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May 29, 2024

—Via Electronic Filing—

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Honorable Kristien R.E. Butler
Office of Administrative Hearings
600 North Robert Street
P.O. Box 64620
Saint Paul, MN 55164-0620

RE: IN THE MATTER OF THE APPLICATION OF XCEL ENERGY FOR A SITE PERMIT FOR THE UP TO 250 MW SHERCO 3 SOLAR ENERGY GENERATING SYSTEM IN SHERBURNE COUNTY, MINNESOTA
MPUC DOCKET NO.: E-002/GS-23-217
OAH DOCKET NO.: 24-2500-39813

Dear Mr. Seuffert and Judge Butler:

Northern States Power Company, doing business as Xcel Energy (“Xcel Energy” or the “Company”), submits these reply comments in response to certain comments received during the environmental assessment comment period in the above docket regarding its Application for a Site Permit (“Application”) for the up to 250 megawatt (“MW”) solar project to be located in Sherburne County, Minnesota (“Project”). These reply comments primarily focus on:

- Comments suggesting the Environmental Assessment (“EA”) prepared by the Minnesota Department of Commerce Energy Environmental Review and Analysis unit (“DOC-EERA”) did not fully address comments raised during scoping.
- Comments related to potential impacts on water quality if solar panels are damaged;
- Comments concerning the restoration of native vegetation within the Project;
- Comments regarding impacts on hydric soils;
- Comments regarding Xcel Energy’s proposed screening plan, a requested extension of the setback from the St. Marcus Cemetery in Clear Lake and the associated request to resize the Project’s boundaries;
- Comments about wildlife impacts, including potential impacts to deer and eagles;
- Comments raising concern about the impact of Electromagnetic Fields (“EMF”);
- Comments requesting condition requiring payment to landowners proximate to the Project;
- Comments regarding the decommissioning plan; and

- Comments regarding local tax revenue.

Questions and comments already addressed by the Project’s Application, those that are readily addressed by the EA or those which are not relevant to Project siting decisions are not addressed in these reply comments. For example, as stated in the Application, the Minnesota Public Utilities Commission (“Commission”) mandated that Xcel Energy cease coal operations at Sherco Generating Plant.¹ Commenters raised discussion about keeping the coal plant open, an option that is unavailable to Xcel Energy, is not relevant to the Commission’s consideration of the site permit request for this Project and therefore will not be discussed in these reply comments.

This Project is part of a greater effort by Xcel Energy to replace Unit 2 of the Sherco Generating Plant, which ceased operations in 2023. Unit 2 had a nameplate capacity of 710 MW. If constructed, this 250 MW Sherco 3 Solar Project, combined with the 460 MW Sherco Solar 1 + 2 projects that were previously permitted by the Commission and are currently under construction, will replace the energy generated by the recently retired Unit 2. The current Project location near Unit 2 was selected to use the existing interconnection capacity—the ability to connect to the power grid—that is now available to Xcel Energy at this location under the Midcontinent Independent System Operator (“MISO”) generating facility replacement process due to Unit 2 ceasing operations.² Xcel Energy would likely face significant regulatory hurdles if it attempted to connect a facility to the grid in other locations, which would substantially delay Xcel Energy’s and the Commission’s efforts to replace coal power with renewable generation sources.

1. Adequacy of the Environmental Assessment

Some commenters expressed concern that their comments were not addressed by the EA and therefore, suggested the EA failed to adequately evaluate environmental impacts from the Project. Minnesota statute provides that the environmental assessment is required to contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the Commission and shall address mitigating measures for all of the sites or routes considered.³ Minnesota Rules Section 7850.3700 governs the content requirements for environmental assessments for large electric power generating plants, like the Project, that are permitted pursuant to the alternative permitting process. An environmental assessment must contain the following:

- A. a general description of the proposed facility;
- B. a list of any alternative sites or routes that are addressed;
- C. a discussion of the potential impacts of the proposed project and each alternative site or route on the human and natural environment;

¹ See Commission Order, *In the Matter of Xcel Energy’s 2016-2030 Integrated Resource Plan*, MPUC Docket No. E-002/RP-15-21, (January 11, 2017).

² See Commission Order, *In the Matter of Xcel Energy’s 2016-2030 Integrated Resource Plan*, MPUC Docket No. E-002/RP-15-21, (January 11, 2017).

³ Minn. Stat. § 216E.04, subd. 5

- D. a discussion of mitigative measures that could reasonably be implemented to eliminate or minimize any adverse impacts identified for the proposed project and each alternative site or route analyzed;
- E. an analysis of the feasibility of each alternative site or route considered;
- F. a list of permits required for the project; and
- G. a discussion of other matters identified in the scoping process.^{4]}

The commissioner of the Department of Commerce is required to determine the scope of an environmental assessment during the scoping period, and “[o]nce the commissioner has determined the scope of the environmental assessment, the scope shall not be changed except upon a decision by the commissioner that substantial changes have been made in the project or substantial new information has arisen significantly affecting the potential environmental effects of the project or the availability of reasonable alternatives.”⁵ In other words, the environmental assessment must address all of the factors in the rules and scoping decision, and should not analyze issues that are beyond the scoping decision.

