

Staff Briefing Papers

Meeting Date: September 18, 2025

Agenda Item: **5

Company: Lemon Hill Solar, LLC

Docket: IP-7156/GS-25-126

In the Matter of the Application of Lemon Hill Solar, LLC for a Site Permit for the up to 180 MW Lemon Hill Solar Project in Olmsted County, Minnesota

- Issue:**
- Should the Commission find the site permit application complete?
 - Should the Commission authorize review under the alternative permitting process or the full permitting review process?
 - Should an advisory task force be appointed?
 - Should the Commission request that an administrative law judge conduct the public hearings and provide a report with findings of fact, conclusions of law, and recommendations?
 - Should the Commission direct the Executive Secretary to issue an authorization to the applicant to initiate consultation with the Minnesota State Historic Preservation Office (SHPO)?
 - Are there any additional procedural requirements that should be considered?

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✓ Relevant Documents	Date
Lemon Hill Solar, LLC's Site Permit Application (16 parts)	06/30/2025
Energy Infrastructure Permitting (EIP) Staff Comments and Recommendations and a Draft Permitting Process Schedule ¹	07/23/2025
Lemon Hill Solar, LLC's Reply Comments (2 parts)	07/31/2025
Lemon Hill Solar, LLC's Supplemental Comments (8 parts)	08/01/2025
Viola Township Board Comments	08/04/2025
EIP Supplemental Comments	08/05/2025
LIUNA Minnesota and North Dakota Comments	08/05/2025
State Sen. Steve Drazkowski and State Rep. Steven Jacob	08/05/2025
Mike Keefe Comments	08/14/2025
Lemon Hill Solar, LLC's Supplemental Comments Regarding August 14 Mike Keefe Comments	08/21/2025
Mike Keefe Rebuttal Comments	08/27/2025

¹ On July 1, 2025, the Minnesota Department of Commerce Energy Environmental Review (EERA) staff moved to the Minnesota Public Utilities Commission Energy Infrastructure Permitting (EIP) unit as directed by state law (Laws of Minn. 2024, ch.126, art. 7) and in response to permitting reform under Minnesota Statute 216I (2024). The review of this application began under and will continue under Minnesota Statute 216E (2023). EERA staff initiated environmental review of this proposal prior to July 1, 2025, and will continue to exclusively perform environmental review duties for this application under 216E as *EIP staff*. Likewise, analyst staff at the PUC will continue to exclusively perform analyst duties on this application as *PUC staff*.

**A complete list of public comments received from interested members of the public are provided in the attached Table 1.

Attachments

Table 1: List of Public Commenters

Attachment A: Sample Site Permit

Attachment B: Project Map

I. ISSUES

- Should the Commission find the site permit application complete?
- Should the Commission authorize review under the alternative permitting process or the full review process?
- Should an advisory task force be appointed?
- Should the Commission request that an administrative law judge conduct the public hearings and provide a report with findings of fact, conclusions of law, and recommendations?
- Should the Commission direct the Executive Secretary to issue an authorization to the applicant to initiate consultation with the Minnesota State Historic Preservation Office (SHPO)?
- Are there any additional procedural requirements that should be considered?

II. PROJECT BACKGROUND

Lemon Hill Solar, LLC, a subsidiary of DESRI Holdings, L.P. (DESRI) has filed a site permit application to construct and operate a 180-megawatt (MW) alternate current (AC) photovoltaic (PV) solar energy generating facility and associated infrastructure, known as the Lemon Hill Solar Project (Project). Ranger Power, a Delaware limited liability company, is developing the Project on behalf of Lemon Hill Solar.

The proposed Project would be located in Haverhill and Viola Townships in Olmsted County, Minnesota. The Project footprint is approximately 1,945 acres of agricultural land, of which approximately 966 acres will be used for the operation of the Project.

The Project will include: bi-facial PV modules affixed to tracking systems that allow the PV modules to follow the sun from east to west; inverters; transformers; an electrical collection system; access roads; security fencing; security cameras and lighting; a collector substation; an

operations and maintenance building; parking; stormwater retention ponds; weather stations; temporary laydown areas, approximately 530 feet of 161 kilovolt (kV) transmission generation tie-line; and any ancillary equipment or buildings as necessary and typical of a solar farm. (See the attached Project Overview Map).

