



March 24, 2025

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

RE: EERA Hearing Comments
Birch Coulee Solar Project
PUC Docket No. IP7119/GS-23-477
OAH Docket No. 5-2500-40417

Dear Consumer Affairs Office:

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) staff offers the following comments on the Birch Coulee Solar Project (Project) proposed by Birch Coulee Solar, (Birch Coulee Solar, LLC).

In these comments EERA:

- Recommends modifications to the draft decommissioning plan,
- Recommends modifications to the draft vegetation management plan
- Summarizes changes between the sample site permit filed by the Minnesota Public Utilities Commission (Commission) and the proposed draft site permit (PDSP) included as Appendix C of the Environmental Assessment (EA) prepared for the Project.

Decommissioning Plan

Site permits for wind and solar 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. Department of Commerce Energy Environmental Review and Analysis (EERA) staff has reviewed the draft decommissioning plan (draft plan) for the proposed Birch Coulee Solar Project included as Appendix G of the Site Permit Application filed July 29, 2024.

EERA staff's review is guided by the recommendation of the Solar and Wind Decommissioning Working Group (SWDWG). As discussed in EERA staff's recommendations on decommissioning plans in Docket 17-123, 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

- **General Comments:** Remove references to the AES North American and global portfolio and Fortune 500 status. Although these are factual statements, they are irrelevant to the decommissioning plan. The intent of the decommissioning plan is to describe the facility as it exists on the ground and how Birch Coulee, LLC (Birch Coulee) will fulfil its obligation to remove the project components ant the end of the facility’s life.
- **Independent Preparer:** Meets EERA expectations. The plan and cost estimate have been prepared by Barr Engineering Company.
- **Decommissioning Objective:** Largely meets EERA expectations. EERA 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. As the project matures, the objective may evolve in anticipation of a different use (e.g., commercial, industrial, or residential).
- **Scheduled Updates:** Does not meets EERA expectations. Although Section 3.1 indicates Birch Coulee’s plans to update the decommissioning plan every five years or “on an as needed basis,” EERA recommends that the pre-construction version of the plan include this information under a new separate “Plan Update” heading to provide more transparency. In addition to regular five-year updates and changes in ownership, the plan should also be updated in the event of ownership changes, permit amendments, or repowering.
- **Project Description:** Partially meets EERA expectations. EERA recommends that the pre-construction version of the plan be updated to include:
 - 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.
 - Identification of the townships, ranges, and sections.
 - Final sizes and acreages of the project components once design is finalized.
 - A short statement on landownership. Clarify the landownership at the time of construction. Clarify whether Birch Coulee owns or leases the site or portions of the site.
- **Use of Generation Output.** Does not meet EERA expectations at this time. EERA understands that the off-taker of the power 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:
 - Power Purchase Agreement (PPA). For any portion of the output sold through a PPA, the description should include the off-taker and the expiration date of any PPA(s).

- Utility-owned generation portfolio
- **Permits and Notifications:** Partially meets EERA expectation. EERA recommends combining sections 3.3 and 4 into a single “Notification and Permits” section.
- **Tasks and Timing:** Partially meets EERA expectations. EERA recommends additional information on assumptions for removal and restoration of stormwater basins, waste disposal and timeframe schedule prior to filing as a pre-construction filing:
 - Describe how stormwater basins will be removed and those sites restored.
 - Add a short section in the text that generally discusses assumptions for disposal and identifies landfill, recycling, and resale facilities in place at this time (see, for example, Section 2.5 of 2021 the [decommissioning plan](#) for Sherco Solar). EERA anticipates these facilities may change as the project ages, but calling this information out in its own subsection makes it easier identify whether updates are needed.
 - The 24 month timeline for decommissioning identified in Section 3.2 of the plan conflicts with Section 9.2 of the draft site permit, which requires the permittee to notify the Commission of final restoration within 18 months of the termination of the project.
 - Provide some additional detail on the timeframe/schedule for decommissioning. A Gantt chart is not necessary at this time, but please provide something more detailed than a general statement of months. See, for example, section 2.3 of the 2021 decommissioning plan for Sherco Solar.
- **Cost Estimate:** Partially meets EERA expectations. Although Section 6 of the plan does reference some general assumptions, EERA recommends the pre-construction version clarify assumptions for both the cost and salvage value estimates. See, for example Section 11 of the [decommissioning plan](#) for the Northern Crescent Solar Project.

As discussed above, clarify assumptions where components will be taken for re-sale, recycling, or disposal. The cost estimate in Attachment 2 does include estimates for hauling but does not identify a destination.

