Control Agency (MPCA) to develop the on-site meteorological station. Consultation will support selection of appropriate meteorological equipment suitable for the intended purpose, data parameters, siting, and station placement to ensure data representativeness and adequacy.

~~5.9 Dry Hydrant Use~~

~~The Permittee shall conduct a feasibility assessment to evaluate the use of dry hydrants and drafting water from the Shell Rock River for fire response. The assessment shall be shared with firefighting and emergency service personnel and included as part of the firefighter training required by Section 5.6 of this permit.~~

5.10 Agricultural Impact Mitigation Plan

At least 14 days prior to the pre-construction meeting, the Permittee shall develop an agricultural impact mitigation plan (AIMP) in coordination with the Minnesota Department of Agriculture The plan shall detail methods to minimize soil compaction, preserve topsoil, control noxious weeds and invasive species, maintain the existing drainage conditions through appropriate maintenance and repair of existing drain tile, and establish and maintain appropriate vegetation to ensure the project is designed, constructed, operated and ultimately restored in a manner that would preserve soils to allow for the land to be returned to agricultural use.

5.11 Vegetative Management Plan

The Permittee shall develop a vegetation management plan (VMP), in coordination with

Commission staff, and the Vegetation Management Working Group, 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 VMP. The Permittee shall provide all landowners within the Designated Site 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 (e.g., 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.

h) the vegetative buffer required by Section 5.2 of this permit.

5.12 Surface and Groundwater Monitoring

At least 14 days prior to the pre-construction meeting, the Permittee shall file a Surface and Groundwater Monitoring Plan (SGMP). The SGMP shall be designed to detect, evaluate, and respond to any potential impacts to surface water or groundwater resulting from construction, operation, or emergency events at the facility. The SGMP must be prepared in coordination with the Minnesota Pollution Control Agency and the Shell Rock River Watershed District. The SGMP must identify groundwater monitoring locations, stormwater basin sampling points, sampling parameters, methods, and frequencies needed to detect potential impacts. Pollutant concentration action levels must be established in coordination with the MPCA and SRRWD. The SGMP must include procedures for baseline, routine, and event-based monitoring, as well as defined response actions if action levels

are exceeded. Monitoring results must be reported annually to the SRRWD and the Commission; ~~results must be reported~~ samples must be collected after ~~within 24 hours upon~~ an emergency event at the BESS facility in accordance with the plan. The Permittee shall, within thirty days of the emergency event, file ~~16~~ the results of samples collected after an emergency event with the report required under Section 8.12 of this permit. The plan may be modified as needed based on monitoring results, site conditions, or regulatory requirements.

5.13 Tree Replacement Plan

In the event that tree removal is required for construction and operation of the BESS, the permittee, in coordination with the MDNR and Freeborn County, will develop a tree replacement plan to replace any trees that are removed for the construction of the project and file the plan with the Commission at least 14 days before the preconstruction meeting. Replacement trees may be planted on public lands with the permission of the public entity/owner. Replacement trees can be planted as part of the required Visual Screening Plan or may be planted on public lands with the permission of the public entity/owner.

5.14 Bio-Netting or Natural Netting

The Permittee is required to use wildlife-friendly erosion controls. The Permittee shall use only "bio-netting" or "natural netting" types of erosion control materials and mulch products without synthetic (plastic) fiber additives.

5.15 Unanticipated Discoveries Plan

Prior to construction, the Permittee shall survey areas of construction activity within undisturbed land that have not been surveyed. The Permittee shall develop an Unanticipated Discoveries Plan (UDP) to identify guidelines to be used in the event previously unrecorded archeological or historic properties, or human remains, are encountered during construction, or if unanticipated effects to previously identified archaeological or historic properties occur during construction. This is in addition to and not in lieu of any other obligations that may exist under law or regulation relating to these matters. The UDP shall describe how previously unrecorded, non-human burial, archaeological sites found during construction shall be marked and all construction work must stop at the discovery location. The Permittee shall file the UDP with the Commission at least 14 days prior to the preconstruction meeting.

