

June 13, 2025

*Via eDockets*

The Honorable Suzanne Todnem  
Office of Administrative Hearings  
600 North Robert Street  
P.O. Box 64620  
Saint Paul, MN 55164-0620

RE: EERA Reply Comments and Response to Otter Tail's Proposed Findings of Fact  
Solway Solar Project  
**PUC Docket No.** E017/GS-24-309  
**OAH Docket No.** 23-2500-40576

Dear Judge Todnem,

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff offers the following comments on the Solway Solar Project (project) proposed by Otter Tail Power Company (Otter Tail).

In these comments EERA:

- Responds to Otter Tail's reply comments
- Responds to Otter Tail's Proposed Findings of Fact, Conclusions of Law, and Recommendation
- Responds to DNR's review comments on the Environmental Assessment

## 1. Otter Tail Reply Comments

On June 6, 2025, Otter Tail submitted responses to comments<sup>1</sup> during the public hearing comment period. EERA provides the proceeding responses:

### a. Decommissioning Plan

In its hearing comments, EERA recommended that Otter Tail update the Solway Solar Decommissioning Plan prior to construction. Otter Tail has responded that it is agreeable with this recommendation and will provide the updated plan to include an updated project schedule, project description, and clarification of responsibilities prior to a pre-construction meeting.<sup>2</sup>

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<sup>1</sup> Otter Tail Power Company, Reply Comments, June 6, 2025, eDocket No. [20256-219676-01](#)

<sup>2</sup> Otter Tail Power Company, Reply Comments, pg. 2, June 6, 2025, eDocket No. [20256-219676-01](#)

## **b. Noise Special Condition**

In Otter Tail's direct testimony of May 6, 2025,<sup>3</sup> they stated that DSP standard condition 4.3.7 sufficiently addresses project noise and DSP special condition 5.1 is not warranted. In response, EERA provided continued support for Special Condition 5.1 due to the lack of noise modeling for the project.<sup>4</sup>

In Otter Tail's reply comments, they provided additional information regarding noise for the solar facility. Otter Tail specifically stated that operation of the project alone will comply with the nighttime noise standard of 50 dBA L50. While this is good information, it is not an accurate reflection of the state noise standard. The state noise standard is cumulative, not "project alone."<sup>5</sup>

At a public hearing, Mr. Dennis Parish, a local resident, expressed concern regarding noise in the project area – "The facility that's already in place, just when you took the trees down – I know you didn't; it was the prior person. But I was sitting on the porch last night and it was like a freight train coming through, because there's no buffer there anymore. So, that's a concern."<sup>6</sup>

In its reply comments, Otter Tail noted that the nature of the project's proposed interconnection, a surplus interconnection, will ensure that "operation of the quieter solar Project would offset generation from the louder combustion turbine."<sup>7</sup> Though generation may be offset, to EERA staff's understanding, noise from the proposed project and from the existing combustion turbine are additive and there may be times where both the solar project and the combustion turbine are making noise. Further, as noted by Mr. Parish, there have been changes in project area – the removal of trees – that may influence noise levels for local residents.

EERA appreciates Otter Tail providing additional information for the record; however, EERA continues to recommend a special condition regarding potential noise impacts. EERA recommends a revised Special Condition 5.1 that replaces the requirement for pre-construction noise modeling with a requirement for operational noise monitoring, as necessary:

### **5.1 Noise Monitoring**

The Permittee shall complete noise monitoring if any residents report or file a complaint with respect to project noise. Any additional noise monitoring shall be coordinated with Commission staff and the monitoring protocol shall be approved by Commission staff before implementation. Noise monitoring results shall be provided to Commission staff. If any violations of the state noise standard are identified, the Permittee will be responsible for the implementation of any mitigation measures necessary to meet the state noise standard.