The scoping decision considered and summarized public comments related to potential environmental impacts from construction and operation of the Project, impacts from ancillary issues not directly related to construction and operations of the Project, such as mining of materials used in PV panels; the level of subsidies for solar development; and the wisdom of replacing coal with solar are not and should not be addressed by the EA. Consistent with public comments regarding the potential effects of the Project and applicable law, the scoping Decision stated that the EA should include “Impacts to the Natural Environment” including vegetation, wildlife, geology and soils, water, noise, and aesthetic, among other environmental impacts.⁶ Consistent with existing law and practice, the EA did not include discussions of: the need for the Project, including questions of size, type, timing, and alternative system configurations; any impacts related to the manufacture of the elements of the Project including PV panels, posts, concrete, fuel used for construction vehicles, etc.; or the manner in which landowners are compensated for the Project. The topics included in the EA are consistent with the scoping decision and generally consistent with environmental assessments completed and found by the Commission to be adequate to address potential environmental impacts of solar facilities.⁷ The

⁴ Minn. R. 7850.3700, subp 4.

⁵ Minn. R. 7850.3700, subp. 3.

⁶ Environmental Assessment Scoping Decision at 4–5.

⁷ See generally *Sherco Solar Project – Environmental Assessment, In the Matter of the Application of Xcel Energy for a Site Permit for the up to 460-megawatt Sherco Solar Energy Generating System in Sherburne County*, MPUC Docket No. E002/GS-21-191 (“*In the Matter of Sherco Solar*”) (Mar. 15, 2022); Order Issuing Site and Route Permits at 3, *In the Matter of Sherco Solar* (Sept. 22, 2022) (concluding that “the environmental assessment and the record created in this matter address the issues identified in the scoping decision”); *Hayward Solar Project – Environmental Assessment, In the Matter of the Application of Hayward Solar LLC for a Certificate of Need and Site Permit under the Alternative Permitting Process for the up to 150 MW Hayward Solar Project in Freeborn County*, MPUC Docket Nos. IP7053/GS-21-113 and IP7053/CN-21-112 (“*In the Matter of Hayward*

EA discussed each topic in depth, relying on the best available information and studies, which may at times be general data rather than site-specific data. Again, this practice is consistent with other recent environmental assessments for other solar projects approved by the Commission. Moreover, Xcel Energy directly addressed several issues included in the scoping decision in its direct written testimony filed in advance of the public hearing, in its responses to comments and questions raised during the public hearing and in these reply comments. Notably, the Minnesota Department of Natural Resources (“MDNR”) and the Minnesota Pollution Control Agency (“MPCA”) filed comments indicating they reviewed the EA and did not express any concerns about the adequacy of the EA. Accordingly, Xcel Energy respectfully requests the Commission find the EA and the record developed during the public hearing process adequately address the issues identified in the scoping decision.

2. Water Quality

Several commenters expressed concern that solar panels could break and release hazardous materials to the environment, causing water pollution. As stated in direct written testimony from Xcel Energy employees, the photovoltaic (“PV”) solar panels that Xcel Energy plans to use are nearly entirely encased in glass and aluminum, which are not hazardous. The PV solar panels do contain small amounts of metals that are, by themselves, characterized as hazardous materials by the United States Environmental Protection Agency (“EPA”). The EPA-approved method for determining whether a hazardous substance is likely to leach from a manufactured product into the ground and ground water is the Toxicity Characteristic Leaching Procedure (“TCLP”).

The solar panel model selected for the Project has undergone TCLP testing by an independent testing and certification lab as part of the product development process, and passed TCLP testing.⁸ In other words, no hazardous materials (including arsenic, barium, cadmium, chromium, lead, mercury, selenium or silver) leached from the tested products resulting in leachate concentrations above the EPA’s regulatory thresholds. The panels are fully encapsulated, unlikely to shatter, and not expected to leach hazardous materials into the environment, thus the risk to the environment from the contents of the solar panels will be minimal. The EA confirms this, stating that the TCLP testing provided by Xcel Energy “confirmed that in the occurrence of destruction to a PV [solar] panel, it is unlikely that hazardous materials will leach into groundwater resources.”⁹ To

Solar) (Mar. 2, 2022); Order Granting Certificate of Need and Issuing Site Permit at 3, *In the Matter of Hayward Solar* (Nov. 30, 2022) (finding “that the Environmental Assessment and the record created in this matter address the issues identified in the scoping decision”); Lake Wilson Solar Environmental Assessment, *In the Matter of the Applications of Lake Wilson Solar Energy LLC for a Certificate of Need and Site Permit for the Lake Wilson Solar Energy Center Project in Murray County, Minnesota*, MPUC Docket Nos. IP-7070/GS-21-792 & IP-7070/CN-21-791 (“*In the Matter of Lake Wilson Solar*”) (Oct. 18, 2023); Order Granting Certificate of Need and Issuing Site Permit, *In the Matter of Lake Wilson Solar* (Apr. 23, 2024).