Lemon Hill Solar is proposing to interconnect the Project's new substation, via a 161 kV gen-tie line to Dairyland's Substation. The gen-tie line will be less than 1,500 feet in length and will provide sufficient outlet to accommodate all the solar energy generation from the Project. Lemon Hill Solar filed a queue position with the Midcontinent Independent System Operator (MISO) in the MISO DPP 2021 West study cycle as J2219. It is anticipated that Lemon Hill Solar will execute a Generator Interconnection Agreement (GIA) with MISO for 180 MW in Q1 2026. Lemon Hill Solar proposes to start construction in Q4 2026 and commercial operations by the end of 2028.

According to the site permit application², the Project is designed to support Minnesota's Renewable Energy Standards and the "100 Percent by 2040" legislation and will contribute to the need for carbon free energy.

III. RULES AND STATUTES

A. Site Permit

Under Minn. Stat. § 216E.03, subd. 1, no large electric power generating plant shall be sited or constructed in Minnesota without the issuance of a site permit by the Commission. The proposed Lemon Solar Project is a large electric power generating plant under Minn. Stat. § 216E.01, subd. 5, because it is an electric generating facility designed for or capable of operation at a capacity of 50 megawatts or more, and therefore, requires a site permit. The proposed Lemon Solar Project is also defined as a solar energy generating system under Minn. Stat. § 216E.03, subd. 9a, because the primary purpose of the facility is to produce electricity by a combination of collecting, transferring, and converting solar-generated energy.

B. Review Process

Lemon Hill Solar filed its site permit application under the alternative permitting process set forth in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900. The proposed project is eligible for consideration under the alternative permitting process because it is a large electric power generating plant that is powered by solar energy.³ Site permit applications considered under the alternative permitting process must include specific information about the proposed

² Lemon Hill Solar, LLC [Site Permit Application](#) at pg. 88, June 30, 2025.

³ Minn. Stat. § 216E.04, subd. 2(8).

project as provided under Minn. R. 7850.3100. Consideration of alternative sites for proposed solar energy generating systems is specially excluded from review under Minn. Stat. § 216E.03 Subd. 5.

The Commission may accept an application as complete, accept an application as complete upon the filing of missing information, or reject an application and advise the applicant of the deficiencies. The date of the Commission's determination that an application is complete is considered the application review start date.

Under the alternative permit review process:

- the applicant is not required to propose alternative sites in the permit application. However, if the applicant has examined and rejected alternative sites, it must include a discussion of those sites and the reasons for rejecting them in the permit application;
- the Commission has six months from the date an application is determined complete to reach a final site permit decision instead of one year under the full process. The six-month time period may be extended for up to three months for just cause or by agreement of the applicant;
- the preparation of an environmental assessment is required instead of an environmental impact statement; and
- a public hearing is conducted pursuant to the procedures found in Minn. R. 7850.3800, instead of a contested case hearing.

C. Advisory Task Force

Minn. R. 7850.3600, provides for Commission appointment of an advisory task force. The Commission must determine whether to appoint a task force as early in the process as possible but is not required to establish an advisory task force for every project. If the Commission does not establish an advisory task force, a member of the public may request one, and the Commission must promptly consider the request. Upon appointment of an advisory task force, the Commission must specify the charge to the task force and appoint its members in accordance with Minn. Stat. § 216E.08, subd. 1.

D. Environmental Assessment

Minn. R. 7850.3700, requires preparation of an environmental assessment for projects being reviewed under the alternative permitting process. The environmental assessment must

provide information on the human and environmental impacts of the proposed project and of alternative sites or routes; the feasibility of each alternative site or route considered; and mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified.

E. Public Hearing

Under Minn. R. 7850.3800, applications reviewed under the alternative permitting process require a public hearing upon completion of the environmental assessment. The rules provide for Commission appointment of a hearing examiner to facilitate factual record development and to ensure the record created at the public hearing is preserved, and to provide a report and recommendations on the matter. The Commission typically requests the appointment of an administrative law judge from the Court of Administrative Hearings (CAH) to serve as the hearing examiner. The public hearing procedures are set out in Minn. R 7850.3800, subp. 3.

