

March 16, 2026

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

RE: EIP Hearing Comments  
Midwater Energy Storage Project  
**PUC Docket Numbers:** IP-7138/ESS-24-294, IP-7138/TL-24-295  
**CAH Docket Number:** 71-2500-40799

Dear Consumer Affairs Office:

Minnesota Public Utilities Commission, Energy Infrastructure Permitting (EIP) staff offers the following comments on the Midwater Energy Storage Project (project) proposed by Midwater BESS, LLC (Midwater).

In these comments, EIP staff:

- Recommends modifications to the draft decommissioning plan,
- Responds to portions of the direct testimony filed by Midwater regarding permit conditions for the project.

## Decommissioning Plan

Site permits for energy storage facilities issued by the Commission require permittees to file decommissioning plans prior to construction. The intent of the decommissioning plan is to ensure that the site is restored at the end of the energy facility's useful life, and that the restoration costs are borne by the permittee.

Section 9.1 of the site permit requires the permittee to file an updated decommissioning plan incorporating comments and information from the permit application process prior to construction. EIP staff has reviewed the draft decommissioning plan (draft plan) prepared by Westwood Professional Services on behalf of Spearmint Energy, the parent of Midwater BESS, LLC (Midwater or applicant) for the proposed Midwater Energy Storage Project included as Appendix D of Site Permit Application filed November 19, 2024.<sup>1</sup>

EIP staff's review is guided by the recommendation of the Solar and Wind Decommissioning Working Group. As discussed in the Minnesota Department of Commerce staff recommendations in Docket 17-

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<sup>1</sup> Midwater BESS LLC, November 19, 2024, *Appendix D: Draft Decommissioning Plan*, eDocket no. [202411-212161-06](#)

123 and in the Commission’s draft guidance on decommissioning plans,<sup>2</sup> the decommissioning plan should serve as a stand-alone document that describes the facility as it exists on the ground and how the applicant will fulfil its obligation to remove the project components at the end of each facility’s life.

### **EIP Staff Comments and Recommendations**

EIP staff recommends the applicant revise the draft plan to incorporate several clarifications and additions prior to construction. Although some of this information is located elsewhere in the record, it should be included in the decommissioning plan for ease of use. EIP staff recommend that the preparer of the pre-construction version of the plan review the Commission’s *Decommissioning Plan Guidance for Solar, Energy storage, and Wind Generating Facilities Permitted by the Minnesota Public Utilities Commission*, available on the Commission’s website prior to its revisions to understand what is expected. EIP staff offers the following comments on the draft plan:

- **General Comments:**
  - The cover of the pre-construction version of the decommissioning plan should be updated to include the project docket number and the revised date.
  - The plan should reference the Commission’s *Decommissioning Plan Guidance for Solar, Energy Storage, and Wind Generating Facilities Permitted by the Minnesota Public Utilities Commission*, available on the Commission’s website, rather than EERA guidance for site permitting of solar farms, which has been superseded. Please review the proposed Freeborn County Code of Ordinance to determine if any physical activities described in the draft ordinance language are applicable to the development of the decommissioning plan.<sup>3</sup>
  - In general, replace references to “project area” with “site.” The decommissioning plan is linked to the permitted site, defined in Minn. Stat. § 216E.01, subd. 9 as the location of a large electric power generating plant and identified in the site permit for the project.<sup>4</sup> The term “project area” is useful when referring to the general project vicinity.
  - Should the Commission issue a site permit for the project, Midwater will then be the permittee, no longer the applicant, so replacing “applicant” with “permittee” is appropriate for the pre-construction version of the decommissioning plan.
  - Clarify whether Midwater owns or leases all or portions of the site. The plan indicates that, with “applicable landowner” approval, access roads may remain after decommissioning. If Midwater is the landowner, these caveats seem unnecessary.
  - Describe the project as it will exist on the ground, not as it is planned.

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<sup>2</sup> Minnesota Public Utilities Commission, *Draft Decommissioning Plan Guidance for Solar, Energy Storage, and Wind Generating Facilities Permitted by the Minnesota Public Utilities Commission* (April 2025), accessed March 13, 2026, [https://puc.eip.mn.gov/sites/default/files/2025-06/DRAFT-EIPGuid\\_AppC-Decom.pdf](https://puc.eip.mn.gov/sites/default/files/2025-06/DRAFT-EIPGuid_AppC-Decom.pdf)

<sup>3</sup> See Proposed Freeborn County Ordinance, Sec. 26-82 (2). (January, 2026).

<sup>4</sup> Minn. Stat. § 216E.01, subd. 9 for this project; Minn. Stat. § 211E.02, subd. 16 for projects reviewed under Minnesota Energy Infrastructure Permitting Act.