⁸ Testimony of E. Heine, Attachment D (April 30, 2024), eDocket ID Nos. 20244-206212-04, 20244-206212-05, & 20244-206212-06. A commenter misrepresented the TCLP test submitted by Xcel Energy as being completed by Jinko Solar. The TCLP testing was completed by SGS Labs, a Swiss Company that provides independent testing and certification services globally, for the client Jinko Solar, which is a manufacturer of solar panels. See About Us, SGS, <https://www.sgs.com/en/our-company/about-sgs>.

⁹ Environmental Assessment at 68.

our knowledge, DOC-EERA does not have access to equipment to complete its own TCLP testing to validate the results of an independent testing lab nor is it required to do so under TCLP testing requirements or under Minnesota law governing environmental review of solar facilities. Accordingly, the testing results provided by Xcel Energy are adequate to support the EA's conclusion that hazardous materials are unlikely to leach from the solar panels into groundwater resources.

3. Vegetation Management

One commenter suggested an additional permit condition to require Xcel Energy to contract with MDNR Ecological Services every five years to conduct point intercept vegetation surveys for the duration of the Project to assess whether native vegetation underneath solar panels is thriving. As stated in the Application, the Vegetation Management Plan ("VMP") for the Project will be continually evaluated through ongoing consultation and guidance from the Vegetation Management Plan Working Group, a group of state agencies that includes MDNR and the Minnesota Board of Water and Soil Resources ("BWSR").¹⁰ Xcel Energy appreciates the value that these state agencies bring to the development and review of the VMP for the Project and will incorporate their feedback as applicable. The management practices in the VMP will establish stable ground cover, reduce erosion, reduce runoff, and improve infiltration.

The VMP requires that Xcel Energy hire an independent native plant professional, with sufficient botanical experience identifying native plants, native plant communities, invasive species, and non-native species typical of Minnesota, to monitor the vegetation on an annual basis during the first three years of plant establishment and every three years thereafter during Project operation to monitor and manage site vegetation for diversity to meet the Habitat Friendly Solar Standards set by the BWSR.¹¹ The regular independent monitoring by a qualified professional and submission of reports to BWSR to meet the requirements of the VMP and the Habitat Friendly Solar Standards will ensure the vegetation is established and maintained in accordance with the approved VMP. Accordingly, MDNR validation surveys are redundant and not necessary to ensure the vegetation of the site is established in accordance with the VMP.

4. Hydric Soils

Some commenters reiterated comments that the MDNR raised during EA scoping. During scoping, the MDNR commented that the EA should include a discussion of the presence of hydric soil in the project area.¹² MDNR noted that placing structures in soils that are frequently saturated could pose ongoing issues for site maintenance. Xcel Energy explained in reply comments that the actual amount of mapped hydric soils within the fence (i.e., the area of the Project that will be converted to solar panel uses) is only 1.3 acres, much less than the 25.7 acres MDNR identified in its initial comments. Moreover, during the site grading process, topsoils are removed and stockpiled before subsoils are borrowed and deposited to create a more level surface. Once site

¹⁰ Application at 90.

¹¹ Application Appendix G at 4 and 20.

¹² See MDNR Comments on EA Scoping (November 21, 2023), eDocket ID No. 202311-200627-01.

balancing is complete the topsoils are respread and de-compacted. Any potential for saturation or ponding in the non-wetland hydric soil areas that are corrected during construction will be effectively mitigated during this grading process. There will be no grading or installation of fencing or solar arrays within wetlands.

The EA expanded on the issue, noting that, “[i]n some of the areas with drain tile, depth to groundwater is altered and likely deeper than what’s reported in the US Department of Agriculture’s Web Soil Survey.” Ultimately, the EA concluded that there would be no impacts because—consistent with Xcel Energy’s previous reply comment—“[t]he possibility of groundwater level fluctuations due to seasonal variations will be considered before final engineering and design.” MDNR’s silence in its comments on the EA shows that MDNR’s concerns about impacts to hydric soils or shallow groundwater were fully addressed by Xcel Energy’s reply comment and the EA.

5. Project Setback Distance and Screening from St. Marcus Cemetery

During environmental assessment scoping, comments were provided expressing concerns that the proximity of the Project to the St. Marcus cemetery would create negative visual impacts for visitors to the cemetery. Father Joseph Bakowski stated that mitigation of visual impacts on the cemetery is necessary. His suggested mitigation included a set-back of one-half mile from the cemetery together with extensive tree plantings between the Project and the cemetery. In his comments on the EA, Father Joseph Bakowski again recommended a one-half mile setback from cemeteries, Native American burial grounds, parks, and immovable archeological sites, along with quarter mile setbacks from city limits and residences. Father Bakowski also recommended that Xcel Energy be required to ensure that vegetative screening succeeds in the environment and serves as effective sight mitigation.

