

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Birch
Coulee Solar LLC for a Site Permit for the
up to 125 MW Birch Coulee Solar Project
in Renville County, Minnesota

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
RECOMMENDATION**

This matter was assigned to Administrative Law Judge Jim Mortenson to conduct public hearings on the Site Permit Application (MPUC Docket No. IP-7119/GS-23-477) (Application) of Birch Coulee Solar LLC (Birch Coulee Solar, Applicant, or Permittee)¹ to construct and operate an up to 125 megawatt (MW) alternating current photovoltaic (PV) solar energy generating facility located in the City of Franklin and Bandon, Birch Cooley, and Camp Townships in Renville County, Minnesota (Project). The Public Utilities Commission (Commission) also requested that the Judge prepare findings of fact and conclusions of law and provide recommendations, if any, on conditions and provisions of the proposed Site Permit.

Public hearings on the Application were held on March 11, 2025 (in-person) and March 12, 2025 (remote-access). The record remained open until March 24, 2025, for the receipt of written public comments.

Haley Waller Pitts, Fredrikson & Byron, P.A., and Scott Groux, Development Manager, and Lauren Colwell, Permitting Project Manager, appeared on behalf of Birch Coulee Solar.

Craig Janezich, Energy Facilities Permitting, appeared on behalf of Commission Staff.

Lauren Agnew, Environmental Review Manager appeared on behalf of the Department of Commerce, Energy Environmental Analysis Review unit (EERA).

STATEMENT OF ISSUES

Has Birch Coulee Solar satisfied the criteria established in Minn. Stat. § 216E.03, subd. 7 (2024) and Minn. R. 7850.4100 (2023) for a site permit for the Project?

¹ The term "Permittee" is used in this report only to reflect the possible future state of Birch Coulee Solar. It does not in any way convey that Birch Coulee Solar's status as an applicant has changed.

SUMMARY OF RECOMMENDATIONS

Birch Coulee Solar satisfied the applicable legal requirements. Thus, the Judge recommends that the Commission **GRANT** a site permit for the Project, subject to the conditions listed in section X below.

FINDINGS OF FACT

I. THE APPLICANT

1. Birch Coulee Solar is an independent power producer (IPP) and an affiliate of AES Clean Energy (AES).²

2. AES owns and operates solar, battery, wind, and green hydrogen projects across the United States, grossing 6.9 gigawatts (GWs) in operation at the end of 2023. The Project will be the first solar project developed in Minnesota for an AES affiliate. AES is a division of The AES Corporation based in the United States and a publicly traded Fortune 500 company. The AES Corporation has projects spanning 13 other countries over four continents.³

3. If the Commission grants the site permit, Applicant will become the Permittee.

II. PROCEDURAL HISTORY

4. On March 23, 2024, Birch Coulee Solar filed a Notice of its Intent to Submit a Site Permit Application for the Project under the alternative permitting procedures of Minn. R. 7850.2800-.3900.⁴

5. On July 29, 2024, Birch Coulee Solar submitted the Application for the Project.⁵

6. On July 31, 2024, Birch Coulee Solar submitted the Notice of Filing of the Application to persons interested in the Project, the Commission's Energy Facilities General List, local officials, tribes, and property owners in accordance with Minn. R. 7850.2100.⁶

7. On August 6, 2024, the Commission issued a Notice of Comment Period requesting comments on whether the Application was complete within the meaning of the Commission's rules; whether the Commission should appoint an advisory task force; whether there were contested issues of fact with respect to the representations made in the Application; whether the Commission should direct the Executive Secretary to issue

² Ex. BCS-2 at 1-2 (Application).

³ Ex. BCS-2 at 1 (Application).

⁴ Ex. BCS-1 (Notice of Intent by Birch Coulee Solar to Submit a Site Permit Application under the Alternative Permitting Process).

⁵ Exs. BCS-2 and BCS-3 (Application and Appendices).

⁶ Ex. BCS-4 (Notice of Filing Site Permit Application).

an authorization to initiate a State Historic Preservation Office (SHPO) Consultation to the Applicant; and whether there were any other issues or concerns that should be considered.⁷

8. On August 15, 2024, the International Union of Operating Engineers Local 49 and North Central States Regional Council of Carpenters (Local 49 and NCSRCC) filed comments on the completeness of the Application.⁸ On the same day, Birch Coulee Solar submitted the Confirmation of Notice Compliance Filing for the Application.⁹

9. On August 19, 2024, EERA filed Completeness Comments and Recommendations. EERA recommended that the Commission accept the Application as complete, require Birch Coulee Solar to provide greenhouse gas (GHG) emission details for the construction stage of the Project, take no action on an advisory task force, and request a full report with recommendations from an administrative law judge, following the Project's public hearing.¹⁰

10. On August 21, 2024, Birch Coulee Solar filed a revised Appendix H - Agency Correspondence.¹¹

11. On August 23, 2024, Birch Coulee Solar submitted reply comments concerning Application completeness.¹²

12. On August 30, 2024, EERA filed supplemental comments recommending that the Commission find the Application to be complete.¹³

13. On September 5, 2024, the Commission issued proposed consent items.¹⁴

14. On September 10, 2024, the Commission issued an order finding the Application complete, declining to appoint an advisory task force, and requesting a full report with recommendations from an administrative law judge following the Project's public hearing.¹⁵ The Commission also issued minutes from the September 9, 2024, consent calendar subcommittee meeting.¹⁶

15. On September 23, 2024, the Commission published the Notice of Public Information and Environmental Assessment (EA) Scoping Meetings scheduling meetings for October 9, 2024 (in-person), and October 10, 2024 (remote-access), opening up a public comment period until October 25, 2024, and requesting responses to three questions regarding the Project: (1) What potential human and environmental impacts of

⁷ Ex. PUC-1 (Notice of Comment Period).

⁸ Local 49 and NCSRCC Comments (Aug. 19, 2024) (eDocket No. 20248-209556-01).

⁹ Ex. BCS-5 (Confirmation of Notice).

¹⁰ Ex. EERA-1 (Comments and Recommendations Regarding Application Completeness).

¹¹ Ex. BCS-6 (Revised Appendix H to SPA).

¹² Ex. BCS-7 (Completeness Reply Comments).

¹³ Ex. EERA-2 (Response to Reply Comments on Application Completeness).

¹⁴ Ex. PUC-2 (Proposed Consent Items).

¹⁵ Ex. PUC-3 (Order).

¹⁶ Ex. PUC-4 (Minutes – Consent).

the proposed Project should be considered in the EA?; (2) Are there any methods to minimize, mitigate, or avoid potential impacts of the proposed Project that should be considered in the EA?; and (3) Are there any unique characteristics of the proposed Project that should be considered in the EA?¹⁷

16. On October 7, 2024, the Commission filed a sample solar site permit.¹⁸

17. On October 24, 2024, the Minnesota Department of Transportation (MnDOT) filed scoping comments.¹⁹

18. On October 25, 2024, LIUNA Minnesota and North Dakota (LIUNA),²⁰ Minnesota Department of Natural Resources (DNR),²¹ Local 49, and NCSRCC²² filed scoping comments. The Commission filed the Affidavit of Publication of the notice of public information and EA scoping meetings in the Renville County Register newspaper.²³ Birch Coulee Solar filed comments providing Project updates.²⁴

19. On November 1, 2024, EERA filed written public comments received on the scope of the EA for the Project including comments from Scott Refsland on behalf of Renville County.²⁵

20. On November 6, 2024, Birch Coulee Solar filed comments in response to comments submitted during the scoping comment period.²⁶

21. On November 14, 2024, the Administrative Law Judge issued a notice of prehearing conference scheduled for November 19, 2024.²⁷

22. On November 19, 2024, EERA filed the transcripts from the in-person and the virtual Public Information and Scoping meetings.²⁸

23. On November 21, 2024, the Judge issued a prehearing order establishing a schedule for the proceedings.²⁹

24. On November 25, 2024, EERA filed the EA scoping decision for the Project.³⁰

¹⁷ Ex. PUC-5 (Notice of Information & Scoping Meeting).

¹⁸ Ex. PUC-6 (Sample Permit).

¹⁹ MnDOT Scoping Comments (Oct. 24, 2024) (eDocket No. [202410-211275-01](#)).

²⁰ LIUNA Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211350-01](#)).

²¹ DNR Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211346-01](#)).

²² Local 49 and NCSRCC (Oct. 25, 2024) (eDocket No. [202410-211340-01](#)).

²³ Ex. PUC-8 (Notice of Hearing and EA Availability).

²⁴ Ex. BCS-8 (Scoping Comments).

²⁵ Ex. EERA-3 (Written Comments on the Scope of Environmental Assessment).

²⁶ Ex. BCS-9 (Response to Scoping Comments).

²⁷ Notice of Prehearing Conference (Nov. 14, 2024) (eDocket No. [202411-211922-01](#)).

²⁸ Ex. EERA-4 (Oral Public Comments on Scope of EA).

²⁹ Prehearing Order (Nov. 21, 2024) (eDocket No. [202411-212233-01](#)).

³⁰ Ex. EERA-5 (EA Scoping Decision).

25. On November 26, 2024, EERA filed the Notice of EA Scoping Decision.³¹
26. On February 25, 2025, Birch Coulee Solar filed the direct testimony of Scott Groux, including Schedules A and B.³²
27. On February 26, 2025, EERA filed the EA for the Project.³³ Also, the Commission filed a Notice of Public Hearings and Availability of Environmental Assessment providing for an in-person hearing on March 11, 2025, in Franklin, Minnesota, and a remote hearing on March 12, 2025, via WebEx. The Commission also requested comments from the public on (1) whether the Commission should grant a site permit for the proposed solar energy generating system, and (2) if granted, what additional conditions or requirements should be included in the Site Permit. The Commission stated that it would accept written comments through March 24, 2025.³⁴
28. On February 27, 2025, EERA sent notification of the publication of the EA to the Tribal Historic Preservation Officers (THPO).³⁵ EERA also filed the notification of the publication of the EA with state and federal agencies.³⁶
29. On February 28, 2025, EERA filed the notification of the mailing of the EA to libraries.³⁷
30. On March 4, 2025, EERA filed notice of public hearings and the EA's availability in the Environmental Quality Board (EQB) Monitor.³⁸
31. On March 5, 2025, Birch Coulee Solar filed the combined exhibit list for the Project.³⁹
32. On March 10, 2025, the Commission filed a handout of the Public Hearing presentation.⁴⁰
33. On March 14, 2025, Birch Coulee Solar filed the Affidavit of Publication of the notice of public hearings and the EA's availability in the Renville County Register newspaper.⁴¹

³¹ Ex. EERA-6 (Notice of EA Scoping Decision).

³² Ex. BCS-10 (Direct Testimony of Scott Groux and Schedules A and B).

³³ Ex. EERA-7 (EA).

³⁴ Ex. PUC-8 (Notice of Hearing and EA Availability).

³⁵ Ex. EERA-8 (Notification of EA to Tribal Historic Preservation Officers, Tribal Government Contacts, and Agencies).

³⁶ Ex. EERA-8 (Notification of EA to Tribal Historic Preservation Officers, Tribal Government Contacts, and Agencies).

³⁷ Ex. EERA-9 (Notice of EA Mailed to Public Libraries).

³⁸ Ex. EERA-10 (Notice of Public Hearings and EA Availability on EQB Monitor).

³⁹ Birch Coulee Solar – Combined Exhibit List (March 5, 2025) (eDocket No. [20253-216096-01](#)).

⁴⁰ Public Hearing Presentation (March 10, 2025) (eDocket No. [20253-216249-01](#)).

⁴¹ Affidavit of Publication (March 14, 2025) (eDocket No. [20253-216409-01](#)).

34. On March 24, 2025, the close of the public hearing comment period, comments were submitted by the following: Birch Coulee Solar; EERA; DNR; and Ann Brazil.⁴²

35. On March 31, 2025, Scott Refsland filed written comments on behalf of Renville County.⁴³

36. On April 7, 2025, Birch Coulee Solar filed its Response to Public Hearing Comments and Proposed Findings of Fact, Conclusions of Law, and Recommendation.

III. DESCRIPTION OF THE PROJECT

37. Birch Coulee Solar is proposing to construct and operate the Project, an up to 125 MW solar farm in Renville County, Minnesota. The Project will connect to the electric transmission grid through the existing Xcel Energy Franklin 115 kV substation.⁴⁴ A short (<500 ft) aboveground 115 kV transmission line will connect the Project substation to a utility-owned switchyard, which will connect to the Franklin substation via a utility-owned ring-bus point of interconnection (POI). If a utility-owned switchyard is not needed, the Project substation will connect directly to the Franklin substation via a short (<500 ft) aboveground 115 kV transmission line.⁴⁵ The need for a utility-owned switchyard will be determined prior to construction.⁴⁶

38. The Project will consist of PV panels, trackers, inverters, transformers, approximately 6.4 miles of gravel access roads, security fencing, electric collection lines, a project substation, and associated facilities.⁴⁷ Birch Coulee Solar proposes to locate the solar facilities in blocks within the 1,041.6 acres of land under lease or owned by the Applicant. Based on preliminary design, Birch Coulee Solar anticipates approximately 768.2 acres within the 1,041.6-acre land control area⁴⁸ will be developed for the solar facilities. The solar facilities will be connected to the Project substation via 34.5 kilovolt (kV) underground electric collection lines. The collection corridor is estimated to comprise approximately 8.5 acres of the preliminary development area.⁴⁹

39. Birch Coulee Solar estimates the total capital costs to construct the Project, including development, engineering, procurement, and construction (EPC), and interconnection, to be approximately \$245 million. Birch Coulee Solar expects that actual

⁴² Comment by Ann Brazil (March 24, 2025) (eDocket Nos. [20253-216708-01](#) and [20253-216715-01](#)); EERA Comments (March 24, 2025) (eDocket No. [20253-216742-01](#)); DNR Comments (March 24, 2025) (eDocket No. [20253-216754-01](#)); and Birch Coulee Solar – Comments on EA and DSP (March 24, 2025) (eDocket No. [20253-216743-01](#) and [20253-216743-02](#)).

