

Staff Briefing Papers

Meeting Date July 31, 2025

Agenda Item 2*

Company Birch Coulee Solar, LLC

Docket No. Docket Number IP7119/GS-23-477

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

- Issues**
- Should the Commission adopt the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations?
 - Should the Commission find that the Environmental Assessment and the record created at the public hearing adequately address the issues identified in the scoping decision?
 - Should the Commission Issue a site permit for the up to 125-megawatt Birch Coulee Solar Project?

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 **Relevant Documents**

Date

Birch Coulee – Application (16 parts)	07/29/2024
PUC – Application Completeness	08/06/2024
IUOE Local 49 and NCSRC – Comments	08/15/2024
DOC EERA – On Application Completeness	08/19/2024
Birch Coulee – Revised Application (2 parts)	08/21/2024
DOC EERA – Response to Reply Comments	08/30/2024
PUC – Order	09/10/2024

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

✓ **Relevant Documents**

	Date
PUC – Notice – Public Information and Scoping	09/23/2024
MnDOT – Comments	10/24/2024
LIUNA Minnesota/North Dakota – Comments	10/25/2024
DNR – Comments	10/25/2024
IUOE Local 49 and NCSRC – Comments	10/25/2024
Birch Coulee – Comments – Response to Scoping	11/06/2024
DOC EERA – Oral Comments on Scoping	11/19/2024
OAH – Order – Prehearing Order	11/21/2024
DOC EERA – Scoping Decision	11/25/2024
Birch Coulee – Testimony (2 parts)	02/25/2025
PUC – Notice – Public Hearing and EA availability	02/26/2025
DOC EERA – EA	02/26/2025
Birch Coulee – Draft Exhibit List	03/05/2025
DNR – Comments	03/24/2025
Birch Coulee – Comments on EA and Draft Site Permit	03/24/2025
Birch Coulee – Comments	03/24/2025
DOC EERA – Hearing Comments	03/24/2025
PUC – Public Comment - Ann Brazil and Additional info in 2 nd PC	03/24/2025
PUC – Public Comment – Scott Reflsland	03/31/2025
Birch Coulee – Proposed Findings of Fact, Conclusions of Law, and Recommendations	04/07/2025
Birch Coulee – Responses to Hearing Comments	04/07/2025
DOC EERA – Amended Draft Site Permit & Edits Proposed Findings of Fact (2 parts)	04/07/2025
DOC EERA – Reply Comments EERA Response	04/14/2025
OAH Report – Findings of Fact, Conclusions of Law, and Recommendations	05/15/2025
Birch Coulee – Exceptions to ALJ	05/29/2025
DOC EERA – Exceptions to ALJ	05/30/2025
PUC – July 10, 2025 Agenda – Updated	07/03/2025
Public Comment – Ann Brazil	07/07/2025
Public comment – Xcel Response to Ann Brazil	07/07/2025

✓ **Relevant Documents**

	Date
PUC – Briefing Paper – Decisions Option – Commissioner Tuma	07/08/2025
PUC – Ex Parte Communication	07/08/2025
PUC-Notice of Legislative Changes	07/09/2025
PUC – Ex Parte Communication	07/10/2025

Attachment A: Project Map

Attachment B: Staff Recommended Draft Site Permit

PROCEDURAL BACKGROUND

On July 29, 2024, the Commission received an application from Birch Coulee Solar LLC (Birch Coulee), an affiliate of AES Clean Energy (AES), to construct, own, and operate the Birch Coulee Solar (Project). Birch Coulee filed revised application documents on August 21, 2024.

On September 10, 2024, the PUC issued an Order via the Consent process determining that the application was complete.

On September 23, 2024, the PUC issued a Notice of Public Information and Environmental Scoping Meetings, scheduled for October 9–10, 2024, with a comment period closing on October 25, 2024.

Between October 24 and 25, 2024, the PUC received comments from the Minnesota Department of Transportation (MnDOT), Birch Coulee, LIUNA Minnesota/North Dakota, the Department of Natural Resources (DNR), IUOE Local 49, and the NCSRC of Carpenters.

On November 1, 2024, the Energy Environmental Review and Analysis unit (EERA) filed comments it had received concerning the scope of the environmental assessment (EA).

On November 21, 2024, the Office of Administrative Hearing (OAH) filed a prehearing order establishing the schedule for the review process.

On November 25, 2024, EERA filed its scoping decision.

On February 25, 2025, Birch Coulee filed direct testimony.

On February 26, 2025, the Commission issued a Notice of Public Hearings and Availability of the Environmental Assessment.

On February 27, 2025, EERA filed the environmental assessment.

On March 24, 2025, the Commission received comments from the DNR, Birch Coulee, EERA, and Anna Brazil.

On March 31, 2025, the Commission received a comment from Scott Refsland, who submitted comments on behalf of Renville County.

On April 7, 2025, the Birch Coulee submitted responses to hearing comments and proposed findings of fact, conclusions of law, and recommendations.

On April 14, 2025, EERA filed a response to hearing comments and Birch Coulee Solar's Proposed Findings of Fact, Conclusions of Law, and Recommendations.

On May 15, 2025, the OAH filed its Findings of Fact, Conclusions of Law, and Recommendations.

On May 29 – 30, 2025, Birch Coulee and EERA filed exceptions to the ALJ Report.

Statement of Issues

- Should the Commission adopt the Administrative Law Judge’s Findings of Fact, Conclusions of Law, and Recommendations?
- Should the Commission find that the Environmental Assessment and the record created at the public hearing adequately address the issues identified in the scoping decision?

Project Description

Birch Coulee Solar LLC (Birch Coulee Solar or Applicant) submitted a site permit application for the construction and operation of the Birch Coulee Solar Project (Project), an up to 125-megawatt alternating current photovoltaic solar energy generating facility located on approximately 768 acres of land within 1041 acres under lease or owned by the Applicant in the City of Franklin and Townships of Bandon, Birch Coulee, and Camp in Renville County, Minnesota.

A 115 kV gen-tie line that is less than 500 feet long will be used to connect the Project to the Franklin substation. The Project will also include tracking racking systems, inverters, an electrical collection system, an operations and maintenance facility, step-up transformers, gravel access roads, weather stations, a stormwater management system, fencing and gates, a substation and interconnection facilities.

Statutes and Rules

A. Certificate of Need

Minn. Stat. § 216B.243 Subd. 8(a)(7).¹ This project is exempt from a certificate of need as it is an independent power producer applying for a site permit for a solar generation facility.

B. Site Permit

Minn. Stat. § 216E.03, Subd. 1.² No person may construct a large electric generating plant or an energy storage system without a site permit from the commission. A large electric generating plant or an energy storage system may be constructed only on a site approved by the commission.

Minn. Stat. § 216E.01, Subd. 5.³ Large electric power generating plant. "Large electric power generating plant" shall mean electric power generating equipment and associated facilities

¹ [Minn. Stat. § 216B.243 Subd. 8\(a\)\(7\)](#)

² [Minn. Stat. § 216E.03, Subd. 1](#)

³ [Minn. Stat. § 216E.01, Subd. 5](#)

designed for or capable of operation at a capacity of 50,000 kilowatts or more. The Proposed project is up to 125 MW. As a result, a site permit is required.

Minn. Stat. § 216E.04.⁴ Alternative Review of Applications. The Applicant chose to follow the alternative review process outlined in Minn. R. 7850.2800-.3900 and requires the commissioner of the Department of Commerce to prepare an environmental assessment for the Commission.

Minn Stat. § 216E.03, Subd. 7.⁵ Considerations in Designating Sites and Routes.

C. Route Permit

Minn. Stat. § 216E.01, Subd. 4,⁶ defines a high-voltage transmission as one capable of operating at 100 kilovolts or more and exceeding 1,500 feet in length. The proposed Project includes a 115 kV gen-tie line that is less than 500 feet long. As a result, the Project does not require a route permit from the Commission under Minn. Stat. § 216E.03 Subd. 2⁷ as it does not meet the definition of a high-voltage transmission line.

ALJ Report⁸

The ALJ was charged with applying the siting criteria established in statute and rule, and preparing a report that contained findings of fact, conclusions of law, and a recommendation on the proposed project. Commission staff summarized the full ALJ report in this briefing paper, but refers the Commission to the ALJ Report for a complete analysis.

Staff Note: The ALJ used EERA's February 26, 2025 draft site permit attached to the EA as the basis for their analysis and recommendation, rather than the updated amended draft site permit submitted by EERA on April 14, 2025. The major difference between these draft versions includes the special conditions proposed by the Department of Natural Resources and Renville County's proposed modifications regarding the cost of decommissioning and the reasonable precautions against the spread of noxious weeds.

A. Public Hearings⁹

The Commission referred this docket to the Office of Administrative Hearings for the assignment of an Administrative Law Judge (ALJ) to conduct public hearings on the Project. On February 26, 2025, a notice was issued for hearings to be held on March 11th and 12th, 2025. A comment period was open until March 24, 2025.

⁴ [Minn. Stat. § 216E.04](#)

⁵ [Minn Stat. § 216E.03, Subd. 7](#)

⁶ [Minn. Stat. § 216E.01, Subd. 4](#)

⁷ [Minn. Stat. § 216E.03 Subd. 2](#)

⁸ OAH, [Report – Findings of Fact, Conclusions of Laws and Recommendations](#), 5/15/2025.

⁹ *Ibid.*, pp. 8 – 9.

Throughout the comment period, the Commission received several comments from members of the public the Project. The comments or concerns expressed included the following topics:

- | | | |
|---------------------------------|---------------------------------|--|
| • Drainage | • Vegetative | • Security Fencing |
| • Impacts on
Property Values | • Screening | • Drifting Snow |
| • Dust Control | • Setbacks | • Damage to tile
lines |
| • Fire Protection | • Employment | • Road Use |
| • Decommissioning | • Opportunities | • Wetland Impacts |
| • Noxious Weeds | • Impacts on
Property Values | • Proximity to MN
Energy Connection |
| • Public Safety | • Lighting | |

B. Tribal Consultation¹⁰

The Applicants contacted eleven federally recognized tribes in Minnesota, the Tribal Historic Preservation Officers (THPOs), and the Minnesota Indian Affairs Council (MIAC) for additional information or comment on the Project.