Xcel Energy appreciates the concerns raised by Father Bakowski and developed a Landscape Screening Plan to screen adjacent residences and the St. Marcus cemetery from the Project. The Landscape Screening Plan¹³ details how Xcel Energy will use landscape screening areas to disrupt the direct line of site from the cemetery and residences that are adjacent to the Project.

The Project’s designed setbacks provide adequate spacing to implement the Landscape Screening Plan which will shield the view of the Project from within the cemetery and adjacent residences. If the Project were to be set back one-half mile from the cemetery property line, it would effectively remove approximately 95,000 solar modules, or about 55 MW,¹⁴ from the Project, which is more than 1/5 of the nameplate capacity of the Project. Such a setback and loss of production would not only be detrimental to the Project, but would not be an efficient use of resources, especially considering Xcel Energy’s need to replace the lost generation from Unit 2 of the Sherco Generating Plant and how Xcel Energy’s proposed setbacks from the cemetery and

¹³ Testimony of P. Gitzen, Attachment.

¹⁴ After additional review, Xcel Energy determined that the setbacks proposed by Father Bakowski would result in even greater reduction in nameplate capacity than initially estimated. Accordingly, the reduction in capacity identified in these comments is greater than in previous comments.

the provision of vegetative screening far exceed that which was approved and required by the City of Clear Lake for a community solar garden constructed directly to the west of the St. Marcus cemetery.

As currently designed, the Project solar array is approximately 247 feet south of the southern St. Marcus cemetery property line and approximately 95 feet from the south-east corner of the St. Marcus cemetery property line. These setbacks provide sufficient space for landscape screening areas and are comparable to setbacks applied to some residences and residential buildings located near other portions of the Project which have approximately 250- and 280-foot setbacks from homes to the nearest solar arrays.¹⁵ Moreover, the Project's setbacks exceed Sherburne County's required setback of 50 feet from adjacent property lines as well as the City of Clear Lake's required setbacks which range between 10 and 50 feet from rear and side-yard property lines depending on the zoning district in which the solar array is located. In fact, the City of Clear Lake, as permitting agency for an adjacent solar garden, did not require any vegetative screening next to the cemetery and only required vegetative screening along three residential and commercial parcels to the northwest of the solar garden.¹⁶

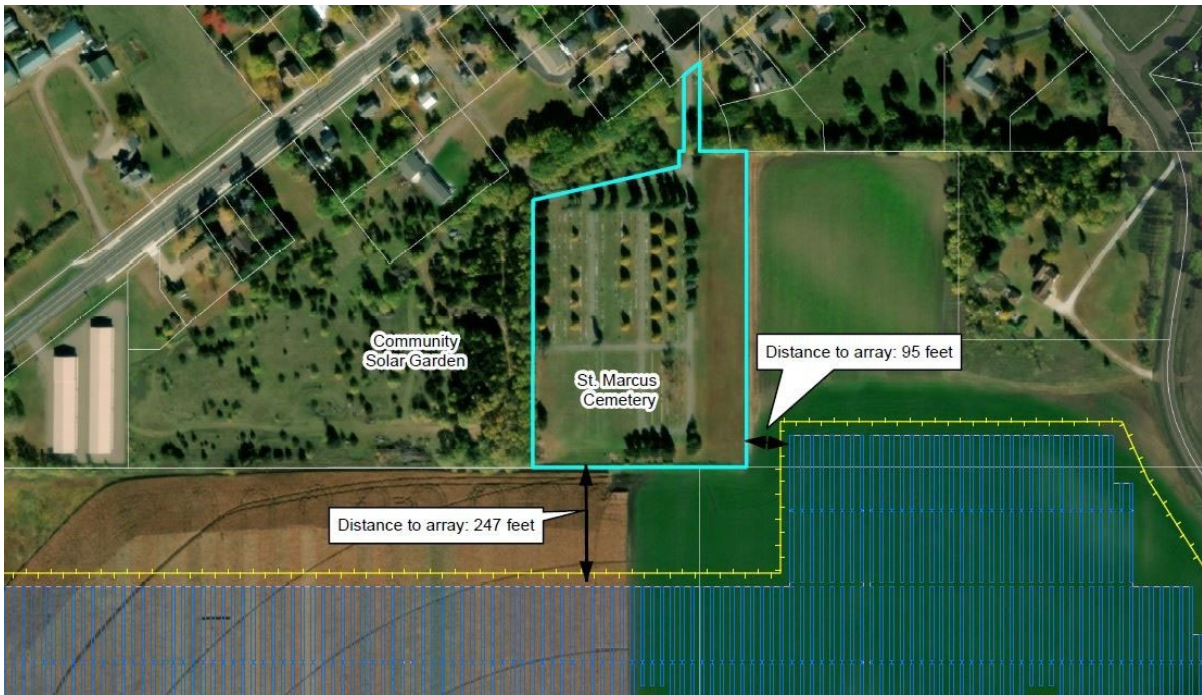



Image 1: Project Setback at St. Marcus Cemetery

¹⁵ See Site Permit Application, Appendix E.

