

February 26, 2024

*VIA EDOCKETS*

Public Advisor  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101

RE: EERA Hearing Comments  
Elk Creek Solar Project  
**PUC Docket No.** IP-7009/GS-19-495  
**OAH Docket No.** 65-2500-39582

Dear Public Advisor,

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff offers the following hearing comments regarding the Elk Creek Solar Project (Project) site permit amendment proposed by Elk Creek Solar, LLC (Elk Creek Solar). In these comments, EERA staff recommends modifications to Elk Creek Solar's draft decommissioning plan and summarizes the proposed changes to the site permit issued December 31, 2020, included in the Environmental Assessment (EA) prepared for the Project as ordered by the Minnesota Public Utilities Commission (Commission) on October 10, 2023.

## Decommissioning Plan

EERA staff has reviewed the draft decommissioning plan (draft plan) for the proposed Elk Creek Solar Project included as Appendix D of the Site Permit Application filed August 29, 2023.

EERA staff's review is guided by the recommendations of the Solar and Wind Decommissioning Working Group (SWDWG). As discussed in EERA staff's recommendations on decommissioning plans in Docket 17-123 (Document No. [20203-161292-01](#)), the decommissioning plan should serve as a stand-alone document to orient the reader to the project as it is on the ground.

### EERA Comments and Recommendations

- **Independent Preparer:** Meets EERA expectations. The plan and cost estimate have been prepared by Westwood Professional Services.
- **Decommissioning Objective:** Partially meets EERA expectations. EERA recommends consolidating this information into one section with a clear statement of the objective; the current draft includes objectives in both Section 2 and in Section 3.4.

EERA questions whether the restoration goal identified in Section 3.4, to both restore pre-construction land uses and plant communities (currently cultivated agriculture) while minimizing removal of vegetation established during operation of the facility, is achievable. The draft site permit (at Section 9.2) requires the Permittees to restore and reclaim the site to pre-project conditions, but gives deference to landowner preference. It is anticipated that the objective for most facilities will be to restore the site to its pre-project condition, though it is possible that in

the future, restoration to a different use (e.g., restored prairie, commercial, residential) may be permissible. As the project is in its early stages, EERA recommends that the objective should be consistent with the standard permit language. Regular plan updates will allow for the objective to evolve over time.

- **Scheduled Updates:** Does not meet EERA expectations. The text in Sections 4 and 5 indicates that Elk Creek will update cost estimates every five years. For ease of reference, EERA recommends adding a section specifically addressing the schedule of updates for the plan, not just the costs. At this stage, EERA staff recommends a “permit version” of the decommissioning plan filed with pre-construction documents, and then scheduled updates every five years thereafter, not every five years beginning in year 10 of operations. The plan, not just the costs, should also be updated any time there is a change in ownership as indicated in Section 5.
- **Project Description:** The project description included in Section 1 generally meets EERA expectations. Section 1 generally describes the location, setting, and elements of the project (acreage, PV arrays, access roads, electric collector system, inverters, project substation, O&M facility, stormwater basins, gen-tie line, etc.). EERA recommends the pre-construction version of the plan incorporate the following changes:
  - Identify Elk Creek, LLC as the permittee, not the developer.
  - Once design is final, the description should be updated to reflect the final developed footprint and reference to the 360 acres that will no longer be leased by Elk Creek can be removed.
  - The map should include the developed area of the project – references to amended land control area are no longer relevant once the permit is issued.
  - The date and eDocket document number of the site permit when issued. Future updates should also reference past decommissioning plans and provide a link to those plans. EERA appreciates the place holders for that information.
  - Move information on the term of the site permit from Section 2 (Decommissioning and Reclamation Objective) to Section 1 (Project Description) and use “is” rather than “will be” in referring to the issued site permit. Correct the term of the site permit from “will be” to “is.”
  - A short statement on landownership. It’s assumed that Elk Creek leases the site, but having a clear statement up front is useful.
- **Use of Generation Output.** Does not meet EERA expectations. The draft plan is clear that Elk Creek is marketing the project. The pre-construction version of the plan should include a general statement of where the generation will be used under a separate heading. Examples include, but are not limited to:
  - Power Purchase Agreement (PPA). For any portion of the output sold through a PPA, the description should include the expiration date of any PPA(s).
  - Utility-owned generation portfolio

