

May 2, 2025

*Via eDockets*

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

RE: EERA Reply Comments and Response to Proposed Findings of Fact  
Gopher State Solar Project  
**PUC Docket No. IP7119/GS-24-106**  
**OAH Docket No. 24-2500-40416**

Dear Judge Butler,

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

In these comments EERA:

- Responds to hearing comments and proposed permit conditions,
- Responds to Gopher State Solar's Proposed Findings of Fact, Conclusions of Law, and Recommendation (Gopher State Solar FOF)

## 1. Response to Hearing Comments

### A. Bois Fort Band of Chippewa Comments

In its March 27, 2025, comment, the Bois Forte Band of Chippewa stated that it doesn't have a specific comment regarding the Project, and to please proceed as planned; however, if human remains are unanticipatedly discovered, Bois Forte would like to be notified.<sup>1</sup> Gopher State Solar will notify the tribe if human remains are discovered during Project construction activities. Additionally, should human remains be identified, Gopher State Solar will follow the procedures as outlined in the United States Code, Title 25, Section 3001, "Native American Graves and Repatriation Act" and Minnesota Statutes

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<sup>1</sup> Bois Fort Band of Chippewa, Comment, March 27, 2025, eDocket No. [20253-216870-01](#).

Chapter 307, “Private Cemeteries” in coordination with the Office of the State Archaeologist and Minnesota Indian Affairs Council.<sup>2</sup>

EERA recommends modifying Draft Site Permit standard condition 4.3.23 to reflect the request of the Bois Fort Band with the following language:

#### **4.3.23 Archaeological and Historic Resources**

*The Permittee shall make every effort to avoid impacts to archaeological and historic resources when constructing the Project. In the event that a resource is encountered, the Permittee shall consult with the State Historic Preservation Office (SHPO) and the State Archaeologist. Where feasible, avoidance of the resource is required. Where not feasible, mitigation must include an effort to minimize Project impacts on the resource consistent with SHPO and State Archaeologist requirements.*

*Prior to construction, the Permittee shall train workers about the need to avoid cultural properties, how to identify cultural properties, and procedures to follow if undocumented cultural properties, including gravesites, are found during construction. If human remains are encountered during construction, the Permittee shall immediately halt construction and promptly notify local law enforcement and the State Archaeologist and the Bois Fort Band of Chippewa. The Permittee shall not resume construction at such location until authorized by local law enforcement or the State Archaeologist. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff*

## **B. Renville County Comments**

In its April 1, 2025 comments, Renville County provided comments on the Draft Site Permit standard condition for noxious weeds, and a special condition for Project decommissioning.<sup>3</sup>

### **1. Noxious Weeds (Section 4.3.21)**

To ensure long-term management of noxious weeds beyond the construction phase, Renville County requests that Draft Site Permit standard condition 4.3.21 be modified to state the following:

#### **4.3.21 Noxious Weeds**

*The Permittee shall take all reasonable precautions against the spread of noxious weeds ~~during all phases of~~ throughout the life of the Project, including during construction. When utilizing seed to establish temporary and permanent vegetative cover on exposed soil the Permittee shall select site appropriate seed certified to be free of noxious weeds. To the extent possible, the Permittee shall use native seed mixes. The Permittee shall keep records of compliance with this*

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<sup>2</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>3</sup> Renville County, Comment, April 2, 2025, eDocket No. [20254-217161-01](#).

*section and provide them upon the request of Department of Commerce staff or Commission staff.*

Gopher State Solar indicated that it is supportive of the County's requested revision to Section 4.3.21 of the DSP.<sup>4</sup> EERA is also supportive of this requested revision.

## **2. Decommissioning Costs and Financial Assurances (Section 5.4)**

In its comments, Renville County references EERA's proposed Draft Site Permit special condition 5.4, directing the Permittee to coordinate with Renville County to develop a mutually agreeable decommissioning plan consistent with Section 9.1 of the permit. Renville County expresses that it is unclear what would happen if Renville County and Gopher State Solar, LLC cannot reach a mutual agreement, and requests clarification on how such disputes would be resolved.