⁴³ Comment by Scott Refsland (March 31, 2025) (eDocket No. [20253-217001-01](#)).

⁴⁴ Ex. BCS-2 at 4 (Application).

⁴⁵ Ex. EERA-7 at 1 (EA).

⁴⁶ Ex. EERA-7 at 2 (EA).

⁴⁷ Ex. BCS-2 at 9, 10 (Application).

⁴⁸ Land control area means the 1,041.6-acre area for which Birch Coulee Solar is assumed to have site control through ownership, a lease agreement, or an easement. See Ex. EERA-7 at viii (EA).

⁴⁹ Ex. EERA-7 at 2 (EA).

total costs may vary up to 20%, as costs depend on the timing of construction, final panel selection, labor costs, taxes, and tariffs.⁵⁰

40. The estimated Project decommissioning cost, approximately \$13 million, and component salvage value, approximately \$10 million, was created using 2024 dollars. The actual cost of decommissioning the Project will be dependent on labor costs and the market value of salvageable components at the time of decommissioning. Birch Coulee Solar considers the estimate accuracy range for the total decommissioning cost to be -30 percent to +50 percent.⁵¹

41. The Project operation and maintenance (O&M) costs include ground-based yearly inspections, lease payments, operational staff wages, taxes, and other inspection/maintenance. Birch Coulee Solar estimates the annual operation cost at approximately \$1 million.⁵²

IV. SITE LOCATION AND CHARACTERISTICS

42. The proposed Project is located in Birch Cooley, Camp, and Bandon Townships and the city of Franklin in Renville County. Minnesota State Highway 19 (TH 19) runs east-west immediately south of the site, County State Aid Highway 5 (CSAH 5) runs north-south along the westernmost portion of the site, and County Road 73 (CR 73) runs north-south through the central southern portion of the site.⁵³

43. The Project would be located on approximately 768 acres within an area of approximately 1,041 acres of land owned or leased by the Applicant. Ninety-seven percent of the site is currently used as cultivated farmland, with the remaining three percent consisting of minimal tree cover, county drainage ditches, farmsteads, and township and county roads.⁵⁴

44. The Franklin 115 kV substation and associated infrastructure is located in the southwestern portion of the Project area.⁵⁵ There are two transmission lines; one 69 kV line runs along the southern and western perimeter of the site and one 115 kV line, owned by Xcel Energy, runs along the southern and western portion of the site, passing through the site near the Franklin 115 kV substation. The Twin City & Western Railroad has one active rail line, primarily operated by the Minnesota Prairie Line, Inc., that runs through the city of Franklin. A small, community-scale solar garden is west of the land control area across CR 5. There are no known pipelines within the Project area.⁵⁶

⁵⁰ Ex. EERA-7 at 32 (EA).

⁵¹ Ex. EERA-7 at 32 (EA).

⁵² Ex. EERA-7 at 32 (EA).

⁵³ Ex. EERA-7 at 16 (EA).

⁵⁴ Ex. EERA-7 at 16 (EA).

⁵⁵ Project area means one mile from the land control area and collection line corridor. See Ex. EERA-7 at ix (EA).

⁵⁶ Ex. EERA-7 at 46-47 (EA).

V. PROJECT SCHEDULE

45. Birch Coulee Solar anticipates Project construction will begin in 2028 with completion and operation anticipated in 2030.⁵⁷

VI. SUMMARY OF PUBLIC COMMENTS

46. During the public information and environmental review scoping meeting (in-person) on October 9, 2024, comments were provided regarding drainage, potential impacts on property values, dust control, fire protection, decommissioning financial assurance, noxious weeds, federal tax incentives for the Project, ownership changes, training for local emergency response teams, vegetative screening, local workforce, and power purchase agreements.⁵⁸

47. During the public information and environmental review scoping meeting (remote-access) on October 10, 2024, no members of the public provided verbal comments.⁵⁹

48. During the scoping comment period ending October 25, 2024, written comments were submitted by LIUNA,⁶⁰ DNR,⁶¹ MnDOT,⁶² Local 49 and NCSRCC,⁶³ Renville County,⁶⁴ and members of the public.⁶⁵ No site, route, or system alternatives were recommended for study.

49. LIUNA's comments recognized the significant energy and socioeconomic benefits of the Project and requested additional information from Birch Coulee Solar regarding its construction plans and the use of local and union labor.⁶⁶

50. DNR requested that the EA include analysis of the following topics: security fencing; dust; lighting; bats, and wildlife-friendly erosion control.⁶⁷

51. MnDOT requested that the EA include analysis of Project access, protected species, and blowing snow control.⁶⁸

⁵⁷ Exs. EERA-7 at 2, 33 (EA) and BCS-10 at 4:7-9 (Direct Testimony of Scott Groux).

⁵⁸ See Franklin 6:00 p.m. Public Information and Scoping Meeting at 19-33 (Oct. 9, 2024); Ex. EERA-4 (Oral Comments on the Scope of Environmental Assessment).

⁵⁹ See Webex 6:00 p.m. Public Information and Scoping Meeting Transcript (Oct. 10, 2024); Ex. EERA-4 (Oral Comments on the Scope of Environmental Assessment).

⁶⁰ LIUNA Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211350-01](#)).

⁶¹ DNR Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211346-01](#)).

⁶² MnDOT Scoping Comments (Oct. 24, 2024) (eDocket No. 202410-211275-01).

⁶³ Local 49 and NCSRCC (Oct. 25, 2024) (eDocket No. [202410-211340-01](#)).

⁶⁴ See Ex. EERA-3 at 3-5 (Written Comments on the Scope of EA).

⁶⁵ See Ex. EERA-3 at 6-23 (Written Comments on the Scope of EA).

⁶⁶ LIUNA Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211350-01](#)).

⁶⁷ DNR Scoping Comments (Oct. 25, 2024) (eDocket No. [202410-211346-01](#)).

⁶⁸ MnDOT Scoping Comments (Oct. 24, 2024) (eDocket No. 202410-211275-01).

52. Birch Coulee Solar filed comments providing updates on the Project's in-service date, the Minnesota Wetland Conservation Act Notice of Decision, and GHG emissions offset calculations.⁶⁹

53. Renville County provided comments, filed on November 1, 2024, noting that the Project generally complies with County setbacks and requesting that the Commission consider adding language to the Site Permit requiring the site be kept clean and weed free. The County also provided comments concerning tile lines, decommissioning, road use, emergency response, and vegetative screening.⁷⁰

54. Members of the public submitted written comments, filed on November 1, 2024, generally expressing support for the Project, as well as identifying certain topics for inclusion in the EA, including wetland analysis.⁷¹

55. Birch Coulee Solar filed comments responding to comments made during the scoping meeting and during the written comment period. Specifically, Birch Coulee Solar did not object to the requests for different topics being analyzed in the EA made by DNR, MnDOT, Local 49 and LIUNA. Birch Coulee Solar responded to Renville County's comments noting that it looked forward to continued coordination with the County.⁷²

56. On March 11 and 12, 2025, Judge Mortenson presided over public hearings on the Application for the Project via in-person and remote means, respectively.⁷³ Two individuals provided comments during the in-person hearing expressing support for the Project. Two individuals commented during the remote hearing, one regarding the County's comments concerning the Project, and another regarding vegetation management.

57. The written public comment period remained open through March 24, 2025. Written comments were submitted by DNR, EERA and Ann Brazil.⁷⁴ DNR filed comments recommending special permit conditions for security fencing, facility lighting, dust control, wildlife friendly erosion control, tree removal, and a vegetation management plan (VMP).⁷⁵ EERA filed comments regarding the draft decommissioning plan, the draft VMP, and EERA's recommended special permit conditions.⁷⁶ Ms. Brazil's comment related to the proximity of the Project and Xcel Energy's Minnesota Energy Connection transmission line project.⁷⁷

⁶⁹ Ex. BCS-8 (Scoping Comments).

⁷⁰ See Ex. EERA-3 at 3-5 (Written Comments on the Scope of EA).

⁷¹ See Ex. EERA-3 at 6-23 (Written Comments on the Scope of EA).

⁷² Ex. BCS-9 (Response to Scoping Comments).

⁷³ See Franklin 6:00 p.m. Public Hearing Transcript (Franklin 6:00 p.m. Tr.) (March 11, 2025); and WebEx 6:00 p.m. Public Hearing Transcript (WebEx 6:00 p.m. Tr.) (March 12, 2025).

⁷⁴ Comment by Ann Brazil (March 24, 2025) (eDocket Nos. [20253-216708-01](#)) and [20253-216715-01](#)); EERA Comments (March 24, 2025) (eDocket No. [20253-216742-01](#)); and DNR Comments (March 24, 2025) (eDocket No. [20253-216754-01](#)).

⁷⁵ DNR Comments (March 24, 2025) (eDocket No. [20253-216754-01](#)).

⁷⁶ EERA Comments (March 24, 2025) (eDocket No. [20253-216742-01](#)).

⁷⁷ Comment by Ann Brazil (March 24, 2025) (eDocket Nos. [20253-216708-01](#)).

VII. CERTIFICATE OF NEED

58. The Project is exempt from certificate of need requirements pursuant to Minn. Stat. § 216B.243, subd. 8(a)(7) because Birch Coulee Solar, an IPP, applied for a Site Permit to construct the Project.⁷⁸

VIII. SITE PERMIT CRITERIA

59. Large electric power generating plants (LEPGP) are governed by Minn. Stat. Chapter 216E and Minn. R. Chapter 7850. Minn. Stat. § 216E.01, subd. 5, defines a “large electric power generating plant” as “electric power generating equipment and associated facilities designed for or capable of operation at a capacity of 50,000 kilowatts or more.” The proposed Project is designed to operate at up to 125 MW.⁷⁹

60. On April 3, 2024, Birch Coulee Solar submitted a Solar Size Determination request to EERA.⁸⁰ On April 12, 2024, EERA informed Birch Coulee Solar that, based on the information provided, the Solar Project is subject to the Commission’s siting authority and must seek approval for the Solar Project under the Power Plant Siting Act (PPSA) (Minn. Statute 216E).⁸¹ Therefore, a site permit is required prior to construction of the Solar Project.⁸²

61. An LEPPG powered by solar energy is eligible for the alternative permitting process authorized by Minn. Stat. § 216E.04. Birch Coulee Solar filed the Application under the process established by the Commission in Minn. R. 7850.2800-.3900.⁸³

62. Under Minn. Stat. § 216E.04, for an LEPPG permitted under the alternative permitting process, EERA prepares for the Commission an EA containing information on the human and environmental impacts of the proposed Project and addresses mitigating measures. The EA is the only state environmental review document required to be prepared on the Project.

IX. APPLICATION OF SITING CRITERIA TO THE PROJECT

A. Human Settlement

63. Minnesota law requires consideration of the Project’s effects on human settlement, including displacement of residences and businesses, noise created by

⁷⁸ Ex. EERA-7 at 34 (EA); Ex. BCS-10 at 1:16-20 (Direct Testimony of Scott Groux); Ex. BCS-2 at 4 (Application).

⁷⁹ Ex. BCS-2 at 1 (Application).

⁸⁰ Ex. BCS-2 at 1 (Application).

⁸¹ Ex. BCS-2 at 1 (Application).

⁸² Ex. BCS-2 at Appendix B – Size Determination (Application).

⁸³ Ex. BCS-1 (Notice of Intent by Birch Coulee Solar LLC to Submit a Site Permit Application under the Alternative Permitting Process); Ex. BCS-2 at 4 (Application).

construction and operation of the Project, and impacts to aesthetics, cultural values, recreation, and public services.⁸⁴

i. Aesthetics

64. The visible elements of the Project will consist of new photovoltaic (PV) arrays, transformers and inverters, up to three permanent weather stations, an O&M building (if on site), a new substation and short 115 kV transmission line, a switchyard, and security fencing surrounding the Project.⁸⁵

65. Portions of the Project will be visible from local roads, and nearby residences. For most people who pass through the Project area on TH 19, CSAH 5, CR 73, or local roads the impact intensity level is expected to be minimal. For individuals with greater viewer sensitivity, such as people who live in the Project area, the impact intensity level is anticipated to be moderate to significant.⁸⁶

66. Impacts from facility lighting can be minimized by using shielded and downward facing light fixtures and using lights that minimizes blue hue.⁸⁷

67. Birch Coulee Solar will work with adjacent landowners to determine the need for additional vegetation screening and landscaping to minimize aesthetic impacts of the Project.⁸⁸ In oral and written comments filed after the public scoping meeting, Renville County originally requested that Birch Coulee Solar mitigate aesthetic impacts by planting two rows of staggered evergreen trees along roadways and in front of residences.⁸⁹ As discussed further herein, Birch Coulee Solar has further coordinated with Renville County regarding vegetative screening.

68. EERA proposed removing Special Condition Section 5.1 from the Draft Site Permit (DSP). This Special Condition required the Permittee to coordinate with jurisdictional road management authorities to develop vegetative screening plans for state, county, and township roads adjacent to or bisecting the Project.⁹⁰ Birch Coulee Solar also does not support this Special Condition because screening along all roadsides has not historically been required by the Commission and would be burdensome and unduly expensive, with unclear benefit. Further, because the Project is applying for a Site Permit from the Commission, local ordinance requirements do not apply. Following the public scoping meetings, Birch Coulee Solar has coordinated with the County to identify specific locations for vegetative screening and is requesting feedback from the two

⁸⁴ Minn. R. 7850.4100, subp. A.