- **Financial Assurance:** Does not EERA expectations. EERA appreciates the timeline for the establishment of financial assurance, but recommends the discussion identify a beneficiary of the financial assurance. EERA wishes to clarify that, unless there is an ownership change, Birch Coulee, as the owner, is responsible for establishing the financial assurance. Although the establishment of the financial assurance mechanism is still 10 years out, EERA believes it is reasonable to narrow down the financial assurance mechanism down from the seven presented in this draft to two or three that appear most likely. EERA anticipates bringing the matter to the Commission at the time to surety is established to allow the Commission to weigh in on the amount (gross or net costs), mechanism, and beneficiary.

Vegetation Management Plan

EERA, on behalf of the interagency Vegetation Management Planning Work Group (VMPWG), respectfully submits comments on the Birch Coulee Solar vegetation management plan (VMP). The VMPWG and the EERA staff have reviewed the VMP for the proposed Birch Coulee Solar Project included as Appendix F of the Site Permit Application filed July 29, 2024.

The VMPWG is not recommending any action by the Commission at this time, but is providing comments to facilitate transparency in the record as the VMPWG works with the applicant to arrive at a VMP that is adequate to meet pre-construction compliance filing requirements.

VMPWG Comments and Recommendations

- **Visual Screening:** Clarify if visual screening will be considered for this project site. Provide a complete list of plants to be planted as well as the size of the plant material (container size or caliper size for ball and burlap or trees to be installed with a tree spade).
- **Site Preparation:** Update the table showing the planned sequence for construction, planting and management activities to include the proposed month alongside the summary of the activity (Table 7-1).
- **Seedbed Preparation:**
 - Clarify if equipment, such as disks, tillers, harrows, rollers, or other methods will be used to prepare the seedbed for seeding.
 - Clarify if seeding will occur before or after panel installation. Consider how soil characteristics may influence seed establishment when planning seed installation.
 - Verify the chemical application history of the site to determine if special methods will be necessary to allow for successful native vegetation establishment.
- **Seed Mixes:** Due to the hydric soils, the site will likely increase in moisture over time as vegetation establishes. The inclusion of additional wetland species to adapt to anticipated wet conditions is recommended.
- **Management:**
 - Provide additional information about establishment mowing (years 0-2) including the timing and height of mowing.
 - For mechanical mowing and haying, hayed/mowed vegetation should be bagged and removed off site to prevent smothering new growth. Haying/mowing equipment should be cleaned prior to use on site to prevent the spread of non-native and invasive species into the planting.
 - Discuss how management activities will be timed to avoid impacts to wildlife such as ground-nesting birds and migrating butterflies.

- **Grazing:** If grazing is utilized, a grazing plan is needed. It should summarize the goals of grazing, the type and number of animals to be used, plans for fencing, the time and duration of grazing, and the decision making process for ensuring that vegetation is not over-grazed.
- **Herbicide:** Provide additional information about anticipated herbicide use, including herbicide type, surfactant, rate, and frequency. Discuss the herbicide plan specific to the Fenceline VMU non-native fescue mix.
- **Monitoring:** A qualified third-party independent agency monitor (e.g., the project’s agricultural monitor and environmental inspector), with sufficient botanical experience identifying native plants, native plant communities, invasive species, and non-native species typical of Minnesota, should complete the vegetation monitoring to ensure an unbiased reporting of vegetation establishment.
- **Reporting:** Although quantitative monitoring results will not be included in interim reports, both quantitative and qualitative data should be included in annual reports.
- **Maps:** Additional maps to include:
 - Monitoring Plan Map showing proposed monitoring locations.

Site Permit Modifications

The Commission issued a sample site permit on October 7, 2024.¹ EERA included a Proposed Draft Site Permit (PDSP) as Appendix B of the Environmental Assessment (EA).² EERA’s PDSP indicated changes from the Commission-issued sample permit by underline and strikeout. In these comments, EERA summarizes the changes between the sample permit and EERA’s PDSP.

Updated Project Description (Cover, Sections 1, 2 and 9)

EERA’s proposed DSP updates the sample permit to include project-specific information in the cover and in sections 1, 2 and 9.

Vegetative Screening Along Roadsides (Special Condition 5.1)

EERA recommends a special condition requiring Birch Coulee Solar coordinates with jurisdictional road management authorities to develop vegetative screening plans along roads that comply with ROW management and/or setback requirements.

¹ Public Utilities Commission, Sample Site Permit, October 7, 2024, eDocket No. [202410-210744-01](#).