IV. PROCEDURAL HISTORY

On June 30, 2025, Lemon Hill Solar filed an application for the 180 MW Lemon Hill Solar Project.

On July 23, 2025, EIP Staff filed comments and recommendations on the application completeness and introduced a draft permitting and environmental review schedule.

On July 31, 2025, Lemon Hill Solar submitted Reply Comments and a Cover Letter to SHPO Re: Phase I Archaeological Survey Report for the Lemon Hill Solar Project.

On August 1, 2025, Lemon Hill Solar submitted supplemental comments including Attachment A (Phase I Archaeological Survey Report, Addendum 1) and Attachment B (Wetland Delineation Report).

On August 4, 2025, Viola Township submitted comments on the merits of the project.

On August 5, 2025, EIP submitted supplemental comments.

On August 5, 2025, State Sen. Steve Drazkowski and State Rep. Steven Jacob submitted a letter.

Also on August 5, 2025, LIUNA Minnesota and North Dakota Comments submitted comments.

On August 14, 2025, Mike Keefe submitted comments.

On August 21, 2025, Lemon Hill Solar submitted comments in response to August 14 Mike Keefe comments.

On August 27, 2025, Mike Keefe submitted rebuttal comments.

Staff Note: Between February 27 – to August 27, 2025 multiple comments were received from members of the public and are further discussed in Section V.D. below.

V. SUMMARY OF COMMENTS

A comment period on application completeness, procedural requirements, and the need for an advisory task force was open from July 9 to August 5, 2025. Staff provides a summary of the comments received below.

A. EIP Staff Initial Comments

In its July 23, 2025 Comments and Recommendations, EIP staff determined the application is largely complete pursuant to Minnesota Rules but lacks sufficient detail to fully evaluate certain potential impacts, such as tourism, geology, groundwater, surface waters, wildlife, and rare/unique natural resources. EIP staff also evaluated the necessity of an advisor task force and other procedural considerations. Following is a summary of EIP staff's recommendations:

- Accept the application as substantially complete but require Lemon Hill Solar to submit additional information in the following areas:
 - Tourism: Clarify distinctions between recreational and tourism resources and their potential impacts.
 - Geology and Groundwater: Provide analysis of existing conditions and potential impacts to karst features and groundwater, separate from any geotechnical study.
 - Surface Waters: Provide additional information to address drainage patterns and the use of stormwater ponds in karst areas.
 - Wildlife: Provide additional information on possible negative impacts, especially during construction and operation and from project fencing.
 - Rare and Unique Natural Resources: Provide additional support on the finding that no federally listed species are present and the potential impacts on unique habitats in the project area;
- Require Lemon Hill Solar to provide a Phase I cultural resources survey and a native prairie survey for the two unsurveyed parcels;

- Require Lemon Hill Solar to continue working with EIP staff and provide supplemental information throughout review and permitting;
- Determine that an advisory task force is not warranted, based on consideration of project size, complexity, controversy, and sensitive resources; adding that, while the project is large and has generated public comment, it is technically straightforward, land rights are secured, and resource concerns can be addressed through the EA and agency consultation, with additional input gathered at public meetings and hearings; and
- Request that an administrative law judge prepare a report containing findings, conclusions, and recommendations.

B. Lemon Hill Solar Reply Comments

Responding to specific comments received from PUC EIP staff requesting that Lemon Hill Solar provide a Phase I cultural resources survey for the Project's two parcels which had not been surveyed at the time the Application was prepared, Lemon Hill Solar pointed to recent work completed in April 2025 by Merjent, Inc, (a consultant to Lemon Hill Solar). Specifically, Merjent surveyed six Project areas totaling approximately 128 acres of land that identified two precontact archaeological sites, but after further survey and testing around the site locales did not result in the discovery of additional cultural material.

Based on the Phase I archaeological survey conducted, Merjent recommended that: (1) archaeological site numbers 21OL0078 and 21OL0079 do not meet the National Register of Historic Places (NRHP) criteria and are therefore not eligible for listing on the NRHP; (2) no historic properties will be affected by the Project as proposed; and (3) no further archaeological work is recommended for the Project as planned. Merjent submitted a Request for Project Review by the SHPO on July 29, 2025 and Lemon Hill Solar will file SHPO's determination with the Commission after SHPO's review is complete.

