

April 14, 2025

VIA EMAIL

Scott Ek, Commission Representative  
Public Utilities Commission  
121 Seventh Place East, Suite 350  
Saint Paul, Minnesota 55101-2147  
[scott.ek@state.mn.us](mailto:scott.ek@state.mn.us)

RE: Coneflower Solar Project – Environmental Assessment

Dear: Scott Ek

Thank you for the opportunity to review and comment on the Environmental Assessment (EA) for the Coneflower Solar project (Project) located in Lyon County, Minnesota. The Project consists of Coneflower Energy, LLC (Coneflower Solar), a subsidiary of Apex Clean Energy Holdings, LLC (Apex), constructing, owning and operating a 235-megawatt solar energy generating system and associated facilities in Lyon County, Minnesota. Coneflower Solar must obtain a site permit from the Minnesota Public Utilities Commission before it can construct the proposed Project. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

**401 Certification (Table 11. Potential downstream permits)**

This section indicates that a Clean Water Act (CWA) Section 404 Permit from the U.S. Army Corps of Engineers (USACE) for project related wetland impacts may be necessary; hence MPCA Section 401 Water Quality Certification (WQC) with conditions, waiver or denial must also be obtained as part of the permitting process. Additional information about the MPCA's 401 Certification process is at: <https://www.pca.state.mn.us/business-with-us/clean-water-act-section-401-water-quality-certifications>. The 401 WQC becomes an enforceable component of the associated federal license or permit, issued under either Section 404 of the CWA or Section 10 of the Rivers and Harbors Act.

**Natural Resources (section 4.7)**

The EA indicates that under Section 404, discharge of dredged and fill material into waters of the United States (U.S.) would be regulated, most likely under the USACE Regional General Permit (Minnesota RGP-003). However, if a 401 WQC is required, the applicant must follow the 401 Certification process:

- The 401 program cannot authorize a certification with conditions, a waiver or a denial until a signed and complete Record of Decision/Findings of Fact (ROD/FOF) is received.
- The applicant must request and complete a pre-filing meeting.
- An Antidegradation Assessment (anti-deg) must be submitted in accordance with water quality standards, Minn. R. 7050.0265 and 7050.0285.
- A reasonable period of time (RPOT) will be issued after a complete anti-deg is received.
- The MPCA 401 program will complete an internal triage meeting to determine if this Project should be certified with conditions, waived or denied.

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In addition, even though there may be surface waters that are determined to be USACE non-jurisdictional or exempt from the Wetland Conservation Act (WCA), all surface waters are regulated by the MPCA, and any surface water impact needs to be described in the application and may require mitigation as defined by Minn. Stat. § 115.01, subd. 22 Waters of the state.

We appreciate the opportunity to review this Project. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit actions by the MPCA. Ultimately, it is the responsibility of the Project Proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EA, please contact me by email at [chris.green@state.mn.us](mailto:chris.green@state.mn.us) or by telephone at 507-476-4258.

Sincerely,

*Chris Green*

This document has been electronically signed.

Chris Green, Project Manager  
Environmental Review Unit  
Resource Management and Assistance Division

CG:rs

Attachment

cc: Dan Card, MPCA  
Scott Maclean, MPCA  
Nicole Peterson, MPCA  
Lauren Dickerson, MPCA  
Innocent Eyoh, MPCA  
Deepa deAlwis, MPCA  
William Wilde, MPCA