¹⁶ City of Clear Lake Council Meeting Minutes, February 6, 2023. Available at https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fclearlakemn.govoffice2.com%2Fvertical%2Fsites%2F%257B14337A90-1B18-4760-BE97-C153C2C0ACB5%257D%2Fuploads%2FCOUNCIL_MINUTES_2-6-23.docx&wdOrigin=BROWSELINK (Accessed December 14, 2023).

The Project’s Landscape Screening Plan identifies preliminary buffer and screening plants, as documented in Image 2. Consistent with Father Bakowski’s comments, Xcel Energy will place native evergreen trees, that grow well in the Project area’s climate, at strategic locations across the Project site to limit direct views of the array from adjacent residences and the St. Marcus cemetery. Native plants and other regionally appropriate species like the ones proposed in the Landscape Screening Plan establish more quickly and have higher survival rates, which will improve the effectiveness of the Landscape Screening Area.

Xcel Energy is continuing to work with Father Backowski and other adjacent homeowners to refine the Landscape Screening Plan to select the correct species, ideal size and additional plants to enhance plant viability, ensure long-term successful screening and an appropriate mix of vegetation to provide screening that is pleasing to viewers. Xcel Energy is also considering Father Backowski’s suggestion that smaller potted plants be used to enhance plant survivability rather than Xcel Energy’s initial suggestion of utilizing taller, more-mature trees which would provide more immediate screening benefits. DOC-EERA’s permit condition requiring the preparation of a visual screening plan is adequate to ensure visual impacts to adjacent residences and the St. Marcus cemetery are appropriately mitigated.

<u>SYMBOL</u>	<u>COMMON NAME</u>	<u>BOTANICAL NAME</u>	<u>SIZE</u>	<u>MATURE HEIGHT</u>	<u>MATURE WIDTH</u>
	CONIFEROUS TREES				
	MOONGLOW JUNIPER	JUNIPERUS SCOPULORUM 'MOONGLOW'	6' HT B&B	15 - 25ft. ht.	6 - 10ft. w.
	EASTERN REDCEDAR	JUNIPERUS VIRGINIANA	6' HT B&B	25 - 40ft. ht.	15 - 25ft. w.
	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA	6' HT B&B	25 - 40ft. ht.	15 - 25ft. w.
	WHITE PINE	PINUS STROBUS	6' HT B&B	40 - 65ft. ht.	25 - 40ft. w.
	DARK AMERICAN ARBORVITAE	THUJA OCCIDENTALIS 'DARK GREEN'	6' HT B&B	15 - 25ft. ht.	10 - 15ft. w.

NOTES: (1.) QUANTITIES ON PLAN SUPERSEDE LIST QUANTITIES IN THE EVENT OF A DISCREPANCY.
 (2.) B.B. SPECIFIES FOOT TYPE AS BALLED AND BURLAPPED.
 (3.) H.T. SPECIFIES MINIMUM SPECIMEN HEIGHT UPON INSTALLATION.
 (4.) PLANT SPECIES SUBJECT TO CHANGE BASED UPON AVAILABILITY AT TIME OF PLANTING

Image 2: Preliminary Buffer & Screening Plant Species

6. Wildlife Impacts, including Potential Impacts on Deer and Eagles

Several commenters expressed concern about the impacts of the Project on deer and other wildlife. In particular, several commenters echoed comments from MDNR during scoping related to fencing. During scoping, MDNR recommended coordinating with the agency regarding the placement of fencing to minimize impacts on wildlife. Xcel Energy coordinated with MDNR regarding placement of fencing and MDNR and Xcel Energy developed a fencing strategy that adequately protects wildlife. In MDNR’s recent comments on the environmental analysis, MDNR did not raise concerns about fencing or impacts on wildlife. As the EA explains, “[i]mpacts to large wildlife species, for example, deer, will be negligible.”

One commenter raised a concern about the eagle’s nest in the Project area. The draft site permit submitted with the EA includes a condition that says, “[a]t least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission documentation authorizing any bald eagle nest removal.” Xcel Energy agrees to this permit condition and, if necessary, Xcel Energy will provide all required documentation allowing the removal of eagle nests prior to the preconstruction meeting.