Lemon Hill Solar also responded to the other EIP Staff comments addressing the Native Prairie Survey, Wetland Delineations, Advisory Task Force, application review process and additional information on potential impacts, and mitigation measures for tourism, geology, groundwater, surface waters, wildlife, and rare and unique natural resources.

Lemon Hill Solar also responded to the comments submitted by Viola Township Board Supervisor and to the comments received from members of the public.

Lemon Hill Solar indicated that their review of the public comments filed in the record did not identify any issues with respect to completeness of the Application and requested that the Commission determine the Application to be complete and that it supports EIP Staff's conclusion that the record does not warrant an advisory task force.

Lemon Hill Solar filed supplemental comments⁴ providing the documentation regarding Phase 1 Cultural Resource Survey in Attachment A and the updated Wetland and Waterbody Delineation Report in Attachment B.

C. EIP Staff Supplemental Comments⁵

EIP staff reviewed the public comments filed in the record by residents of Viola and Haverhill Townships concerning the Lemon Hill Solar Project and in response provided an explanation of the permitting process and also addressed the supplemental information provided by Lemon Hill Solar and the contents of the recent public comments.

EIP staff clarified that the Lemon Hill Solar Project site permit application is not proceeding under the new permitting framework, Minnesota Statute 216I, which became effective as of July 1, 2025. Site permit applications for solar farms submitted prior to July 1, 2025, including the Lemon Hill Solar application filed on June 30, 2025, are being reviewed in accordance with Minnesota Statute 216E, which requires EIP staff to prepare an environmental assessment (EA) for the proposed project. The EA will contain information on the human and environmental impacts of the proposed project and will address potential mitigating measures. There are two public comment opportunities in this process.

The public review process includes a public information, and scoping meeting held to gather input from the public, local governments, state agencies, and other interested persons on the scope, the contents, of the EA, such as the human and environmental impacts of the proposed project, strategies to mitigate or avoid impacts, or unique characteristics or resources in the project area. EIP staff will use this public input to identify the topics to be studied in the EA.

Following the release of the EA, there will be a public hearing where members of the public, state and local governments, and other interested persons will have an opportunity to review the EA prepared for the project and to comment on the EA and other aspects of the project.

In conclusion, PUC EIP staff acknowledged the high level of interest in this project including requests for an advisory task force, but indicated that at this time it is difficult to specify a particular charge for the task force, based on the comments received. The Commission could

⁴ Lemon Hill Solar [Supplemental Comments](#), August 1, 2025

⁵ PUC EIP [Supplemental Comments](#), August 5, 2025

meet in the near future to determine whether to appoint a citizen advisory task force and specify a charge for the task force. Alternatively, the Commission could defer a decision on whether to appoint an advisory task force until it has the record of public, local government, and state agency comments following the close of the public scoping comment period.

D. Summary of Public Comments

In addition to the comments from PUC EIP and the Applicant, the Commission received comment letters from over 40 different interested parties, some of whom submitted multiple letters, and some that were received both before and after the designated comment period. Notable commenters included Senator Steve Drazkowski, Viola Township, LIUNA Minnesota and North Dakota, and an opposition petition organized by Ken Enerson containing approximately 225 signatures.⁶ Staff has reviewed the comment letters and provides the summary below of key issues raised and specific concerns associated with the issues.

Groundwater Contamination and Risks to Karst Geology. Many commenters stressed that the karst geology in southeastern Minnesota makes the area highly susceptible to groundwater contamination and that stormwater runoff from solar development poses risks to aquifers, private wells, and the Whitewater River watershed.⁷

Loss of Prime Agricultural Land and Zoning Laws. Several commenters stressed that the proposed project area is zoned agricultural and questioned the legality of constructing a solar facility, arguing that residents are subject to strict local ordinances while solar developers bypass those ordinances. Many commenters raised concern over the possible conversion of prime farmland to solar use, permanent loss of agricultural productivity, loss of topsoil, and impact on the overall food supply.⁸

Wildlife and Ecological Impacts. Commenters raised concerns about impacts to wildlife and loss of habitat due to displacement, fencing requirements, and drainage of wetlands. The potential for harm to streams, rivers, and wetlands from toxic runoff from damaged solar panels was also a common concern.⁹

Local Government Input. Many commenters expressed frustration that township and county governments had little control over siting decisions.¹⁰ Commenters expressed that local

⁶ See also Table 1 attached to these briefing papers.