- **Independent Preparer:** Meets EIP staff expectations. The plan and cost estimate was prepared by Westwood Professional Services.
- **Decommissioning Objective:** Partially meets EIP expectations. EIP recommends the pre-construction version of the plan link the objective back to the permit language (Section 9.2 of the draft site permit) requiring the site be restored to pre-project conditions to the extent feasible. As the project matures, the objective may evolve in anticipation of a different use (e.g., commercial, industrial, or residential). Although the anticipated life of the project may be 35 years for Midwater’s planning purposes, EIP notes that the term of the site permit is anticipated to be 30 years. The decommissioning plan should reference the permit term of 30 years. As noted in sections 4 and 9 of the plan, Midwater anticipates it may continue to operate the project by applying to extend the permit.
- **Scheduled Updates:** Partially meets EIP staff expectations. Although Sections 8 and 9 of the draft plan anticipate reviewing and updating the plan every five years and in the event of an ownership change, EIP staff recommends that the pre-construction version of the plan include this information under a new separate “Plan Update” heading to provide more transparency. Consistent with Commission guidance, the plan should be updated every five years (beginning with the commercial operation of the facility), as well as milestones such as ownership changes, permit amendments, or repowering. EIP staff also recommends the updates section of the plan include the revision history, including the date of the last plan and a link to the plan.
- **Project Description:** Does not meet EIP expectations. EIP recommends the pre-construction version of the plan describe the project that is constructed including:
  - A description of the location of the project, Sections 7, 8, and 17 of Shell Rock Township (Township 107N, Range 15W) in Freeborn County and a brief description of the surrounding environment and land uses.
  - A description of the project as it is built, not as planned. Include a brief summary of major project components (e.g. containers, substation, gen-tie line, O&M facility, inverter location, stormwater retention areas, etc.), describing the numbers, approximate dimensions (e.g. acres, linear feet, dimensions of containers, etc.). Describe the landcover within the site once the project is constructed (vegetation, stormwater features, impermeable surface, etc.)
  - A site map showing the location of project components; this can be located in an appendix to the plan.
  - Anticipated date of commercial operation (updated to the actual date in future updates).
  - The date and eDocket location of the site permit when issued. Future updates should also reference past decommissioning plans and provide a link to those plans.
  - A short statement on land ownership at the time of construction. Clarify whether Midwater owns or leases the entire site or portions of the site. Clarify whether the applicant or any affiliate of the applicant owns the site. If currently leased, future updates should update the information if Midwater or an affiliate purchase any portion of the site; landowners other than the applicant or an affiliate need not be specifically identified.

- Clarify the anticipated useful life of the project in the introduction. The site permit term is 30 years, while the decommissioning plan anticipates a project life of 35 years.
- If the O&M facility is located offsite, the plan should mention that and whether decommissioning of the O&M facility will be required or whether, if the facility is in an existing warehouse, Midwater will simply move out.
- **Use of Capacity.** Does not meet EIP expectations at this time. EIP understands that the offtaker of the energy capacity provided by the project is currently unknown. The pre-construction version of the plan should include a general statement of where the generation will be used. Examples include, but are not limited to:
  - Offtake Agreement (PPA). Describe the offtaker and the expiration date of any offtake agreement.
  - Utility-ownership and dispatch.
- **Permits and Notifications:** Does not meet EIP expectations. EIP recommends that the pre-construction version of the plan include a list of permits required for decommissioning and identify the specific local governments that will be notified. EIP anticipates that the required permits may change over time, but the periodic reviews provide an opportunity for the list to be identified.

Section 9.1 of the draft permit requires the permittee to provide the decommissioning plan to local governments, so plan to document compliance with that provision once the plan is filed as a pre-construction document.

- **Tasks and Timing:** The information in Section 5 “Decommissioning Activities” generally meets EIP expectations. EIP recommends the pre-construction version of the plan be revised to clarify several elements prior to filing as a pre-construction filing:
  - Clarify the type and manufacturer of batteries used in the facility and cite the manufacturers recommendations on decommissioning.
  - Discuss removal of stormwater ponds and any engineered drainage swales.
  - Add a short section in the text that generally discusses assumptions for disposal and identifies recycling and landfill facilities in place at this time (see, for example, Section 2.5 of 2021 the [decommissioning plan](#) for Sherco Solar or Section 4.6 of the 2026 [decommissioning plan](#) for the Boswell Solar Project). A general location of “Rochester, Minnesota” is identified as the destination for steel posts and the Clarks Grove Demolition Landfill and Marpe’s Metals in Northwood, Iowa are identified in the cost assumptions, but please pull that information into the text. EIP staff assumes these will change over time and can be updated during periodic updates.
  - Provide some additional detail on the timeframe/schedule for decommissioning. A Gantt chart is not necessary at this time, but please provide some sense of sequencing and timing more detailed than a general statement of 12 weeks.” (see, for example, section 2.3 of the 2021 [decommissioning plan](#) for Sherco Solar or Table 2-1 of the decommissioning plan for the [Boswell Solar project](#)). The header for Section 7 is “Timeline and Contacts,” but it’s unclear what contacts refers to.