² DOC EERA, *Environmental Assessment: Birch Coulee Solar Project. Appendix B, Proposed Draft Site Permit*. February 26, 2024, eDocket No. [20252-215772-03](#).

Noise Notification for Nearby Residences (Special Condition 5.2)

EERA recommends a special condition requiring Birch Coulee Solar to inform nearby residences of active construction hours and provide notification prior to major noise-producing activities.

Community Partnerships (Special Condition 5.3)

EERA recommends a special condition requiring Birch Coulee Solar maintain community partnerships in the Franklin area and provide records of their efforts upon request of Commission staff.

Renville County Setbacks (Special Condition 5.4)

EERA recommends a special condition requiring Birch Coulee Solar to comply with all Renville County renewable energy setback requirements.

Traffic Control Plan (Special Condition 5.5)

EERA recommends a special condition requiring Birch Coulee Solar to develop a traffic control plan with road authorities. The plan will be implemented as needed for local events and temporary road closures during construction or equipment delivery.

Road Use and Development Agreement (Special Condition 5.6)

EERA recommends a special condition requiring Birch Coulee Solar enter into a Road Use and Development Agreement with Renville County and affected townships and provide records of the agreement upon request of Commission staff.

Decommissioning Plan (Special Condition 5.7)

EERA recommends a special condition requiring Birch Coulee Solar to develop a mutually agreeable decommissioning plan with Renville County officials.

Ownership Change Notification (Special Condition 5.8)

EERA recommends a special condition requiring Birch Coulee Solar to notify Renville County officials of an ownership change and provide the new contact information.

Fire Risk Assessment (Special Condition 5.9)

EERA recommends a special condition requiring Birch Coulee Solar to develop a Project Fire Risk Assessment which will be incorporated and filed with the *Emergency Response Plan*.

Emergency Response Training (Special Condition 5.10)

EERA recommends a special condition requiring Birch Coulee Solar to train local emergency response teams to ensure they are aware of project access points and can perform duties safely.

TH 19 Access Points (Special Condition 5.11)

EERA recommends a special condition requiring Birch Coulee Solar to coordinate with MnDOT regarding possible mitigation measures to reduce crash risk associated with proposed access points along TH 19.

Laydown Area Protection Plan (Special Condition 5.12)

EERA recommends a special condition requiring Birch Coulee Solar to develop and file a Laydown Area Protection Plan for any laydown areas within Wellhead Protection Areas and Drinking Water Supply Management Areas that describes the equipment inspection practices, spill-minimizing BMPs, and containment measures that will be implemented.

Fencing ROW Setbacks (Special Condition 5.13)

EERA recommends a special condition requiring Birch Coulee Solar to apply a minimum setback of 67 from the perimeter fence to road ROWs to minimize wildlife-vehicle collision risk.

Wildlife-Friendly Lighting (Special Condition 5.14)

EERA recommends a special condition requiring Birch Coulee Solar use motion activated, down-lit, shielded lighting around and within the Project and coordinate with MnDOT on Approved Products for Luminaries with respect to approved Uplight ratings and nominal colors temperatures.

Non-Chloride DustSuppressions (Special Condition 5.15)

EERA recommends a special condition requiring Birch Coulee Solar to use dust suppression agents that do not contain chloride.

Wildlife Friendly Erosion Control (Special Condition 5.16)

EERA recommends a special condition requiring Birch Coulee Solar to use erosion control materials that do not contain plastic or synthetic fibers of malachite green dye.

Northern Long-Eared Bat (Special Condition 5.17)

EERA recommends a special condition requiring Birch Coulee Solar to comply with the U.S. Fish and Wildlife Service (USFWS) guidance and requirements to minimize impacts to the northern long-eared bat (NLEB), a federally-listed species.

Bald Eagle (Special Condition 5.18)

EERA recommends a special condition that if, in consultation with the U.S. Fish and Wildlife Service, a bald eagle nest must be removed for the construction of the project, Birch Coulee Solar shall file with the Commission the documentation authorizing any Bald Eagle nest removal prior to construction.

TH 19 ROW Vegetation (Special Condition 5.19)

EERA recommends a special condition requiring Birch Coulee Solar to comply with any MnDOT permit requirements determined necessary by the Office of Environmental Stewardship Protected Species Unit regarding vegetation in the TH 19 ROW.

EERA appreciates the opportunity to comment on the proposed project.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren Agnew". The signature is fluid and cursive, with the first name "Lauren" being more prominent than the last name "Agnew".

Lauren Agnew
EERA Environmental Review Manager