Traditional Cultural Specialists with the Lower Sioux and Upper Sioux were present during the Phase I archeological survey. The Lower Sioux Community and Upper Sioux Community Tribal Historic Preservation Officers (THPOs) provided feedback on the Draft Phase I Archaeological Investigation, which was incorporated in the Archaeological Investigation report. The Applicants also indicated they will continue to coordinate with Tribes on potential avoidance areas and/or mitigation measures.

C. Environmental Assessment¹¹

The ALJ stated the environmental assessment (EA) is complete if it and the record address the issues and alternatives identified in the Scoping Decision. The ALJ concluded that the evidence in the record demonstrates that the EA is complete.

D. Site Permit¹²

The ALJ found that the record demonstrates that the Applicant has satisfied the criteria for a site permit outlined in Law and Rule (Minn. Stat. § 216E.03 and Minn. R. Ch. 7850). Additionally, the Project, as recommended, satisfies the site permit criteria for a large electric generating plant and meets all other applicable legal requirements.

Site Permit Special Conditions supported by the ALJ:

¹⁰ Ibid., pp. 24 – 25.

¹¹ Ibid., p. 40.

¹² Ibid., p.41.

Traffic Control and Road Use Agreement: The Permittee shall enter into a Road Use Agreement with Renville County and affected Townships. The Road Use Agreements 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.

Decommissioning Plan: The permittee shall coordinate with Renville County to develop a mutually agreeable decommissioning plan consistent with Section 9.1 of this permit.

Ownership Change Notification: The permittee shall notify the Renville County Board of Commissioners if there is an ownership change pursuant to Section 2.1 of this permit and shall provide the new contact information.

Fire Risk Assessment: The permittee shall develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of this permit. A Fire Risk Assessment is to prevent fire incidents, protect lives, and minimize property damage.

Wildlife-Friendly Lighting: The permittee shall use motion-activated, down-lit, shielded lighting around and within the Project area and will coordinate with MnDOT on Approved Products for Luminaries, including Those with respect to approved Uplight ratings and nominal color temperatures.

Non-Chloride Dust Suppression: The permittee shall use dust suppression agents that do not contain chloride.

Wildlife-Friendly Erosion Control: The permittee shall use erosion control materials that do not contain plastic or synthetic fibers or malachite green dye.

Exceptions to the ALJ Report

A. Birch Coulee Solar¹³

The ALJ recommended Special Condition 5.7, concerning a decommission plan, but did not clarify whether he preferred the new language suggested by EERA in its revised filing or the original language submitted by EERA.

EERA filed new language in its exceptions that the Applicant prefers in place of the ALJ's recommendation:

- Exceptions Language - Decommissioning Plan. The Permittee shall coordinate with Renville County as the Permittee develops a Project Decommissioning Plan consistent with Section 9.1 of this permit. The Permittee shall provide Renville County with a

¹³ Birch Coulee Solar, [Exceptions to ALJ](#), 05/29/2025.

second decommissioning cost estimate prior to construction. The Permittee shall include the second estimate in the updated Project Decommissioning Plan pursuant to Section 9.1 of this permit.¹⁴

- ALJ Language - Decommissioning Plan. The permittee shall coordinate with Renville County to develop a mutually agreeable decommissioning plan consistent with Section 9.1 of this permit.

The ALJ recommended modifications to the Fire Risk Assessment special condition, including a definition of the purpose of the Fire Risk Assessment. EERA filed new language in its exceptions that the Applicant prefers in place of the ALJ's recommendation:

- Exceptions Language - Fire Risk Assessment: The Permittee shall develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of this permit. The Fire Risk Assessment must include an assessment of potential fire risks, possible mitigation measures, and fire response measures.¹⁵
- ALJ Language - Fire Risk Assessment: The permittee shall develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of this permit. A Fire Risk Assessment is to prevent fire incidents, protect lives, and minimize property damage.

The ALJ removed of a special permit condition requested by EERA, which was related to compliance with U.S. Fish and Wildlife Service guidance concerning Northern Long-eared Bats. Both EERA and the Applicants support its inclusion.

- Exceptions Language – Northern Long-Eared Bat: The permittee shall comply with the USFWS guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.¹⁶

B. EERA¹⁷

The following special permit conditions (bulleted) were not included in the ALJ's report but are recommended by EERA. EERA filed exceptions to the ALJ's Report for the inclusion of the following special permit conditions.

- Construction Noise for Local Residences: Permittee shall provide a construction noise notice to the 14 local residences within 0.25 miles of the Project, as identified in the Site Permit Application. The notice must include the following: (a) anticipated construction dates; (b) a projected construction schedule listing the anticipated duration of each

¹⁴ Ibid., pp. 1 -2.

¹⁵ Ibid., p. 2.

¹⁶ Ibid., p. 2.

¹⁷ EERA, [Exceptions to ALJ](#), 05/30/2025.

construction stage; (c) anticipated daytime construction hours.¹⁸

- Community Partnerships: The Permittee shall maintain records of its community partnership efforts with the Renville County 4-H club, local Women’s Civic Club, and Franklin’s Lion Club and provide them upon request of Commission staff.¹⁹
- Renville County Setbacks: The Permittee shall 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.²⁰
- 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, prior to the use of such roads, make satisfactory arrangements with the appropriate county or township governmental body having jurisdiction over roads to be used for construction of the Project for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and Project components. The Permittee shall keep records of compliance with this section and provide them upon request of Commission staff.²¹ *(Blue text is what EERA would like to add to the ALJ’s recommendation)*
- Emergency Response Training: The permittee shall work and train with local emergency response teams that may have to enter the Project to ensure teams can utilize Project access points and perform their necessary duties.²²
- Bald Eagle: The permittee shall file documentation authorizing any Bald Eagle nest removal prior to construction.²³

Staff Discussion

Modification or new permit conditions to the sample permit are organized by those agreed upon by EERA, the Applicant, and are recommended by the ALJ (Subset A). Subset B includes modification supported by EERA and the Applicant but are not included in the ALJ report. Subset C includes modifications supported by EERA but are not supported by the Applicant and are not included in the ALJ report. Staff’s recommendations are included in the draft site permit (Attachment B) for this Project.

¹⁸ Ibid., pp. 3-4.

¹⁹ Ibid., p. 4.

²⁰ Ibid., p. 4.

²¹ Ibid., p. 6.

²² Ibid., p. 5.

²³ Ibid., pp. 5 – 6.

A. Permit Conditions Included in the ALJ Report supported by the Applicant and EERA

The following special permit conditions (bulleted) are included in the ALJ's Report and result in no objection from EERA or the Applicant. Commission staff agrees with their inclusion as special permit conditions.

- Ownership Change Notification: The permittee shall notify the Renville County Board of Commissioners if there is an ownership change pursuant to Section 2.1 of this permit and shall provide the new contact information.
- Wildlife-Friendly Lighting: The permittee shall use motion-activated, down-lit, shielded lighting around and within the Project and coordinate with MnDOT on Approved Products for luminaries, including approved Uplight ratings and nominal color temperatures.
- Non-Chloride Dust Suppression: The permittee shall use dust suppression agents that do not contain chloride.
- Wildlife-Friendly Erosion Control: The permittee shall use erosion control materials that do not contain plastic or synthetic fibers or malachite green dye.

B. Permit Conditions not included in the ALJ Report but supported by EERA and the Applicant via exceptions filed to ALJ Report

EERA and the Applicant agreed upon the following permit conditions (bulleted), per the exceptions filed to the ALJ report. Commission staff agrees with their inclusion as permit conditions.

- Decommissioning Plan. The Permittee shall coordinate with Renville County as the Permittee develops a Project Decommissioning Plan consistent with Section 9.1 of this permit. The Permittee shall provide Renville County with a second decommissioning cost estimate prior to construction. The Permittee shall include the second estimate in the updated Project Decommissioning Plan pursuant to Section 9.1 of this permit.

In a May 13, 2025, letter, Renville County stated that it is concerned that the decommissioning costs exceed Birch Coulee's estimate of \$3.334 million. Based on current information, Renville County estimated the full cost to decommission the site to be \$3.5 million. Renville County wrote, "Since the County is not in the business of selling solar products, this figure represents the total cost required for proper decommissioning at current prices. Renville County is seeking assurance that the cost of decommissioning will not fall on taxpayers."²⁴

Renville County had initially requested \$13.5 million in financial assurance in the first year of

²⁴ Scott Refsland – Renville County, [Public Comment](#), 03/31/2025.

Project operation during the written scoping period.²⁵ Commissioners may want to ask Renville County about their level of comfort with the current language in the Draft Site Permit, which requires a revised cost estimate.

- Fire Risk Assessment: The Permittee shall develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of this permit. The Fire Risk Assessment must include an assessment of potential fire risks, possible mitigation measures, and fire response measures.
- Northern Long-Eared Bat: The permittee shall comply with the USFWS guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.

A statement of support by the Applicant for EERA's language concerning Northern Long-Eared Bats can be found in their exceptions filing.²⁶

- Amend Language in 4.3.21 Noxious Weeds: The Permittee shall take all reasonable precautions against the spread of noxious weeds ~~during all phases of construction~~ 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 section and provide them upon the request of Department of Commerce staff or Commission staff.

The Applicant and EERA support the language concerning Noxious Weeds as suggested by Renville County.²⁷

C. Permit Conditions not included in the ALJ Report but supported by EERA

EERA recommended the following provisions, which are not included in the ALJ's report and are opposed by the Applicant. The bulleted points reflect the language suggested by EERA.

- Construction Noise for Local Residences: Permittee shall provide a construction noise notice to the 14 local residences within 0.25 miles of the Project, as identified in the Site Permit Application. The notice must include the following: (a) anticipated construction dates; (b) a projected construction schedule listing the anticipated duration of each construction stage; (c) anticipated daytime construction hours.