- **Permits and Notifications:** Partially meets EERA expectation The pre-construction plan should clarify that the notification to landowners “within ninety (90) days of the start of decommissioning” will be prior to the commencement of decommissioning activities. EERA suggests a more certain timeframe, e.g., “at least 30 days prior.” The plan should include a list of anticipated permits, expanding on the information included in Section 4.4. The plan should also discuss which landowners and local governments will be notified. The anticipated permits identified in Section 3.5 meet EERA’s expectations at this time.
- **Tasks and Timing:** Section 3 “Decommissioning Activities” partially meets EERA expectations. EERA recommends additional information in the following areas prior to filing as a pre-construction filing:
  - Add additional brief text to describe how project element will be removed (e.g., will removal of inverters require cranes? will any roads or driveway improvements be required to accommodate construction vehicles? What re-sizing can be done at the site?)
  - Add a short section in the text that generally discusses assumptions for disposition of project materials after decommissioning. Add text identifying reuse, recycling, salvage, and landfill facilities in place currently in Section 3.3 and indicate whether the landfills identified are currently licensed to accept the PV panels. Discuss the EERA appreciates the identification of recycling facilities and transportation distance identified in the assumptions in the listed assumptions in Section 5, but notes that those locations may change over time. The assumptions in Section 5 (Costs) imply there will be a buyer for the PV panels that will transport the panels to an unidentified We Recycle Solar site. It seems likely that this information will become clearer as the market for PV panels matures.
  - Add a separate heading and additional detail to address the removal of stormwater basins. The project description indicates 28 basins, covering approximately 44 acres, but the plan only indicates that permanent stormwater treatment facilities will be removed.
- **Cost Estimate:** Does not meet EERA expectations at this time. EERA expects a more detailed cost estimate that includes both gross and net costs as well as assumptions. For an example, see Section 6 and Attachment B of the Decommissioning Plan for Lake Wilson Solar (eDocket ID: [20232-193057-10](#)). EERA notes that the salvage value of the project represents approximately 75 percent of the estimated decommissioning cost for the project and the level of detail does not provide very much information on the assumptions behind those estimates. EERA notes that the resale market for PV panels is not well established and that using current resale values 30 years into the future is speculative at this point. EERA anticipates that the resale market will become more stable over time and will continue to monitor for all solar projects.
- **Financial Assurance:** Partially meets EERA Expectations. Although the plan anticipates establishing a financial assurance instrument in year 10, with full funding prior to the expiration of any PPA, it does not identify a beneficiary of the assurance. EERA notes that the plan anticipates that the financial assurance will fund the decommissioning of the project and restoration of the site. While an escrow account or a reserve fund can be used to fund the

decommissioning, a surety bond would not fund decommissioning; it would provide recourse to the beneficiary (obligee) through the issuer of the bond in the event of Elk Creek's default. EERA also notes that the financial surety anticipated by Elk Creek appears to anticipate covering only the net cost (total costs less resale and salvage value of the components). As noted above, the resale market for PV panels is not yet mature and salvage costs are volatile.

The Solar and Wind Decommissioning Working Group recommendation is that the financial assurance begin in year 10 and is stepped up to be fully funded (gross, not net cost) some time prior to decommissioning. The funding should also be adjusted to match cost estimates. Future updates should clarify that the surety provide for full decommissioning costs prior to the expiration of any PPA. This section should also identify the beneficiary of that surety (e.g., county, Commission).

Elk Creek's decommissioning plan anticipates leaving in place project-related infrastructure that is buried at a greater depth than four (4) feet, consistent with its lease agreements. Site permits for Large Wind Energy Conversion Systems require removal of project components to a depth of four feet; however, the final site restoration requirements for a solar site (Section 9.2 of the site permit) does not specify a depth of removal.

EERA notes that Minnesota has developed a better understanding over the past five years about the disturbance of large areas during construction of utility-scale solar generating facilities. The experience with the construction process leads EERA to recommend a number of standard permit conditions to minimize impacts to soil health, erosion control, stormwater runoff, and to ensure that the sites are adequately vegetated after construction and throughout operation. Unfortunately, there is not similar experience with decommissioning of large solar generating facilities in Minnesota or elsewhere. EERA believes it is possible that uncovering and extracting all underground project components may result in significant disturbance of solar sites. EERA believes that the five-year updates of the decommissioning plan will allow for flexibility as the knowledge about decommissioning of utility-scale solar grows.

## Site Permit Modifications

EERA staff prepared a proposed Draft Site Permit and included it as Appendix D of the Environmental Assessment (EA). Herein, staff discusses the proposed changes between the site permit issued on December 31, 2020, and the Draft Site Permit. All changes are shown in the markup version of EERA's proposed Draft Site Permit in Attachment A of this document and are summarized in Table 1.