⁷ Axley, Bierbaum, Albers, Brunsvold, Everson, and Keefe, Klavetter, Lawver, Pries, and Shea.

⁸ Albers, Bierbaum, Everson, Hammel, Meyer, Renken, Schmidt, and Smith.

⁹ Axley, Brunsvold, and Everson.

¹⁰ Viola Township and Bierbaum.

governments will not be included in decision-making and that township and county ordinances will be ignored or overruled.

Noise, Glare, EMF, and Health Concerns. Commenters raised concern with the potential for sustained noise from project inverters and substations and glare from solar panels affecting nearby homes and travelers while driving. The risks from broken panels leaching toxins, such as cadmium, lead, PFAS was also raised. There was also concern that the solar facility would create a “heat island” and impact the immediate local climate. Issues such as EMF exposure related to human health and stray voltage impacts on livestock were also issue of common concern.¹¹

Property Value, Aesthetics, and Community Character. Commenters raised concern about potential for reduced property values, and a negative cascade affect leading to decline in local business activity, school enrollment impacts, and businesses reliant on farming (seed, equipment, fuel). General concern was raised that the project would alter the rural landscape and diminish community identity.¹²

Developer Conduct and Accountability Issues. Commenters alleged that Ranger Power staff and contractors entered private property without permission to take photographs, raising trespass and trust concerns. In response to Ranger Power staff reaching out by phone to commenters to answer project questions, concern was raised that such contact by the applicant is inappropriate, unprofessional and condescending and that such personal outreach undermines the integrity and public confidence in the PUC’s process. Commenters question the level of accountability to Ranger Power, which is an out-of-state company to repair road damage, perform site restoration and decommissioning, and disposal of solar panels at the end of the project’s life and the potential burden that could be placed on the taxpayers and local governments.¹³

Procedural and Process Concerns. Senator Drazkowski and Representative Jacobs allege that that the permitting process is being expedited, and that expedited permitting should not be considered. Concern was raised that applicant consultation with the Townships has been inadequate to date.¹⁴

Opposition Petition. A petition was organized by Ken Everson which included approximately 225 signatures from residents of Viola and Haverhill Townships. The petition opposed the Lemon Hill Solar Project and emphasized concerns over farmland loss, groundwater risks, and

¹¹ Everson, Jensen, Keefe, Krizo, and Meyer, Mulholland, Pike, Schmidt, Shea, and Viola Township.

¹² Sen. Drazkowski and Rep. Jacob, Everson, Meyer, Mulholland, Pike, and Opposition Petitioners.

¹³ Everson, Keefe, Meyer, Shea, and Opposition Petitioners.

¹⁴ Sen. Drazkowski and Rep. Jacob, Keefe

wildlife displacement. It formally requested a Citizens Advisory Task Force and appropriate environmental review.

Advisory Task Force. Several commenters (20+), including Senator Drazkowski and Representative Jacobs, requested that the Commission establish an advisory task force. Reasons for an advisory task force ranged from the need for detailed studies, consideration of alternatives, community representation, transparency, and participation by state agencies such as the Minnesota Department of Natural Resources (DNR) and the Minnesota Pollution Control Agency (MPCA), and local residents, farmers, and environmental experts.

Environmental Impact Statement (EIS). At least one commenter requested that the Commission require the preparation of an EIS to ensure studies are done on well water contamination risk in the karst region including chemical analysis of the solar panels to be used.¹⁵

1. PUC Staff Discussion of Public Comments

The public comments demonstrate significant opposition to the Lemon Hill Solar Project as currently proposed, and the majority of comments focus on the merits of the project and application review process, rather than application completeness. Staff suggests that once the application is deemed complete and the formal review process begins, concerned citizens will benefit from the factual information that will be provided during the public information meetings, developed in the environmental assessment, and discussed and further evaluated during the public hearings. They will also be able to provide additional feedback throughout the process, including oral and written comment opportunities at public information meetings and hearings.