A landowner inquired about the hours of operation during the Public Meeting on October 9, 2024. Given the small number of people (14 residences), Commission staff believes it is a reasonable requirement to inform the residents in a mailing about the different phases of

²⁵ Scott Refsland – Renville County, [Oral Comment at Franklin Public Meeting – Transcript](#), pp. 27 – 29.

²⁶ Birch Coulee, [Exceptions to ALJ](#), 5/29/2025, p. 2.

²⁷ Ibid., Attachment A – p. 1.

construction, allowing them to prepare for the associated traffic and noise levels. Commission staff would draw attention to the fact that noise, as described in the environmental review, is anticipated to be moderate to significant during the construction phase.

- 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, prior to the use of such roads, make satisfactory arrangements with the appropriate county or township governmental body having jurisdiction over roads to be used for construction of the Project for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and Project components. The Permittee shall keep records of compliance with this section and provide them upon request of Commission staff. *(Blue text is what EERA would like to add to the ALJ's recommendation)*

Staff believes that requiring the Applicant to pay local units of government, who are responsible for roads that may be impacted by the wear and tear of the Project's traffic, is reasonable. Local units of government may not have the resources or may have limited resources to address road damage that the Project may cause. If the Commission considers including this decision option, it may want to explore whether a fee would be appropriate or reimbursement for actual damages would result in a better outcome. Alternatively, the commission may want to allow local units of government to determine what is appropriate.

- Emergency Response Training: The permittee shall work and train with local emergency response teams that may have to enter the Project to ensure teams can utilize Project access points and perform their necessary duties.

Renville County has requested training opportunities for local emergency responders. The Applicant argued that the formulation of an emergency response plan in consultation with emergency responders is sufficient. EERA and Commission staff believe it is reasonable for the County to obtain sufficient training at the applicant's expense, as this may not be explicitly stated in the emergency response plan.

- Bald Eagles: The permittee shall file documentation authorizing any Bald Eagle nest removal prior to construction.

EERA acknowledges that, currently, no bald eagle nests are within the land control area; however, nest sites can vary, and the project is not scheduled to be built until 2028. Additionally, bald eagles typically nest within 1 to 1.8 miles of water sources, and the Minnesota River is within 1 mile of the project. If bald eagle nests are not removed, the Applicants will not be required to produce a compliance filing. Commission staff agrees with EERA.

- Renville County Setbacks: The Permittee shall adhere to Renville County's Commercial

renewable energy setback requirements as listed in the 2021 revision of Chapter 15 of the Renville County Land Use Ordinance.²⁸

EERA supports the inclusion of Renville County Setbacks as requested by Renville County.²⁹ The applicants have stated that the Project has been sited to comply with Renville County's Commercial Solar Energy Conversion System setback requirements.³⁰ Therefore, the applicant argued that it does not need to be included in the permit.

Commissioners may want clarification from the Applicant to ensure the project meets or exceeds the Setback requirements listed in the 2021 revision of Chapter 15 of the Renville County Land Use Ordinance.³¹ If the Commission decides the inclusion of the County's setbacks is appropriate, it may want to include this special permit condition. Staff has included the language recommended by EERA on behalf of the County in the Draft Site Permit.

- Community Partnerships: Permittee shall maintain records of its community partnership efforts with the Renville County 4-H club, local Women's Civic Club, and Franklin's Lion Club and provide them upon request of Commission staff.

EERA supports a condition that would require applicants to maintain a record of community partnerships that it highlighted in its application.³² The Applicant opposed this permit condition, calling the requirement inappropriate and not included in other Commission permits.³³ Staff does include this special permit condition in its recommendation.

D. Commission Staff Provided Additional Consideration

- Power Purchase Agreement: In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for the sale of the electricity generated by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This site permit does not authorize construction of the Project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine

²⁸ Renville County, [Renville County Land Use Ordinance – Chapter 15 – Renewable Energy Regulations](#), 05/25/2025, p. 12. [Commercial-Solar Energy Conversion System Setbacks].

²⁹ EERA, [Exceptions to ALJ, 05/30/2025](#), p. 4

³⁰ Birch Coulee, [Comments on Environmental Assessment and Draft Site Permit](#), 03/24/2025, p. 6 -7.

³¹ Renville County, [Renville County Land Use Ordinance – Chapter 15 – Renewable Energy Regulations](#), 05/25/2021, p. 12.

³² EERA, [Exceptions to ALJ, 05/30/2025](#), p. 4.

³³ Birch Coulee, [Comments on EA and Draft Site Permit](#), p. 6.

whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. R. 7850.5100.

Staff recommends permit language for the inclusion of a power purchase agreement. A power purchase agreement will ensure that the project is not constructed without a willing purchaser of the power produced secured. The bulleted language above is included in staff's draft permit at section 8.15.

E. Alterations to Findings of Fact

Staff supports correcting Findings of Fact numbers 4 and 36B, as the correct procedure in the ALJ's Report as recommended by EERA. Staff also supports EERA's recommended changes to Findings 209, 210, 214B, 215, and 216 are contingent on the Commission's adoption of all or some of EERA's recommended decision options.

EERA suggested Findings changes:

- Finding 4: On ~~March~~ May 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.
- Finding 36B: On April 14, 2025, EERA submitted a response to hearing comments and the Applicant's Proposed Findings of Facts, Conclusions of Law, and Recommendation
- Finding 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 County 4-H club, local Women's Civic Club, and Franklin Lions Club. This addition address Birch Coulee Solar's concerns that 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). Further, this addition is limited to community partnerships described by Birch Coulee Solar in its site permit application. Requiring Birch Coulee Solar to fulfill commitments expressed in their application to community organizations is reasonable. 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).~~
- Finding 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

proposed removed that phrase. [EERA proposed additional revisions to clarify the terms of a “development agreement.”](#) After [both](#) revisions, the resulting condition will take the place of Sections 5.5 and 5.6 of the DSP, as follows...

- Finding 210: The record supports the inclusion of [both the](#) Applicant’s [and EERA’s](#) revisions to Sections 5.5 and 5.6 of the DSP.
- [214B. EERA proposes the removal of the following special conditions proposed by EERA: 5.1, 5.5, 5.11, 5.12, 5.13, 5.19.](#)
- Finding 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.
- Finding 216: For the reasons described elsewhere in these findings, the record supports keeping the following proposed special conditions as written:
 - [In the original proposed form: ~~5.7~~, 5.14, 5.15, ~~and~~ 5.16, \[5.17, and 5.18.\]\(#\)](#)
 - [As revised by EERA in reply comments: 5.2, 5.4, 5.7, and 5.10.](#)
 - [As revised by EERA in this document: 5.3.](#)

F. Update to Briefing Paper Published on July 3, 2025

Ms. Ann Brazil Johnson

On July 7, 2025, a letter was published in the Birch Coulee docket written by Ann Brazil Johnson. The letter was first filed in the Minnesota Energy Connection Docket on June 23, 2025, focusing on seeking reconsideration of the transmission line. Ann Brazil Johnson is a landowner who will be directly impacted by both Minnesota Energy Connection and Birch Coulee.

Initially, Ann Brazil was told that the Minnesota Energy Connect transmission lines would travel along the property line of her and her neighbors, who are hosting the Birch Coulee Project. However, she subsequently found out that the planning for the new transmission line had shifted to be entirely on her property, rather than along the property line as originally described.

Ms. Brazil feels that this was a “bait and switch tactic” because it was not proposed initially at the transmission line public hearings, nor was it included in the documents she had received. She finds it unfair that she must bear 100% of the burden of the transmission line and believes it should be a shared burden that travels the property line. Additionally, she is concerned that relocating the transmission line away from the property line and the solar project will impact more farmland than necessary, as the line could travel the property line with Birch Coulee. Ms. Brazil filed several exhibits with her July 7, 2025, letter.

Xcel Energy Response to Ms. Brazil Johnson

On July 7, 2025, a letter was filed in the Birch Coulee record responding to comments and a reconsideration request filed by Ms. Brazil Johnson in the Minnesota Energy Connect docket (22-132) on July 3, 2025.

Xcel opposed reconsideration. Xcel states that the petition for reconsideration does not identify an error in the Order, nor does it require any portion of the Order to be modified. Instead, the petitioner wants to alter the route width granted to Xcel by the Commission in the Minnesota Energy Connect docket.

In opposition to this, Xcel makes the following arguments:

- It would be inconsistent with the Commission's practice and the record
- The flexibility to shift an alignment within the approved route width limits Xcel's ability to address post-permit issues if they arise.
- The alignment supported by Ms. Brazil would limit its ability to work with Birch Coulee Solar Project to identify an alignment that is consistent with the operation of that project.

Tuma Decision Options

Commissioner Tuma filed three decision options for consideration for the July 10, 2025 agenda meeting as follows:

Tuma New 5.L: Modify the site permit setback requirements where the project borders the Northern States Power Co. d/b/a Xcel Energy Minnesota Energy Connection Project transmission alignment permitted by the Commission in Docket No. E-002/TL-22-132 to assume the placement of the transmission line on the property line and south of the existing 69kV transmission line. Further modify the site permit to prohibit Birch Coulee from adjusting the setback in a way that would require Xcel to move its transmission line off this alignment further onto neighboring properties unless Birch Coulee obtains prior consent from all affected landowners.

Or

Tuma Modified 2: Find that the Environmental Assessment (EA) and the record created at the public hearing address the issues identified in the Scoping Decision except as the EA relates to the cumulative impacts of the project and Minnesota Energy Connection (MEC) project at section 4.12, pages 138-143 of the EA. Request that staff, within 30 days of the order, file a supplement addressing the proposed relocation of the alignment of the MEC project 75 feet to the west of the north-south placement shown as the blue line on Figure 36 of the EA. The EA shall be supplemented to discuss the following impacts:

1. Socioeconomics,
2. Property values,
3. Land based economies, and
4. Specifically, agricultural practices on neighboring prime farm land.