⁸⁵ Ex. EERA-7 at 51 (EA).

⁸⁶ Ex. EERA-7 at 47-52 (EA).

⁸⁷ Ex. EERA-7 at 52 (EA).

⁸⁸ Ex. EERA-7 at 53 (EA).

⁸⁹ See Ex. EERA-7 at 53 (EA); Webex 6:00 p.m. Public Information and Scoping Meeting Transcript at 29:17-20 (Oct. 10, 2024); Ex. EERA-4 (Oral Comments on the Scope of Environmental Assessment); and Ex. EERA-3 at 4-5 (Written Comments on the Scope of EA).

⁹⁰ Ex. EERA-7 at 53 (EA).

adjacent residences affected by that screening regarding the scope proposed by the County.⁹¹

69. The record demonstrates that Birch Coulee Solar has taken steps to avoid and minimize visual impacts. Further, Section 4.3.8 of the Site Permit requires the permittee to consider landowner input with respect to visual impacts and to use care to preserve the natural landscape.⁹²

ii. Noise

70. The Minnesota Pollution Control Agency (MPCA) has established standards for the regulation of noise levels. The most restrictive MPCA noise limits are 60–65 A-weighted decibels (dBA) during the daytime and 50–55 dBA during the nighttime.⁹³

71. In Minnesota, noise standards are based on noise area classifications (NAC) corresponding to the location of the listener, referred to as a receptor. NACs are assigned to areas based on the type of land use activity occurring at that location. Household units, designated camping and picnicking areas, resorts and group camps are assigned to NAC 1; recreational activities (except designated camping and picnicking areas) and parks are assigned to NAC 2; agricultural and related activities are assigned to NAC 3.⁹⁴

72. The primary noise receptors are the people living in local residences. Although there are no residences within the land control area, there are 14 residences in local proximity (within 0.25 miles), one of which is surrounded by the land control area. The proposed Project is in a rural, agriculturally dominated area. Rural noise levels typically range from 30-55 dBA depending on the activity, time-of-day, weather, and season. The Project vicinity's existing sound character also includes audible traffic sounds from TH 19, which runs across the southern edge of the Project, and operational sounds from the existing Franklin 115 kV substation, which is adjacent to the southwestern portion of the Project.⁹⁵

73. Distinct noise impacts during construction are anticipated to be minimal to significant depending on the activity occurring and equipment being used. Noise from construction will be temporary, intermittent, limited to daytime hours and localized.⁹⁶

74. Noise levels during operation of the Project are anticipated to be negligible.⁹⁷

⁹¹ Birch Coulee Solar – Comments on the EA and DSP at 5 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)); Ex. BCS-10 at 11:3-8 (Direct Testimony of Scott Groux).

⁹² Ex. EERA-7 at 52 (EA).

⁹³ Minn. R. 7030.0040.

⁹⁴ Ex. EERA-8 at 44 (EA).

⁹⁵ Ex. EERA-7 at 55 (EA).

⁹⁶ Ex. EERA-7 at 55 (EA).

⁹⁷ Ex. EERA-7 at 56 (EA).

75. Noise from routine maintenance activities is anticipated to be negligible to minimal. Noise from the electrical collection system is not expected to be perceptible.⁹⁸

76. Sound control devices on vehicles and equipment (e.g., mufflers) conducting construction activities during daylight hours, and running vehicles and equipment only when necessary are common ways to mitigate noise impacts. Birch Coulee Solar also indicated that it may limit the duration of foundations installation in sections of the preliminary development area where the distance to the nearest residence is not far enough for sound to dissipate to NAC-1 compliant levels. Additionally, Birch Coulee Solar may elect to erect temporary mobile noise barriers adjacent to installations to reduce impacts.⁹⁹

77. EERA proposed adding to Special Condition Section 5.2 to the DSP, which would require the permittee to inform nearby residences of active construction hours and provide notice detailing when major noise-producing construction activities are planned to occur.¹⁰⁰ The proposal is that notice be provided to the 14 local residences within 0.25-miles of the Project.¹⁰¹ The proposal is to require the notice to state: 1) the anticipated construction dates; 2) the projected construction schedule including the anticipated duration of each stage of construction; and 3) anticipated daytime construction hours.¹⁰²

78. Birch Coulee Solar has taken steps to avoid and minimize noise impacts. Further, Section 4.3.7 of the Site Permit requires the permittee to comply with noise standards established under Minnesota noise standards as defined under Minnesota Rule, part 7030.010 to 7030.0080, and to limit construction and maintenance activities to daytime hours to the extent practicable.¹⁰³

iii. Cultural Values

79. The Project contributes to the growth of renewable energy and is likely to strengthen and reinforce this value in the area. At the same time, the development of the Project will change the character of the area. Impacts are anticipated to be long-term, but minimal.¹⁰⁴

80. Birch Coulee Solar proposes to foster partnerships with the Renville County 4-H club, local Women's Civic Club, and Franklin Lion's Club for the upcoming year.¹⁰⁵

81. EERA proposed adding to the DSP Special Condition Section 5.3 requiring the permittee to continue community partnerships that provide resources to the Renville

⁹⁸ Ex. EERA-7 at 56 (EA).

⁹⁹ Ex. EERA-7 at 56 (EA).

¹⁰⁰ Ex. EERA-7 at 56 (EA).

¹⁰¹ EERA – Reply Comments at 8 (April 14, 2025) (eDocket No. 20254-217622-01).

¹⁰² EERA – Reply Comments at 8 (eDocket No. 20254-217622-01).

¹⁰³ Ex. EERA-7 at 56 (EA).

¹⁰⁴ Ex. EERA-7 at 57 (EA).

¹⁰⁵ Ex. EERA-7 at 58 (EA).

County 4-H club, local Women's Civic Club, and Franklin Lions Club.¹⁰⁶ Birch Coulee Solar does not support this proposed special condition because, as discussed in Section 4.2.9 of the Application, Birch Coulee Solar is actively and voluntarily pursuing local partnerships in the community. Birch Coulee Solar respectfully submits that a permit condition related to these voluntary engagement commitments is not appropriate and has not typically been included in other Commission site permits. Likewise, Birch Coulee Solar argues, the proposed permit condition is vague in that it is unclear how compliance could be demonstrated (i.e., what "supporting local events" or "community restoration projects" mean).¹⁰⁷

iv. Land Use and Zoning

82. Development of a solar farm in this area will temporarily change the land use from predominantly agricultural uses to energy generation for the life of the Project, at least 30 years. The change of land use will have a minimal to moderate impact on the rural character of the surrounding area, and a minimal impact on the character of the county. Although the land is being converted from primarily agricultural to be used for energy production, the land use is consistent with other industrial infrastructure in the area such as existing transmission lines, the adjacent substation, roads, and railroads.¹⁰⁸

83. The Project is expected to be compatible with county planning goals and zoning ordinances. Birch Coulee Solar states that it will apply the structure setback to its facilities in a manner consistent with Renville County setback requirements.¹⁰⁹

84. After the Project's useful life, the land control area could be restored to agricultural or other planned land uses by implementing appropriate restoration measures. Impacts can be minimized by using best practices to protect land and water quality.¹¹⁰ Birch Coulee Solar has indicated that the Project will be decommissioned such that agricultural activities can resume once decommissioning has been completed. Any project land temporarily leased from participating landowners will revert to the landowners, furthering Renville County's goals of providing long-term agricultural opportunities once decommissioned.¹¹¹

85. EERA proposed revising Special Condition Section 5.4 to require Permittee to adhere to Renville County's renewable energy setback requirements as listed in the 2021 revision of Chapter 15 of the Renville County Land Use Ordinance.¹¹² EERA proposed removing Special Condition Section 5.13, also concerning setback requirements, because the proposed revision to 5.4 sufficiently defines Project

¹⁰⁶ Ex. EERA-7 at 58 (EA).

¹⁰⁷ Birch Coulee Solar – Comments on the EA and DSP at 6 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹⁰⁸ Ex. EERA-7 at 62 (EA).

¹⁰⁹ Ex. EERA-7 at 62 (EA).

¹¹⁰ Ex. EERA-7 at 58 (EA).

¹¹¹ Ex. EERA-7 at 63 (EA).

¹¹² EERA – Reply Comments at 9 (eDocket No. 20254-217622-01).

setbacks.¹¹³ Birch Coulee Solar does not support either of these special conditions, arguing they are unnecessary and could be viewed as eroding the Commission's siting authority.¹¹⁴ A site permit from the Commission preempts land use regulations required by local governments.¹¹⁵ The Project has already been sited to follow the Renville County fencing ROW and Commercial Solar Energy Conversion System setback requirements, and any changes to the Project boundary would be subject to further permitting.¹¹⁶

86. The record demonstrates that Birch Coulee Solar has taken steps to avoid and minimize land use and zoning impacts. Further, the Site Permit has several permit conditions related to the preservation and restoration of agricultural land, including Sections 4.3.17, 4.3.18, 9.0, and 9.2.

v. Property Values

87. Impacts to property values within the local vicinity could occur; however, changes to a specific property's value are difficult to determine.¹¹⁷

88. The EA's discussion around potential property value impacts recites some of the available literature and studies that support the conclusion that the Project will not have a significant impact on property values.¹¹⁸ However, the EA also recites some anecdotal and second-hand history about the experience of selling a specific property located proximate to the Project that was raised by an area resident—not the property owner. The EA goes on to provide information about the property's marketing period and sales history, and notes that the property was on the market for longer than the average in Minnesota and sold for 31% less than its initial listing price.¹¹⁹ Birch Coulee Solar notes that the property sold in December 2024 for an amount equivalent to the estimated market value in April 2024, before it was listed for sale, per publicly-available records. Birch Coulee Solar stated that these facts are important context in assessing potential property value impacts from the Project.¹²⁰

89. Impacts to property values can be mitigated by reducing aesthetic impacts and impacts to future land use. Impacts can also be mitigated through individual agreements with neighboring landowners.¹²¹

¹¹³ EERA – Reply Comments at 12 (eDocket No. 20254-217622-01).

¹¹⁴ Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹¹⁵ Minn. Stat. § 216E.10, subd. 1 (2023).

¹¹⁶ Ex. BCS-2 at 44-45 (Application); Birch Coulee Solar – Comments on the EA and DSP at 6-7 and 12-13 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹¹⁷ Ex. EERA-7 at 65 (EA).

¹¹⁸ Ex. EERA-7 at 65 (EA).

¹¹⁹ Ex. EERA-7 at 66 (EA).

¹²⁰ Birch Coulee Solar – Comments on the EA and DSP at 2-3 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹²¹ Ex. EERA-7 at 66 (EA).

vi. Tourism and Recreation

90. Recreation and tourism in the vicinity of the Project are largely related to activities including hunting, fishing, canoeing, kayaking, and snowmobiling.¹²²

91. There are no recreational resources within the Project boundary fence lines.¹²³

92. Impacts to tourism and recreation are anticipated to be minimal and temporary. Due to construction, there will be short-term increases in traffic and noise that could potentially impact recreational activities in close proximity to the Project area. However, impacts will be temporary. There is a snowmobile trail within the current land control area for the Project, but it runs outside of the preliminary development area and therefore outside of the fence line. Applicant consultation with the Renville County Drift Runners over the snowmobile trail confirmed no adverse effect of the Project on trail access, and the snowmobile club does not anticipate any issues. No significant long-term impacts to recreational activities are anticipated.¹²⁴

vii. Displacement

93. There are no residences, business, or structures located within the Project that will be displaced. Therefore, no mitigation is proposed.¹²⁵

viii. Transportation and Public Services

94. Potential impacts to the electrical grid, roads, railroads, and other utilities are anticipated to be short-term, intermittent, and localized during construction. Impacts to water (wells and septic systems) are not expected to occur. Overall, construction-related impacts are expected to be minimal, and are associated with possible traffic delays. During operation, negligible traffic increases would occur for maintenance. Impacts are unavoidable but can be minimized.¹²⁶

95. The final Project design will avoid impacts to underground and overhead utilities, and underground utilities will be marked prior to construction start. A well construction permit from the Minnesota Department of Health (MDH) will be required if a well is installed at the O&M building (if on site) in the future.¹²⁷

96. Impacts to electrical infrastructure that cross the Project can be mitigated by appropriate coordination with the owners of the existing infrastructure and following industry best practices.¹²⁸

¹²² Ex. EERA-7 at 66 (EA).

¹²³ Ex. EERA-7 at 67, Figure 23 (EA).

¹²⁴ Ex. EERA-7 at 68 (EA).

¹²⁵ Ex. EERA-7 at 137 (EA).

¹²⁶ Ex. EERA-7 at 68 (EA).

¹²⁷ Ex. EERA-7 at 72 (EA).

¹²⁸ Ex. EERA-7 at 72 (EA).