Staff points out that many, if not all, of the concerns identified by commenters are issues that the Commission typically considers when reviewing site permit applications for solar energy generating systems.¹⁶ In addition, following the public information meetings and comment period, Commission staff will prepare a proposed scope of the environmental assessment based on the comments received to date, including those received during this application completeness period. The Commission can review and modify the proposed scope, adding additional items for evaluation if necessary.

¹⁵ Klavetter.

¹⁶ For example see: *In the Matter of the Application of Coneflower Solar, LLC for a Site Permit for the up to 235 MW Coneflower Solar Project in Lyon County, Minnesota*; PUC Docket IP-7132/GS-24-215; Environmental Assessment Scoping Decision (January 3, 2025); Document ID [20251-213531-01](#).

Two issues were raised during the public comment period that staff recommend the Commission should address at this time: a request for an EIS and the establishment of an advisory task force.

a. Request for EIS

The proposed project, because of its type and size, falls under the alternative review process, which includes the preparation of an EA. While an EA is somewhat more streamlined, it is comparable to an EIS in that it evaluates and discusses the project, as well as identifies potential impacts and mitigation measures. Where the documents differ is in process. An EIS is prepared under the full permitting process and requires preparation of draft EIS, followed by a public meeting and comment period. A final EIS is then prepared which must be responsive to the comments received on the draft EIS. Lastly, a final adequacy decision must be made by the Commission. Whereas the EA is a single, comprehensive document that is prepared and available for public comment during the hearings and includes a final determination by the Commission on whether the issues identified in the scope were adequately addressed.

As previously stated, the proposed project is eligible for review under the alternative process because it is a large electric power generating plant powered by solar energy. Staff believes the Commission, if it so chooses, has the authority to require that the application be reviewed under the full process which requires preparation of an EIS.

Staff does not believe the commenter requesting an EIS has provided adequate justification for review under the full process. The Commission has reviewed and is reviewing several solar projects under the alternative process which provides thorough evaluation through development of an EA and multiple opportunities for public involvement. These projects are similar to the proposed Lemon Hill Solar Project.

b. Request for Advisory Task Force

Concerning the request for an advisory task force, staff notes that the majority of proposed solar projects in Minnesota have not required one. Again, the alternative review process provides multiple opportunities for public participation and consideration of concerns that are raised. Consideration of alternative sites for proposed solar energy generating systems is specially excluded from review under Minn. Stat. § 216E.03 Subd. 5.

Nonetheless, the Commission has at times established a task force for a project being reviewed under the alternative permitting process if circumstances demanded.¹⁷ In this case there has been significant request for a task force; however, the reasons for and charge of a proposed task force have not been clearly identified. That is, commenters have not raised what a task force would study that is not already evaluated in the required EA and the site permit application.

Should the Commission require a task force it will need to develop a proposed structure and charge, that is, the Commission will need to make a determination on what topics and issues the task force will evaluate and provide recommendations. The Commission must also appoint the members of the task force in accordance with Minn. Stat. § 216E.08, subd. 1.

PUC STAFF DISCUSSION

A. Application Completeness

Commission staff has reviewed the site permit application and agrees with PUC EIP that the application generally contains the information required under Minn. R. 7850.3100, which refers to 7850.1900. No comments challenging the completeness of the application were received. Staff recommends that the application be accepted as substantially complete.

B. Advisory Task Force

Staff agrees with PUC EIP that an advisory task force is not warranted in the Lemon Hill Solar project at this time and recommends that the Commission take no action on an advisory task force. Staff believes the alternative permitting process can provide sufficient opportunities for the general public to identify issues and concerns that can be addressed in the environmental assessment.

However, should the Commission choose to appoint an advisory task force, staff recommends the Commission authorize PUC EIP to: (1) establish the task force; (2) develop a proposed structure and charge; and (3) appoint the members in accordance with Minn. Stat. § 216E.08, subd. 1.

C. Procedural Treatment of Alternative Review of the Site Permit Application

¹⁷ For example see: *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*; PUC Docket IP-7141/ESS-24-294; Order Establishing a Citizen Advisory Task Force (June 2, 2025); Document ID [20256-219493-01](#).