The supplement shall provide an analysis of the routing considerations in Minnesota Statutes

and Rules. The supplement should also analyze whether the Renville County setbacks are clear enough to identify the requirements along agricultural fields and whether the setbacks could potentially interfere with operations on neighboring fields of large agricultural equipment, and propose clarifying permit language as appropriate. The Executive Secretary will set a notice and comment process and schedule upon completion of the EA supplement.

Tuma New 5.M: Modify section 8.15 of the draft site permit as follows:

Order the Permittee to file updates, annually from the date of permit issuance, on the status of a power purchase agreement or other enforceable mechanism for the sale of the electricity generated by the Project. In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for the sale of the electricity generated by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This site permit does not authorize construction of the Project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project within ~~two~~ four years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. R. 7850.5100

Ex Parte Communication

On July 9th, 2025, Commission staff reached out to Renville County to get clarification on their setback requirements. Commission staff asked the following:

- For the purpose of administering the setback requirements proposed in section 5.2 of the draft site permit for the Birch Coulee Solar Project relative to neighboring farmers' fields, does the 20 foot "side yard property line" and "rear yard property line" setback requirement for solar energy conversion systems in the 2021 revision of chapter 15 of the Renville County Land Use Ordinance mean that the project fencing must be at least 20 feet from the property line along neighboring agricultural fields?

Renville County Responded with the following:

- All components of a solar farm—including solar panels, mounting devices, foundations, buildings, and fences—must comply with the 20-foot setback requirement from the side and rear property lines. This includes setbacks from neighboring farmers' fields.

DECISION OPTIONS

ALJ Report

1. Adopt the ALJ Report to the extent it is consistent with the Commission's Decisions in this matter. (Staff)

Environmental Assessment

2. Find that the Environmental Assessment and the record created at the public hearing address the issues identified in the Scoping Decision. (Staff, ALJ, EERA, Applicant)

Or

3. Find that the Environmental Assessment and the record do not address the issues identified in the scoping decision and request that PUC EIP³⁴, within 30 days of the order, file a revision or supplement addressing the deficiencies.

Site Permit

4. Issue a site permit to Birch Coulee Solar LLC for the up to 125 MW Birch Coulee Solar Project in Renville County, Minnesota, with the conditions recommended by the ALJ.

Or

5. Issue a site permit to Birch Coulee Solar LLC for the up to 125 MW Birch Coulee Solar Project in Renville County with the conditions recommended by the ALJ, and with the following modifications as set forth in EERA's May 30, 2025 filing:
 - a. Adopt the special permit condition for the Decommissioning Plan. (EERA, Applicant, Staff)
 - b. Adopt the revised special permit condition for Fire Risk Assessment. (EERA, Staff, Applicant – No objection)
 - c. Adopt the special permit condition for the Northern Long-eared Bat. (EERA, Applicant, Staff)
 - d. Adopt an alteration to the permit for noxious weeds. (EERA, Applicant, Staff, Renville County)
 - e. Adopt the special permit condition to provide notification to area landowners concerning project construction. (EERA, Staff)
 - f. Adopt the modified special permit condition for Road Use Agreement (EERA, Staff)
 - g. Adopt the special permit condition for Emergency Response Training. (EERA, Staff, Renville County)
 - h. Adopt the special permit condition for Bald Eagles. (EERA, Staff)

³⁴ On July 1, 2025, Department of Commerce Energy Environmental Review and Analysis (DOC EERA) unit staff moved to the Minnesota Public Utilities Commission Energy Infrastructure Permitting (PUC EIP) unit as directed by state law (Laws of Minn. 2024, ch.126, art. 7). While DOC EERA staff initiated environmental review of this proposal prior to July 1, 2025, the environmental review is now being completed by PUC EIP staff.

- i. Adopt the special permit condition for Renville County Setbacks. (EERA, Staff, Renville County)
- j. Adopt a special permit condition for power purchase agreements. (Staff)
- k. Adopt the special condition for community partnerships. (EERA, Staff)

Additional Findings

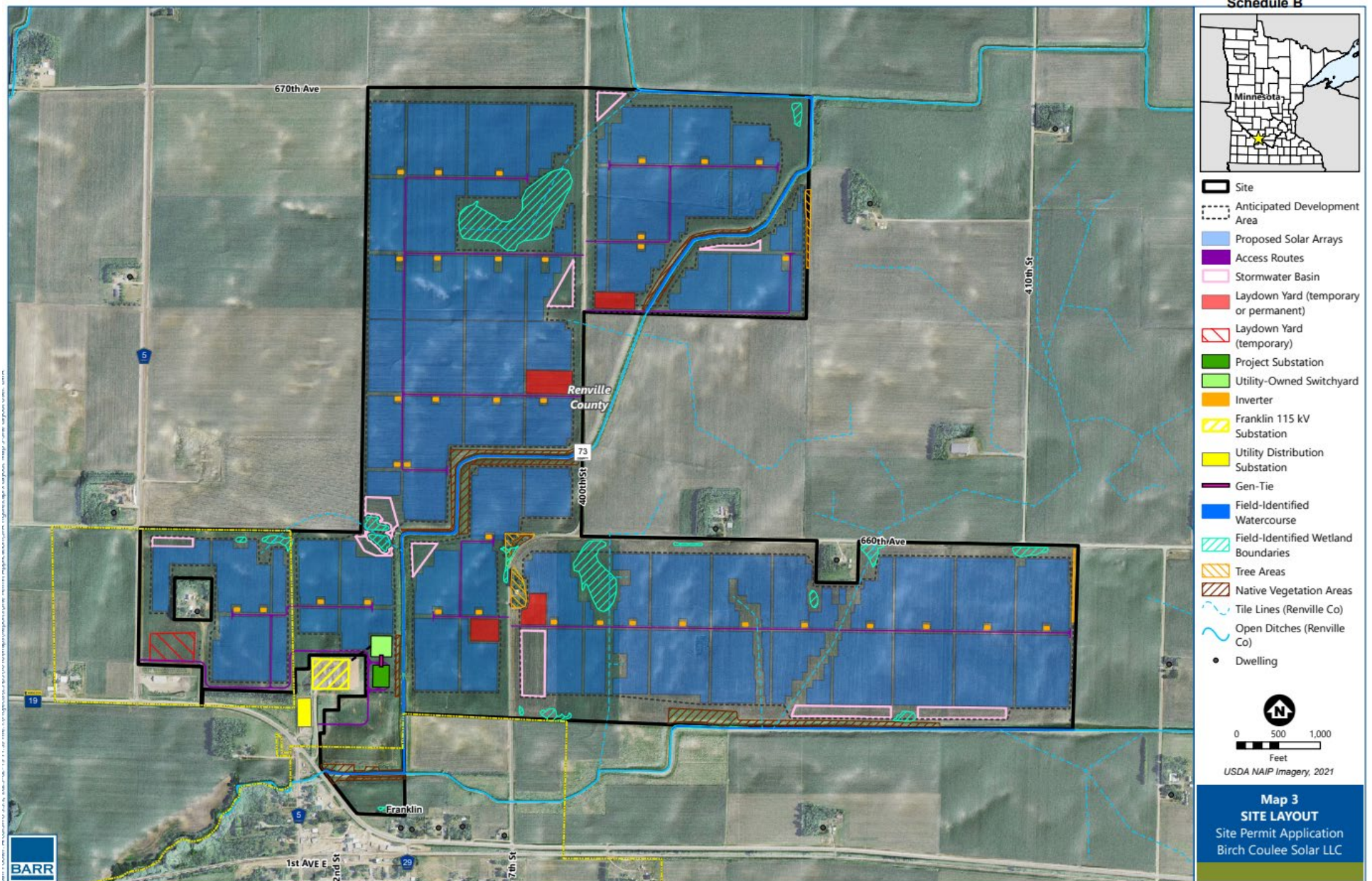
- 6. Adopt EERA's modification to Findings 4 and additional Finding 36B. (EERA and Staff)
- 7. Adopt EERA's modification to Finding 81. (only if 5k is selected) (EERA and Staff)
- 8. Adopt EERA's modifications to Findings 209 and 210. (only if 5f is selected) (EERA and Staff)
- 9. Adopt EERA's modifications to Findings 214B, 215, and 216. (only if all EERA's recommendations are selected, 5a-i, k)

Administrative

- 10. Delegate the authority to the Executive Secretary to modify the proposed site permit to correct typographical or formatting errors and ensure consistency with the Commission's Order.
- 11. Authorize the Executive Secretary to modify or delete the ALJ Findings of Fact and Conclusions of Law identified herein and any other paragraphs as appropriate for consistency with this decision.

Staff Recommendations: 1, 2, 5a - k, 6 - 11

Attachment A – Project Map



Attachment B: Draft Site Permit

To request this document in another format such as large print or audio, call 651.296.0406 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

**SITE PERMIT FOR
BIRCH COULEE SOLAR PROJECT**

A SOLAR ENERGY GENERATING SYSTEM

**IN
RENVILLE COUNTY**

**ISSUED TO
BIRCH COULEE SOLAR, LLC**

PUC DOCKET NO. IP7119/GS-23-477

In accordance with the requirements of Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850 this site permit is hereby issued to:

Birch Coulee Solar, LLC

Birch Coulee Solar, LLC is authorized by this site permit to construct and operate the Birch Coulee Solar Project, an up to 125-megawatt solar energy generating system located in Renville County, Minnesota.

The solar energy generating system shall be constructed and operated within the site identified in this site permit and in compliance with the conditions specified in this site permit.

This site permit shall expire 30 years from the date of this approval.

Approved and adopted this ____ day of [Month, Year]

BY ORDER OF THE COMMISSION

Will Seuffert,
Executive Secretary

To request this document in another format such as large print or audio, call 651-296-0406 or 800-657-3782 (voice). Persons with a hearing or speech impairment may call using their preferred Telecommunications Relay Service or email consumer.puc@state.mn.us for assistance.