7. Electromagnetic Fields

Several commenters expressed concern about EMF. The term EMF refers to electric and magnetic fields that are present around any electrical device. Electric fields arise from the voltage or electrical charges and magnetic fields arise from the flow of electricity or current that travels along transmission lines, power collection lines, substation transformers, house wiring, and electrical appliances. The EA notes that the region of influence for EMF from the Project is “the area of land control.”¹⁷

The region of influence is limited to the Project area because the strength of an electric field decreases rapidly as it travels from the conductor and is easily shielded or weakened by most objects and materials. EMF levels return to background levels at 150 feet away from utility-scale invertors. Xcel Energy placed invertors centrally within the Project layout, more than 150 feet from the Project boundary, which means that EMF levels should not exceed background levels anywhere outside of the Project fence. Xcel Energy anticipates there will be no impacts from EMF outside the fenced Project boundary and EMF will not impact people with implantable devices like pacemakers outside of the fenced area. As the EA clarifies, if someone with an implantable device were to experience an impact from EMF generated by the Project, walking or driving away from the fenced Project area would return the pacemaker to normal operation.¹⁸

8. Request for Condition Requiring Payment to Landowners Proximate to the Project

An attorney for a landowner near the Project, Patrick Hermus and Heidi Meisenheimer (“Hermus and Meisenheimer”), commented to express her clients’ concerns about the Project’s potential impacts on their property value. Hermus and Meisenheimer purchased their 10-acre property and residence in May 2023.¹⁹ At the time of purchase, a community solar garden (“CSG”) was constructed and present directly behind the Hermus and Meisenheimer home with the CSG’s solar panels approximately 110-ft from the Hermus and Meisenheimer home (Image 3).

¹⁷ Environmental Assessment at 56.

¹⁸ Environmental Assessment at 91.

¹⁹ Public Comment of Jeanne Morris (May 22, 2024), eDocket ID No. 20245-206998-01.

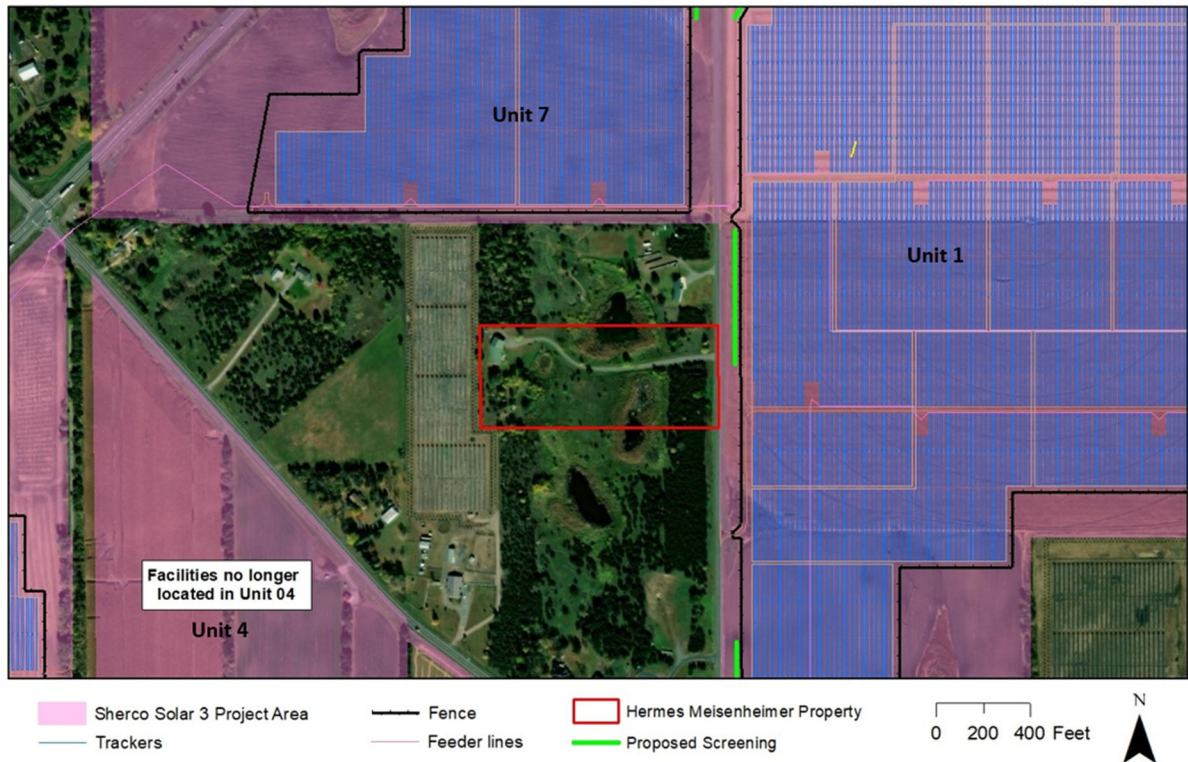


Image 3. Hermus and Meisenheimer Property

The Hermus and Meisenheimer property is located across 70th Ave SE to the west of Unit 1 and approximately 500 feet south of Unit 7 with another property located between Unit 7 and the Hermus and Meisenheimer property.²⁰ Unit 4 is located southwest of the Hermus and Meisenheimer property, but will not be utilized for the Project.²¹

Xcel Energy is mindful of the concerns expressed by adjacent landowners, such as Hermus and Meisenheimer, which is why Xcel Energy voluntarily agreed to provide landscaping screening for adjacent residences that will not have existing, natural screening from the Project. When Xcel Energy prepared the landscaping screening plan, it investigated the viewshed of each adjacent home using desktop resources and road surveys.