5.16 Security Fencing

The Permittee shall design the security fence surrounding the energy storage system to minimize the visual impact of the Project while maintaining compliance with the National Electric Safety Code. The Permittee shall incorporate opacity strips in the facility's chain-link

security fence to further enhance visual screening. The Permittee shall develop a final fence plan for the specific site in coordination with the DNR. The final fence plan shall be submitted to the Commission as part of the Site Plan pursuant to Section 8.3.

5.17 Dust Control

The Permittee shall minimize and avoid, if possible, the use or chloride based dust control chemicals (i.e., calcium chloride, magnesium chloride). The Permittee shall utilize non-chloride products for onsite dust control during construction.

5.18 Battery Augmentation

The Permittee shall notify the Commission of scheduled augmentation at least 30 days prior to commencing augmentation activities. In its filing, the Permittee shall describe the number and types of batteries included in the augmentation. The Permittee shall indicate the location of the augmentation on the project Site Plan. In its filing the Permittee shall demonstrate compliance with the noise impact assessment submitted to the Commission as required in Section 5.2 of this permit.

5.19 Offtake Agreement

In the event the Permittee does not have an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products. This site permit does not authorize construction of the Project until the Permittee has obtained an offtake agreement, or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project, including as an example, registration as a market participant with MISO or other Regional Transmission Organization or Independent System Operator. In the event the Permittee does not obtain an offtake agreement or some other enforceable mechanism for the sale of energy, capacity, or ancillary services, and/or other products provided by the Project within four years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having an offtake agreement, or some other enforceable mechanism. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. Stat. § 216I.09 or Minn. Stat. § 216I.14.

5.20 Annual Report

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

a) the installed nameplate capacity of the permitted facility;

b) the monthly and annual availability of the facility;

c) the operational status of the facility and any major outages, major repairs, battery augmentation, or performance improvements occurring in the previous year; and

d) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Commission. This information shall be considered public and must be filed electronically.

5.21 Endangered Species

The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of EIP staff.

5.22 Pollution Study

The Applicant is required to study the dispersion of pollutants in the Shell Rock River watershed so it would be available in the event of a fire or thermal event.

5.23 Parental Guaranty

The Parental Guaranty required by the July 16, 2026, order will obligate Midwater BESS, LLC's (Midwater) parent company, Spearmint Energy, LLC (Guarantor), to pay for environmental damages arising out of the construction or operation of the new battery energy storage system (BESS) if Midwater is unable to pay. This includes damages caused by any failure by Midwater to follow the requirements under the site or route permit for the new battery energy storage system, such as failure to remove the BESS at the end of its service life. The July 16, 2026, order also requires ongoing reporting so that the Commission can ensure that Spearmint Energy, LLC has sufficient financial resources and insurance to cover a worst-case-scenario event. The State of Minnesota, Shell Rock Township, City of Glenville, Freeborn County, and any other municipalities identified as being impacted by damages caused by the construction of or operation of the new BESS shall be designated beneficiaries.

5.24 Stormwater Basins

The Applicant shall construct their stormwater basins to accommodate a 1.5" rainfall, inline with the specifications and recommendations made by the Citizens Advisory Task Force.

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 site permit the Permittee shall file a Failure to Construct Report and the Commission shall consider suspension of this site permit in accordance with Minn. R. 7850.4700.

7 COMPLAINT PROCEDURES

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the complaint procedures that will be used to receive and respond to complaints. The complaint 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 site permit.

Upon request, the Permittee shall assist ~~Department of Commerce staff or~~ Commission staff 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 site permit is a failure to comply with the conditions of this site permit. Compliance filings must be electronically filed with the Commission.

8.1 Pre-Construction Meeting

Prior to the start of construction, the Permittee shall participate in a pre-construction meeting with ~~Department of Commerce staff 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 with the Commission a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the anticipated 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 ~~Department of Commerce staff 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 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission, and provide the ~~counties~~ county, township and local emergency responders serving the area where the Project will be constructed with a Site Plan that includes specifications and drawings for site preparation and grading; specifications and locations of the energy storage system and associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the Designated Site, energy storage system, and associated facilities layout in relation to that approved by this site permit.