CONTENTS

1	SITE PERMIT	1
1.1	Pre-emption	1
2	PROJECT DESCRIPTION	1
2.1	Project Ownership	2
3	DESIGNATED SITE	2
4	GENERAL CONDITIONS	3
4.1	Site Permit Distribution	3
4.2	Access to Property	3
4.3	Construction and Operation Practices.....	3
4.3.1	Field Representative.....	3
4.3.2	Site Manager	4
4.3.3	Employee Training - Site Permit Terms and Conditions	4
4.3.4	Independent Third-Party Monitoring.....	4
4.3.5	Public Services, Public Utilities, and Existing Easements	5
4.3.6	Temporary Workspace.....	5
4.3.7	Noise.....	5
4.3.8	Aesthetics	5
4.3.9	Topsoil Protection	6
4.3.10	Soil Compaction.....	6
4.3.11	Soil Erosion and Sediment Control.....	6
4.3.12	Public Lands.....	6
4.3.13	Wetlands and Water Resources.....	7
4.3.14	Native Prairie.....	7
4.3.15	Vegetation Removal	8
4.3.16	Beneficial Habitat	8
4.3.17	Vegetation Management Plan	8
4.3.18	Agricultural Impact Mitigation Plan	9
4.3.19	Application of Pesticides	9
4.3.20	Invasive Species.....	10
4.3.21	Noxious Weeds.....	10
4.3.22	Roads	10
4.3.23	Archaeological and Historic Resources	11
4.3.24	Interference.....	11
4.3.25	Drainage Tiles	11
4.3.26	Restoration	11

4.3.27	Cleanup.....	12
4.3.28	Pollution and Hazardous Wastes	12
4.3.29	Damages.....	12
4.3.30	Public Safety	12
4.3.31	Site Identification	13
4.3.32	Security Fencing	13
4.4	Feeder Lines	13
4.5	Other Requirements	13
4.5.1	Safety Codes and Design Requirements	13
4.5.2	Other Permits and Regulations	14
5	SPECIAL CONDITIONS	14
5.1	Construction Noise Notice for Local Residences	14
5.2	Renville County Setbacks	14
5.3	Traffic Control and Road Use Agreement.....	15
5.4	Decommissioning Plan.....	15
5.5	Ownership Change Notification.....	15
5.6	Fire Risk Assessment	15
5.7	Emergency Response Training.....	15
5.8	Wildlife-Friendly Lighting.....	15
5.9	Non-Chloride Dust Suppression.....	16
5.10	Wildlife Friendly Erosion Control.....	16
5.11	Northern Long-Eared Bat.....	16
5.12	Bald Eagle.....	16
5.13	Community Partnerships	16
6	DELAY IN CONSTRUCTION	16
7	COMPLAINT PROCEDURES.....	16
8	COMPLIANCE REQUIREMENTS.....	17
8.1	Pre-Construction Meeting	17
8.2	Pre-Operation Meeting.....	17
8.3	Site Plan.....	17
8.4	Status Reports.....	18
8.5	Labor Statistic Reporting.....	18
8.6	Prevailing Wage	19
8.7	In-Service Date.....	19
8.8	As-Builts	19
8.9	GPS Data.....	19

8.10	Right of Entry	19
8.11	Project Energy Production	20
8.12	Emergency Response	20
8.13	Extraordinary Events.....	21
8.14	Wildlife Injuries and Fatalities	21
8.15	Power Purchase Agreement	21
9	DECOMMISSIONING AND RESTORATION	21
9.1	Decommissioning Plan	21
9.2	Site Final Restoration	22
9.3	Abandoned Solar Installations	22
10	COMMISSION AUTHORITY AFTER SITE PERMIT ISSUANCE	23
10.1	Final Designated Site Boundaries	23
10.2	Expansion of Designated Site Boundaries	23
10.3	Periodic Review.....	23
10.4	Modification of Conditions	23
10.5	More Stringent Rules	23
11	SITE PERMIT AMENDMENT	24
12	TRANSFER OF SITE PERMIT	24
13	REVOCATION OR SUSPENSION OF SITE PERMIT.....	24
14	EXPIRATION DATE	25

ATTACHMENTS

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

Attachment 2 – Compliance Filing Procedures for Permitted Energy Facilities

Attachment 3 – Site Permit Maps

1 SITE PERMIT

The Minnesota Public Utilities Commission (Commission) hereby issues this site permit to Birch Coulee Solar, LLC (Permittee) pursuant to Minnesota Statutes Chapter 216E and Minnesota Rules Chapter 7850. This site permit authorizes the Permittee to construct and operate an up to 125-megawatt solar energy generating system located in Renville County, Minnesota (Birch Coulee Solar Project, henceforth known as Project). The solar energy generating system shall be constructed and operated within the site identified in this site permit and in compliance with the conditions specified in this site permit.

1.1 Pre-emption

Pursuant to Minn. Stat. § 216E.10, this site permit shall be the sole site approval required for the location, construction, and operation of the solar energy generating system and this site permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose governments.

2 PROJECT DESCRIPTION

The Birch Coulee Solar Project is an up to 125-megawatt solar energy generating facility to be located on approximately 1,041 acres in Birch Coulee, Camp, and Bandon Townships and the city of Franklin in Renville County, Minnesota. The solar generating facility will take up 768 acres of the total land. The solar facility will consist of photovoltaic (PV) panels, trackers, inverters, transformers, access roads, security fencing, above-ground and below-ground electric collection lines and communication lines, a project substation and associated interconnection facilities, conduit, metering, and switchgear, an operations and maintenance building (if located on-site), weather stations, a stormwater management system, and laydown yards. The solar facilities will be connected to the project substation via 34.5 kilovolt (kV) belowground electric collection lines. The collection corridor is estimated to comprise approximately 8.5 acres of the project area. A short aboveground 115 kV transmission line (<500 ft in length), will run from the project substation to the existing Xcel Energy Franklin substation adjacent to the project.

The Project is located in the following:

County	Township Name	Township	Range	Section
Renville	Birch Coulee	113N	34W	36
Renville	Birch Coulee (Franklin)	112N	34W	1,2
Renville	Camp	112N	33W	6
Renville	Bandon	113N	33W	31

2.1 Project Ownership

At least 14 days prior to the pre-construction meeting, the Permittee shall file a description of its ownership structure, identifying, as applicable:

- (a) the owner(s) of the financial and governance interests of the Permittee;
- (b) the owner(s) of the majority financial and governance interests of the Permittee's owners; and
- (c) the Permittee's ultimate parent entity (meaning the entity which is not controlled by any other entity).

The Permittee shall notify the Commission of:

- (a) a change in the owner(s) of the majority* financial or governance interests in the Permittee; or
- (b) a change in the owner(s) of the majority* financial or governance interests of the Permittee's owners; or
- (c) a sale which changes the ultimate parent entity of the Permittee

* When there are only co-equal 50/50 percent interests, any change shall be considered a change in majority interest.

Also, in the event of an ownership change, the new Permittee must provide the Commission with a certification that it has read, understands and is able to comply with the conditions of this permit.

3 DESIGNATED SITE

The site designated by the Commission for the Project is depicted on the site maps attached to this site permit (Designated Site). The site maps show the approximate location of photovoltaic tracker rows and associated facilities within the Designated Site and identify a layout that seeks to minimize the overall potential human and environmental impacts of the Project, as they were evaluated in the permitting process.

The Designated Site serves to provide the Permittee with the flexibility to make minor adjustments to the layout to accommodate requests by landowners, local government units, federal and state agency requirements, and unforeseen conditions encountered during the detailed engineering and design process. Any modification to the location of a photovoltaic tracker row or associated facility shall be done in such a manner as to have human and

environmental impacts that are comparable to those associated with the layouts on the maps attached to this site permit. The Permittee shall identify any modifications in the Site Plan pursuant to Section 8.3.

4 GENERAL CONDITIONS

The Permittee shall comply with the following conditions during construction and operation of the solar energy generating system over the life of this site permit.

4.1 Site Permit Distribution

Within 30 days of issuance of this site permit, the Permittee shall provide all affected landowners with a copy of this site permit and the complaint procedures. An affected landowner is any landowner or designee that is within or adjacent to the permitted site. In no case shall a landowner receive this site permit and complaint procedures less than five days prior to the start of construction on their property. The Permittee shall also provide a copy of this site permit and the complaint procedures to the applicable regional development commissions, county environmental offices, and city and township clerks. The Permittee shall file with the Commission an affidavit of its site permit and complaint procedures distribution within 30 days of issuance of this site permit.

4.2 Access to Property

The Permittee shall notify landowners prior to entering or conducting maintenance within their property, unless otherwise negotiated with the landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Minnesota Department of Commerce (Department of Commerce) staff or Commission staff.

4.3 Construction and Operation Practices

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the permitting record for this Project unless this site permit establishes a different requirement in which case this site permit shall prevail.

4.3.1 Field Representative

The Permittee shall designate a field representative responsible for overseeing compliance with the conditions of this site permit during construction of the Project. This person shall be accessible by telephone or other means during normal business hours throughout site preparation, construction, cleanup, and restoration.

The Permittee shall file with the Commission the name, address, email, phone number, and emergency phone number of the field representative at least 14 days prior to the pre-construction meeting. The Permittee shall provide the field representative's contact information to affected landowners, local government units and other interested persons at least 14 days prior to the pre-construction meeting. The Permittee may change the field representative at any time upon notice to the Commission, affected landowners, local government units and other interested persons. The Permittee shall file with the Commission an affidavit of distribution of its field representative's contact information at least 14 days prior to the pre-construction meeting and upon changes to the field representative.

4.3.2 Site Manager

The Permittee shall designate a site manager responsible for overseeing compliance with the conditions of this site permit during the commercial operation and decommissioning phases of the Project. This person shall be accessible by telephone or other means during normal business hours for the life of this site permit.