97. Changes or additions to driveways from county roads will require coordination with local authorities and permits from Renville County.¹²⁹

98. EERA recommends revising and combining the special conditions related to traffic control and road usage in Sections 5.5 and 5.6 of the DSP into one condition at Section 5.6.¹³⁰ Birch Coulee Solar did not support the original two proposed special conditions because the topic of traffic control is already covered in Section 4.3.22 of the DSP, which addresses road use and impacts. Birch Coulee Solar intends to enter into a road use agreement for the Project and does not object to EERA's proposed Special Condition Section 5.6, which reflects Birch Coulee Solar's commitment:

The Permittee shall enter into a Road Use Agreement with Renville County and affected Townships. The Road Use Agreement shall include a description of how the Permittee will coordinate traffic control with local road authorities. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.¹³¹

99. No active pipelines are near the Project area; therefore, no mitigation is required.¹³²

100. Drain tiles and ditches occur within the Project area and Applicant must coordinate with the County to protect that infrastructure.¹³³

101. No active railroads are within the Project area; therefore, no mitigation is required.¹³⁴

102. The current Project plan generated a "no notice required" from the Federal Aviation Administration (FAA)'s Notice Criteria Tool for all components of the Project; therefore, no mitigation is required. Birch Coulee Solar indicates that, although unlikely, if a crane higher than 150 feet will be required that will necessitate filing with the FAA, they will make the requisite filing and follow appropriate protocol.¹³⁵

ix. Socioeconomics

103. Potential impacts associated with construction will be positive, but minimal and short-term. Significant positive effects might occur for individuals. Impacts from operation will be long-term, positive, and moderate. The Project will not disrupt local

¹²⁹ Ex. EERA-7 at 73 (EA).

¹³⁰ Ex. EERA-7 at 73 (EA); EERA – Reply Comments at 9-10 (eDocket No. 20254-217622-01).

¹³¹ Birch Coulee Solar – Comments on the EA and DSP (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)); EERA – Reply Comments at 9 (eDocket No. 20254-217622-01).

¹³² Ex. EERA-7 at 73 (EA).

¹³³ Ex. BCS-2 at Maps (Application); Ex. EERA-7 at 112 (EA).

¹³⁴ Ex. EERA-7 at 73 (EA).

¹³⁵ Ex. EERA-7 at 73-74 (EA); Ex. BCS-2 at 48 (Application).

communities or businesses and does not disproportionately impact low-income or minority populations. Adverse impacts are not anticipated.¹³⁶

104. Construction of the Project is likely to result in increased expenditures for lodging, food and fuel, transportation, and general supplies at local businesses during construction. Construction of the Project will create local job opportunities for various trade professionals and will also generate and circulate income throughout the community by investing in local business expenditures as well as state and local taxes.¹³⁷

105. Birch Coulee Solar anticipates the Project will require up to 300 workers during the construction and installation phases, and 3 long-term personnel during the operations phase.¹³⁸

106. Birch Coulee Solar anticipates that:

[c]onstruction of the Project [will] provide temporary increases to the revenue of the area through increased demand for lodging, food services, fuel, transportation, and general supplies. Birch Coulee Solar will issue a Request for Proposal (RFP) to one or more qualified EPC contractors to oversee and manage the construction of the Project. In this RFP, Birch Coulee Solar intends to include a strong preference for bids that utilize local, union construction craft employees to the greatest extent feasible in accordance with the Project's timeline, budget, and safety requirements. Birch Coulee Solar expects that the selected EPC contractor will collaborate with organized labor unions and other stakeholders to develop a workforce and hiring plan that maximizes the local economic benefits of the Project.¹³⁹

107. Once the Project is operational, Birch Coulee Solar will pay property tax and production taxes on the land and energy production to local governments. Property taxes are calculated on the land underlying the facility. Because the land for the solar generating facility is used primarily for solar generation, the land is classified as Class 3a (commercial/industrial/public utility) which is taxed at a higher rate than land used primarily for homestead or agriculture. The value of the generation equipment is exempted from the property tax.¹⁴⁰

108. Minnesota has adopted a production tax of \$1.20/megawatt hours (MWh) paid 80 percent to counties and 20 percent to the cities and townships. Birch Coulee Solar estimates an average annual solar energy production and property tax revenue over the life of the Project of approximately \$350,000 for Renville County and approximately

¹³⁶ Ex. EERA-7 at 75 (EA).

¹³⁷ Ex. EERA-7 at 75 (EA).

¹³⁸ Ex. EERA-7 at 76 (EA); Ex. BCS-10 at 5:19-23 (Direct Testimony of Scott Groux).

¹³⁹ Ex. BCS-10 at 6:20-28 and 7:1-2 (Direct Testimony of Scott Groux).

¹⁴⁰ Ex. EERA-7 at 77 (EA).

\$175,000 in local jurisdictional revenue. Each jurisdiction will receive an amount of production tax revenue proportional to the respective acreage within the Project.¹⁴¹

109. Birch Coulee Solar anticipates providing financial assurance for decommissioning in the form of self-bond, surety bond, a federally insured certificate of deposit, government-backed securities, corporate guarantee, letter of credit, or cash. The financial assurance will begin in the tenth year after construction is initiated. The Project's draft decommissioning plan proposes to begin posting financial assurance in year ten of Project operations, with additional postings in quarters in years 15, 20, and 25.¹⁴² This timing is consistent with guidance from the Department of Commerce and with current Commission practice.¹⁴³

110. Renville County has provided comments regarding the Project's decommissioning plan.¹⁴⁴ Renville County requested \$13.5 million in financial assurance beginning in year one of the Project.¹⁴⁵ In contrast, consistent with applicable guidance and other recent projects,¹⁴⁶ Birch Coulee Solar's draft decommissioning plan identifies a net decommissioning cost and proposes to begin providing financial assurance in year 10 of Project operations.¹⁴⁷ At the virtual public hearing, Renville County stated that its overall concern was to ensure that County residents would not be responsible for decommissioning the Project.¹⁴⁸ Birch Coulee Solar believes that the estimated net decommissioning cost included in the draft decommissioning plan filed with the Application is conservative relative to the net decommissioning estimates from other similarly sized utility-scale solar projects.¹⁴⁹ Nonetheless, as a result of Birch Coulee

¹⁴¹ Ex. EERA-7 at 77-78 (EA); Ex. BCS-10 at 6:3-5 (Direct Testimony of Scott Groux).

¹⁴² Ex. EERA-7 at 78 (EA); Ex. BCS-10 at 10:3-4 (Direct Testimony of Scott Groux); Ex. BCS-2 at Appendix G – Decommissioning Plan, pp.8-9 (Application).

¹⁴³ Ex. EERA-7 at 78 (EA).

¹⁴⁴ See Ex. EERA-3 (Written Comments on the Scope of EA).

¹⁴⁵ See Ex. EERA-3 (Written Comments on the Scope of EA).

¹⁴⁶ See *In the Matter of the Department of Commerce Working Group on Decommissioning of Wind and Solar Facilities*, MPUC Docket No. E-999/M-17-123, EERA Recommendations on Review of Solar and Wind Decommissioning Plans at 4 (March 16, 2020); see, e.g., *In the Matter of the Application of Louise Solar Project, LLC for a Site Permit for the 50 MW Louise Solar Project in Mower County, Minnesota*, MPUC Docket No. IP-7039/GS-20-647, Compliance Filing - Decommissioning Plan at 7 (Oct. 21, 2024); see also *In the Matter of the Application of Byron Solar, LLC for a Certificate of Need, Site Permit, and Route Permit for the up to 200 MW Byron Solar Project and 345 kV Transmission Line in Dodge and Olmsted Counties, Minnesota*, MPUC Docket No. IP-7041/GS-20-763, Site Permit Application, Appendix H – Decommissioning Plan at 1-4 (Aug. 21, 2021).

¹⁴⁷ Ex. BCS-2 at Appendix G – Decommissioning Plan, p. 9 (Application).

¹⁴⁸ WebEx 6:00 p.m. Tr. at 17:25-18:1-6 (March 12, 2025).

¹⁴⁹ See, e.g., *In the Matter of the Application of Byron Solar, LLC for a Certificate of Need, Site Permit, and Route Permit for the up to 200 MW Byron Solar Project and 345 kV Transmission Line in Dodge and Olmsted Counties, Minnesota*, MPUC Docket No. IP-7041/GS-20-763, Site Permit Application, Appendix H – Decommissioning Plan at 1-5 (Aug. 21, 2021) (estimating decommissioning costs of \$13,212,400 or \$43,130 per MW after resale and salvage); see also *In the Matter of the Application of Lake Wilson Solar Energy LLC for a Certificate of Need and a Site Permit for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota*, MPUC Docket No. IP-7070/GS-21-792, Site Permit Application, Appendix G – Decommissioning Plan at 11-12 and Attachment B (Feb. 9, 2023) (estimating decommissioning costs of \$17,754,100 or \$118,360 per MW after resale and salvage).

Solar's coordination with Renville County, Birch Coulee Solar will coordinate with County staff and provide the County with a second decommissioning cost estimate. Birch Coulee Solar plans to include that second estimate with the updated decommissioning plan submitted prior to construction pursuant to Section 9.1 of the Commission's site permit.¹⁵⁰

111. EERA proposes special conditions related to decommissioning and project ownership in Sections 5.7 and 5.8 of the DSP.¹⁵¹ The revision to Section 5.7 requires Birch Coulee Solar to develop a decommissioning plan and to coordinate with Renville County in the process, consistent with Section 9.1.¹⁵² EERA's revision requires Birch Coulee Solar to provide Renville County with a second decommissioning cost estimate prior to construction, and to include the second estimate in the updated Project Decommissioning Plan pursuant to Section 9.1.¹⁵³ Birch Coulee Solar does not support the original Section 5.7 proposal because it does not reflect that the Project's Decommissioning Plan already complies with Commission requirements and could undermine the Commission's permitting authority with respect to this Project. Additionally, the EA acknowledges that "Birch Coulee Solar's draft decommissioning plan is consistent with Commerce application guidance and with current Commission practice."¹⁵⁴ Birch Coulee Solar is concerned that requiring a "mutually agreeable" plan with Renville County may have the effect of the Project being subject to substantially different requirements than other solar projects permitted by the Commission. EERA proposes the "mutually agreeable" language be removed.¹⁵⁵ Birch Coulee Solar does not support Section 5.8 but proposes the following revisions, to which EERA agrees, to specify to whom the notice should be provided:

5.8 Ownership Change Notification

The permittee shall notify Renville County ~~officials~~[Board of Commissioners](#) if there is an ownership change pursuant to Section 2.1 of this permit and shall provide the new contact information.¹⁵⁶

B. Public Health and Safety

112. Minnesota law requires consideration of the Project's potential effect on health and safety.¹⁵⁷

¹⁵⁰ Ex. BCS-10 at 9:13-21 (Direct Testimony of Scott Groux).

¹⁵¹ Ex. EERA-7 at 79 (EA).

¹⁵² EERA – Reply Comments at 10 (eDocket No. 20254-217622-01).

¹⁵³ EERA – Reply Comments at 10 (eDocket No. 20254-217622-01).

¹⁵⁴ Ex. EERA-7 at 78 (EA).

¹⁵⁵ EERA – Reply Comments at 10 (eDocket No. 20254-217622-01).

¹⁵⁶ Birch Coulee Solar – Comments on the EA and DSP at 8-10 (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)); EERA – Reply Comments at 10 (eDocket No. 20254-217622-01).

¹⁵⁷ Minn. Stat. § 216E.03, subd. 7(b)(1); Minn. R. 7850.4100, subp. B.

i. Electromagnetic Fields (EMF)

113. Currently, there are no federal regulations regarding allowable extremely low frequency EMF (ELF-EMF) produced by power lines in the United States; however, state governments have developed state-specific regulations.¹⁵⁸

114. The Commission limits the maximum electric field under high voltage transmission lines in Minnesota to 8.0 kV/m. It has not adopted a standard for magnetic fields.¹⁵⁹

115. The primary sources of EMF from the Project will be from the solar arrays, buried electrical collection lines, and the transformers installed at each inverter.¹⁶⁰

116. No health impacts from EMF are anticipated. EMF diminishes with distance from a conductor or inverter. The nearest solar array to a residence is located approximately 240 feet away. The nearest inverter to a residence is 435 feet away.¹⁶¹ The gen-tie line is 1,950 feet from the nearest residence.¹⁶² At this distance both electric and magnetic fields will dissipate to background levels. No additional mitigation is proposed.¹⁶³

ii. Public Safety and Emergency Services

117. Emergency services in the Project area are provided by local law enforcement and emergency response agencies located in nearby communities. Law enforcement in the Project area is provided by the Renville County Sheriff. Fire service is provided by the Franklin Fire & Rescue. The nearest urgent care facility is the CentraCare Redwood Hospital in Redwood, approximately 12.5 miles west of the Project.¹⁶⁴

118. Construction and operation of the Project will have minimal impacts on the security and safety of the local population. The Project design and construction will meet applicable federal, state, and local standards (e.g., MISO and the National Electrical Safety Code). The Project will also include fencing and locked gates to limit access to those authorized.¹⁶⁵

119. Birch Coulee Solar will coordinate with emergency and non-emergency response teams for the Project, including law enforcement, fire departments, and ambulance services. The type and number of responding agencies will depend on the incident requiring emergency services. Birch Coulee Solar will develop an Operations and Emergency Action Site Safety Plan prior to construction that outlines local contacts (first responders and internal construction, and O&M staff) and emergency procedures for

¹⁵⁸ Ex. EERA-7 at 83 (EA).

¹⁵⁹ Ex. EERA-7 at 84 (EA).

¹⁶⁰ Ex. EERA-7 at 84 (EA).

¹⁶¹ Ex. EERA-7 at Appendix C, p. 43 (EA).

¹⁶² Ex. BCS-2 at 48 (Application).

¹⁶³ Ex. EERA-7 at 85 (EA).

¹⁶⁴ Ex. EERA-7 at 85 (EA).