Table 1. EERA Proposed Modifications to Draft Site Permit

Section Title	Permit Section Number		Proposed Modification
	2020 Site Permit	EERA Proposed	
Cover Page	--	--	Edit nameplate capacity to 160 MW consistent with permit amendment request; removed date for approved and adopted.
Site Permit	1	1	Edit nameplate capacity to 160 MW consistent with permit amendment request; added Magnolia Township to location consistent with project description; added defined term “Elk Creek Solar” and “Project” consistent with recent permits.
Project Description	2	2	Edit nameplate capacity to 160 MW consistent with amendment request
Associated Facilities	2.1	2.1	Updated number of proposed weather stations, consistent with permit amendment application
Project Location	2.2	2.2	Added Magnolia Township and township, range, and sections to location consistent with permit amendment request
Project Ownership	--	2.3	Added section consistent with recent site permits*
Designated Site	3	3	Updated acreage to be consistent with site permit amendment application
Construction and Operation Practices	4.3	4.3	Removed language consistent with recent permits
Independent Third-party Monitor	--	4.3.4	Added section to be consistent with recent permits
Public Services and Public Utilities	4.3.4	4.3.5	Added compliance requirements consistent with recent permits
Noise	4.3.6	4.3.7	Removed language consistent with recent permits
Topsoil Protection	4.3.8	4.3.9	Removed language consistent with recent permits
Soil Compaction	4.3.9	4.3.10	Updated language consistent with recent permits
Beneficial Habitat	4.3.15	4.3.16	Updated language consistent with recent permits
Vegetation Management Plan	--	4.3.17	Added section consistent with recent permits

Section Title	Permit Section Number		Proposed Modification
	2020 Site Permit	EERA Proposed	
Agricultural Impact Mitigation Plan	--	4.3.18	Added section consistent with recent permits
Application of Pesticides	4.3.16	4.3.19	Updated language consistent with recent permits
Invasive Species	4.3.17	4.3.20	Updated language consistent with recent permits
Noxious Weeds	4.3.18	4.3.21	Updated language consistent with recent permits
Roads	4.3.19	4.3.22	Added compliance requirements consistent with recent permits
Archaeological and Historic Resources	4.3.20	4.3.23	Added compliance requirements consistent with recent permits
Interference	4.3.21	4.3.24	Added compliance requirements consistent with recent permits
Damages	4.3.25	4.3.28	Added compliance requirements consistent with recent permits
Public Safety	4.3.26	4.3.29	Added compliance requirements consistent with recent permits
Security Fencing	--	4.3.31	Added Security Fencing requirement consistent with recent permits
Feeder Lines	4.4	4.4	Updated language consistent with recent permits
Prevailing Wage	--	4.5.3	Added section consistent with recent permits
Special Conditions	5	5	Added special conditions consistent with comments received by Minnesota Department of Natural Resources (MDNR)
State listed Fish	--	5.1	Added special conditions consistent with comments received by MDNR
Facility Lighting	--	5.2	Added special conditions consistent with comments received by MDNR
Dust Control	--	5.3	Added special conditions consistent with comments received by MDNR
Wildlife-friendly Erosion Control	--	5.4	Added special conditions consistent with comments received by MDNR
Site Plan	8.3	8.3	Updated language consistent with recent permits


Section Title	Permit Section Number		Proposed Modification
	2020 Site Permit	EERA Proposed	
Emergency Response	8.10	8.10	Updated language consistent with recent permits
Decommissioning Plan	9.1	9.1	Updated language consistent with recent permits
Site Restoration	9.2	9.2	Added language consistent with recent permits
Transfer of Permit	12	12	Updated language consistent with recent permits

Notes:

\* Recent site permits have been Lake Wilson Energy Center (GS-21-792) and Byron Solar Project (GS-20-763); EERA justifications for proposed changes to maintain consistency can be found in EERA Hearing Comments for the Lake Wilson Energy Center (Document No. [202312-201104-01](#)).

EERA appreciates the opportunity to comment on the project.

Sincerely,



Erika Wilder  
EERA Environmental Review Manager

**Attachment A Markup Version of EERA's Proposed Draft Site Permit**



STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

SITE PERMIT FOR A  
SOLAR ENERGY GENERATING SYSTEM

IN  
ROCK COUNTY

ISSUED TO  
ELK CREEK SOLAR

PUC DOCKET NO. IP-7009/GS-19-495

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

**ELK CREEK SOLAR, LLC**

The Permittee is authorized by this site permit to construct and operate an up to ~~80~~160 MW alternating current nameplate capacity solar energy conversion system and associated facilities in Vienna Township, Rock County, Minnesota. The solar energy generating system and associated facilities shall be built and operated within the site identified in this permit and as portrayed in the official site maps, and in compliance with the conditions specified in this permit.