Renville County notes that it deems Gopher State Solar's current estimated total cost of decommissioning cost as insufficient, and requests that an independent decommissioning cost assessment be conducted by a third-party firm agreed upon by both parties, with the cost of the assessment covered by Gopher State Solar, LLC. Gopher State Solar states that it would be willing to hire an independent third-party engineering firm agreeable to Renville County to review the decommissioning plan and estimate for consistency with the requirements of section 9.1 of the DSP.<sup>5</sup>

Renville County also requests that the following language be added to Gopher State Solar's decommissioning plan:

*In the event the Project Owner fails to fully decommission the Project and/or funds in the Decommissioning Account are insufficient to cover the full cost of decommissioning, the County shall have the right to recover the remaining decommissioning costs through all legally available remedies, including but not limited to:*

- *Placing a lien on the property or properties associated with the Project, pursuant to applicable state and local laws.*
- *Initiating legal action to obtain civil judgements or other court-ordered remedies against the Project Owner and, if applicable, the landowners, to recover outstanding decommissioning costs.*

*The Project Owner shall bear the primary responsibility for decommissioning. However, if recover from the Project Owner is unsuccessful, landowners may also be held liable as permitted by law.*

EERA's recommendations regarding special condition 5.4 are discussed below (Section H).

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<sup>4</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>5</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

## C. Minnesota Pollution Control Agency Comments

In its April 21, 2025 comments, the Minnesota Pollution Control Agency (MPCA) provided information regarding the matters for which the MPCA has regulatory responsibility.<sup>6</sup>

### 1. 401 Certification

In its comments, the MPCA notes that because a Clean Water Act (CWA) Section 404 Permit may be necessary from the U.S. Army Corps of Engineers (USACE) for project-related wetland impacts, an MPCA Section 401 Water Quality Certification with conditions, waiver or denial must also be obtained as part of the permitting process. It also notes that if any of the USACE permitting vehicles are required, the 401 Water Quality Certification must also be included and becomes an enforceable component of the associated federal license or permit, issued under either section 404 of the CWA or Section 10 of the Rivers and Harbors Act.

Gopher State Solar states that it does not expect that a Section 404 Permit will be needed for the Project. However, if wetland impacts are identified in the final layout, Gopher State Solar will coordinate with agencies such as the MPCA under Minn. Statute 115.01 subd. 22, USACE under Section 404 and 401 of the Federal Clean Water Act (CWA), and Renville County under the Minnesota Wetland Conservation Act (WCA).<sup>7</sup>

### 2. Natural Resources (Section 4.7)

In its comments, the MPCA noted that if the USACE Section 404 Permit or Section 10 Permit is required and in accordance with Minnesota Statutes, the Project should include the MPCA as a regulator of surface waters as defined by Minn. Stat. § 115.01, subd. 22. Although there may be surface waters that are determined to be USACE non-jurisdictional or exempt from the Wetland Conservation Act (WCA), all surface waters are regulated by the MPCA; and any surface water impact needs to be described in the application and may require mitigation.

The MPCA also notes that if a USACE Section 404 Permit is required, the following [401 Certification process](#) is also required:

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

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<sup>6</sup> Minnesota Pollution Control Agency, Comment, April 21, 2025, eDocket No. [20254-217972-01](#).

<sup>7</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

## D. Minnesota Department of Natural Resources Comments

In its April 10, 2025, comments, the Minnesota Department of Natural Resources (DNR) provided comments on the project security fencing. The DNR also provided comments and recommended permit conditions to minimize lighting impacts, avoid use of chloride products in dust control, require wildlife-friendly erosion control, and require the resubmission of a Natural Heritage Review, continuously consulting with the DNR regarding state-protected and endangered species, and complying with DNR requirements.<sup>8</sup>