8.4 Status Reports

The Permittee shall file with the Commission monthly Construction Status Reports beginning with the pre-construction meeting and until completion of restoration. Construction Status Reports shall describe construction activities and progress, activities undertaken in compliance with this site permit, and shall include text and photographs.

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

8.5 Labor Statistic Reporting

The Permittee shall file quarterly Labor Statistic 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 Labor Statistic 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.

The Permittee shall work with its contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

8.6 Prevailing Wage

The Permittee, its contractors, and subcontractors shall pay no less than the prevailing wage rate as defined in Minn. Stat. § 177.42 and shall be subject to the requirements and enforcement provisions under Minn. Stat. §§ 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45. The Permittee shall keep records of contractor and subcontractor pay and provide them at the request of ~~Department of Commerce staff or~~ Commission staff.

8.7 In-Service Date

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

8.8 As-Builts

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

8.9 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 Project.

8.10 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.
To examine and copy any documents pertaining to compliance with the conditions of this site permit.

8.11 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 plan developed shall have a process for (1) identifying any specialized equipment gaps, such as hose nozzles and emergency event gas monitoring equipment, for responding to emergencies at the BESS; (2) acquiring the equipment at permittee's expense; and (3) providing any training for the specialized equipment at the Permittee's expense. The plan shall also indicate that the annual training of emergency service personnel with site operators must be done at the Permittee's expense. 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-operation 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.

8.12 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, 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.

8.13 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 D to the 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 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 site permit or upon termination of operation of the Project, the Permittee shall have the obligation to dismantle and remove from the site all Project components 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 filed with the Commission prior to commencing restoration activities. 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.

10 COMMISSION AUTHORITY AFTER SITE PERMIT ISSUANCE

10.1 Expansion of Designated Site Boundaries

No expansion of the site boundary described in this site 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.

10.2 Periodic Review

The Commission shall initiate a review of this site 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 site permit. No modification may be made except in accordance with applicable statutes and rules.

10.3 Modification of Conditions

After notice and opportunity for hearing this site 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.

10.4 More Stringent Rules

The issuance of this site 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.

11 SITE PERMIT AMENDMENT

This site permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this site 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 under Minn. R. 7850.4900.

12 TRANSFER OF SITE PERMIT

The Permittee may request at any time that the Commission transfer this site 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 filed for the Project and all conditions of this site permit.

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 eDocket reference, or a revised version of the following:

(a) complaint procedures, as described in Section 7 and Attachment 1;
(b) ERP, as described in Section 8.12; and
(c) Decommissioning Plan, as described in Section 9.1.

The Commission may authorize transfer of the site permit after affording the Permittee, the transferee, and interested persons such process as is required under Minn. R. 7850.5000.

13 REVOCATION OR SUSPENSION OF SITE PERMIT

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

14 EXPIRATION DATE

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

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

ROUTE PERMIT FOR
~~[PROJECT NAME]~~MIDWATER ENERGY STORAGE TRANSMISSION lINE

A HIGH-VOLTAGE TRANSMISSION LINE AND ASSOCIATED FACILITIES IN ~~[COUNTY]~~FREEBORN COUNTY

ISSUED TO ~~[PERMITTEE]~~MIDWATER BESS, LLC

PUC DOCKET NO. ~~[Docket Number]~~TL-24-295

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

~~[Permittee]~~MIDWATER BESS, LLC

~~[Permittee]~~ Midwater BESS, LLC, is authorized by this route permit to construct and operate a 161 kV transmission line that is approximately 2,668 feet long and will connect the Midwater Energy Storage Project to the existing ITC Midwest Glenworth Substation in Freeborn County.~~[Provide a description of the project authorized by the Minnesota Public Utilities Commission].~~

The high-voltage transmission line shall be constructed within the route identified in this route permit and in compliance with the conditions specified in this route permit.