¹⁶⁵ Ex. BCS-2 at 23 (Application).

evacuation, fire response, extreme weather, injury, and criminal behavior. This plan will identify all available Site access points. Additionally, construction will comply with applicable local, state, and federal safety regulations. Birch Coulee Solar will follow industry safety procedures during and after construction of the Project such as posting clear signage during construction activities.¹⁶⁶

120. TH 19 contains a living snow fence that protects the road curve from blowing and drifting snow.¹⁶⁷ The Project will not impact the snow fence.¹⁶⁸

121. Established industry safety procedures will be followed during and after construction of the Project. Signs will be posted to warn unauthorized persons not to enter fenced area due to the presence of electrical equipment.¹⁶⁹

122. DNR recommended requiring at least ten-foot-tall perimeter fencing, noting that it will not issue a deer removal permit for facilities with woven wire fences lower than ten feet. DNR also noted it supported a special condition requiring the Applicant to coordinate with DNR on finalizing a security fence design.¹⁷⁰ Birch Coulee Solar designed its seven-foot-tall security fencing, with a one-foot high-tensile smooth wire at the top, in compliance with applicable National Electric Code requirements to prevent public and larger wildlife access.¹⁷¹ The fencing proposed for the Project is consistent with other site permits issued by the Commission.¹⁷² Absent evidence that wildlife – primarily deer – become injured or trapped in Minnesota LEPGPs due to fencing of the proposed height and design, Birch Coulee Solar has demonstrated that the perimeter fencing currently contemplated for the Project is reasonable and Section 4.3.32 of the Site Permit adequately addresses the security fencing.

123. EERA proposed adding to the DSP Special Condition Section 5.9 requiring the permittee to develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of the permit.¹⁷³ EERA proposed

¹⁶⁶ Ex. BCS-2 at 23 (Application).

¹⁶⁷ Ex. EERA-7 at 87 (EA).

¹⁶⁸ Birch Coulee Solar – Comments on the EA and DSP at 4 (March 24, 2025) (eDocket Nos. [20253216743-01](#) and [20253-216743-02](#)).

¹⁶⁹ Ex. EERA-7 at 87 (EA).

¹⁷⁰ DNR Comments (March 24, 2025) (eDocket No. [20253-216754-01](#)).

¹⁷¹ Ex. BCS-2 at 15 (Application).

¹⁷² See, e.g., *In the Matter of the Application of Northern States Power Co. d/b/a Xcel Energy for a Site Permit for the up to 250 MW Sherco 3 Solar Energy Generating System in Sherburne County, Minnesota*, Order Issuing Site Permit, Site Permit at Section 4.3.32 (July 31, 2024) (PUC Docket No. E-002/GS-23-217) (eDocket No. 20247- 209139-01); *In the Matter of the Application of Lake Wilson Solar Energy LLC for a Certificate of Need and a Site Permit for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota*, Order Granting Certificate of Need and Issuing Site Permit, Site Permit at Section 4.3.31 (April 23, 2024) (PUC Docket No. IP-7070/GS-21-792) (eDocket No. 20244-205861-01); *In the Matter of the Application of Byron Solar, LLC for a Certificate of Need, Site Permit, and Route Permit for the up to 200 MW Byron Solar Project and 345 kV Transmission Line in Dodge and Olmsted Counties, Minnesota*, Order Granting Certificate of Need and Issuing Site and Route Permits, Site Permit at Section 4.3.31 (May 1, 2023) (PUC Docket No. IP-7041/GS-20-763) (eDocket No. 20235-195471-02).

¹⁷³ EERA – Reply Comments at 11 (eDocket No. 20254-217622-01).

that Section 5.9 require the Fire Risk Assessment to include an assessment of potential fire risks, possible mitigation measures, and fire response measures.¹⁷⁴ EERA also proposed Section 5.10 requiring the Permittee to work and train with local emergency response teams that may have to enter the Project to ensure teams are aware of access points and can perform their duties safely.¹⁷⁵ Birch Coulee Solar did not support the original Section 5.9 because “fire risk assessment” was undefined and Birch Coulee Solar is not aware of similar requirements imposed on any other Commission-permitted solar projects. Birch Coulee Solar relied on Section 8.12, Emergency Response, which EERA proposed incorporating by reference in its proposed Section 5.9. Birch Coulee Solar believes that the general permit condition is protective, and the record does not support any additional condition specific to this Project. EERA also proposed revising Special Condition Section 5.10 to require Birch Coulee Solar to work and train with local emergency response teams to ensure they can utilize Project access points and perform their necessary duties.¹⁷⁶ Birch Coulee Solar does not support Section 5.10 because the Commission’s typical site permit already includes a general condition related to emergency response (Section 8.12), which requires the Permittee to prepare an emergency response plan in consultation with emergency responders and obtain and register location indicators and provides that information to emergency responders.¹⁷⁷

124. EERA originally proposed Section 5.11 of the DSP requiring the permittee to coordinate with MnDOT regarding possible mitigation measures to reduce the crash risk associated with proposed access points along TH 19. Birch Coulee Solar believes Section 5.11 is no longer necessary.¹⁷⁸ As a result of coordination with MnDOT, Birch Coulee Solar has already revised Project plans for site access to be oriented east-west from County Road 5 instead of north-south from TH 19.¹⁷⁹ Additionally, to minimize traffic utilizing the existing 115-kV Franklin substation driveway, Birch Coulee Solar removed the temporary laydown area in the southern portion of the Project area and will use the existing driveway for the one-time delivery of the generator step-up transformer and control house for the Project Substation.¹⁸⁰ EERA now agrees that Section 5.11 should be removed.¹⁸¹

125. The record demonstrates that Birch Coulee Solar has taken steps to avoid and minimize impacts to public safety and emergency services. Further, Public safety is addressed in Sections 4.3.30, 8.12, 8.13, and 9.1 of the Site Permit.

¹⁷⁴ EERA – Reply Comments at 11 (eDocket No. 20254-217622-01).

¹⁷⁵ Ex. EERA-7 at 88 (EA).

¹⁷⁶ EERA – Reply Comments at 11 (eDocket No. 20254-217622-01).

¹⁷⁷ Birch Coulee Solar – Comments on the EA and DSP at 10-11 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹⁷⁸ Birch Coulee Solar – Comments on the EA and DSP at 11 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

¹⁷⁹ Ex. BCS-10 at 5:2-13 (Direct Testimony of Scott Groux).

¹⁸⁰ Ex. BCS-10 at 5:5-9 (Direct Testimony of Scott Groux).

¹⁸¹ EERA – Reply Comments at 11-12 (eDocket No. 20254-217622-01).

C. Land-Based Economies - Agriculture

126. Minnesota law requires consideration of the Project's potential effect on land-based economies – specifically, agriculture, forestry, tourism, and mining.¹⁸²

127. The Project is not anticipated to impact forestry or mining.¹⁸³ Tourism is discussed in Section A(vi) above.

128. Agricultural use dominates approximately 97 percent (1,041.6 acres) of the land control area, where corn and soybeans are the dominant crops.¹⁸⁴

129. Approximately 90.9 percent of the land within Renville County is considered prime farmland. Nearly all the Project land control area is classified as prime farmland or prime farmland if drained.¹⁸⁵

130. Potential impacts to agricultural producers are anticipated to be minimal to moderate. Lost farming revenues will be offset by lease or easement agreements. A loss of farmland in Renville County would occur for the life of the Project. Potential impacts are localized and unavoidable but can be minimized.¹⁸⁶

131. Best management practices (BMPs) would be implemented during construction in order to minimize and mitigate long-term impacts to agricultural lands, including performing regular inspections during any earthmoving phases, preventing soil profile mixing, monitoring compaction, halting construction during wet weather conditions, ensuring proper site drainage and erosion control, and limiting the spread of noxious weeds and invasive species by cleaning construction equipment. Following construction, Birch Coulee Solar will repair and restore disturbed areas to pre-construction contours and characteristics to the extent possible.¹⁸⁷

132. Birch Coulee Solar has taken steps to avoid and minimize impacts to agriculture, and that the site will be able to be returned to agricultural uses after the Project is decommissioned. Further, Sections 4.3.9, 4.3.10, 4.3.11, 4.3.16, 4.3.17, 4.3.18, 4.3.20, 4.3.21, 4.3.25, and 4.3.29 of the Site Permit address agricultural mitigation and soil-related impacts.¹⁸⁸

D. Archaeological and Historic Resources

133. Minnesota law requires consideration of the Project's potential effects on historic and archaeological resources.¹⁸⁹

¹⁸² Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. C.

¹⁸³ Ex. EERA-7 at 137 (EA).

¹⁸⁴ Ex. EERA-7 at 89 (EA).

¹⁸⁵ Ex. EERA-7 at 90 (EA).

¹⁸⁶ Ex. EERA-7 at 89 (EA).

¹⁸⁷ Ex. BCS-2 at Appendix F (Application); Ex. EERA-7 at 95 (EA).

¹⁸⁸ Ex. EERA-7 at 95 (EA).

¹⁸⁹ Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. D.

134. Birch Coulee Solar contacted the eleven federally recognized Tribal Nations in Minnesota, including Minnesota Tribal Nations' Tribal Historic Preservation Officers (THPOs) and the Minnesota Indian Affairs Council (MIAC) for additional information or comment on the Project. The Project intersects with, and is near, several state archeological sites, and is located within an area that is likely to contain cultural resources. MIAC recommended Birch Coulee Solar conduct additional research and cultural management fieldwork with monitoring alongside tribal consultation with regional THPOs.¹⁹⁰

135. Birch Coulee Solar provided the draft Phase I Archaeological Investigation report to the Lower Sioux Community THPO and Upper Sioux Community THPO in February 2024. The THPOs provided feedback and comments, which Birch Coulee Solar incorporated into the report. Birch Coulee Solar provided the updated Phase I Archaeological Investigation report to the SHPO for concurrence on March 15, 2024, and received concurrence from the SHPO on May 3, 2024, that "no additional work is recommended for the Project to proceed as planned."¹⁹¹

136. Before construction begins, an Unanticipated Discoveries Plan will be prepared and should any previously unknown cultural resources or human remains be encountered, work will stop, and the discovery will be examined by an archaeologist. If the discovery is determined to be a significant cultural resource, SHPO and OSA will be notified.¹⁹²

137. Birch Coulee Solar will continue to coordinate with the THPOs from the Lower Sioux Community and Upper Sioux Community regarding measures to avoid and to mitigate impacts to the identified culturally sensitive areas of Tribal concern within the land control area.¹⁹³

138. Section 4.3.23 of the Site Permit addresses archeological resources and requires the permittee to avoid impacts to archaeological and historic resources where possible and to mitigate impacts where avoidance is not possible. No additional mitigation is proposed.¹⁹⁴

E. Natural Environment

139. Minnesota law requires consideration of the Project's potential effects on the natural environment, including effects on air and water quality resources and flora and fauna.¹⁹⁵

¹⁹⁰ Ex. EERA-7 at 96-97 (EA).

¹⁹¹ Ex. EERA-7 at 98 (EA); Ex. BCS-2 at Appendix H – Agency Correspondence (Application).

¹⁹² Ex. EERA-7 at 99 (EA); Ex. BCS-2 at 52 (Application).

¹⁹³ Ex. EERA-7 at 99 (EA).

¹⁹⁴ Ex. EERA-7 at 99 (EA).

¹⁹⁵ Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. E.

i. Air Quality, GHG Emissions, and Climate Change

140. Potential impacts to air quality during construction would be intermittent, localized, short-term, and minimal. Impacts are associated with fugitive dust and exhaust. Once operational, the Project will not generate criteria pollutants or carbon dioxide. Negligible fugitive dust and exhaust emissions would occur as part of routine maintenance activities. Impacts are unavoidable and do not affect a unique resource. Impacts can be mitigated and minimized.¹⁹⁶

141. BMPs will be used during construction and operation of the Project to minimize dust and emissions. Exhaust emissions can be minimized by using modern equipment with lower emissions ratings and properly functioning exhaust systems, not running the equipment unless necessary, and minimizing the number of driving trips. Watering exposed surfaces, covering open-bodied haul trucks, reducing speed limits on unpaved roads, containing excavated materials and treating stockpiles, and protecting and stabilizing soils are all standard construction practices.¹⁹⁷

142. As a component of the construction stormwater (CSW) permit that will be obtained for the Project, a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) CSW permit and an associated Stormwater Pollution Prevention Plan (SWPPP) will be developed and implemented prior to construction in order to minimize the potential for fugitive dust emissions.¹⁹⁸

143. The Agricultural Impact Mitigation Plan (AIMP) identifies construction BMPs related to soils and vegetation that will help to mitigate against fugitive dust emissions. Several sections of the draft plan indirectly mitigate impacts to air quality, including sections related to construction and vegetation removal, soils, erosion and sediment control, and restoration of the site to pre-construction conditions.¹⁹⁹

144. The Project will help to shift energy production in Minnesota and the upper Midwest toward carbon-free sources. Construction emissions will have a short-term negligible increase in GHGs that contribute to climate change. Overall, the Project will generate energy that can be used to displace energy otherwise generated by carbon-fueled sources. The total GHG emissions produced by construction and operation of the Project will be minimal when compared to the reduction in GHG emissions long-term. The Project's design incorporates design elements that minimize impacts from the increase in extreme weather events such as increased flooding, storms, and heat wave events that are expected to accompany a warming climate.²⁰⁰

145. Construction activities will result in short-term increases in GHG emissions from the combustion of fossil fuels in construction equipment and vehicles. The Project's construction emissions are estimated to be 1,298.14 metric tons of CO₂ equivalent.

¹⁹⁶ Ex. EERA-7 at 99 (EA).

¹⁹⁷ Ex. EERA-7 at 102 (EA).

¹⁹⁸ Ex. EERA-7 at 102 (EA).

¹⁹⁹ Ex. EERA-7 at 102 (EA).

²⁰⁰ Ex. EERA-7 at 131 (EA).