The Permittee shall file the name, address, email, phone number, and emergency phone number of the site manager with the Commission within 14 days prior to the pre-operation meeting. The Permittee shall provide the site manager's contact information to landowners within or adjacent to the Project Boundary, local government units and other interested persons at least 14 days prior to the pre-operation meeting. The Permittee may change the site manager at any time upon notice to the Commission, landowners within or adjacent to the Project Boundary, local government units, and other interested persons. The Permittee shall file with the Commission an affidavit of distribution of its site manager's contact information at least 14 days prior to the pre-operation meeting and upon changes to the site manager.

4.3.3 Employee Training - Site Permit Terms and Conditions

The Permittee shall train and educate all employees, contractors, and other persons involved in the construction and ongoing operation of the solar energy generating system of the terms and conditions of this site permit. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.4 Independent Third-Party Monitoring

Prior to any construction, the Permittee shall propose a scope of work and identify an independent third-party monitor to conduct Project construction monitoring on behalf of the Department of Commerce. The scope of work shall be developed in consultation with and approved by the Department of Commerce. This third-party monitor will report directly to and

will be under the control of the Department of Commerce with costs borne by the Permittee. Department of Commerce staff shall keep records of compliance with this section and will ensure that status reports detailing the construction monitoring are filed with the Commission in accordance with scope of work approved by the Department of Commerce.

4.3.5 Public Services, Public Utilities, and Existing Easements

During Project construction, the Permittee shall minimize any disruption to public services or public utilities. To the extent disruptions to public services or public utilities occur these shall be temporary, and the Permittee shall restore service promptly. Where any impacts to utilities have the potential to occur the Permittee shall work with both landowners and local entities to determine the most appropriate mitigation measures if not already considered as part of this site permit.

The Permittee shall cooperate with county and city road authorities to develop appropriate signage and traffic management during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.6 Temporary Workspace

The Permittee shall select temporary workspace and equipment staging areas that limit the removal and impacts to vegetation. The Permittee shall not site temporary workspace in wetlands or native prairie as defined in sections 4.3.13 and 4.3.14. The Permittee shall site temporary workspace to comply with standards for development of the shorelands of public waters as defined in Section 4.3.13. The Permittee shall obtain temporary easements outside of the authorized Project Boundary from affected landowners through rental agreements. Temporary easements are not provided for in this site permit.

4.3.7 Noise

The Permittee shall comply with noise standards established under Minn. R. 7030.0010 to 7030.0080, at all times and at all appropriate locations during operation of the Project. The Permittee shall limit construction and maintenance activities to daytime working hours to the extent practicable.

4.3.8 Aesthetics

The Permittee shall consider input pertaining to visual impacts from landowners and the local unit of government having direct zoning authority over the area in which the Project is located. The Permittee shall use care to preserve the natural landscape, minimize tree removal and

prevent any unnecessary destruction of the natural surroundings in the vicinity of the Project during construction and operation.

4.3.9 Topsoil Protection

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands utilized for Project construction unless otherwise negotiated with affected landowner.

4.3.10 Soil Compaction

The Permittee shall implement measures to minimize soil compaction of all lands during all phases of the Project's life and shall confine compaction to as small an area as feasible. The Permittee shall use soil decompaction measures on all lands utilized for Project construction and travelled on by heavy equipment (*e.g.*, cranes and heavy trucks), even when soil compaction minimization measures are used.

4.3.11 Soil Erosion and Sediment Control

The Permittee shall implement those erosion prevention and sediment control practices recommended by the Minnesota Pollution Control Agency (MPCA) Construction Stormwater Program. If construction of the Project disturbs more than one acre of land or is sited in an area designated by the MPCA as having potential for impacts to water resources, the Permittee shall obtain a National Pollutant Discharge Elimination System/State Disposal System Construction Stormwater Permit from the MPCA that provides for the development of a Stormwater Pollution Prevention Plan that describes methods to control erosion and runoff.

The Permittee shall implement reasonable measures to minimize erosion and sedimentation during construction and shall employ perimeter sediment controls, protect exposed soil by promptly planting, seeding, using erosion control blankets and turf reinforcement mats, stabilizing slopes, protecting storm drain inlets, protecting soil stockpiles, and controlling vehicle tracking. Contours shall be graded as required so that all surfaces provide for proper drainage, blend with the natural terrain, and are left in a condition that will facilitate re-vegetation and prevent erosion. All areas disturbed during construction of the Project shall be returned to pre-construction conditions.

4.3.12 Public Lands

In no case shall photovoltaic tracker rows and associated facilities including foundations, access roads, underground cable, and transformers, be located in the public lands identified in Minn. R. 7850.4400, subp. 1, or in federal waterfowl production areas. Photovoltaic tracker rows and

associated facilities shall not be located in the public lands identified in Minn. R. 7850.4400, subp. 3, unless there is no feasible and prudent alternative.

4.3.13 Wetlands and Water Resources

The Permittee shall not place the solar energy generating system or associated facilities in public waters and public waters wetlands, as shown on the public water inventory maps prescribed by Minnesota Statutes Chapter 103G, except that electric collector or feeder lines may cross or be placed in public waters or public waters wetlands subject to permits and approvals by the Minnesota Department of Natural Resources (DNR) and the United States Army Corps of Engineers (USACE), and local units of government as implementers of the Minnesota Wetlands Conservation Act. The Permittee shall locate the solar energy generating system and associated facilities in compliance with the standards for development of the shorelands of public waters as identified in Minn. R. 6120.3300, and as adopted, Minn. R. 6120.2800, unless there is no feasible and prudent alternative.

The Permittee shall construct in wetland areas during frozen ground conditions, to the extent feasible, to minimize impacts. When construction during winter is not possible, wooden or composite mats shall be used to protect wetland vegetation. The Permittee shall contain and manage soil excavated from the wetlands and riparian areas in accordance with all applicable wetland permits. The Permittee shall access wetlands and riparian areas using the shortest route possible in order to minimize travel through wetland areas and prevent unnecessary impacts.

The Permittee shall restore wetland and water resource areas disturbed by construction activities to pre-construction conditions in accordance with the requirements of applicable state and federal permits or laws and landowner agreements. The Permittee shall meet the USACE, DNR, Minnesota Board of Water and Soil Resources, and local government wetland and water resource requirements.

4.3.14 Native Prairie

The Permittee shall not place the solar energy generating system or associated facilities in native prairie, as defined in Minn. Stat. § 84.02, subd. 5, unless addressed in a prairie protection and management plan and not located in areas enrolled in the Native Prairie Bank Program. The Permittee shall not impact native prairie during construction activities, as defined in Minn. Stat. § 216E.01, unless addressed in a prairie protection and management plan.

The Permittee shall prepare a prairie protection and management plan in consultation with the DNR if native prairie, as defined in Minn. Stat. § 84.02, subd. 5, is identified within the Project Boundary. The Permittee shall file the prairie protection and management plan with the

Commission at least 30 days prior to submitting the Site Plan required by Section 8.3 of this site permit. The prairie protection and management plan shall address steps that will be taken to avoid impacts to native prairie and mitigation to unavoidable impacts to native prairie by restoration or management of other native prairie areas that are in degraded condition, by conveyance of conservation easements, or by other means agreed to by the Permittee, the DNR, and the Commission.

4.3.15 Vegetation Removal

The Permittee shall disturb or clear vegetation within the Designated Site only to the extent necessary to assure the safe construction, operation, and maintenance of the Project. The Permittee shall minimize the number of trees removed within the Designated Site specifically preserving to the maximum extent practicable windbreaks, shelterbelts, and living snow fences.

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.

4.3.17 Vegetation Management Plan

The Permittee shall develop a vegetation management plan (VMP), in coordination with the Department of Commerce, and the Vegetation Management Working Group (VMWG), using best management practices established by the DNR and BWSR. The Permittee shall file the VMP and documentation of the coordination efforts between the Permittee and the coordinating agencies with the Commission at least 14 days prior to the pre-construction meeting.

Landowner-specific vegetation requests resulting from individual consultation between the Company and a landowner need not be included in the VMP. The Permittee shall provide all landowners within the Designated Site copies of the VMP. The Permittee shall file with the Commission an affidavit of its distribution of the VMP to landowners at least 14 days prior to the pre-construction meeting.

The VMP must include the following:

- (a) management objectives addressing short term (year 0-5, seeding and establishment) and long term (year 5 through the life of the Project) goals;
- (b) a description of planned restoration and vegetation management activities, including how the site will be prepared, timing of activities, how seeding will occur (*e.g.*, broadcast, drilling, etc.), and the types of seed mixes to be used;
- (c) a description of how the site will be monitored and evaluated to meet management goals;
- (d) a description of the management tools used to maintain vegetation (*e.g.*, mowing, spot spraying, hand removal, fire, grazing, etc.), including the timing and frequency of maintenance activities;
- (e) identification of the third-party (*e.g.*, consultant, contractor, site manager, etc.) contracted for restoration, monitoring, and long-term vegetation management of the site;
- (f) identification of on-site noxious weeds and invasive species (native and non-native) and the monitoring and management practices to be utilized; and
- (g) a marked-up copy of the Site Plan showing how the site will be revegetated and that identifies the corresponding seed mixes.

Best management practices should be followed concerning seed mixes, seeding rates, and cover crops.

4.3.18 Agricultural Impact Mitigation Plan

The Permittee shall develop an agricultural impact mitigation plan (AIMP) in coordination with the Minnesota Department of Agriculture (MDA). The Permittee shall provide landowners within the Designated Site a copy of the AIMP. The Permittee shall file with the Commission the AIMP and an affidavit of the AIMP distribution to landowners at least 14 days prior to the pre-construction meeting.

4.3.19 Application of Pesticides

The Permittee shall restrict pesticide use to those pesticides and methods of application approved by the MDA, DNR, and the U.S. Environmental Protection Agency (EPA). Selective foliage or basal application shall be used when practicable. All pesticides shall be applied in a safe and cautious manner so as not to damage adjacent properties including crops, orchards, tree farms, apiaries, or gardens. The Permittee shall contact the landowner at least 14 days prior to pesticide application on their property. The Permittee may not apply any pesticide if the landowner requests that there be no application of pesticides within the landowner's property. The Permittee shall provide notice of pesticide application to landowners and

beekeepers operating known apiaries within three miles of the pesticide application area at least 14 days prior to such application. The Permittee shall keep pesticide communication and application records and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.20 Invasive Species

The Permittee shall employ best management practices to avoid the potential introduction and spread of invasive species on lands disturbed by Project construction activities. The Permittee shall develop an Invasive Species Prevention Plan and file it with the Commission at least 14 days prior to the pre-construction meeting. The Permittee shall comply with the most recently filed Invasive Species Prevention Plan.