Approved and adopted this _____day of [Month, Year]

BY ORDER OF THE COMMISSION

_____

~~Will Seuffert~~Sasha Bergman, 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

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ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities Attachment 2 – Compliance Filing Procedures for Permitted Energy Facilities Attachment 3 – Route Permit Maps

~~SAMPLE~~ PROPOSED ROUTE PERMIT [~~Project Name and PUC~~ Midwater Energy Storage HVTL,

1 ROUTE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this route permit to ~~[Permittee Name]~~ Midwater BESS, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This route permit authorizes the Permittee to construct and operate a 161 kV transmission line approximately 2,668 feet long connecting the Midwater Energy Storage Project to the existing ITC Midwest Glenworth Substation ~~[Provide a description of the project as authorized by the Commission]~~ (Midwater Energy Storage ~~Facility~~Transmission Line ~~[Project Name, if applicable]~~, henceforth known as Transmission Facility). The high-voltage transmission line shall be constructed within the route identified in this route permit and in compliance with the conditions specified in this route permit.

1.1 Pre-emption

Pursuant to Minn. Stat. § 216E.10, this route permit shall be the sole route approval required for construction of the transmission facilities and this route 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 TRANSMISSION FACILITY DESCRIPTION

~~[Provide a description of the Transmission Facility as authorized by the Commission]~~The Transmission Facility will have a 150-foot-wide right-of-way (75 feet on each side of the anticipated alignment). The route will begin at the Midwater Energy Storage Project Substation and end at the ITC Midwest Glenworth Substation.

The Transmission Facility is located in the following:

County	Township Name	Township	Range	Section
Freeborn	Shell Rock	101N	20W	7, 8, and 17

2.1 Structures

~~[Provide a detailed description of the structures authorized by the Commission]~~The Transmission Facility will consist of four to six steel monopoles with a typical height range from 60 to 90 feet above the ground with spans of approximately 164 to 337 feet. Tangent structures will be used for in-line (straight) segments, and dead-end structures will be used at the substations.

2.2 Conductors

~~[Provide a detailed description of the conductors authorized by the Commission]~~

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	Span
		Type	Material			
161 kV		Tangent	Steel	Direct Embed/drilled piers	70 to 130	164-337
161 kV		Deadend	Steel	Direct Embed/drilled piers	70 to 130	164-337

2.3 Substations and Associated Facilities

~~[Provide a detailed description of the associated facilities and substations as authorized by the Commission]~~

3 DESIGNATED ROUTE

The route designated by the Commission is depicted on the route maps attached to this route permit (Designated Route). The Designated Route is generally described as follows:

~~[Provide detailed description of the authorized route including the route widths and any other specifics relevant to each segment. Also include a reference to the relevant route map to be attached to the route permit.]~~
The Transmission Facility route begins at the Midwater Energy Storage Project Substation and proceeds northwesterly for approximately 2,668 feet to the ITC Midwest Glenworth Substation.

The Designed Route includes an anticipated alignment and a right-of-way. The right-of-way is the physical land needed for the safe operation of the transmission line. The Permittee shall locate the alignment and associated right-of-way within the Designated Route unless otherwise authorized by this route permit or the Commission. The Designated Route provides the Permittee with flexibility for minor adjustments of the alignment and right-of-way to accommodate landowner requests and unforeseen conditions.

Any modifications to the Designated Route or modifications that would result in right-of-way placement outside the Designated Route shall be specifically reviewed by the Commission in accordance with Minn. R. 7850.4900 and Section 10 of this route permit.

4 RIGHT-OF-WAY

This route permit authorizes the Permittee to obtain a new permanent right-of-way for the transmission line up to ~~[number]~~ 150 feet in width. The permanent right-of-way is typically ~~[number]~~ 75 feet on both sides of the transmission line measured from its centerline or alignment.

The anticipated alignment is intended to minimize potential impacts relative to the criteria identified in Minn. R. 7850.4100. The final alignment must 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 route permit.