Additional GHG emissions will be created by land use change from the loss of existing natural carbon sinks in the area, estimated at 1,342.76 metric tons of CO₂ equivalent. The majority of land-use change emissions will occur during construction due to the change from cropland to settlement, however the establishment of perennial vegetation and prairie can reduce this impact. Altogether, the GHG emissions from construction are an insignificant amount relative to Minnesota's overall emissions of approximately 137 million tons in 2020. Potential impacts due to construction GHG emissions are anticipated to be negligible.²⁰¹

146. Once operational, the Project will generate minimal GHG emissions. GHG emissions for project operation are estimated to be approximately 27.2 metric tons of CO₂ annually. Emissions are comprised of CO₂ from mobile combustion (7.6 tons) and electrical consumption (19.5 tons).²⁰² If electrical energy from the Project displaces energy that would otherwise be generated by carbon-fueled power plants (e.g., coal, natural gas), the Project could reduce GHG by approximately 99,500 metric tons of CO₂ equivalent annually. Thus, compared to non-renewable energy generation, the Project would be beneficial with respect to GHG emissions. Total GHG emissions resulting from construction and operation of the Project are anticipated to be minimal when compared to the long-term reduction in GHG emissions facilitated by the Project.²⁰³

ii. Geology and Groundwater

147. There are no designated Sole Source Aquifers within the land control area. However, a Wellhead Protection Area and Drinking Water Supply Management Area (DWSMA) are within the southern portion of the land control area. The DWSMA vulnerability is designated as very low. During construction, Birch Coulee Solar will store materials such as fuel and gasoline in sealed containers to prevent spills, leaks, or other discharges in accordance with the SWPPP.²⁰⁴

148. After construction activities are complete, Birch Coulee Solar will restore the land control area disturbed during construction as described in the VMP. Minnesota solar projects are considered semi-impervious in nature. An increase in impervious surfaces has the potential to increase stormwater runoff and, in turn, reduce groundwater recharge. Birch Coulee Solar will manage surface water that flows or falls onto impervious surfaces in accordance with conditions of the MPCA CSW Permit.²⁰⁵

149. There are no water wells within the land control area; the nearest well is a private well associated to Residence 3. The Project will be at least 200 feet from the nearest occupied residence, thereby minimizing the risk of impacts on private wells. Birch Coulee Solar will assess any wells identified within the land control area during

²⁰¹ Ex. EERA-7 at 132 (EA).

²⁰² Ex. BCS-2 at 64 (Application).

²⁰³ Ex. EERA-7 at 132-133 (EA).

²⁰⁴ Ex. BCS-2 at 55-56 (Application).

²⁰⁵ Ex. BCS-2 at 56 (Application).

construction to determine if they are open, and seal them, if necessary, in accordance with MDH requirements.²⁰⁶

150. Construction of the Project is not likely to require subsurface blasting and disturbances to groundwater flow from newly fractured bedrock. If needed, Birch Coulee Solar will discharge any construction trench water to surrounding areas using appropriate BMPs to minimize erosion and allow it to infiltrate back into the ground in accordance with applicable permits.²⁰⁷

151. The proposed Project substation, where the main transformer and associated aboveground storage tank and secondary containment will be, is outside of the Wellhead Protection Area and DWSMA. Birch Coulee Solar will prepare and implement a Spill Prevention, Countermeasures and Control (SPCC) plan for the main transformer at the Project substation to prevent spills or leaks in accordance with USEPA regulations.²⁰⁸

152. Because of the shallow depth to groundwater in some areas of the Project, dewatering may be required during construction. If dewatering exceeds 10,000 gallons of water per day, a DNR water appropriation permit will be obtained.²⁰⁹

153. Although design is not yet finalized, if Birch Coulee Solar opts to install the O&M building within a permanent laydown yard in the preliminary development area, it will likely install a well to provide water for drinking and sanitary services for approximately four employees.²¹⁰

154. Because the Project will disturb more than one acre, Birch Coulee Solar must obtain a CSW Permit from the MPCA. The CSW Permit will identify BMPs for erosion prevention and sediment control. As part of the CSW Permit, Birch Coulee Solar will also develop a SWPPP that describes construction activity, temporary and permanent erosion and sediment controls, BMPs, permanent stormwater management that will be implemented during construction and through the life of the Project.²¹¹

155. A NPDES permit to discharge stormwater from construction facilities will also be acquired by Birch Coulee Solar from the MPCA. BMPs will be used during construction and operation of the Project to protect topsoil and adjacent resources and to minimize soil erosion, whether the erosion is caused by water or wind.²¹²

156. EERA originally proposed Section 5.12 of the DSP requiring the permittee to develop and file a project Laydown Area Protection Plan for laydown areas within the Wellhead Protection Area and DWSMA.²¹³ Birch Coulee Solar does not support this

²⁰⁶ Ex. BCS-2 at 56 (Application).

²⁰⁷ Ex. BCS-2 at 57 (Application).

²⁰⁸ Ex. BCS-2 at 57 (Application).

²⁰⁹ Ex. EERA-7 at 106 (EA).

²¹⁰ Ex. EERA-7 at 107 (EA).

²¹¹ Ex. EERA-7 at 108 (EA).

²¹² Ex. EERA-7 at 108 (EA).

²¹³ Ex. EERA-7 at 108 (EA).

special condition and noted that the source of the proposed special condition is unclear.²¹⁴ Birch Coulee Solar will not create a temporary laydown area in the southern portion of the Project area as was proposed in the DWSMA.²¹⁵ Two other laydown areas within the Anticipated Development Area²¹⁶ are within the DWSMA and partially within the WHPA. Birch Coulee Solar will develop both a SWPPP and a SPCC Plan prior to construction. The SWPPP will detail BMPs to minimize the potential for downstream water quality impacts. Likewise, the NPDES/SDS Program specifically prohibits the discharge of anything other than stormwater, and the SPCC will apply to construction-related fuel storage and will be prepared prior to operation for operation-related fuel storage, should said storage exceed applicability thresholds.²¹⁷ EERA now agrees that Section 5.12 is not necessary.²¹⁸

iii. Soils and Prime Farmland

157. Primary impacts to soils include compaction from construction equipment, soil profile mixing during grading and pole auguring, rutting from tire traffic, drainage interruptions, and soil erosion. Impacts to soils are likely to be greatest with the below-ground electrical collection system. Potentials impacts will be positive and negative, and short- and long-term. Isolated moderate to significant negative impacts associated with high rainfall events could occur. Because the soil at the Project will be covered with native perennial vegetation for the life of the Project, soil health is likely to improve.²¹⁹ The DNR supports Special Permit Condition, Section 5.15, which prohibits the use of dust suppression agents containing chloride.²²⁰

158. A LEPGP site may not “be permitted where the developed portion of the plant site...includes more than 0.5 acres of prime farmland per megawatt of net generating capacity,...unless there is no feasible and prudent alternative.”²²¹ The Project will impact approximately 936.9 acres of prime farmland.²²² Because the Project will have a generating capacity of 125MW, the amount of prime farmland the estimated 125MW facility may normally develop is 62.5 acres.²²³ Birch Coulee Solar completed a Prime Farmland Analysis to avoid prime farmland and was unable to find a feasible or prudent alternative to the Project.²²⁴ This satisfies the requirement under Minn. R. 7850.4400, subp. 4 to show that no feasible and prudent alternative exists. Furthermore, Birch Coulee

²¹⁴ Birch Coulee Solar – Comments on the EA and DSP at 12 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²¹⁵ Ex. BCS-10 at 5:6-9 (Groux Testimony).

²¹⁶ Anticipated Development Area means the 768.2-acre area within the land control area where Birch Coulee Solar proposes to build the solar facilities. This area does not include the collection corridors or required setbacks. See Exs. EERA-7 at ix (EA) and BCS-2 at 7 (Application).

²¹⁷ Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²¹⁸ EERA – Reply Comments at 12 (eDocket No. 20254-217622-01).

²¹⁹ Ex. EERA-7 at 110 (EA).

²²⁰ DNR Comments at 2 (eDocket No. [20253-216754-01](#)).

²²¹ Minn. R. 7850.4400, subp. 4 (2023).

²²² Ex. EERA-7 at 92 (EA).

²²³ Ex. EERA-7 at 91 (EA).

²²⁴ Ex. BCS-2 at Appendix E, p. 6 (Application).

Solar prepared an AIMP in consultation with the Minnesota Department of Agriculture and a VMP to minimize Project impacts to designated prime farmland such as soil compaction, topsoil mixing, soil erosion, invasive and noxious weed species, and rutting.²²⁵ Birch Coulee Solar will also develop and implement a SWPPP to minimize soil erosion and impacts during construction. The SWPPP will include construction BMPs such as matting to minimize rutting, silt fencing, temporary seeding/stabilization, and project phasing. The SWPPP will also include permanent stormwater management features as required.²²⁶

159. Sections 4.3.9, 4.3.16, 4.3.17, and 4.3.18 of the Site Permit address soil-related impacts from the Project.²²⁷

iv. Surface Water and Floodplains

160. The Project is in the Minnesota River – Mankato watershed of the Minnesota River Basin. There are no lakes, rivers, or streams that cross the land control area. The DNR's Public Waters Inventory (PWI) identified no watercourses or basins within the land control area. Public waters include wetlands, water basins, and watercourses of significant recreational or natural resource value in Minnesota. A public waters designation means that DNR has regulatory jurisdiction over the water. The nearest PWI body of water is County Ditch 111, approximately 0.7 miles northwest of the Project, and the Minnesota River, approximately 1 mile south of the Project.²²⁸

161. The surface waters within the land control area are limited to county drainage ditches and wetlands. County Ditch 109A is an open ditch system that crosses the Project from the northeast corner to the south. Judicial Ditch 14-23 is an open ditch system that crosses east/west along the southern boundary of the Project before joining County Ditch 109A. The Renville County Drainage Department manages both ditches and their associated drain tiles within the land control area.²²⁹

162. There are no waters listed by the MPCA as impaired waters within the land control area. The nearest impaired water is Purgatory Creek, approximately 0.9 miles southwest of the Project, which is listed as impaired for *Escherichia coli*. The Minnesota River, approximately one mile south of the Project, is listed as impaired for mercury and PCBs in fish tissue, nutrients, and turbidity.²³⁰

163. The nearest Federal Emergency Management Agency (FEMA) 100-year floodplain is associated with the Minnesota River, one mile south of the Project.²³¹

²²⁵ Ex. BCS-2 at 8-9 and 57-60 (Application).

²²⁶ Ex. BCS-2 at 59-60 (Application).

²²⁷ Ex. EERA-7 at 110-111 (EA).

²²⁸ Ex. EERA-7 at 111 (EA).

²²⁹ Ex. EERA-7 at 111 (EA).

²³⁰ Ex. EERA-7 at 113 (EA).

²³¹ Ex. EERA-7 at 113 (EA).

164. The Project is designed to avoid direct impacts to surface waters by avoiding placement of Project components such as access roads, solar arrays, inverters, or transmission structures in surface waters.²³²

165. If the Project uses inadequate stormwater management during construction, it could lead to negative impacts on water quality due to increased sedimentation deposited into the Minnesota River and it could impact Minnesota River's flood capacity.²³³ Birch Coulee Solar will comply with Section 4.3.11 of the Site Permit requiring the permittee to acquire a CSW Permit, which is intended to protect surface waters, and no water quality impacts to the Minnesota River are anticipated.²³⁴

166. Overall, the Project is expected to have a long-term positive impact on water quality due to the establishment of perennial vegetation at the Project.²³⁵

167. Birch Coulee Solar has taken steps to avoid and minimize surface water and floodplain impacts. Further, Sections 4.3.11 and 4.3.16 of the Site Permit address potential impacts to surface waters.²³⁶

v. Wetlands

168. Although 26.3 acres of wetlands have been identified within the land control area, the preliminary layout for the Project avoids locating solar arrays and associated facilities in wetlands.²³⁷

169. The Project layout has been designed to avoid all wetlands delineated to date. If wetland impacts are required for the final layout, Birch Coulee Solar will obtain any necessary permits and coordinate with the appropriate agency, such as the USACE under Section 404 and 401 of the Federal Clean Water Act (CWA) and the Renville County SWCD under the Minnesota Wetland Conservation Act (WCA), prior to construction.²³⁸

170. Birch Coulee Solar has taken steps to avoid and minimize wetland impacts. Further, Section 4.3.13 of the Site Permit generally prohibits placement of the solar energy generating system or associated facilities in public waters and public waters wetlands.²³⁹

²³² Ex. EERA-7 at 113 (EA).

²³³ Ex. EERA-7 at 113-114 (EA).

²³⁴ Birch Coulee Solar – Comments on the EA and DSP at 4 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²³⁵ Ex. EERA-7 at 113-114 (EA).

²³⁶ Ex. EERA-7 at 114 (EA).

²³⁷ Ex. EERA-7 at 116 (EA).

²³⁸ Ex. EERA-7 at 116 (EA).