### 1. Security Fencing

In its comments, the DNR notes that although the Project security fencing is designed to reach a maximum height of seven feet above grade, the DNR advises that the Project security fence reach a minimum height of 10 feet around each grouping of solar arrays. This recommendation is to prevent large wildlife from entering the project, as detailed in the DNR's [Fencing Handbook for 10 ft Woven Wire Deer Exclusion Fence](#) and [Commercial Solar Siting Guidance](#) for security fence design. The DNR will not issue a white-tailed deer removal permit for facilities with security fences lower than 10 feet. The DNR recommends that the applicant coordinate with DNR and the Department of Commerce to coordinate the final security fencing design, and supports section 4.3.32 of the DSP, which states the following:

#### **4.3.32 Security Fencing**

*The Permittee shall design the security fence surrounding the solar energy generating system to minimize the visual impact of the Project while maintaining compliance with the National Electric Safety Code. The Permittee shall develop a final fence plan for the specific site in coordination with the Department of Commerce and the DNR. The final fence plan shall be submitted to the Commission as part of the Site Plan pursuant to Section 8.3.*

Gopher State Solar indicated that its security fencing was designed to exclude deer, and the design is based on consultation with the participating landowners, as well as to comply with applicable National Electrical Safety Code (NESC) requirements. Gopher State Solar also states that the fencing proposed for the Solar Project is consistent with other site permits issued by the Commission.<sup>9</sup>

### 2. Facility lighting.

DNR recommended a special permit condition for facility lighting based on an existing Commission-issued permit for the Plummer Solar Project (Docket GS-22-451). Gopher State Solar indicated it did not object to the condition.<sup>10</sup>

#### **Facility Lighting**

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<sup>8</sup> Minnesota Department of Natural Resources, Comment, April 10, 2025, eDocket No. [20254-217490-01](#).

<sup>9</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>10</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

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

### **3. Dust Control.**

DNR recommended a special permit condition requiring the permittee to avoid using dust control products containing chloride. Gopher State Solar indicated it did not object to the condition.

#### **Dust Control**

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

### **4. Wildlife-friendly Erosion Control**

DNR also recommended including a permit condition requiring the use of wildlife-friendly erosion control. Gopher State Solar indicated it did not object to the condition.

#### **Wildlife-Friendly Erosion Control**

*The Permittee shall use only “bio-netting” or “natural netting” types of erosion control materials and mulch products without synthetic (plastic) fiber additives or malachite green dye.*

### **5. Vegetation Management Plan**

DNR recommends continued coordination with the interagency Vegetation Management Plan Working Group (VMPWG) in order to develop the project’s vegetation management plan (VMP), as required in section 4.3.17 of the DSP. DNR also supports section 4.3.16 of the DSP which states the following:

#### **4.3.16 Beneficial Habitat**

*The Permittee shall implement site restoration and management practices that provide for native perennial vegetation and foraging habitat beneficial to gamebirds, songbirds, and pollinators; and that enhances soil water retention and reduces storm water runoff and erosion. To ensure continued management and recognition of beneficial habitat, the Permittee is encouraged to meet the standards for Minnesota’s Habitat Friendly Solar Program by submitting project plans, seed mixes, a completed project planning assessment form, and any other applicable documentation used to meet the standard to the Board of Water and Soil Resources (BWSR). If the Permittee chooses to participate in Minnesota’s Habitat-Friendly Solar Program, it shall file documents required to be filed with BWSR for meeting and maintaining Habitat Friendly Solar Certification with the Commission.*

DNR encourages the applicant to meet the standards of the Minnesota Habitat Friendly Solar program, and notes that the current seeding plan provided in Gopher State Solar’s VMP does not comply with the the program standards. In addition, the DNR also states that the final VMP should be developed in

accordance with the DNR's recently updated [Prairie Establishment and Maintenance Technical Guidance for Solar Projects](#), as the proposed Project seed mix and best management practices (BMPs) do not adhere to the DNR's agency guidance, nor is it referenced.

Gopher State Solar indicated it has reviewed the updated Prairie Establishment & Maintenance Technical Guidance for Solar Projects and will continue to coordinate with the VMPWG on the Project's VMP.<sup>11</sup>

## 6. *State-listed Species*

DNR also recommended including a special permit condition to ensure compliance with Minnesota state-listed endangered and threatened species laws. Gopher State Solar indicated it finds MDNR's recommended permit condition to be reasonable and supports its inclusion in the DSP.<sup>12</sup> EERA also supports the inclusion of the special permit condition.