- **Cost Estimate:** EIP staff recommends that the pre-construction version of the plan include more information on the costs and assumptions for removal and disposition of the batteries within the containers. Although Sect. 5.1.1 of the plan provides detail on the decommissioning of the individual batteries, the costs for battery removal, hauling, and disposal are not clear in the detailed cost estimate in Attachment A. Costs for removal and disconnection of the storage containers and inverter/transformers are included, but costs for the batteries are not clearly stated. EIP staff appreciates the discussion of training, safety, and best management practices included in the cost assumptions (as well as in Section 5 of the plan). EIP staff anticipates that the resale and recycling markets for batteries will become more stable over time and will continue to monitor for all BESS projects. EIP staff recommends that both gross and net costs be updated at five year intervals.
- **Financial Assurance:** Partially meets EIP expectations. Although Midwater acknowledges financial responsibility for decommissioning and site restoration and identifies a number of potential financial assurance options, Section 9 of the plan does not identify a funding schedule or the anticipated beneficiary of the assurance. The text in Section 9 anticipates that “Midwater BESS will enter into a surety bond agreement, create an escrow account, create a reserve fund, or provide another form of security that will ultimately fund decommissioning and site restoration costs after Project operations cease, to the extent that the salvage value does not cover decommissioning costs.”

EIP recommends that the revised decommissioning plan filed prior to construction clarify the anticipated beneficiary of the financial assurance and whether the proposed beneficiary has agreed, narrow down to two or three options the types of financial assurance mechanism under consideration by Midwater, and a schedule for funding the financial assurance.

## Site Permit Conditions

EIP staff included a proposed draft site permit (PDSP) for the project in Appendix C of the environmental assessment (EA).<sup>5</sup> The PDSP indicated changes from the Commission-issued sample permit by underline and strikeout. Among these changes were proposed special permit conditions for the project.

On February 27, 2026, Midwater provide direct testimony regarding the project.<sup>6</sup> The testimony included discussion of EIP staff’s proposed special permit conditions. Staff provide comments here regarding Midwater’s testimony and select permit conditions.

### *Emergency Response Plan*

In its direct testimony, Midwater suggested replacing EIP staff’s proposed special conditions 5.6 (Local Firefighter Training) and 5.7 (Emergency Planning and Preparedness) with one permit condition addressing emergency response measures for the project.<sup>7</sup> EIP staff supports this

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<sup>5</sup> Minnesota Public Utilities Commission Energy Infrastructure Permitting, *Environmental Assessment: Midwater Energy Storage Project*. Appendix C, “Draft Route and Site Permits.” February 19, 2026, eDocket No. [20262-228390-01](#).

<sup>6</sup> Mary Matze, *Direct Testimony of Mary Matze on behalf of Midwater BESS, LLC*, before the Minnesota Court of Administrative Hearings, [MPUC Docket Nos. IP-7138/ESS-24-294/TL-24-295; CAH Docket No. 25-2500-40799], filed February 27, 2026, [herein Matze Testimony] eDocket no. [20262-228779-01](#)

<sup>7</sup> Matze Testimony, 14-15.

change and Midwater's suggested permit language (herein referred to as the New Emergency Response Condition).

#### *Dry Hydrant Use*

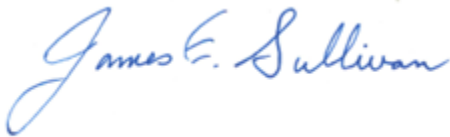
Midwater commented in its direct testimony on the feasibility of a dry hydrant and drafting water from the Shell Rock River for use during an emergency. Midwater suggested removing EIP staff's proposed special condition 5.9 (Dry Hydrant Use) and incorporating the feasibility assessment into Midwater's proposed New Emergency Response Condition.<sup>8</sup> EIP staff supports this change.

#### *Surface and Groundwater Monitoring*

Midwater provided direct testimony on EIP staff's proposed special condition 5.12 (Surface and Groundwater Monitoring).<sup>9</sup> Midwater suggested changes to the sampling and reporting schedule for emergency water monitoring. EIP staff supports Midwater's proposed changes to this condition.

EIP staff appreciates the opportunity to comment on the proposed project.

Sincerely,



James E. Sullivan  
Environmental Review Manager  
Energy Infrastructure Permitting Section

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<sup>8</sup> Matze Testimony, 16.

<sup>9</sup> Matze Testimony, 28-29.