4.3.21 Noxious Weeds

The Permittee shall take all reasonable precautions against the spread of noxious weeds ~~during all phases of construction~~ 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 section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.22 Roads

The Permittee shall advise the appropriate governing bodies having jurisdiction over all state, county, city, or township roads that will be used during the construction phase of the Project. Where practical, existing roadways shall be used for all activities associated with construction of the Project. Oversize or overweight loads associated with the Project shall not be hauled across public roads without required permits and approvals.

The Permittee shall locate all perimeter fencing and vegetative screening in a manner that does not interfere with routine road maintenance activities and allows for continued safe travel on public roads.

The Permittee shall construct the fewest number of site access roads required. Access roads shall not be constructed across streams and drainage ways without the required permits and approvals. Access roads shall be constructed in accordance with all necessary township, county or state road requirements and permits.

The Permittee shall promptly repair private roads or lanes damaged when moving equipment or when accessing construction workspace, unless otherwise negotiated with the affected landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

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. 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.

4.3.24 Interference

If interference with radio or television, satellite, wireless internet, GPS-based agriculture navigation systems or other communication devices is caused by the presence or operation of the Project, the Permittee shall take whatever action is necessary to restore or provide reception equivalent to reception levels in the immediate area just prior to the construction of the Project. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.25 Drainage Tiles

The Permittee shall avoid, promptly repair, or replace all drainage tiles broken or damaged during all phases of the Project's life unless otherwise negotiated with the affected landowner. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.26 Restoration

The Permittee shall restore the areas affected by construction of the Project to the condition that existed immediately before construction began to the greatest extent possible. The time period to complete restoration may be no longer than 12 months after the completion of construction, unless otherwise negotiated with the affected landowner. Restoration shall be compatible with the safe operation, maintenance, and inspection of the Project. Within 60 days after completion of all restoration activities, the Permittee shall file with the Commission a Notice of Restoration Completion.

4.3.27 Cleanup

The Permittee shall remove and properly dispose of all construction waste and scrap from the right-of-way and all premises on which construction activities were conducted upon completion of each task. The Permittee shall remove and properly dispose of all personal litter, including bottles, cans, and paper from construction activities daily.

4.3.28 Pollution and Hazardous Wastes

The Permittee shall take all appropriate precautions to protect against pollution of the environment. The Permittee shall be responsible for compliance with all laws applicable to the generation, storage, transportation, clean up and disposal of all waste generated during construction and restoration of the Project.

4.3.29 Damages

The Permittee shall fairly restore or compensate landowners for damage to crops, fences, private roads and lanes, landscaping, drain tile, or other damage sustained during construction. The Permittee shall keep records of compliance with this section and provide them upon the request of Department of Commerce staff or Commission staff.

4.3.30 Public Safety

The Permittee shall provide educational materials to landowners within and adjacent to the Designated Site and, upon request, to interested persons about the Project and any restrictions or dangers associated with the Project. The Permittee shall also implement any necessary safety measures such as placing warning signs and gates for traffic control or restricting public access. The Permittee shall file with the Commission an affidavit of its public safety notifications at least 14 days before the pre-construction meeting.

The Permittee shall submit the location of all underground facilities, as defined in Minn. Stat. § 216D.01, subd. 11, to Gopher State One Call following the completion of the construction of the Project.

4.3.31 Site Identification

The Permittee shall mark the solar energy generating system with a clearly visible identification number and or street address.

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.

4.4 Feeder Lines

The Permittee may use overhead or underground feeder lines to carry power from an internal Project interconnection point to the Project substation or interconnection point on the electrical grid. The Permittee shall place overhead and underground feeder lines that parallel public roads within the public right-of-way or on private land immediately adjacent to the road. The Permittee shall obtain approval from the landowner or government unit responsible for the affected right-of-way.

The Permittee shall locate feeder lines in such a manner as to minimize interference with agricultural operations including but not limited to existing drainage patterns, drain tile, future tiling plans, and ditches. The Permittee shall place safety shields on all guy wires associated with overhead feeder lines. The Permittee shall submit the engineering drawings of all collector and feeder lines with the Site Plan pursuant to Section 8.3.

4.5 Other Requirements

4.5.1 Safety Codes and Design Requirements

The Permittee shall design the solar energy generating system and associated facilities to meet or exceed all relevant local and state codes, the National Electric Safety Code, and North American Electric Reliability Corporation requirements. This includes standards relating to clearances to ground, clearance to crossing utilities, clearance to buildings, strength of materials, clearances over roadways, right-of-way widths, and permit requirements. The Permittee shall keep records of compliance with these standards and provide them upon the request of Department of Commerce staff or Commission staff.

4.5.2 Other Permits and Regulations

The Permittee shall comply with all applicable state statutes and rules. The Permittee shall obtain all required permits for the Project and comply with the conditions of those permits unless those permits conflict with or are preempted by federal or state permits and regulations.

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission an Other Permits and Regulations Submittal that contains a detailed status of all permits, authorizations, and approvals that have been applied for specific to the Project. The Other Permits and Regulations Submittal shall also include the permitting agency name; the name of the permit, authorization, or approval being sought; contact person and contact information for the permitting agency or authority; brief description of why the permit, authorization, or approval is needed; application submittal date; and the date the permit, authorization, or approval was issued or is anticipated to be issued.

The Permittee shall demonstrate that it has obtained all necessary permits, authorizations, and approvals by filing an affidavit stating as such and an updated Other Permits and Regulations Submittal prior to commencing Project construction. The Permittee shall provide a copy of any such permits, authorizations, and approvals at the request of Department of Commerce staff or Commission staff.

5 SPECIAL CONDITIONS

The special conditions shall take precedence over other conditions of this permit should there be a conflict.

5.1 Construction Noise Notice for Local Residences

The Permittee shall provide a construction noise notice to the 14 local residences within 0.25-miles of the Project, as identified in the Site Permit Application. The notice must include the following:

- (a) anticipated construction dates;
- (b) a projected construction schedule listing the anticipated duration of each construction stage;
- (c) anticipated daytime construction hours

5.2 Renville County Setbacks

The Permittee shall 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.

5.3 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, prior to the use of such roads, make satisfactory arrangements with the appropriate county or township governmental body having jurisdiction over roads to be used for construction of the Project for maintenance and repair of roads that will be subject to extra wear and tear due to transportation of equipment and Project components. The Permittee shall keep records of compliance with this section and provide them upon the request of Commission staff.

5.4 Decommissioning Plan

The Permittee shall coordinate with Renville County as the Permittee develops a Project Decommissioning Plan consistent with Section 9.1 of this permit. The Permittee shall provide Renville County with a second decommissioning cost estimate prior to construction. The Permittee shall include the second estimate in the updated Project Decommissioning Plan pursuant to Section 9.1 of this permit.

5.5 Ownership Change Notification

The permittee shall notify Renville County Board of Commissioners if there is an ownership change pursuant to Section 2.1 of this permit and shall provide the new contact information

5.6 Fire Risk Assessment

The permittee shall develop and incorporate a Project Fire Risk Assessment into the Emergency Response Plan required by Section 8.12 of this permit. A Fire Risk Assessment is to prevent fire incidents, protect lives, and minimize property damage. The Fire Risk Assessment must include an assessment of potential fire risks, possible mitigation measures, and fire response measures.

5.7 Emergency Response Training

The permittee shall work and train with local emergency response teams that may have to enter the Project to ensure teams can utilize Project access points and perform their necessary duties.

5.8 Wildlife-Friendly Lighting

The permittee shall use motion activated, down-lit, shielded lighting around and within the Project and coordinate with MnDOT on Approved Products for Luminaries with respect to approved Uplight ratings and nominal color temperatures.

5.9 Non-Chloride Dust Suppression

The permittee shall use dust suppression agents that do not contain chloride.

5.10 Wildlife Friendly Erosion Control

The permittee shall use erosion control materials that do not contain plastic or synthetic fibers or malachite green dye.

5.11 Northern Long-Eared Bat

The permittee shall comply with the USFWS guidance and requirements in effect regarding NLEB, including tree clearing restrictions if applicable.

5.12 Bald Eagle

The permittee shall file documentation authorizing any Bald Eagle nest removal prior to construction.

5.13 Community Partnerships

The Permittee shall maintain records of its community partnership efforts with the Renville County 4-H club, local Women's Civic Club, and Franklin's Lion Club and provide them upon request of Commission staff.

6 DELAY IN CONSTRUCTION

If the Permittee has not commenced construction or improvement of the site within four years after the date of issuance of this site permit the Permittee shall file a Failure to Construct Report and the Commission shall consider suspension of this site permit in accordance with Minn. R. 7850.4700.

7 COMPLAINT PROCEDURES

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission the complaint procedures that will be used to receive and respond to complaints.

The complaint procedures shall be in accordance with the requirements of Minn. R. 7829.1500 or Minn. R. 7829.1700, and as set forth in the complaint procedures attached to this site permit.

Upon request, the Permittee shall assist Department of Commerce staff or Commission staff with the disposition of unresolved or longstanding complaints. This assistance shall include, but is not limited to, the submittal of complaint correspondence and complaint resolution efforts.

8 COMPLIANCE REQUIREMENTS

Failure to timely and properly make compliance filings required by this site permit is a failure to comply with the conditions of this site permit. Compliance filings must be electronically filed with the Commission.