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

*Prior to the start of construction, the Permittee shall resubmit a Natural Heritage Review and continue to consult with the MDNR regarding implementation of avoidance measures for state-protected threatened and endangered species. The Permittee will comply with applicable Minnesota Department of Natural Resources requirements related to state-listed endangered and threatened species in accordance with Minnesota's Endangered Species Statute (Minnesota Statutes, section 84.0895) and associated Rules (Minnesota Rules, part 6212.1800 to 6212.2300 and 6134). The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.*

## E. **LIUNA Minnesota and North Dakota Comments**

In its April 11, 2025, comments, LIUNA Minnesota and North Dakota (LIUNA) provided comments on the project's ability to deliver significant economic and energy benefits to LIUNA members and other residents of Western Minnesota. Based on the Project applicant's labor commitments and plans, LIUNA believes that the project will deliver sufficient net employment and economic benefits to meet statutory requirements, and urges the Commission to grant a site permit.<sup>13</sup>

Gopher State Solar has stated it will issue a Request for Proposal (RFP) to contractors for construction of the Project, including preferences for contractor bids that use local, construction craft employees to the greatest extent feasible in accordance with project budget, timeline, industry standards and requirements, and corporate safety policies. Gopher State Solar will require the selected contractor to work with labor unions, local subcontractors, or other vendors to implement a project construction

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<sup>11</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>12</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>13</sup> LIUNA Minnesota and North Dakota, Comment, April 11, 2025, eDocket No. [20254-217560-01](#).

staffing model that attempts to maximize local hiring and local economic benefits for the Project, while ensuring the Project is built safely, on time, and within the budget.<sup>14</sup>

## F. International Union of Operating Engineers Local 49 and North Central States Regional Council of Carpenters Comments

In its April 11, 2025, comments, the International Union of Operating Engineers (IUOE) Local 49 and North Central States Regional Council of Carpenters (NCSRCC) provided support for the granting of a site permit for the Gopher State Solar project, stating that approving projects like Gopher State Solar is critical to ensuring that resources are available to meet Minnesota's 2040 carbon free law. IUOE Local 49 and NCSRCC indicate that it has had the opportunity to meet with the Project applicant and believe the project will provide important benefits to local workers. IUOE Local 49 and NCSRCC look forward to working with their selected contractor on a staffing model that maximizes local benefits.<sup>15</sup>

## G. Shannon and Jen Visser Comments

In their April 11, 2025, comments, Shannon and Jen Visser provided comments and proposed additional conditions within the site permit related to tree line fencing, property value mitigation, and oil and dust from construction.<sup>16</sup>

### 1. *Tree Line Fence*

Shannon and Jen Visser requested that Gopher State Solar install a tree line fence with 20-foot trees to block vision and possible sound associated with the solar facility. Gopher State Solar notes that a noise analysis was done for the Project, and expects the noise level to be well below the Minnesota State Noise standards at Jen Visser's residents, and as such, does not believe a tree line fence is necessary to block sound.

However, Gopher State Solar stated that it is willing to work with the Visser's to develop and implement a screening plan that mitigates visual impacts specific to the Visser's residence.<sup>17</sup>

### 2. *Property Value*

Shannon and Jen Visser also note that due to a decrease in property value, they request free power for the entire site located at their residence for the life of the house, which can be used as a selling point. Gopher State Solar indicates that it cannot provide power directly to the Visser's residence from the

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<sup>14</sup> Gopher State Solar, Proposed Findings of Fact, Conclusions of Law, and Recommendations, April 25, 2025, eDockets no. [20254-218159-01](#).

<sup>15</sup> IUOE Local 49 and NCSRCC of Carpenters, Comment, April 11, 2025, eDocket No. [20254-217522-01](#).

<sup>16</sup> Shannon and Jen Visser, Comment, April 11, 2025, eDocket No. [20254-217681-01](#).