²³⁹ Ex. EERA-7 at 116 (EA).

vi. Vegetation

171. The land cover within the Project area is dominated by cultivated agriculture, with scattered areas of trees, native vegetation, and developed areas around roads and parcel boundaries.²⁴⁰ According to the U.S. Geological Survey National Land Cover Database, most of the land control area consists of cultivated crops. Additional landcover types represent a very small portion of the site and consist of developed land, wetlands, deciduous forest, and barren land. Corn and soybeans represent the dominant crops in the land control area and have been for the past ten years.²⁴¹

172. The land control area will convert from an agricultural use to solar energy use for the life of the Project. Birch Coulee Solar designed the Project to avoid tree clearing. Birch Coulee Solar will also largely avoid the areas of non-agricultural vegetation based on their proximity to county drainage ditches with buffer areas.²⁴²

173. Birch Coulee Solar will seed the non-impervious portions of the Project with a low-growing vegetation seed mix of primarily native species in accordance with the VMP (Appendix F). The seed mixes will include a blend of grasses, sedges, and forbs, with a high degree of diversity. The seed mixes will promote pollinator habitat, establish stable ground cover, reduce erosion and runoff, and improve infiltration. Control of invasive and noxious weeds will be ongoing during the construction and operation of the Project.²⁴³ Noxious weeds will have no more than five percent cover with the site, and invasive species will not exceed ten percent of the cover.²⁴⁴

174. Agricultural land within the Project will be converted to perennial, low growing vegetative cover, resulting in a net increase in vegetative cover for the life of the Project. A low growing native prairie seed mix containing grasses, sedges, and wildflowers will be used under the arrays to provide vegetative cover without interfering with operations. Additional native prairie seed mixes that include grasses, sedges, and wildflowers will be used outside of the arrays; a short-height seed mix for areas within the fence line and a mixed-height seed mix for areas outside the fence line. The fence line will have its own seed mix consisting of low-growing, non-native fescues to create a perimeter that is less susceptible to fire and by which it will be easier to control vegetation. In wetland and stormwater management units, native seed mixes that contain plants well suited for soils will be used.²⁴⁵

175. Renville County seeks Section 4.3.21 to specifically require Birch Coulee Solar to “take all reasonable precautions against the spread of noxious weeds throughout the life of the Project.”²⁴⁶ Prior to transporting to the Project, Birch Coulee Solar will use rumble strips and designated cleaning areas to remove noxious weeds and/or seeds from

²⁴⁰ Ex. EERA-7 at 117 (EA).

²⁴¹ Ex. BCS-2 at 61 (Application).

²⁴² Ex. BCS-2 at 62 (Application).

²⁴³ Ex. BCS-2 at 62 (Application).

²⁴⁴ Ex. BCS-2, Appendix F at 24, 27-28 (Vegetation Management Plan) (20247-209069-01).

²⁴⁵ Ex. EERA-7 at 118 (EA).

²⁴⁶ Comment by Scott Refsland (eDocket No. [20253-217001-01](#)).

equipment. The conservation easements along County Ditch 109A and Judicial Ditch 14-23 will be avoided as they fall within the setback distances from drainage ditches.²⁴⁷

vii. Wildlife and Habitat

176. Wildlife utilizing the Project area are common resident and migratory species associated with disturbed habitats and are accustomed to human activities (e.g., agricultural activities and road traffic) occurring in the area.²⁴⁸

177. The impact intensity level is expected to be minimal to moderate. Impacts could be positive or negative and depend on species type. Potential impacts will be short-and long-term and can be mitigated.²⁴⁹ The DNR recommends the proposed eight-foot-high fencing around the Project be increased to a minimum of ten feet to prevent large wildlife from entering the Project site.²⁵⁰ The DNR will not issue a white-tailed deer removal permit for facilities with woven wire fences lower than ten feet.²⁵¹ The DNR supports Special Permit Condition Section 4.3.32, requiring Permittee to coordinate with the DNR on finalizing a security design.²⁵² Moreover, the DNR supports Special Permit Condition, Section 5.16, which requires wildlife-friendly erosion control, including the use of “bio-netting” or “natural netting” which does not contain synthetics or malachite green dye.²⁵³

178. Once restored, the land control area will provide native habitat for the life of the Project. The Project does not contribute to significant habitat loss or degradation or create new habitat edge effects. The introduction of PV panels and fencing creates the potential for bird collisions and funneling wildlife towards roads in certain areas. Potential impacts can be mitigated in part through design and BMPs.²⁵⁴ The DNR supports Special Permit Condition Section 5.14, which requires motion-activated, down-lit, shielded lighting fixtures within and around the Project.²⁵⁵

179. Birch Coulee Solar has taken steps to avoid and minimize wildlife and habitat impacts. Further, Sections 4.3.16, 4.3.32, and 8.14 of the Site Permit specify measures that will minimize impacts to wildlife.

F. Rare and Unique Natural Resources.

180. Minnesota law requires consideration of the Project’s potential effects on rare and unique natural resources.²⁵⁶

²⁴⁷ Ex. EERA-7 at 120 (EA).

²⁴⁸ Ex. EERA-7 at 121 (EA).

²⁴⁹ Ex. EERA-7 at 121 (EA).

²⁵⁰ DNR Comments at 1 (eDocket No. [20253-216754-01](#)).

²⁵¹ DNR Comments at 1 (eDocket No. [20253-216754-01](#)).

²⁵² DNR Comments at 1 (eDocket No. [20253-216754-01](#)).

²⁵³ DNR Comments at 2 (eDocket No. [20253-216754-01](#)).

²⁵⁴ Ex. EERA-7 at 120 (EA).

²⁵⁵ DNR Comments at 1 (eDocket No. [20253-216754-01](#)).

²⁵⁶ Minn. Stat. § 216E.03, subd. 7(b); Minn. R. 7850.4100, subp. F.

181. There are no Minnesota Biological Survey (MBS) sites of moderate, high, or outstanding biodiversity significance within the land control area.²⁵⁷

182. The northern long-eared bat (NLEB) is federally endangered. The U.S. Fish and Wildlife Service (USFWS) determined the Project is not likely to result in an incidental take of the NLEB. According to the DNR and USFWS, there are no known hibernacula in Renville County or Redwood County.²⁵⁸ Birch Coulee Solar does not anticipate the need to clear trees for the Project. However, any necessary tree clearing will occur in the winter months (November 1 to March 31), when bats are hibernating.²⁵⁹

183. The tricolored bat (TCB) is a proposed federally listed species and state listed species of concern. The USFWS determined the Project is not likely to adversely affect the TCB. According to the DNR it has only been found in small numbers in the state and a maternity colony has yet to be found in Minnesota.²⁶⁰

184. The USFWS determined the Project will have no effect on the monarch butterfly. All four native seed mixes designed for the Project include at least one milkweed species; once vegetation has been established the Project can provide foraging habitat for monarchs.²⁶¹

185. Bald eagles typically nest in mature trees near large lakes or streams. Nesting habitat suitable for bald eagles is not present within the land control area and the closest suitable nesting habitat is associated with the Minnesota River, approximately one mile south and southwest of the Project.²⁶² EERA proposed special condition Section 5.18 requiring the permittee to file documentation authorizing any Bald Eagle nest removal prior to construction. Birch Coulee Solar does not believe this special condition is necessary because the Project does not include suitable habitat for bald eagles, and there are no known bald eagle nests within the land control area.²⁶³

186. Prairie bush clover is a federally and state listed threatened species endemic to the upper Mississippi River Valley. The USFWS determined the Project will have no effect on prairie bush clover. The probability of species occurrence within the land control area is considered to be low due to the heavy agricultural use and lack of native prairie habitat suitable for prairie bush clover.²⁶⁴

187. The salamander mussel is a proposed endangered state listed species. The salamander mussel has been recorded in Chippewa and Nicollet Counties, northwest and

²⁵⁷ Ex. EERA-7 at 127-128 (EA).

²⁵⁸ Ex. EERA-7 at 128 (EA).

²⁵⁹ Ex. BCS-2 at 58 (Application).

²⁶⁰ Ex. EERA-7 at 128 (EA).

²⁶¹ Ex. EERA-7 at 129 (EA).

²⁶² Ex. EERA-7 at 129 (EA).

²⁶³ Exs. BCS-2 at 58 (Application) and EERA-7 at 129 (EA); Birch Coulee Solar – Comments on the EA and DSP at 13-14 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²⁶⁴ Ex. EERA-7 at 129-130 (EA).

southeast of Renville County along the Minnesota River, but it is currently restricted to the lower St. Croix River.²⁶⁵

188. The EA suggests that the TH 19 ROW may contain State-listed threatened or endangered species in the same area as the western proposed/existing Project access road and that construction of the access roads could destroy State-listed species present in the ROW.²⁶⁶ EERA originally proposed Special Condition Section 5.19 requiring the permittee to comply with any MnDOT permit requirements deemed necessary by MnDOT's Office of Environmental Stewardship Protect Species Unit relating to vegetation in the TH 19 ROW. Birch Coulee Solar states that this proposed condition is not applicable.²⁶⁷ Birch Coulee Solar agreed to move the access road in the western portion of the Project area to be oriented east-west from County Road 5 instead of north-south from TH 19.²⁶⁸ Accordingly, no part of the Project would require vegetation management within the TH 19 ROW. Birch Coulee Solar understands that, if Project plans change, it would need to obtain applicable approvals for any changes.²⁶⁹ EERA agrees that Section 5.19 should be removed.²⁷⁰

G. Application of Various Design Considerations.

189. Minnesota law requires consideration of the application of design options that maximize energy efficiencies, mitigate adverse environmental effects, and could accommodate expansion of transmission or generating capacity.²⁷¹

190. Birch Coulee Solar is not required to analyze alternative sites pursuant to Minn. R. 7850.3100 unless it rejected alternative sites.²⁷² Birch Coulee Solar selected the proposed Project site based on a variety of factors, including willing landowners, environmental characteristics, no competition with other potential renewable energy projects, and interconnection availability. The proposed Project site was identified based on these factors, and no specific alternative sites for the Solar Project were considered.²⁷³

H. Use of Existing LEPGP Sites.

191. Minnesota law requires consideration of the use of existing LEPGP sites.²⁷⁴

192. There are no existing LEPGP sites in the region.²⁷⁵

²⁶⁵ Ex. EERA-7 at 130 (EA).

²⁶⁶ Ex. EERA-7 at 130 (EA).

²⁶⁷ Birch Coulee Solar – Comments on the EA and DSP at 14 (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²⁶⁸ Ex. BCS-10 at 5:2-5 (Direct Testimony of Scott Groux).

²⁶⁹ Exs. BCS-9 at 2 (Response to Scoping Comments) and EERA-7 at 89 (EA).

²⁷⁰ EERA – Reply Comments at 13 (eDocket No. 20254-217622-01).

²⁷¹ Minn. R. 7850.4100, subp. G.

²⁷² Ex. BCS-2 at 9 (Application).

²⁷³ Ex. BCS-2 at 7-8 (Application).

²⁷⁴ Minn. R. 7850.4100(I).

²⁷⁵ Ex. EERA-7 at 12, Table 1 (EA).

I. Use of Existing Rights-of-Way.

193. Minnesota law requires consideration of the use of existing ROWs.²⁷⁶

194. The Project will be immediately adjacent to the existing Franklin 115 kV substation that already operates in the area.²⁷⁷ Existing infrastructure in the Project area and vicinity includes two transmission lines, a community-scale solar garden, and the Franklin 115 kV substation.²⁷⁸

J. Electrical System Reliability.

195. Minnesota law requires consideration of electrical system reliability.²⁷⁹

196. The Project will generate an annual average of approximately 264,000 MWh of renewable energy during its anticipated 30-year life span, enough to power approximately 25,142 homes per year.²⁸⁰

197. The Project has been designed to minimize outages or interruptions to electrical service: SCADA equipment and the CMMS will be used to monitor facility operations 24/7, identify problems, and create preventative maintenance schedules to reduce the chance of equipment failure that results in service outages. The local operations and maintenance team will be supported by the remote O&M engineering and technical services teams. Project components are designed to withstand extreme weather events, and the tracking system allows the panels to follow the sun throughout the day, maximizing energy generation.²⁸¹

198. Even on cloudy days, the Project will generate electricity to supply to the grid. The rotational tracking system allows panels to track the sun's position during winter, when the sun is at a lower angle in the sky, and panels can be rotated to prevent snow from building up on the panel surface.²⁸²

K. Costs of Constructing, Operating, and Maintaining the Facility.

199. Minnesota law requires consideration of the costs of constructing, operating, and maintaining a facility which are dependent on design and route.²⁸³

200. Birch Coulee Solar estimates the Project capital construction costs, including development, EPC, and interconnection to be approximately \$245 million.

²⁷⁶ Minn. R. 7850.4100(H) and (J).

²⁷⁷ Ex. EERA-7 at 51 (EA).

²⁷⁸ Ex. EERA-7 at 50 (EA).

²⁷⁹ Minn. R. 7850.4100(K).

²⁸⁰ Ex. EERA-7 at 134 (EA).

²⁸¹ Ex. EERA-7 at 134-135 (EA).

²⁸² Ex. EERA-7 at 135 (EA).

²⁸³ Minn. Stat. § 216E.03, subd. 7(b)(10); Minn. R. 7850.4100, subp. K.

Actual total costs may vary up to 20 percent as they are dependent upon factors such as timing of construction, final panel selection, labor costs, taxes, and tariffs.²⁸⁴

201. The principal operating and maintenance costs include inspections, which are typically ground-based and generally occur on a yearly basis. The estimated annual operation cost is \$1,000,000 and consists of lease payments, operational staff wages, taxes, and inspection/maintenance.²⁸⁵

L. Adverse Human and Natural Environmental Effects that Cannot be Avoided.

202. Minnesota law requires consideration of the adverse human and natural environmental effects that cannot be avoided.²⁸⁶

203. Unavoidable adverse effects associated with construction of the Project (in some instances a specific phase of construction) would last through construction and could include the following, absent avoidance or mitigation measures:

- Fugitive dust.
- Noise disturbance to nearby residents and recreationalists.
- Visual disturbance to nearby residents and recreationalists.
- Soil compaction and erosion.
- Vegetative clearing (loss of shelter belts).
- Disturbance and temporary displacement of wildlife, as well as direct impacts to wildlife inadvertently struck or crushed.
- Minor amounts of marginal habitat loss.
- Possible traffic delays.
- Minor GHG emissions from construction equipment and workers commuting.²⁸⁷

204. Unavoidable adverse impacts associated with the operation would last as long as the life of the Project, and could include:

- Visual impacts of the Project.