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

Approved and adopted this ~~31st~~XX day of ~~December,~~  
2020~~XX~~

BY ORDER OF THE COMMISSION

---

Will Seuffert,

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

|

Executive Secretary

DRAFT SITE PERMIT

## CONTENTS

<b>1</b>	<b>SITE PERMIT .....</b>	<b>1</b>
1.1	Preemption .....	1
<b>2</b>	<b>PROJECT DESCRIPTION .....</b>	<b>1</b>
2.1	Associated Facilities .....	1
2.2	Project Location .....	1
2.3	Project Ownership.....	<del>21</del>
<b>3</b>	<b>DESIGNATED SITE .....</b>	<b>2</b>
<b>4</b>	<b>GENERAL CONDITIONS .....</b>	<b>3</b>
4.1	Permit Distribution.....	3
4.2	Access to Property.....	3
4.3	Construction and Operation Practices.....	3
4.3.1	Field Representative .....	3
4.3.2	Site Manager.....	4
4.3.3	Employee Training and Education of Permit Terms and Conditions .....	4
4.3.4	Independent Third Party Monitor.....	4
4.3.5	Public Services and Public Utilities.....	5
4.3.6	Temporary Workspace.....	5
4.3.7	Noise.....	5
4.3.8	Aesthetics .....	5
4.3.9	Topsoil Protection.....	6
4.3.10	Soil Compaction .....	6
4.3.11	Soil Erosion and Sediment Control.....	6
4.3.12	Public Lands .....	6
4.3.13	Wetlands and Water Resources.....	7
4.3.14	Native Prairie .....	7
4.3.15	Vegetation Removal.....	8
4.3.16	Beneficial Habitat.....	8
4.3.17	Vegetation Management Plan .....	<del>98</del>
4.3.18	Agricultural Impact Mitigation Plan .....	<del>109</del>
4.3.19	Application of Pesticides .....	<del>1110</del>
4.3.20	Invasive Species .....	<del>1110</del>
4.3.21	Noxious Weeds .....	<del>1110</del>
4.3.22	Roads .....	<del>1110</del>
4.3.23	Archaeological and Historic Resources .....	<del>1211</del>

4.3.24	Interference .....	<u>1311</u>
4.3.25	Restoration .....	<u>1312</u>
4.3.26	Cleanup .....	<u>1312</u>
4.3.27	Pollution and Hazardous Wastes .....	<u>1312</u>
4.3.28	Damages .....	<u>1312</u>
4.3.29	Public Safety .....	<u>1413</u>
4.3.30	Site Identification .....	<u>1413</u>
4.3.31	Security Fencing .....	<u>1413</u>
4.4	Feeder Lines .....	<u>1413</u>
4.5	Other Requirements .....	<u>1514</u>
4.5.1	Safety Codes and Design Requirements .....	<u>1514</u>
4.5.2	Other Permits and Regulations .....	<u>1514</u>
4.5.3	Prevailing Wage .....	<u>1514</u>
<b>5</b>	<b>SPECIAL CONDITIONS .....</b>	<b><u>1514</u></b>
5.1	State Listed Fish .....	<u>1615</u>
5.2	Facility Lighting .....	<u>1615</u>
5.3	Dust Control .....	<u>1715</u>
5.4	Wildlife-friendly Erosion Control .....	<u>1715</u>
<b>6</b>	<b>DELAY IN CONSTRUCTION .....</b>	<b><u>1715</u></b>
<b>7</b>	<b>COMPLAINT PROCEDURES .....</b>	<b><u>1716</u></b>
<b>8</b>	<b>COMPLIANCE REQUIREMENTS .....</b>	<b><u>1816</u></b>
8.1	Pre-Construction Meeting .....	<u>1816</u>
8.2	Pre-Operation Meeting .....	<u>1816</u>
8.3	Site Plan .....	<u>1817</u>
8.4	Status Reports .....	<u>1917</u>
8.5	Labor Statistic Reporting .....	<u>1917</u>
8.6	In-Service Date .....	<u>2018</u>
8.7	As-Builts .....	<u>2018</u>
8.8	GPS Data .....	<u>2018</u>
8.9	Project Energy Production .....	<u>2018</u>
8.10	Emergency Response .....	<u>2119</u>
8.11	Extraordinary Events .....	<u>2119</u>
8.12	Wildlife Injuries and Fatalities .....	<u>2119</u>
<b>9</b>	<b>DECOMMISSIONING AND RESTORATION .....</b>	<b><u>2119</u></b>
9.1	Decommissioning Plan .....	<u>2119</u>
9.2	Site Restoration .....	<u>2220</u>
9.3	Abandoned Solar Installations .....	<u>2221</u>

<b>10</b>	<b>COMMISSION AUTHORITY AFTER PERMIT ISSUANCE .....</b>	<b><u>2321</u></b>
10.1	Final Boundaries.....	<u>2321</u>
10.2	Expansion of Site Boundaries .....	<u>2321</u>
10.3	Periodic Review .....	<u>2321</u>
10.4	Modification of Conditions.....	<u>2321</u>
10.5	More Stringent Rules.....	<u>2322</u>
10.6	Right of Entry.....	<u>2422</u>
<b>11</b>	<b>PERMIT AMENDMENT.....</b>	<b><u>2422</u></b>
<b>12</b>	<b>TRANSFER OF PERMIT .....</b>	<b><u>2422</u></b>
<b>13</b>	<b>REVOCATION OR SUSPENSION OF THE PERMIT .....</b>	<b><u>2523</u></b>
<b>14</b>	<b>EXPIRATION DATE .....</b>	<b><u>2523</u></b>