<sup>17</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).



Project, as it will sell all its power at wholesale, but is willing to work with the Vissers on other potential mitigative measures.<sup>18</sup>

### 3. *Dust Control*

Shannon and Jen Visser also request that Gopher State Solar include an oil or dust reducer on the gravel road between the Visser property and the proposed site during construction. Gopher State Solar agrees to work with the Vissers to implement dust control on nearby roads during construction. It also indicates that because soils in the project site are not susceptible to wind erosion, which may create dust, construction-specific mitigation measures and Best Management Practices (BMPs) related to dust control have not been proposed. If wind erosion becomes an issue during construction, Gopher State Solar may implement standard industry practices, including mulching exposed soil, wetting exposed soils, maintaining vegetable cover (both crops and permanent vegetation), and reducing vehicle speeds.<sup>19</sup>

## H. *Gopher State Solar, LLC (Gopher State Solar) Comments*

Gopher State Solar LLC (“Gopher State Solar”) provided its initial project hearing comments on April 11, 2025. These comments include comments and clarifications on the EA, and comments on the proposed Draft Site Permit (DSP).<sup>20</sup> On April 25, 2025, Gopher State Solar also provided comments in response to the oral and written public comments received during the March and April 2025 public hearings. Gopher State Solar addressed topics that were raised at the public hearings, such as project decommissioning, noxious weeds, property value, aesthetic impacts, noise impacts, and socioeconomic benefits. In its comments, Gopher State Solar also addressed written comments received by the Bois Fort Band of Chippewa, local labor unions, local residents, and Renville County. Gopher State Solar also responded to EERA’s comments on project decommissioning and the project vegetation management plan (VMP), DNR’s comments on security fencing, facility lighting, dust control, wildlife-friendly erosion control, the project VMP, and state-listed species, and MPCA’s comments on 401 certification.<sup>21</sup>

### 1. *Response to Comments on the Environmental Assessment (EA)*

EERA has no objections to the following proposed edits and clarifications to the EA proposed by Gopher State Solar:

- Correcting the anticipated start date for construction of the project to the second quarter of 2027, with an anticipated in-service date by the fourth quarter of 2029, as opposed to a construction date of 2026 and an in-service date of 2027 as stated in the EA.<sup>22</sup>

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<sup>18</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>19</sup> Id.

<sup>20</sup> Gopher State Solar, Hearing Comments, April 11, 2025, eDocket No. [20254-217543-01](#).

<sup>21</sup> Gopher State Solar, Reply Comments, April 25, 2025, eDocket No. [20254-218157-01](#).

<sup>22</sup> EERA, Gopher State Solar EA, Section 1.2, 2.1.4, and 2.3, March 19, 2025, eDocket No. [20253-216593-01](#).

- Clarifying the description in the EA that states “[e]ach inverter will be located on a mounded ground gravel pad.”<sup>23</sup> Inverters are typically installed on skids, as stated in the Gopher State Solar Site Permit application.<sup>24</sup>
- Clarifying that the project electrical collector line system cables will have a diameter closer to 2-3 inches, and will not be 1 to 2 feet wide as stated in the EA.<sup>25</sup> As stated in the AIMP, the electrical collector line system cables will be installed using a trenching machine, excavator, or equivalent to a depth of approximately 4 feet to account for existing utilities or other features.
- Clarifying that Gopher State Solar does not anticipate that a Section 106 Consultation will be needed for the project, as the Minnesota State Historic Preservation Office has determined that no significant archaeological sites will be affected by this Project, and that there are no properties listed in the Nation or State Registers of Historic Places, or within the Historic Sites Network, that will be affected by the Project.<sup>26</sup>
- Updating the Project tax benefit, as Gopher State Solar now estimates that the Project would pay an estimated \$32 million in taxes over its 40-year-life, 50 percent of which would be directed to Renville County, 14 percent to the State, 14 percent to 22 townships, and 13 percent to local schools.<sup>27</sup>
- Correcting section 4.7.8 of the EA, which identifies the monarch butterfly as a federal candidate species,<sup>28</sup> to note that the U.S. Fish and Wildlife Service (USFWS) has now proposed this species for listing as threatened.<sup>29</sup>

## 2. *Response to Comments on the Draft Site Permit*

On its April 11, 2025, and April 25, 2025, comments, Gopher State Solar provided responses and revisions to several proposed permit conditions in the Draft Site Permit (DSP).