Historically, the Commission has chosen between two types of alternative review as described below, either a Summary Report Process or a Summary Proceeding. The type of hearing process has typically depended on the controversy and complexity of the project being proposed.

Summary Report Process (less complex projects): An administrative law judge (ALJ) presides over the hearing pursuant to Minn. R. 7850.3800; provides a complete summary of the public comments received at hearing and during the public comment period; and transmits the complete hearing record, including all written comments, to the Commission within five days of the close of the record.

Summary Proceeding (more complex or controversial projects): An ALJ presides over the hearing pursuant to Minn. R. 7850.3800; provides findings of fact, conclusions, and recommendations; and transmits the complete hearing record, including all written comments, to the Commission within 30 days of the close of the record. The summary proceeding may also include some combination of prefiled testimony, initial briefs, response briefs, and an exception period.

Based on the level of interest and controversy associated with this project, staff recommends that the Commission authorize a Summary Proceeding and request an ALJ to preside over the hearing and prepare findings of fact, conclusions and recommendations. Staff believes a full ALJ report will help ensure the development of a robust record and provides an independent review and recommendation on the issues identified during the permitting process.

D. Administrative Guidance

To facilitate the review process, staff recommends that the Commission include the following additional items in the order issued in this matter:

- Delegate the Executive Secretary to issue an authorization to the applicant to initiate consultation with the Minnesota State Historic Preservation Office.
- Delegate administrative authority to vary time periods to its Executive Secretary under Minn. R. 7829.1275.
- Provide the name, telephone number, and email address of the staff person designated as public advisor to facilitate citizen participation in the process.
- Request that PUC EIP continue to study the issues and indicate during the hearing process its position on the reasonableness of granting the site and route permits.

- Require the applicant to facilitate in every reasonable way the continued examination of the issues by PUC EIP and Commission staff.
- Require the applicant to place an electronic or hard copy of the applications for review in at least one government center or public library in each county where the proposed project and any alternatives are located.
- Direct the applicant to work with Commission and PUC EIP staff to arrange for publication, in newspapers of general circulation, of the notice of public information meeting and of the notice of public hearing. Such notice must be in the form of visible display ads, and the applicant shall provide Commission staff with proof of publication.

COMMISSION DECISION OPTIONS

Site Permit Application

1. Accept the site permit application as substantially complete. (PUC EIP, LIUNA, Staff)

Or

2. Reject the site permit application and indicate the specific deficiencies.

Review Process

3. Authorize review under the alternative permitting process defined in Minn. Stat. § 216E.04 and Minn. R. 7850.2800 to 7850.3900, and request that an administrative law judge from the Court of Administrative Hearings: (1) preside over a public hearing in accordance with Minn. Stat. § 216E.04, subd. 6 and Minn. R. 7850.3800, and as the administrative law judge determines appropriate, Minn. R. ch. 1405; (2) direct that intervention as a party is not required; (3) establish the types of filings necessary to facilitate proper record development (*e.g.*, prefiled direct testimony, briefs, reply briefs, proposed findings and permit recommendations) and a schedule for submitting those filings through a prehearing conference in accordance with Minn. R. 1405.1100, as determined appropriate; and (4) prepare a report setting forth findings of fact, conclusions of law, and recommendations on the merits of the application and provide recommendations, if any, on the conditions and provisions a permit. (PUC EIP, Staff)

Or

4. Authorize review under the full permitting process defined in Minn. Stat. § 216E.03 and Minn. R. 7850.1700 to 7850.2700 and refer the matter to the Court of Administrative Hearings for a contested case proceeding.

Environmental Review

5. Authorize PUC EIP to prepare an Environmental Impact Statement (EIS) for the project. (Klavetter)

Or

6. Authorize PUC EIP to prepare an Environmental Assessment (EA) under Minnesota Statutes § 216E.04. (PUC EIP, Staff)

Advisory Task Force

7. Take no action on an advisory task force at this time. (PUC EIP, LIUNA, Staff)

Or

8. Authorize establishment of an advisory task force and develop a proposed structure and charge for the task force. (20+ members of the public)

Other

9. Authorize the Executive Secretary to issue an authorization to the Applicants to initiate consultation with SHPO. (Staff)

Staff Recommendation: 1, 3, 6, 7, and 9