**ATTACHMENTS**

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

DRAFT SITE PERMIT

## 1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Elk Creek Solar, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This permit authorizes Elk Creek Solar, LLC to construct and operate an up to ~~80~~ 160 MW alternating current nameplate capacity solar energy conversion system and associated facilities in Vienna Township and Magnolia Township of Rock County, Minnesota, and as identified in the attached site maps, hereby incorporated into this document (Elk Creek Solar, henceforth known as Project).

### 1.1 Preemption

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

## 2 PROJECT DESCRIPTION

The project is an up to ~~80~~-160 MW alternating current (“AC”) nameplate capacity solar energy conversion facility in Vienna Township, Rock County, Minnesota.

### 2.1 Associated Facilities

In addition to the photovoltaic solar panels, associated facilities include racking; inverters, security fencing, a Project substation, gravel access roads, an operations and maintenance building, on-site below-ground, above-ground or a hybrid combination of above-ground and below-ground electrical collection and communication lines, and up to ~~two~~-five weather stations.

### 2.2 Project Location

The project is located in the following:

County	Township Name	Township	Range	Sections
Rock	Vienna	103N	44W	27, 34, 35
<u>Rock</u>	<u>Magnolia</u>	<u>102N</u>	<u>44W</u>	<u>3</u>

### 2.3 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.

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

### **3 DESIGNATED SITE**

The site designated by the Commission for the Elk Creek Solar Project is the site depicted on the site maps attached to this permit. The project would be constructed on approximately ~~681~~ 1,161 acres of leased and purchased land within the ~~9761,522~~-acre Land Control Area.

The layout represents the approximate location of photovoltaic tracker rows and associated facilities within the project boundary and identifies a layout that seeks to minimize the overall potential human and environmental impacts of the project, which were evaluated in the permitting process. The project boundary serves to provide the Permittee with the flexibility to make minor adjustments to the layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the

location of a photovoltaic tracker row or other associated facility depicted in the preliminary layout shall be done in such a manner to have comparable overall human and environmental impacts and shall be specifically identified in the site plan pursuant to Section 8.3.

#### **4 GENERAL CONDITIONS**

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

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

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

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

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

The Permittee shall contact landowners prior to entering the property or conducting maintenance within the site, unless otherwise negotiated with the affected landowner.

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

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the ~~Elk Creek Solar Application for a Site Permit dated September 13 and 16, 2020, and the~~ record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

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

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



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

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

#### **4.3.2 Site Manager**

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

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the site manager 14 days prior to commercial operation of the facility. The Permittee shall provide the site manager's contact information to affected landowners, residents, local government units and other interested persons 14 days prior to commercial operation of the facility. The Permittee may change the site manager at any time upon notice to the Commission, affected landowners, local government units and other interested persons.

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

The Permittee shall inform and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the solar energy generating system of the terms and conditions of this permit.

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

Prior to any construction, the Permittees shall propose a scope of work and identify one independent third party monitor on behalf of the Department of Commerce. The scope of work shall be developed in consultation with and approved by the Department of Commerce. This third-party monitor will report directly to and will be under the control of the Department of

Commerce with costs borne by the Permittee. The Permittee shall file the scope of work, and the name, address, email, phone number, and emergency phone number of the third-party monitor with the Commission at least 14 days prior to the pre-construction meeting, and upon changes to the scope of work or third-party monitor contact information.

#### 4.3.44.3.5 Public Services and Public Utilities

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

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

#### 4.3.54.3.6 Temporary Work-Space

Temporary work-space and equipment staging areas shall be selected to limit the removal and impacts to vegetation. Temporary work-space shall not be sited in wetlands or native prairie as defined in sections 4.3.10 and 4.3.11. Temporary work-space shall be sited to comply with standards for development of the shorelands of public waters as defined in Section 4.3.10. Temporary easements outside of the authorized site boundary will be obtained from affected landowners through rental agreements and are not provided for in this permit.

#### 4.3.64.3.7 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0100 to 7030.0080, at all times at all appropriate locations during operation of the facility. Construction and maintenance activities shall be limited to daytime working hours to the extent practicable ~~to ensure nighttime noise level standards will not be exceeded.~~

#### 4.3.74.3.8 Aesthetics

The Permittee shall consider input pertaining to visual impacts from landowners and land management agencies. Care shall be used to preserve the natural landscape, minimize tree removal and prevent any unnecessary destruction of the natural surroundings in the vicinity of the project during construction and operation.