### **Standard Site Permit Conditions**

Section 8.4 of the proposed DSP is a standard permit condition, *Status Reports*, directing the Permittee to file status reports to the Commission throughout the pre-construction and construction timeframe of

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<sup>23</sup> EERA, Gopher State Solar EA, Section 2.1.3, March 19, 2025, eDocket No. [20253-216593-01](#).

<sup>24</sup> Gopher State Solar, Application for a Site Permit, August 19, 2025, eDocket No. [20248-209582-02](#).

<sup>25</sup> EERA, Gopher State Solar EA, Section 2.1.3, March 19, 2025, eDocket No. [20253-216593-01](#).

<sup>26</sup> Gopher State Solar, Direct Testimony of Sergio Trevino, March 19, 2025, eDocket No. [20253-216607-02](#).

<sup>27</sup> Id.

<sup>28</sup> EERA, Gopher State Solar EA, Section 4.7.8, March 19, 2025, eDocket No. [20253-216593-01](#).

<sup>29</sup> USFWS, Proposed Rule, December 12, 2024, available at: <https://www.govinfo.gov/content/pkg/FR-2024-12-12/pdf/2024-28855.pdf>

the Project. This is a standard Permit condition that has been included in Site Permits issued by the Commission.

Gopher State Solar expressed concern over issuing pre-construction status reports between the time the site permit is issued and construction starts.<sup>30</sup> Gopher State Solar proposed the following modification of the standard condition in Section 8.4:

#### **8.4 Status Reports**

*The Permittee shall file with the Commission monthly Construction Status Reports beginning with the pre-construction meeting and until completion of restoration. Construction Status Reports shall describe construction activities and progress, activities undertaken in compliance with this site permit, and shall include text and photographs.*

*If the Permittee does not commence construction of the Project within six months of this site permit issuance, the Permittee shall file with the Commission Pre-Construction Status Reports on the anticipated timing of construction every six months beginning ~~with~~ in the ~~issuance of this site permit until the pre-construction meeting~~ second quarter of 2027. The status updates shall include information on the Project's Midcontinent Independent System Operator (MISO) interconnection process, if applicable.*

EERA does not support Gopher State Solar's proposed modification to Section 8.4 of the DSP. Section 8.4 is an important part of the Site Permit, as it ensures the Commission and other entities with permitting authority are updated on the status of the project. This permit condition is regularly included in permits issued by the Commission, e.g., Plummer Solar Project Site Permit.<sup>31</sup> EERA supports Section 8.4 of the Site Permit as presented in the DSP.<sup>32</sup>

#### **Special Site Permit Conditions**

EERA proposed a special condition in Section 5.1 of the DSP, *Vegetative Screening Along Roadsides*. The permit condition directs 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.

Gopher State Solar does not support the proposed condition, and addressed that it had conversations with Renville County staff regarding vegetative screening along county roads, and is looking to prioritize

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<sup>30</sup> Gopher State Solar, Hearing Comments, April 11, 2025, eDocket No. [20254-217543-01](#).

<sup>31</sup> PUC, Plummer Solar Corrected Site Permit, April 16, 2025, eDocket No. [20254-217785-01](#)

<sup>32</sup> EERA, Gopher State Solar EA, Appendix C – Proposed Draft Site Permit (DSP), March 19, 2025, eDocket No. [20253-216593-04](#).

screening in front of non-participating residences adjacent to the project. Gopher State Solar proposed the following modification to Section 5.1 of the DSP<sup>33</sup>:

### **5.1 Vegetative Screening**

*The Permittee shall ~~coordinate with jurisdictional road management authorities to develop a~~ vegetative screening plans ~~for state, county, and township roads adjacent to or bisecting nonparticipating residences within or adjacent to the~~ Project facilities. Vegetative screening plans must comply with jurisdictional ROW management and/or setback requirements.*

EERA does not object to the modification of this permit condition to align with Renville County's interests. However, EERA recommends including all residences within or adjacent to the Project facilities, rather than only nonparticipating residences. EERA proposes the following revision to Section 5.1:

### **5.1 Vegetative Screening**

*The Permittee shall ~~coordinate with jurisdictional road management authorities to develop a~~ vegetative screening plans ~~for state, county, and township roads adjacent to or bisecting nonparticipating~~ residences within or adjacent to the Project facilities. Vegetative screening plans must comply with jurisdictional ROW management and/or setback requirements. The location of screening included in the vegetative screening plan shall be included in the Site Plan filed under Section 8.3 of this permit.*

EERA also proposed a special condition in Section 5.4 of the DSP, *Decommissioning Plan*, directing the Permittee to coordinate with Renville County to develop a mutually agreeable decommissioning plan consistent with Section 9.1 of the permit. As stated in its April 11, 2025, comments, Gopher State Solar does not support the proposed special condition. Gopher State Solar notes that the proposed condition is vague and does not address how disputes will be resolved, as the Project Decommissioning Plan is designed to comply with Commission requirements.<sup>34</sup> Gopher State Solar has also engaged in extensive coordination with Renville County throughout the permitting process, including during the public hearing period. Following conversations between Gopher State Solar and Renville County after the public hearing, Gopher State Solar proposed the following revisions to Section 5.4 of the DSP:

### **5.4 Decommissioning Plan**

*The permittee shall coordinate with Renville County to ~~develop a mutually agreeable decommissioning plan~~ consistent identify a third-party engineering firm, to be hired at Gopher State Solar's expense, to review the decommissioning plan prior to the preconstruction meeting and determine its consistency with Section 9.1 of this permit.*

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<sup>33</sup> Gopher State Solar, Hearing Comments, April 11, 2025, eDocket No. [20254-217543-01](#).

<sup>34</sup> Gopher State Solar, Hearing Comments, April 11, 2025, eDocket No. [20254-217543-01](#).

EERA has no objections to Gopher State Solar's proposed modification to the special condition.

EERA also proposed a special condition in Section 5.7 of the DSP, *Northern Long Eared Bat (NLEB)*, directing the Permittee to comply with USFWS guidance and requirements in effect regarding the NLEB, including tree clearing restrictions if applicable. Gopher State Solar does not support the proposed special condition because the USFWS has determined that no critical habitat has been designated for this species in the project area.<sup>35</sup> Gopher State Solar proposes the following revisions to Section 5.7 of the DSP:

#### **5.7 Northern Long-Eared Bat (NLEB)**

~~If potential impacts are identified, then~~ the permittee shall comply with the USFWS guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.

EERA has no objections to Gopher State Solar's proposed modification to the special condition.

In additional hearing comments submitted on April 15, 2025, EERA recommended the addition of a special condition in Section 5.9 of the DSP, *Migratory Birds*, directing the Permittee to avoid impacts to marshes, wetlands, peatlands, tree nesting locations, and other migratory bird habitat during the Chimney Swift and Northern Harrier breeding seasons. This special condition was recommended by EERA staff after noting that the United States Fish and Wildlife Service (USFWS) identified the Chimney Swift and the Northern Harrier Birds of Conservation Concern in Project site in the Information, Planning, and Conservation (IPaC) system letter to Gopher State Solar.<sup>36</sup>

Gopher State Solar proposed the following revisions to Section 5.9 of the DSP:

#### **5.9 Migratory Birds**

The Permittee shall comply with the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712) and, ~~to the extent practicable, avoid impacts to marshes, wetlands, peatlands, tree nesting locations, and other migratory bird habitat during the Chimney Swift's breeding season of March 15 – August 25 and the Northern Harrier's breeding season of April 1 – September 15. If impacts are likely to occur during the breeding seasons, the Permittee shall confer with the United States Fish and Wildlife Service (USFWS) regarding mitigation measures.~~ If impacts to migratory birds cannot be avoided, nesting locations shall be identified and appropriate mitigative measures will be implemented in consultation with the United States Fish and Wildlife Service ~~USFWS~~ prior to beginning construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.