Any right-of-way or alignment modifications within the Designated Route shall be located so as to have comparable overall impacts relative to the factors in Minn. R. 7850.4100, as does the right-of-way and alignment identified in this route 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 route 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 route permit; and for highways under the jurisdiction of the Minnesota Department of Transportation (MnDOT), the procedures for accommodating utilities in trunk highway rights-of-way.

5 GENERAL CONDITIONS

The Permittee shall comply with the following conditions during construction and operation of the Transmission Facility over the life of this route permit.

5.1 Route Permit Distribution

Within 30 days of issuance of this route permit, the Permittee shall provide all affected landowners with a copy of this route permit and the complaint procedures. An affected landowner is any landowner or designee that is within or adjacent to the Designated Route. In no case shall a landowner receive this route permit and complaint procedures less than five

days prior to the start of construction on their property. The Permittee shall also provide a copy of this route permit and the complaint procedures to the applicable regional development commissions, county environmental offices, and city and township clerks. The Permittee shall file with the Commission an affidavit of its route permit and complaint procedures distribution within 30 days of issuance of this route permit.

5.2 Access to Property

The Permittee shall notify landowners prior to entering or conducting maintenance within their property, unless otherwise negotiated with the landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of ~~the Minnesota Department of~~

~~Commerce (Department of Commerce) staff or~~ Commission staff.

5.3 Construction and Operation Practices

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

5.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this route permit during construction of the Transmission Facility. 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 at least 14 days prior to the pre-construction meeting. The Permittee shall provide the field representative's contact information to affected landowners, local government units and other interested persons at least 14 days prior to the pre-construction 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.

5.3.2 Employee Training - Route Permit Terms and Conditions

The Permittee shall train all employees, contractors, and other persons involved in the Transmission Facility construction regarding the terms and conditions of this route permit. The

Permittee shall keep records of compliance with this section and provide them upon the request of ~~Department of Commerce staff or~~ Commission staff.

5.3.3 Independent Third-Party Monitoring

Prior to any construction, the Permittee shall propose a scope of work and identify an independent third-party monitor to conduct construction monitoring on behalf of the ~~Department of Commerce~~Commission. The scope of work shall be developed in consultation with and approved by ~~the Department of Commerce~~Commission staff. This third-party monitor will report directly to and will be under the control of ~~the Department of Commerce~~Commission staff with costs borne by the Permittee. ~~Department of Commerce~~Commission staff shall keep records of compliance with this section and will ensure that status reports detailing the construction monitoring are filed with the Commission in accordance with scope of work approved by ~~the~~

~~Department of Commerce~~Commission staff.

5.3.4 Public Services, Public Utilities, and Existing Easements

During Transmission Facility 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 shall be temporary, and the Permittee shall restore service promptly. Where any impacts to utilities have the potential to occur the Permittee shall work with both landowners and local entities to determine the most appropriate mitigation measures if not already considered as part of this route 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 staff or~~ Commission staff.

5.3.5 Temporary Workspace

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. The Permittee shall obtain temporary easements outside of the authorized transmission line right-of-way from affected landowners through rental agreements. Temporary easements are not provided for in this route permit.

The Permittee may construct temporary driveways between the roadway and the structures to minimize impact using the shortest route feasible. The Permittee shall use construction mats to minimize impacts on access paths and construction areas. The Permittee shall submit the

location of temporary workspaces and driveways with the plan and profile pursuant to Section 9.1.

5.3.6 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0010 to 7030.0080. The Permittee shall limit construction and maintenance activities to daytime working hours to the extent practicable.

5.3.7 Aesthetics

The Permittee shall consider input pertaining to visual impacts from landowners or land management agencies prior to final location of structures, rights-of-way, and other areas with the potential for visual disturbance. 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 Transmission Facility 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. The Permittee shall place structures at a distance, consistent with sound engineering principles and system reliability criteria, from intersecting roads, highways, or trail crossings.

5.3.8 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the Transmission 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 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 Transmission Facility shall be returned to pre-construction conditions.