#### **4.3.84.3.9 Topsoil Protection**

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands ~~unless otherwise negotiated with the affected landowner.~~

#### **4.3.94.3.10 Soil Compaction**

The Permittee shall implement measures to minimize soil compaction of all lands utilized for Project construction and travelled on by cranes, heavy equipment, and heavy trucks ~~during all phases of the project's life and shall confine compaction to as small an area as practicable.~~

#### **4.3.104.3.11 Soil Erosion and Sediment Control**

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

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

#### **4.3.114.3.12 Public Lands**

In no case shall photovoltaic tracker rows 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.

#### **4.3.124.3.13 Wetlands and Water Resources**

Photovoltaic tracker rows and associated facilities, including access roads, underground cable and transformers shall not be placed 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. Photovoltaic tracker rows and associated facilities including foundations, access roads, underground cable and transformers, shall be located 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.

Construction in wetland areas shall occur during frozen ground conditions to minimize impacts, to the extent feasible. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. Soil excavated from the wetlands and riparian areas shall be contained and managed in accordance with all applicable wetland permits. Wetlands and riparian areas shall be accessed using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts.

Wetland and water resource areas disturbed by construction activities shall be restored to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. All requirements of the USACE, DNR, and local units of government shall be met.

#### **4.3.134.3.14 Native Prairie**

Solar panels and associated facilities including foundations, access roads, collector and feeder lines, underground cable, and transformers shall not be placed in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and shall not be located in areas enrolled in the Native Prairie Bank Program. Construction activities,

as defined in Minn. Stat. § 216E.01, shall not impact native prairie 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 site boundaries. The Permittee shall file the plan 30 days prior to submitting the site plan required by Section 8.3 of this permit. The 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.

#### **4.3.144.3.15 Vegetation Removal**

The Permittee shall disturb or clear vegetation on the site only to the extent necessary to assure suitable access for construction, and for safe operation and maintenance of the project. The Permittee shall minimize the number of trees removed in selecting the site layout specifically preserving to the maximum extent practicable windbreaks, shelterbelts, living snow fences, and other vegetation, to the extent that such actions do not violate sound engineering principles or interfere with the operation of the facility.

#### **4.3.154.3.16 Beneficial Habitat**

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

~~The vegetation management plan and documentation of the coordination efforts between the permittee and the coordinating agencies shall be filed at least 14 days prior to the preconstruction meeting. To ensure continued management and recognition of beneficial habitat, the Permittee is encouraged to meet the standards for Minnesota's Habitat Friendly Solar Program by submitting project plans, seed mixes, a completed project planning assessment form, and any other applicable documentation used to meet the standard to the Minnesota Board of Water and Soil Resources and its member the Rock County Soil and Water Conservation District. All documents required by BWSR for meeting standards of the Minnesota's Habitat Friendly Solar Program should also be filed with the Commission.~~

#### ~~4.3.15.1 Site Planning and Management~~

~~The Vegetation Management Plan must include the following:~~

- ~~• Management objectives addressing short term (year 0-3, seeding and establishment) and long term (year 4 through the life of the permit) objectives.~~
- ~~• A description of planned restoration and vegetation activities, including how the site will be prepared, timing of activities, and how seeding will occur (broadcast, drilling, etc.), and the types of seed mixes to be used.~~
- ~~• A description of how the site will be monitored and evaluated by an independent third-party inspector to meet management objectives.~~
- ~~• A description of management tools used to maintain vegetation (e.g. mowing, spot spraying, hand removal, fire, grazing, etc.), including timing/frequency of maintenance activity.~~
- ~~• Identify responsible party for site restoration, monitoring, and long-term vegetation management of the site (e.g. consultant, contractor, site manager, etc.).~~
- ~~• Identification, monitoring and management of noxious weeds and invasive species (native and non-native) on site. Site plan showing how the site will be revegetated and corresponding seed mixes. Seed mixes, seeding rates, and cover crops should follow best management practices.~~

#### 4.3.17 Vegetation Management Plan

The Permittee shall develop a vegetation management plan (VMP), in coordination with the Department of Commerce, and the Vegetation Management Plan Working Group (VMPWG), 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. The Permittee shall provide all landowners within the Project Boundary with copies of the VMP. The Permittee shall file with the Commission an affidavit of its distribution of the VMP to landowners at least 14 days prior to the pre-construction meeting.

The VMP must include the following:

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

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

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

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



#### 4.3.164.3.19 Application of Pesticides

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

#### 4.3.174.3.20 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by project construction activities. The Permittee shall develop an Invasive Species Prevention Plan to prevent the introduction and spread of invasive species on lands disturbed by project construction activities and file with the Commission ~~30-14~~ days prior to the pre-construction meeting.