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<sup>35</sup> Id.

<sup>36</sup> EERA, Additional Hearing Comments, April 15, 2025, eDockets no. [20254-217712-01](#).

EERA supports the addition of requiring the Permittee to comply with the Migratory Bird Treaty Act, and to coordinate with the USFWS as needed prior to construction of the Project. However, EERA believes the inclusion of the Chimney Swift and Northern Harrier in the permit condition is warranted to accurately reflect the USFWS guidance on reducing impacts to migratory birds in the area.<sup>37</sup>

EERA proposes the following modification to Section 5.9 of the DSP:

### **5.9 Migratory Birds**

*The Permittee shall comply with the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712) and, to the extent practicable, avoid impacts to marshes, wetlands, peatlands, tree nesting locations, and other migratory bird habitat during the Chimney Swift's breeding season of March 15 – August 25 and the Northern Harrier's breeding season of April 1 – September 15. If impacts are likely to occur during the breeding seasons, the Permittee shall confer with the United States Fish and Wildlife Service (USFWS) regarding mitigation measures. ~~If impacts to migratory birds cannot be avoided, or impacts are anticipated during the Chimney Swift's breeding season of March 15 – August 25 and the Northern Harrier's breeding season of April 1 – September 15,~~ nesting locations shall be identified and appropriate mitigative measures will be implemented in consultation with the United States Fish and Wildlife Service ~~USFWS~~ prior to beginning construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.*

## **2. EERA Comments on Proposed Findings**

EERA proposes revising several of Gopher State Solar's proposed FOF.<sup>38</sup> Most of the recommended revisions are technical edits intended to accurately reflect the record and ensure consistency. EERA summarizes the proposed revisions here. The full text of EERA's recommended revisions is shown in strikeout and underline in Attachment A.

1. EERA recommends revising Finding 23 to include that EERA provided notice and copies of the EA to two public libraries local to the Project on March 27, 2025, and revising Finding 24 to remove that these were provided on April 1, 2025.<sup>39</sup>

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<sup>37</sup> Gopher State Solar, Site Permit Application, Appendix K – Protected Species Documentation, eDockets no. [20248-209583-10](#).

<sup>38</sup> Gopher State Solar, Proposed Findings of Fact, Conclusions of Law, and Recommendations, April 25, 2025, eDockets no. [20254-218159-01](#).

<sup>39</sup> EERA, Gopher State Solar EA Certificate of Mailing to Public Libraries, March 27, 2025, eDockets no. [20253-216888-01](#).

2. EERA recommends revising Findings 49 and 132 to include EERA's proposed modification to Section 4.3.23 of the DSP to include the Bois Fort Band of Chippewa and to reflect comments received from the Bois Fort Band (discussed above).
3. EERA recommends revising Findings 71, 73, 74, and 213 to reflect EERA's modified special condition for Section 5.1 of the DSP to include all residences within and adjacent to the project's visual screening plan, not only nonparticipating residents (discussed above).
4. EERA recommends revising Finding 147 to include information about prime farmland soils.
5. EERA recommends revising Findings 184 and 220 to reflect the proposed modifications to the special condition in Section 5.9 of the DSP to include the Chimney Swift and Northern Harrier's breeding season as a timeframe where nests shall be identified and mitigative measures implemented in consultation with the USFWS (discussed above).
6. EERA recommends revising Finding 223 to include EERA's support for Section 8.4's existing standard permit condition language as written in the DSP (discussed above).

EERA appreciates the opportunity to comment on the proposed Project.

Sincerely,

A handwritten signature in purple ink that reads "Jessica Livingston". The signature is fluid and cursive, with the first name "Jessica" and last name "Livingston" clearly legible.

Jessica Livingston  
EERA Environmental Review Manager