Xcel Energy cannot provide screening for the pre-existing CSG located directly behind the Hermus and Meisenheimer home, nor would it be prudent to provide any additional screening between the Hermus and Meisenheimer home and Unit 7 because the existing substantial vegetation on the property to the north of the Hermus and Meisenheimer property already provides effective screening of the Project. However, Xcel Energy has proposed screening

²⁰ Public Comment of Jeanne Morris (May 22, 2024), eDocket ID No. 20245-206998-01.

²¹ See Testimony of E. Heine, Attachment B (Updated Site Map).

between the Hermus and Meisenheimer property and Unit 1 even though Unit 1 is unlikely to be visible from the Hermus and Meisenheimer home (see Images 3 and 4).



Image 4. View of the Hermus and Meisenheimer Property from 70th Avenue

The potential for the Project to impact property values was evaluated in the EA, which analyzed data from other utility scale solar farms. The EA indicated that “minimal to moderate property value impacts could occur, but significant negative impacts to property values in the [P]roject vicinity are not anticipated.”²² The EA further indicated that “[i]mpacts to property values can be mitigated by reducing aesthetic impacts and encumbrances to future land use.”²³ Section 5.1 of the draft site permit requires Xcel Energy to develop a site-specific visual screening plan as mitigation for potential visual impacts. Xcel Energy has proposed a draft landscaping screening plan and is amenable to permit condition 5.1 as proposed by DOC-EERA. The EA further provides that property value impacts can also be mitigated through individual agreements with neighboring landowners, which were not within the scope of the EA.²⁴ Xcel Energy will coordinate with Hermus and Meisenheimer regarding the proposed landscaping screening to the east of their property. However, beyond the landscaping screening proposed to the east of the Hermus and Meisenheimer property, there is no other form of reasonable mitigation available. Moreover, ongoing communications with Hermus and Meisenheimer and any other adjacent landowners should not impact Commission approval of the Project.

²² EA at 47.

²³ EA at 47.

²⁴ EA at 47.

The Commission does not, and should not begin here, to condition project approvals on payment to landowners outside of a project footprint.²⁵ To buttress their request for such a condition, however, Hermus' and Meisenheimer's counsel suggests they would have constitutional and other claims for compensation against Xcel Energy and against the Commission too. These suggestions are simply wrong under applicable procedural and substantive law. First, these speculative legal claims are not properly resolved before the Commission, but would rather be a matter for the courts. *See, e.g.*, Minn. Stat. ch. 117; *Grossman Inv. v. State by Humphrey*, 571 N.W.2d 47, 50 (Minn. Ct. App. 1997). Second, setting aside the fact that the existing CSG, located about 100 feet from their home, was there when Hermus and Meisenheimer purchased the property, the notion that Hermus and Meisenheimer's subjective desire to not be near the Project does not give rise to a valid claim under Minnesota law. In fact, long-standing Minnesota law explains why Hermus and Meisenheimer's alleged claim lacks merit. *See, e.g.*, *Thomsen*, 170 N.W.2d at 579; *McCarthy v. City of Minneapolis*, 281 N.W. 759, 761 (Minn. 1938).

In sum, Xcel Energy is willing to work with Hermus and Meisenheimer to develop vegetative screening that meets their expectations where possible. The site permit requires a visual screening plan, but cannot and should not require Xcel Energy to provide the compensation for any speculative diminution of any particular property's value.

9. Decommissioning

One commenter expressed concern about how Xcel Energy would fund decommissioning and whether Xcel Energy would have the resources to pay for decommissioning at the end of the Project's life. As outlined in the Application, Xcel Energy will utilize the net salvage rate methodology used for all its generation facilities. At the time of decommissioning, the costs of removal will be treated as a debit to Xcel Energy's depreciation reserve and the reserve balance will be reduced. The preliminary decommissioning plan for the Project reflects this methodology and, in a separate docket, the Company will seek Commission approval of the net salvage rates used for the Project.