#### 4.3.184.3.21 Noxious Weeds

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

#### 4.3.194.3.22 Roads



The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city or township roads that will be used during the construction phase of the project. Where practical, existing roadways shall be used for all activities associated with construction of the facility. Oversize or overweight loads associated with the facility 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 least number of site access roads it can. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

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

#### **4.3.204.3.23 Archaeological and Historic Resources**

The Permittee shall make every effort to avoid impacts to identified archaeological and historic resources when constructing the facility. 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 the SHPO and State Archaeologist requirements.

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

#### **4.3.214.3.24 Interference**

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

#### **4.3.224.3.25 Restoration**

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

#### **4.3.234.3.26 Cleanup**

All waste and scrap that is the product of construction shall be removed from the site and all premises on which construction activities were conducted and properly disposed of upon completion of each task. Personal litter, including bottles, cans, and paper from construction activities shall be removed on a daily basis.

#### **4.3.244.3.27 Pollution and Hazardous Wastes**

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

#### **4.3.254.3.28 Damages**

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damages sustained during

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

#### **4.3.264.3.29 Public Safety**

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

#### **4.3.274.3.30 Site Identification**

The solar site shall be marked with a visible identification number and or street address.

#### **4.3.31 Security Fencing**

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

### **4.4 Feeder Lines**

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

The Permittee may use overhead or underground feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid. Feeder lines that carry power from an internal project interconnection point to the project substation or interconnection point on the electrical grid may be overhead or underground. Overhead and underground feeder lines that parallel public roads shall be placed within the public right-of-way or on private land immediately adjacent to the road. The

Permittee shall obtain approval from the private landowner or government unit responsible for the affected right-of-way.

Feeder line locations shall be located 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. Safety shields shall be placed on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines with the site plan pursuant to Section 8.3.

#### **4.5 Other Requirements**

##### **4.5.1 Safety Codes and Design Requirements**

The solar energy generating system and associated facilities shall be designed to meet or exceed all relevant local and state codes, Institute of Electrical and Electronics Engineers, Inc. (IEEE) standards, the National Electric Safety Code (NESC), and North American Electric Reliability Corporation (NERC) requirements. The Permittee shall report to the Commission on compliance with these standards upon request.

##### **4.5.2 Other Permits and Regulations**

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

##### **4.5.3 Prevailing Wage**

The Permittee, its contractors, and subcontractors shall pay no less than the prevailing wage rate as defined in Minnesota Statute 177.42, and shall be subject to the requirements and enforcement provisions under Minnesota Statute sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

## **5 SPECIAL CONDITIONS**

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

- ~~Agriculture Mitigation Plan~~ State Listed Fish
- ~~Vegetation Management Plan~~ Facility Lighting
- Dust Control
- Wildlife-friendly Erosion Control

### 5.1 ~~Agriculture Impact Mitigation Plan~~ State Listed Fish

~~Topeka shiner (*Notropis topeka*), a federally listed endangered and state-listed special concern species, and plains topminnow (*Fundulus sciadicus*), a state-listed threatened species, have been documented in several places in Elk Creek in the vicinity of the Elk Creek Solar project. These fish species are adversely impacted by actions that alter stream hydrology or decrease water quality. Stringent erosion and sediment control practices must be implemented and maintained near the stream and any of its tributaries during project construction and operation. The Permittee shall follow the US Fish and Wildlife Service's Recommendations for Construction Projects Affecting Waters Inhabited by Topeka Shiners in Minnesota. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff. The Permittee shall, with the cooperation of the Minnesota Department of Agriculture, develop a site-specific Agricultural Impact Mitigation Plan (AIMP). The purpose of the AIMP shall be to identify measures to minimize potential impacts to agricultural uses of the land upon the decommissioning of the Project. The AIMP shall be filed in this docket at least 14 days prior to the pre-construction meeting. The AIMP shall include:~~

- ~~(a) Measures that will be taken to segregate topsoil from subsoil during grading activities and the removal of topsoil during construction of the Project to the extent that such actions do not violate sound engineering principles or system reliability criteria.~~
- ~~(b) Measures that will be taken to minimize impacts to and repair drainage tiles damaged during construction of the Project.~~
- ~~(c) Measures that will be taken to prevent introduction of non-native and invasive species.~~
- ~~(d) Measures that will be taken to re-vegetate disturbed areas with appropriate low-growing vegetation to the extent that such actions do not violate sound engineering principles or system reliability criteria.~~
- ~~(e) Measures that will be taken to maintain established vegetation at the facilities throughout the operational life of the facility.~~

### 5.2 ~~Vegetation Management Plan~~ Facility Lighting

To reduce harm to birds, insects, and other animals, the Permittee shall utilize downlit and shielded lighting at the site entrances and inverters. Lighting utilized shall minimize blue hue. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff. The Permittee shall develop a vegetation management plan in consultation with the MN DNR, Board of Water and Soil Resources, Minnesota Department of Agriculture to the benefit of pollinators and other wildlife, and to enhance soil water retention and reduce storm water runoff and erosion. The vegetation management plan shall be filed at least 14 days prior to the pre-construction meeting. Within 14 days of approval of the final Vegetation Management Plan, the Permittee shall provide all affected landowners with copies of the plan.