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<sup>3</sup> Otter Tail Power Company, Testimony, May 6, 2025, eDocket No. [20255-218633-02](#)

<sup>4</sup> EERA, Hearing Comments, May 27, 2025, eDocket No. [20255-219263-01](#)

<sup>5</sup> Id.

<sup>6</sup> Shaddix & Associates – Stenographic Court Reporters, Public Hearing Transcripts, May 19, 2025, at 39.

<sup>7</sup> Otter Tail Power Company, Reply Comments, June 6, 2025, eDocket No. [20256-219676-01](#).

### c. Permit Term

In Otter Tail’s testimony, they requested the issuance of a site permit with a 35-year term opposed to a 30-year term. In response, EERA noted that the Commission issues site permits with 30-year terms and suggested that Otter Tail seek a 5-year extension at the end of the 30-year term to satisfy permitting for the life of the Solway Solar project.

In their reply comments, Otter Tail stated issuing a site permit with a 30-year term has been a matter of Commission practice and a 35-year term would more accurately reflect the life of the project as well as allowing for Otter Tail and its rate payers to rely on the full benefits of the project.<sup>8</sup> EERA believes all Commission site permits for wind and solar farms issued to date have been for 30-year terms. EERA believes that this uniformity aids in the tracking of permit compliance. EERA staff recommends that the Commission continue its practice of issuing solar site permits with 30-year terms.

### d. Good Neighbor Agreements

In Otter Tail’s reply comments, they addressed an error in the Environmental Assessment (EA). The EA incorrectly states that impacts to farmland will be offset by easements with landowners. Otter Tail owns the entire project area and will not be making easement payments to landowners. Rather, Otter Tail stated they did extend offers for good neighbor agreements to the community. EERA appreciates this correction.

## 2. Otter Tail Proposed Findings of Fact

On June 6, 2025, Otter Tail filed their Proposed Findings of Fact, Conclusions of Law, and Recommendations.<sup>9</sup> EERA recommends the following revisions to address the above discussion of potential noise impacts:

- **Finding 71.** EERA recommends editing Finding 71 to clarify that the state noise standard is a public health standard and is not met by determining the noise levels produced by individual projects:

DSP Special Condition 5.1 would require Otter Tail to file an updated noise impact assessment before the pre-construction meeting. As the EA notes, “[n]oise levels during operation of the project are anticipated to be minimal.” The primary source of noise during operation will be the substation transformer and inverters. The substation transformer is anticipated to produce 50 dBA—the MPCA noise standard—at 240 feet. ~~However, the nearest residence is more than 900-feet away from the inverters, so noise levels will not exceed the MPCA noise standard.~~ Moreover, the Project is adjacent to the Solway Combustion Turbine Generating Station, so transformer and inverter noise is consistent with existing noise in the area.

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<sup>8</sup> Otter Tail Power Company, Reply Comments, pg. 3, June 6, 2025, eDocket No. [20256-219676-01](#)

<sup>9</sup> Otter Tail, Proposed Findings of Fact, Conclusions of Law, and Recommendations, June 6, 2025, eDocket No. [20256-219678-02](#)

- **Finding 74B.** EERA recommends adding Finding 74B to reflect EERA’s revised recommended Special Condition 5.1:

In EERA’s reply comments, EERA recommended a revised Special Condition 5.1 requiring noise monitoring for the project if complaints are received regarding project noise.

- **Finding 75.** EERA recommends editing Finding 75 to reflect revised Special Condition 5.1:

~~Accordingly, the standard condition on noise in Section 4.3.7 of the DSP along with EERA’s revised Special Condition 5.1 sufficiently appropriately addresses potential Project noise impacts, and a separate special condition for noise modeling is not supported by the record here.~~

- **Finding 205.** EERA recommends editing Finding 205 to reflect EERA’s revised Special Condition 5.1:

~~Regarding DSP EERA’s revised Special Condition 5.1 along with the standard condition on noise in Section 4.3.7 of the DSP sufficiently appropriately addresses Project noise. and a separate special condition is not warranted here because the Project alone will comply with the nighttime noise standard of 50 dBA L50 and, by its nature as a surplus interconnection, operation of the quieter solar Project would offset generation from the louder combustion turbine. Given the minimal operational noise levels of the Project and its offsetting interconnection relationship with the combustion turbine, further noise modelling is not needed to confirm compliance with the noise standards.~~

### 3. Minnesota Department of Natural Resources

In its May 30, 2025, comments,<sup>10</sup> the Minnesota Department of Natural Resources stated that it had reviewed the EA and recommended permit conditions to minimize lighting impacts, avoid use of chloride products in dust control, require wildlife-friendly erosion control, and ensure compliance with State-listed species laws. EERA offers the following responses:

#### a. Security Fencing

DNR addressed the EA’s discussion<sup>11</sup> of the seven-foot-tall woven fence topped with one foot of smooth wire security fencing design for the Solway Solar project. The DNR recommends an alteration of the security fence to reach a minimum height of 10 feet to prevent large wildlife from entering the solar facility.<sup>12</sup>

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<sup>10</sup> Minnesota Department of Natural Resources, Comment, May 30, 2025, eDocket No. [20255-219435-01](#)

<sup>11</sup> EERA, Environmental Assessment on Solway Solar Project, April 30, 2025, eDocket No. [20254-218368-01](#)

<sup>12</sup> Id.

In Otter Tail's reply comments, they opposed DNR's recommendation stating the ten-foot-tall security fencing around the arrays would result in a great visual impact, with no evidence that it would better exclude deer than Otter Tail's current design.<sup>13</sup>

EERA supports further collaboration between the Otter Tail and DNR to formulate an agreeable final security fencing design in accordance with section 4.3.32 of the draft site permit.

#### b. Facility Lighting

DNR addressed the EA's discussion of the motion activated and down-lit lighting facility lighting design for the Solway Solar project. The DNR proposed the addition of a special condition to the DSP to ensure the installation of down-lit lighting. EERA supports the inclusion of a special condition in the DSP and recommends the following language provided by the DNR:

##### 5.6 Facility Lighting

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

#### c. Wildlife-Friendly Erosion Control

DNR addressed the EA's discussion of the harm of plastic erosion control on wildlife. DNR recommends avoiding all products containing plastic mesh netting or other plastic components, as well as advises against hydro-mulch products containing small synthetics fibers and malachite green dye. DNR proposes the addition of a special condition to the DSP to ensure wildlife-friendly erosion control methods. EERA supports the inclusions of the special condition in the DSP and recommends the following language provided by the DNR:

##### 5.7 Wildlife-Friendly Erosion Control

The Permittee shall use erosion control materials that do not contain plastic or synthetic fibers or malachite green dye.

#### d. Dust Control

DNR addressed the EA's discussion of fugitive dust generated by the project, as well as the utilization of watering exposed surfaces as a standard construction practice for reducing fugitive dust. DNR cautions against the usage of additional dust control agents containing calcium chloride or magnesium due to harmful environmental impacts. DNR proposed the addition of a special condition to the DSP to ensure

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<sup>13</sup> Otter Tail Power Company, Reply Comments, pg. 4, June 6, 2025, eDocket No. [20256-219676-01](#)

chloride products are not used at the project site. EERA supports the inclusion of the special condition in the DSP and recommends the following language provided by the DNR:

#### **5.8 Dust Control**

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

#### **e. State-listed endangered and threatened species**

DNR proposed the addition of a special condition to the DSP to ensure compliance with state endangered species laws. EERA supports the inclusions of the special condition in the DSP and recommends the following language provided by the DNR:

#### **5.9 State-listed Species**

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

EERA appreciates the opportunity to comment on the proposed project.

Sincerely,

/s/ Tessa Kothlow

Tessa Kothlow  
EERA Environmental Review Manager