5.3.9 Wetlands and Water Resources

The Permittee shall develop wetland impact avoidance measures and implement them during construction of the Transmission Facility. Measures shall include spacing and placing the power poles at variable distances to span and avoid wetlands, watercourses, and floodplains.
Unavoidable wetland impacts as a result of the placement of poles shall be limited to the immediate area around the poles. To minimize impacts, the Permittee shall construct in wetland areas during frozen ground conditions where practicable and according to permit requirements by the applicable permitting authority. When construction during winter is not possible, the Permittee shall use wooden or composite mats to protect wetland vegetation.

The Permittee shall contain soil excavated from the wetlands and riparian areas and not place it back into the wetland or riparian area. The Permittee shall access wetlands and riparian areas using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts. The Permittee shall not place staging or stringing set up areas within or adjacent to wetlands or water resources, as practicable. The Permittee shall assemble power pole structures 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 the USACE, Minnesota Department of Natural Resources (DNR), Minnesota Board of Water and Soil Resources, and local units of government wetland and water resource requirements.

5.3.10 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.

The Permittee shall remove tall growing species located within the transmission line right-of-way that endanger the safe and reliable operation of the transmission line. 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 line or impede construction.

5.3.11 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the Minnesota Department of Agriculture (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 requests that there be no application of pesticides within the landowner's property. The Permittee shall provide notice of pesticide application to landowners and beekeepers operating known apiaries within three miles of the pesticide application area 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 staff or~~ Commission staff.

5.3.12 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by Transmission Facility construction activities.
The Permittee shall develop an Invasive Species Prevention Plan and file it with the Commission at least 14 days prior to the pre-construction meeting. The Permittee shall comply with the most recently filed Invasive Species Prevention Plan.

5.3.13 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 staff or~~ Commission staff.

5.3.14 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 Transmission Facility. Where practical, existing roadways shall be used for all activities associated with construction of the Transmission Facility. Oversize or overweight loads associated with the Transmission 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.

5.3.15 Archaeological and Historic Resources

The Permittee shall make every effort to avoid impacts to archaeological and historic resources when constructing the Transmission Facility. In the event that a resource is encountered, the Permittee shall 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 Transmission Facility impacts on the resource consistent with State Historic Preservation Office and State Archaeologist requirements.

Prior to construction, the Permittee shall train workers 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 staff or~~ Commission staff.

5.3.16 Avian Protection

The Permittee in cooperation with the DNR shall identify areas of the transmission line 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. The Permittee shall submit documentation of its avian protection coordination with the plan and profile pursuant to Section 9.1.

5.3.17 Drainage Tiles

The Permittee shall avoid, promptly repair, or replace all drainage tiles broken or damaged during all phases of the Transmission Facility's life 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 staff or~~ Commission staff.

5.3.18 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 Facility. 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 file with the Commission a Notice of Restoration Completion.

5.3.19 Cleanup

The Permittee shall remove and properly dispose of all construction waste and scrap from the right-of-way 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 daily.

5.3.20 Pollution and Hazardous Wastes

The Permittee shall take all appropriate precautions to protect against pollution of the environment.

The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all waste generated during construction and restoration of the Transmission Facility.

5.3.21 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 staff 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 milliampere rms under steady state conditions of the transmission line and to comply with the ground fault conditions specified in the National Electric Safety Code. The Permittee shall address and rectify any induced current problems that arise during transmission line operation.

5.4.2 Electric Field

The Permittee shall design, construct, and operate the transmission line 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 Facility, 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 Transmission Facility. The Permittee shall keep records of compliance with this section and provide them upon the request of ~~Department of Commerce staff or~~ Commission staff.

5.5 Other Requirements

5.5.1 Safety Codes and Design Requirements

The Permittee shall design the transmission line and associated facilities to meet or exceed all relevant local and state codes, the National Electric Safety Code, and North American Electric Reliability Corporation 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.

5.5.2 Other Permits and Regulations

The Permittee shall comply with all applicable state statutes and rules. The Permittee shall obtain all required permits for the Transmission Facility and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations.