### **5.3 Dust Control**

To protect plants and wildlife from chloride products that do not break down in the environment, the Permittee is prohibited from using dust control products containing calcium chloride or magnesium chloride during construction and operation. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

### **5.4 Wildlife-friendly Erosion Control**

Due to entanglement issues with small animals, the Permittee shall use erosion control blankets limited to “bio-netting” or “natural netting” types, and shall specifically not use products containing plastic mesh netting or other plastic components, including hydro-mulch products that may contain small synthetic (plastic) fibers to aid in its matrix strength. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce or Commission staff.

## **6 DELAY IN CONSTRUCTION**

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

## **7 COMPLAINT PROCEDURES**

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

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

## **8 COMPLIANCE REQUIREMENTS**

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

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

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

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

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

### **8.3 Site Plan**

At least 30 days prior to the pre-construction meeting, the Permittee shall provide the Commission, the Department, and the Rock County Land Management Department with a site plan that includes specifications and drawings for site preparation and grading; specifications and locations of photovoltaic panels and other structures to be constructed including all

electrical equipment, pollution control equipment, fencing, roads, and other associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the site boundary and layout in relation to that approved by this permit.

The Permittee may not commence construction until the 30 days has expired or until the Commission has advised the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this permit. If the 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 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 permit.

If the Permittee intends to make any significant changes to its site plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission, the Department of Commerce, and the Rock County Land Management Department at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this permit.

#### **8.4 Status Reports**

The Permittee shall report to the Commission on progress during site construction. The Permittee need not report more frequently than monthly. Reports shall begin with the submittal of the site plan for the project and continue until completion of restoration. Reports shall describe construction activities and progress, and activities undertaken in compliance with this permit. Reports shall include text and photographs.

#### **8.5 Labor Statistic Reporting**

The Permittee shall file quarterly reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the project. The reports shall (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers, and (b) provide an account of: (i) the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. § 290.01, subd. 7; (ii) the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the project; and (iii) the total gross hours worked or total full-time equivalent workers. Permittee shall work with its



contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

#### **8.6 In-Service Date**

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

#### **8.7 As-Builts**

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

#### **8.8 GPS Data**

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

#### **8.9 Project Energy Production**

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

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

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

### **8.10 Emergency Response**

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

### **8.11 Extraordinary Events**

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

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

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

## **9 DECOMMISSIONING AND RESTORATION**

### **9.1 Decommissioning Plan**

The Permittee shall submit an updated decommissioning plan incorporating comments and information from the permit application process and any updates associated with the final construction plans to the Commission at least fourteen 14 days prior to the ~~pre-operation~~ construction meeting and provide updates to the plan every five years thereafter. The 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 plan shall identify cost estimates for the removal of solar panels, racks, underground collection cables, access roads, transformers, substations, and other project components. The plan may also include anticipated costs for the replacement of panels or repowering the project by upgrading equipment.

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

## **9.2 Site Restoration**

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

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

## **9.3 Abandoned Solar Installations**

The Permittee shall advise the Commission of any solar facilities that are abandoned prior to termination of operation of the project. The project, or any equipment within the project, shall be considered abandoned after one year without energy production and the land restored

pursuant to Section 9.2 unless a plan is submitted to and approved by the Commission outlining the steps and schedule for returning the project, or any equipment within the project, to service.

## **10 COMMISSION AUTHORITY AFTER PERMIT ISSUANCE**

### **10.1 Final Boundaries**

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

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

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

### **10.3 Periodic Review**

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

### **10.4 Modification of Conditions**

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

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

### **10.5 More Stringent Rules**

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

### 10.6 Right of Entry

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

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

### 11 PERMIT AMENDMENT

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

### 12 TRANSFER OF PERMIT

The Permittee may request at any time that the Commission transfer this permit to another person or entity. The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer. The person to whom the permit is to be transferred shall provide the Commission with name and contact information for the site manager, as described in Section 4.3.2, and either a current version with e-docket reference, or a revised version of the following:

- (a) VMP as described in Section 4.3.17;
- (b) complaint procedures, as described in Section 7 and Attachment 1;

- (c) ERP, as described in Section 8.10; and
- (d) decommissioning plan, as described in Section 9

~~such information as t~~The Commission shall ~~require to~~ determine whether the new Permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new Permittee, and interested persons such process as is required.

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

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

### **14 EXPIRATION DATE**

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