DOC-EERA also recommended several revisions to the decommissioning plan before it is submitted as a required pre-construction filing. Xcel Energy appreciates DOC-EERA's requested revisions and will make the recommended revisions as applicable. The revised decommissioning plan will be provided to DOC-EERA prior to filing a final version of the decommissioning plan as a pre-construction compliance filing. Xcel Energy is committed to continually working with DOC-EERA to maintain a decommissioning plan as required by the conditions in the draft site permit, including by providing an itemized breakdown of costs of removal of Project facilities and

²⁵ The Minnesota Supreme Court has rejected the idea that every conceivable kind of alleged injury to property near to necessary public projects equates to a legal claim for damages. Rather, such "inconveniences . . . are reasonably incident to the prosecution of necessary public enterprises, and as such must be and are borne by the public at large." *Thomsen v. State by Head*, 170 N.W.2d 575, 579 (Minn. 1969) (citation omitted). The law recognizes that a different rule would result in an untenable situation, as "[t]he cost of compensating all owners of property adjacent or proximate to [such projects] affected by these side effects would be so prohibitive that it would effectively halt the construction of [such projects]." *Id.*

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anticipated costs for replacement or repowering. Xcel Energy will update and file a decommissioning plan with the Commission every five years after commercial operation, as required by the site permit.

10. Tax Revenue to the Township

Several commenters expressed concern that Clear Lake Township would be losing tax revenue from the closure of Sherco Generating Plant and that the Project would not adequately make up for that lost revenue on its own. The Sherco Generating Plant is located in the City of Becker, and Clear Lake Township does not receive tax revenue from that facility. However, as Clear Lake Township noted in its comment letter, the Project will generate significant property tax and electrical production tax revenue for Clear Lake Township. Accordingly, Clear Lake Township requested the Commission approve the site permit for the Project such that the Project can be constructed and provide production tax revenue to Clear Lake Township and Sherburne County when the Project becomes operational.

DOC-EERA provided additional comments during the public comment period to address concerns raised at public hearings. DOC-EERA's comment address solar glare and explain the potential for solar glare is less for solar panels than for typical glass because PV panels are designed to absorb light from the sun. Further, Xcel Energy also noted during the public hearing and in its Application that it coordinated with the Federal Aviation Administration and the Minnesota Department of Transportation regarding potential impacts to air traffic near the Project. The results of that coordination resulted in the issuance of Determinations of No Hazard for the Project.²⁶ DOC-EERA also identified several additional permit conditions to address public comments regarding potential impacts on wildlife. Xcel Energy does not contest any of the additional permit conditions recommended by EERA.

We have electronically filed these documents with the Commission. A copy of this filing is also being served upon the persons on the Official Service List of record. Please contact Ellen Heine at ellen.l.heine@xcelenergy.com or 612-330-6073 if you have any questions regarding this filing.

Sincerely,

/s/ Ian Dobson

IAN DOBSON
LEAD ASSISTANT GENERAL COUNSEL

Enclosures
cc: Service List

²⁶ See Application, Appendix C at 43 & 46 (FAA "Determination of No Hazard to Air Navigation"); *Id* at 18 (noting consultation with MnDOT).

**IN THE MATTER OF THE APPLICATION
OF XCEL ENERGY FOR A SITE PERMIT
FOR THE UP TO 250 MW SHERCO 3 SOLAR
ENERGY GENERATING SYSTEM IN
SHERBURNE COUNTY, MINNESOTA**

CERTIFICATE OF SERVICE

**Docket No. E002/GS-23-217
OAH Docket No.: 24-2500-39813**

Breann L. Jurek certifies that on the 29th day of May 2024, she e-filed on behalf of Xcel Energy a true and correct copy of the following documents:

1. Reply Comments regarding Environmental Assessment; and
3. Certificate of Service

to the Minnesota Public Utilities Commission, via edockets (www.edockets.state.mn.us). Said document was also served on the Official Service List on file with the Minnesota Public Utilities Commission and as attached hereto.

Executed on: May 29, 2024

Signed: /s/ Breann L. Jurek

Fredrikson & Byron, P.A.
60 South Sixth Street
Suite 1500
Minneapolis, MN 55402

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kristien	Butler	Kristien.Butler@state.mn.us	Office of Administrative Hearings	PO Box 64620 Saint Paul, MN 55164	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-217_Official CC Service List
Ian M.	Dobson	ian.m.dobson@xcelenergy.com	Xcel Energy	414 Nicollet Mall, 401-8 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Richard	Dornfeld	Richard.Dornfeld@ag.state.mn.us	Office of the Attorney General-DOC	Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Adam	Duininck	aduininck@ncsrcc.org	North Central States Regional Council of Carpenters	700 Olive Street St. Paul, MN 55130	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Ellen	Heine	ellen.l.heine@xcelenergy.com	Xcel Energy	414 Nicollet Mall, MP-8 Minneapolis, MN 55401	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_23-217_Official CC Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Nathaniel	Runke	nrunke@local49.org	International Union of Operating Engineers Local 49	611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Christine	Schwartz	Regulatory.records@xcelenergy.com	Xcel Energy	414 Nicollet Mall FL 7 Minneapolis, MN 554011993	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_23-217_Official CC Service List
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	Yes	OFF_SL_23-217_Official CC Service List
Suzanne	Steinhauer	suzanne.steinhauer@state.mn.us	Department of Commerce	85 7th Place East Suite 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_23-217_Official CC Service List
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, MN 55155-4040	Electronic Service	No	OFF_SL_23-217_Official CC Service List