²⁸⁴ Ex. BCS-2 at 21 (Application).

²⁸⁵ Ex. BCS-2 at 21 (Application).

²⁸⁶ Minn. Stat. § 216E.03, subd. 7(b)(6); Minn. R. 7850.4100, subp. M.

²⁸⁷ Ex. EERA-7 at 135-136 (EA).

- Cultural impacts due to a change in the sense of place for local residents.
- Loss of land for agricultural purposes.
- Injury or death of birds that collide with PV panels.
- Injury or death of wildlife from fencing.²⁸⁸

M. Irreversible and Irretrievable Commitments of Resources.

205. Minnesota law requires consideration of the irreversible and irretrievable commitments of resources that are necessary for the Project.²⁸⁹ Resource commitments are irreversible when it is impossible or very difficult to redirect that resource to a different future use; an irretrievable commitment of resources means the resource is not recoverable for later use by future generations.

206. Irreversible and irretrievable resource commitments are primarily related to project construction, including the use of water, aggregate, hydrocarbons, steel, concrete, wood, and other consumable resources. Some, like fossil fuel use, are irretrievable. Others, like water use, are irreversible. Still others might be recyclable in part, for example, the raw materials used to construct PV panels would be an irretrievable commitment of resources, excluding those materials that may be recycled at the end of the panels' useful life. The commitment of labor and fiscal resources to develop, construct, and operate the Project is considered irretrievable.²⁹⁰

X. SITE PERMIT SPECIAL CONDITIONS

207. The Commission's Draft Site Permit includes a number of proposed permit conditions, many of which have been discussed above. The conditions apply to site preparation, construction, cleanup, restoration, operation, maintenance, abandonment, decommissioning, and other aspects of the Project. The general conditions are not disputed.

208. The EA and EERA DSP included various recommendations and potential special site permit conditions related to the Project, to which the Applicant responded in its direct testimony and written comments.²⁹¹

209. Birch Coulee Solar proposes combining portions of Sections 5.5 and 5.6 of the DSP because this topic is already covered in Section 4.3.22 of the DSP. Because it is unclear what is contemplated by a "development agreement," Birch Coulee Solar

²⁸⁸ Ex. EERA-7 at 136 (EA).

²⁸⁹ Minn. Stat. § 216E.03, subd. 7(b)(11); Minn. R. 7850.4100, subp. N.

²⁹⁰ Ex. EERA-7 at 136 (EA).

²⁹¹ Ex. BCS-10 (Direct Testimony of Scott Groux) and Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

proposed removing that phrase. After revisions, the resulting condition will take the place of Sections 5.5. and 5.6 of the DSP, as follows:

5.X Traffic Control and Road Use Agreement

The Permittee shall enter into a Road Use Agreement with Renville County and affected Townships. The Road Use Agreement shall include a description of how the Permittee will coordinate traffic control with local road authorities. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.²⁹²

210. The record supports the inclusion of the Applicant's revisions to Sections 5.5 and 5.6 of the DSP.

211. Birch Coulee Solar proposes revisions to Section 5.8 of the DSP to specify to whom the notice should be provided:

5.X Ownership Change Notification

The permittee shall notify Renville County ~~officials~~ [Board of Commissioners](#) if there is an ownership change pursuant to Section 2.1 of this permit and shall provide the new contact information.²⁹³

212. The record supports the inclusion of the Applicant's revisions to Section 5.8 of the DSP.

213. Birch Coulee Solar objected to Section 5.9 because the term "fire and risk assessment" is not defined. Because the intent of the condition is reasonable and wise in light of the location of the facility and the requirements of Section 8.12, the Judge recommends proposed Section 5.9 be revised to include a definition of a fire and risk assessment (FRA) which addresses its purpose: to prevent fire incidents, protect lives, and minimize property damage. The FRA should be completed in conjunction with the emergency response plan in Section 8.12 and the assistance of the local emergency responders.

214. Birch Coulee Solar proposes the removal of the following special conditions proposed by EERA: 5.1, 5.2, 5.3, 5.4, 5.7, 5.9, 5.10, 5.11, 5.12, 5.13, 5.18, and 5.19.²⁹⁴

215. For the reasons described elsewhere in these findings, the record supports the removal of the following proposed special conditions: 5.1, 5.2, 5.3, 5.4, 5.5, 5.10, 5.11, 5.12, 5.13, 5.17, 5.18, and 5.19.

²⁹² Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²⁹³ Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

²⁹⁴ Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

216. For the reasons described elsewhere in these findings, the record supports keeping the following proposed special conditions as written: 5.7, 5.14, 5.15, and 5.16.

217. The site permit special conditions should be renumbered accordingly.

XI. NOTICE

218. Minnesota statutes and rules require an applicant to provide certain notice to the public and local governments before and during the site permit and route permit application processes.²⁹⁵ Birch Coulee Solar provided notices to the public and local governments in satisfaction of Minnesota statutory and rule requirements.²⁹⁶

219. Minnesota statutes and rules also require the EERA and the Commission to provide certain notice to the public throughout the site and route permit application processes.²⁹⁷ The EERA and the Commission provided the notices in satisfaction of Minnesota statutes and rules.²⁹⁸

XII. COMPLETENESS OF EA

220. The EA process is the alternative environmental review approved by the EQB for LEPGPs. The Commission is required to determine the completeness of the EA. An EA is complete if it and the record address the issues and alternatives identified in the Scoping Decision.²⁹⁹

221. Birch Coulee Solar proposed clarifications to numerous sections of the EA and those clarifications are supported by the record.³⁰⁰

222. The evidence in the record demonstrates that the EA is complete because the EA and the record created at the public hearing and during the subsequent comment period address the issues and alternatives raised in the Scoping Decision.³⁰¹

CONCLUSIONS OF LAW

1. Any of the forgoing findings of fact more properly designated as conclusions of law are hereby adopted as such.

²⁹⁵ Minn. Stat. § 216E.03, subps. 3a, 4; Minn. R. 7850.3300; Minn. R. 7850.2100, subps. 2, 4.

²⁹⁶ Exs. BCS-1 (Notice of Intent by Birch Coulee Solar LLC to Submit a Site Permit Application under the Alternative Permitting Process); BCS-4 (Notice of Filing Site Permit Application); and BCS-5 (Confirmation of Notice).

²⁹⁷ Minn. Stat. § 216E.03, subps. 3a, 4; Minn. R. 7850.3300; Minn. R. 7850.2100, subps. 2, 4.

²⁹⁸ Exs. PUC-1 (Notice of Comment Period); PUC-5 (Notice of Information and Scoping Meeting); PUC-8 (Notice of Hearing and EA Availability); EERA-6 (Notice of EA Scoping Decision); EERA-8 (Notification of EA to THPOs, Tribal Government Contracts, and Agencies); EERA-9 (Notice of EA Mailed to Public Libraries); and EERA-10 (Notice of Public Hearings and EA Availability on EQB Monitor).

²⁹⁹ Minn. R. 4410.4400, subp. 3; Minn. R. 7850.3900, subp. 2.

³⁰⁰ Birch Coulee Solar – Comments on the EA and DSP (March 24, 2025) (eDocket Nos. [20253-216743-01](#) and [20253-216743-02](#)).

³⁰¹ Ex. EERA-5 (EA Scoping Decision).

2. The Commission and the Judge have jurisdiction over the Application for a site permit for the up to 125 MW proposed Project pursuant to Minn. Stat. §§ 216E.02 and 216E.03 (2023).

3. The Commission accepted the Application as substantially complete on September 10, 2024.³⁰²

4. Birch Coulee Solar has substantially complied with the procedural requirements of Minn. Stat. Ch. 216E and Minn. R. Ch. 7850.

5. The Commission has substantially complied with the procedural requirements of Minn. Stat. Ch. 216E and Minn. R. Ch. 7850.

6. EERA has conducted an appropriate environmental analysis of the Project for purposes of the Site Permit proceeding pursuant to Minn. R. 7850.3700.

7. Public hearings were held on March 11, 2025 (in-person) and March 12, 2025 (remote-access). Proper notice of the public hearings was provided, and the public was given an opportunity to speak at the hearings and to submit written comments.

8. The EA prepared for the Project and the record created at the public hearing address the issues identified in the EA scoping decision.

9. The Commission has the authority under Minn. Stat. § 216E.03 to place conditions in a LEPGP site permit.

10. The Site Permit includes a number of important mitigation measures and other reasonable conditions.

11. It is reasonable to amend the Site Permit to include the changes proposed and set forth in section X above.

12. The record in this proceeding demonstrates that Birch Coulee Solar has satisfied the criteria for a Site Permit as set forth in Minn. Stat. § 216E.03 and Minn. R. Ch. 7850 and all other applicable legal requirements.

13. The Project, with the permit conditions discussed above, satisfies the Site Permit criteria for an LEPGP in Minn. Stat. § 216E.03 and meets all other applicable legal requirements.

14. The Project, with the permit conditions discussed above, does not present a potential for significant adverse environmental effects pursuant to the Minnesota Environmental Rights Act or the Minnesota Environmental Policy Act.

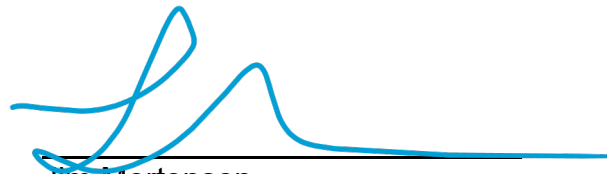
³⁰² Ex. PUC-3 (Order).

15. Any of the foregoing conclusions of law which are more properly designated findings of fact are hereby adopted as such.

RECOMMENDATION

Based upon these conclusions, the Judge recommends that the Commission issue a Site Permit to Birch Coulee Solar to construct and operate the Project and associated facilities in Renville County, Minnesota and that the permit include the permit conditions amended as set forth in this report.

Dated: May 15, 2025


Jim Mortenson
Administrative Law Judge

NOTICE

Notice is hereby given that exceptions to this Report, if any, by any party adversely affected must be filed under the time frames established in the Commission's rules of practice and procedure, Minn. R. 7829.1275, .2700 (2023), unless otherwise directed by the Commission. Exceptions should be specific and stated and numbered separately. Oral argument before a majority of the Commission will be permitted pursuant to Minn. R. 7829.2700, subp. 3. The Commission will make the final determination of the matter after the expiration of the period for filing exceptions, or after oral argument, if an oral argument is held.

The Commission may, at its own discretion, accept, modify, or reject the Administrative Law Judge's recommendations. The recommendations of the Administrative Law Judge have no legal effect unless expressly adopted by the Commission as its final order.

May 15, 2025

See Attached Service List

Re: *In the Matter of Birch Coulee Solar LLC for a Site Permit for the up to 125 MW Birch Coulee Solar Project in Renville County, Minnesota*

**OAH 5-2500-40417
MPUC IP-7119/GS-23-477**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7970, cara.hunter@state.mn.us, or via facsimile at (651) 539-0310.

Sincerely,



CARA HUNTER
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of Birch Coulee Solar LLC for a Site Permit for the up to 125 MW Birch Coulee Solar Project in Renville County, Minnesota	OAH Docket No.: 5-2500-40417 MPUC IP-7119/GS-23-477
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On May 15, 2025, a true and correct copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION** was served by eService, and United States mail, (in the manner indicated on the attached service list) to the following individuals:

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Lauren	Agnew	lauren.agnew@state.mn.us		Department of Commerce	85 7th Place East, Suite 280 Saint Paul MN, 55101 United States	Electronic Service		No	23-477Official CC Service List
2	Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.		60 South Sixth Street Suite 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	23-477Official CC Service List
3	Lauren	Colwell	lauren.colwell@aes.com	Birch Coulee Solar LLC		2180 S 1300 E Suite 500 Salt Lake City UT, 84106 United States	Electronic Service		No	23-477Official CC Service List
4	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	23-477Official CC Service List
5	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	23-477Official CC Service List
6	Scott	Groux	scott.groux@aes.com	Birch Coulee Solar LLC		2180 S 1300 E Suite 500 Salt Lake City UT, 84106 United States	Electronic Service		No	23-477Official CC Service List
7	Craig	Janezich	craig.janezich@state.mn.us		Public Utilities Commission	121 7th Pl E #350 St. Paul MN, 55101 United States	Electronic Service		No	23-477Official CC Service List
8	Stacy	Kotch Egstad	stacy.kotch@state.mn.us		MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul MN, 55155 United States	Electronic Service		No	23-477Official CC Service List
9	Jordan	Levin	jordan.levin@aes.com	Birch Coulee Solar LLC		2180 S 1300 E Suite 500 Salt Lake City UT, 84106 United States	Electronic Service		No	23-477Official CC Service List
10	James	Mortenson	james.mortenson@state.mn.us		Office of Administrative Hearings	PO BOX 64620 St. Paul MN, 55164-0620 United States	Electronic Service		Yes	23-477Official CC Service List

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
11	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	23-477Official CC Service List
12	Nathaniel	Runke	nrunke@local49.org			611 28th St. NW Rochester MN, 55901 United States	Electronic Service		No	23-477Official CC Service List
13	Will	Seuffert	will.seuffert@state.mn.us		Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul MN, 55101 United States	Electronic Service		Yes	23-477Official CC Service List
14	Janet	Shaddix Elling	jshaddix@janetshaddix.com		Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield MN, 55423 United States	Electronic Service		Yes	23-477Official CC Service List
15	Haley	Waller Pitts	hwallerpitts@fredlaw.com		Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis MN, 55402-4400 United States	Electronic Service		No	23-477Official CC Service List