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission an Other Permits and Regulations Submittal that contains a detailed status of all permits, authorizations, and approvals that have been applied for specific to the Transmission Facility. The Other Permits and Regulations Submittal shall also include the permitting agency name; the name of the permit, authorization, or approval being sought; contact person and contact information for the permitting agency or authority; brief description of why the permit, authorization, or approval is needed; application submittal date; and the date the permit, authorization, or approval was issued or is anticipated to be issued.

The Permittee shall demonstrate that it has obtained all necessary permits, authorizations, and approvals by filing an affidavit stating as such and an updated Other Permits and Regulations Submittal prior to commencing construction. The Permittee shall provide a copy of any such permits, authorizations, and approvals at the request of ~~Department of Commerce staff~~ or Commission staff.

6 SPECIAL CONDITIONS

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

6.1 Vegetative Management Plan

The Permittee shall develop a vegetation management plan (VMP), in coordination with

Commission staff, and the Vegetation Management Working Group, 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 VMP. The Permittee shall provide all landowners within

the Designated Site 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 (e.g., 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.

h) the vegetative buffer required by Section 5.2 of this permit.

6.2 Dust Control

The Permittee shall minimize and avoid, if possible, the use or chloride based dust control chemicals (i.e., calcium chloride, magnesium chloride). The Permittee shall utilize non-chloride products for onsite dust control during construction.

6.3 Endangered Species

The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of EIP staff.

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 route permit the Permittee shall file a Failure to Construct Report and the Commission shall consider suspension of this route permit in accordance with Minn. R. 7850.4700.

8 COMPLAINT PROCEDURES

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the complaint procedures that will be used to receive and respond to complaints. The complaint 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 route permit.

Upon request, the Permittee shall assist ~~Department of Commerce staff or~~ Commission staff 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 route permit is a failure to comply with the conditions of this route permit. Compliance filings must be electronically filed with the Commission.

9.1 Pre-Construction Meeting

Prior to the start of construction, the Permittee shall participate in a pre-construction meeting with ~~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 with the Commission a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the anticipated construction start date.

9.2 Plan and Profile

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission, and provide ~~the Department of Commerce, and~~ the counties where the Transmission Facility, or portion of the Transmission Facility, will be constructed 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 Facility. 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 route permit.

The Permittee may not commence construction until the earlier of (i) 30 days after the pre-construction meeting or (ii) or until the Commission staff 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 route permit.

If the Commission notifies the Permittee in writing within 30 days after the pre-construction meeting that it has completed its review of the documents and planned construction, and finds that the planned construction is not consistent with this route permit, the Permittee may submit additional and/or revised documentation and may not commence construction until the Commission has notified the Permittee in writing that it has determined that the planned construction is consistent with this route 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~~, the Department of Commerce,~~ and county staff 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 route permit.

9.3 Status Reports

The Permittee shall file with the Commission monthly Construction Status Reports beginning with the pre-construction meeting and until completion of restoration. Construction Status Reports shall describe construction activities and progress, activities undertaken in compliance with this route permit, and shall include text and photographs.

If the Permittee does not commence construction of the Transmission Facility within six months of this route permit issuance, the Permittee shall file with the Commission Pre-Construction Status Reports on the anticipated timing of construction every six months beginning with the issuance of this route permit until the pre-construction meeting.

9.4 In-Service Date

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

9.5 As-Builts

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

9.6 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 Facility and each substation connected.

9.7 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.

To examine and copy any documents pertaining to compliance with the conditions of this route permit.

10 ROUTE PERMIT AMENDMENT

This route permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this route 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 under Minn. R. 7850.4900.

11 TRANSFER OF ROUTE PERMIT

The Permittee may request at any time that the Commission transfer this route 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 filed for the Transmission Facility and all conditions of this route permit. The Commission may authorize transfer of the route permit after affording the Permittee, the transferee, and interested persons such process as is required under Minn. R. 7850.5000.

12 REVOCATION OR SUSPENSION OF ROUTE PERMIT

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