8.1 Pre-Construction Meeting

Prior to the start of construction, the Permittee shall participate in a pre-construction meeting with Department of Commerce staff and Commission staff to review pre-construction filing requirements, scheduling, and to coordinate monitoring of construction and site restoration activities. Within 14 days following the pre-construction meeting, the Permittee shall file with the Commission a summary of the topics reviewed and discussed and a list of attendees. The Permittee shall indicate in the filing the anticipated construction start date.

8.2 Pre-Operation Meeting

At least 14 days prior to commercial operation of the Project, the Permittee shall participate in a pre-operation meeting with Department of Commerce staff and Commission staff to coordinate field monitoring of operation activities for the Project. Within 14 days following the pre-operation meeting, the Permittee shall file a summary of the topics reviewed and discussed and a list of attendees with the Commission.

8.3 Site Plan

At least 14 days prior to the pre-construction meeting, the Permittee shall file with the Commission, and provide the Department of Commerce, and the counties where the Project will be constructed with a Site Plan that includes specifications and drawings for site preparation and grading; specifications and locations of the solar energy generating system and associated facilities; and procedures for cleanup and restoration. The documentation shall include maps depicting the Designated Site, solar energy generating system, and associated facilities layout in relation to that approved by this site permit.

The Permittee may not commence construction until the earlier of (i) 30 days after the pre-construction meeting or (ii) or until the Commission staff has notified the Permittee in writing that it has completed its review of the documents and determined that the planned construction is consistent with this site permit.

If the Commission notifies the Permittee in writing within 30 days after the pre-construction meeting that it has completed its review of the documents and planned construction, and finds that the planned construction is not consistent with this site permit, the Permittee may submit additional and/or revised documentation and may not commence construction until the Commission has notified the Permittee in writing that it has determined that the planned construction is consistent with this site permit.

If the Permittee intends to make any significant changes in its Site Plan or the specifications and drawings after submission to the Commission, the Permittee shall notify the Commission, the Department of Commerce, and county staff at least five days before implementing the changes. No changes shall be made that would be in violation of any of the terms of this site permit.

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 the issuance of this site permit until the pre-construction meeting. The status updates shall include information on the Project's Midcontinent Independent System Operator (MISO) interconnection process, if applicable.

8.5 Labor Statistic Reporting

The Permittee shall file quarterly Labor Statistic Reports with the Commission within 45 days of the end of the quarter regarding construction workers that participated in the construction of the Project. The Labor Statistic Reports shall:

- (a) detail the Permittee's efforts and the site contractor's efforts to hire Minnesota workers; and

(b) provide an account of:

- i. the gross number of hours worked by or full-time equivalent workers who are Minnesota residents, as defined in Minn. Stat. § 290.01, subd. 7;
- ii. the gross number of hours worked by or full-time equivalent workers who are residents of other states, but maintain a permanent residence within 150 miles of the Project; and
- iii. the total gross hours worked or total full-time equivalent workers.

Permittee shall work with its contractor to determine the suitable reporting metric. The report may not include personally identifiable data.

8.6 Prevailing Wage

The Permittee, its contractors, and subcontractors shall pay no less than the prevailing wage rate as defined in Minn. Stat. § 177.42 and shall be subject to the requirements and enforcement provisions under Minn. Stat. §§ 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45. The Permittee shall keep records of contractor and subcontractor pay and provide them at the request of Department of Commerce staff or Commission staff.

8.7 In-Service Date

At least three days before the Project is to be placed into service, the Permittee shall notify the Commission of the date on which the Project will be placed into service and the date on which construction was completed.

8.8 As-Builts

Within 90 days after completion of construction, the Permittee shall submit to the Commission copies of all final as-built plans and specifications developed during the Project construction.

8.9 GPS Data

Within 90 days after completion of construction, the Permittee shall submit to the Commission, in the format requested by the Commission, geo-spatial information (*e.g.*, ArcGIS compatible map files, GPS coordinates, associated database of characteristics) for all structures associated with the Project.

8.10 Right of Entry

The Permittee shall allow Commission designated representatives to perform the following,

upon reasonable notice, upon presentation of credentials and at all times in compliance with the Permittee's site safety standards:

- (a) To enter upon the facilities easement of the property for the purpose of obtaining information, examining records, and conducting surveys or investigations.
- (b) To bring such equipment upon the facilities easement of the property as is necessary to conduct such surveys and investigations.
- (c) To sample and monitor upon the facilities easement of the property.
To examine and copy any documents pertaining to compliance with the conditions of this site permit.

8.11 Project Energy Production

The Permittee shall, by February 1st following each complete or partial year of Project operation, file a report with the Commission on the monthly energy production of the facility including:

- (a) the installed nameplate capacity of the permitted facility;
- (b) the total daily energy generated by the facility in MW hours;
- (c) the total monthly energy generated by the facility in MW hours;
- (d) the monthly capacity factor of the facility;
- (e) yearly energy production and capacity factor for the facility;
- (f) the average monthly and average annual solar strength gradient measured in kWh/m²/Day observed at the facility;
- (g) the operational status of the facility and any major outages, major repairs, or performance improvements occurring in the previous year; and
- (h) any other information reasonably requested by the Commission.

The Permittee shall file this information in a format recommended by the Department of Commerce. This information shall be considered public and must be filed electronically.

8.12 Emergency Response

The Permittee shall prepare an Emergency Response Plan (ERP) in consultation with the emergency responders having jurisdiction over the Project prior to construction. The Permittee shall file the ERP, along with any comments from emergency responders to the Commission at least 14 days prior to the pre-construction meeting and a revised ERP, if any, at least 14 days prior to the pre-operation meeting. At least 14 days prior to the pre-operation meeting the Permittee shall file with the Commission an affidavit of the distribution of the ERP to emergency responders and Public Safety Answering Points (PSAP) with jurisdiction over the

Project. The Permittee shall obtain and register the Project address or other location indicators acceptable to the emergency responders and PSAP having jurisdiction over the Project.

8.13 Extraordinary Events

Within 24 hours of discovery of an occurrence, the Permittee shall notify the Commission of any extraordinary event. Extraordinary events include but shall not be limited to fires, solar panel collapse, acts of sabotage, collector or feeder line failure, and injured worker or private person. The Permittee shall, within 30 days of the occurrence, file a report with the Commission describing the cause of the occurrence and the steps taken to avoid future occurrences.

8.14 Wildlife Injuries and Fatalities

The Permittee shall report any wildlife injuries and fatalities to the Commission quarterly.

8.15 Power Purchase Agreement

In the event the Permittee does not have a power purchase agreement or some other enforceable mechanism for the sale of the electricity generated by the Project at the time this site permit is issued, the Permittee shall provide notice to the Commission when it obtains a commitment for purchase of the power. This site permit does not authorize construction of the Project until the Permittee has obtained a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project. In the event the Permittee does not obtain a power purchase agreement or some other enforceable mechanism for sale of the electricity to be generated by the Project within two years of the issuance of this site permit, the Permittee must advise the Commission of the reason for not having such commitment. In such event, the Commission may determine whether this site permit should be amended or revoked. No amendment or revocation of this site permit may be undertaken except in accordance with Minn. R. 7850.5100.

9 DECOMMISSIONING AND RESTORATION

9.1 Decommissioning Plan

The Permittee shall comply with the provisions of the most recently filed and accepted Decommissioning Plan. The initial version of the Decommissioning Plan was submitted for this Project as Appendix G to the Site Permit Application. The Permittee shall file an updated Decommissioning Plan incorporating comments and information from the permit application process and any updates associated with the final construction plans with the Commission at least fourteen 14 days prior to the pre-construction meeting. The Permittee shall update and

file the Decommissioning Plan with the Commission every five years following the commercial operation date.

The Decommissioning Plan shall provide information identifying all surety and financial securities established for decommissioning and site restoration. The Decommissioning Plan shall provide an itemized breakdown of costs of decommissioning all Project components, which shall include labor and equipment. The Decommissioning Plan shall identify cost estimates for the removal of solar panels, racks, underground collection cables, access roads, transformers, substations, and other Project components. The Decommissioning Plan may also include anticipated costs for the replacement of panels or repowering the Project by upgrading equipment.

The Permittee shall also submit the Decommissioning Plan to the local unit of government having direct zoning authority over the area in which the Project is located. The Permittee shall ensure that it carries out its obligations to provide for the resources necessary to fulfill its requirements to properly decommission the Project at the appropriate time. The Commission may at any time request the Permittee to file a report with the Commission describing how the Permittee is fulfilling this obligation.

9.2 Site Final Restoration

Upon expiration of this site permit or upon termination of operation of the Project, the Permittee shall have the obligation to dismantle and remove from the site all solar panels, mounting steel posts and beams, inverters, transformers, overhead and underground cables and lines, foundations, buildings, and ancillary equipment in accordance with the most recently filed and accepted decommissioning plan. To the extent feasible, the Permittee shall restore and reclaim the site to pre-project conditions. Landowners may require the site be returned to agricultural production or may retain restored prairie vegetation, or other land uses as agreed to between the landowner and the Permittee. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. All such agreements between the Permittee and the affected landowner shall be filed with the Commission prior to commencing restoration activities. The Permittee shall restore the site in accordance with the requirements of this condition and file a Notification of Final Restoration Completion to the Commission within 18 months of termination of operation of the Project.

9.3 Abandoned Solar Installations

The Permittee shall notify the Commission of any solar equipment that is abandoned prior to termination of operation of the Project. Equipment shall be considered abandoned after one

year without energy production and shall be decommissioned and the land shall be restored pursuant to sections 9.1 and 9.2, unless a plan is submitted to and approved by the Commission outlining the steps and schedule for returning the equipment to service.

10 COMMISSION AUTHORITY AFTER SITE PERMIT ISSUANCE

10.1 Final Designated Site Boundaries

After completion of construction the Commission shall determine the need to adjust the final boundary of the Designated Site required for the Project. This site permit may be modified, after notice and opportunity for hearing, to represent the actual Designated Site required by the Permittee to operate the Project authorized by this site permit.

10.2 Expansion of Designated Site Boundaries

No expansion of the site boundary described in this site permit shall be authorized without the approval of the Commission. The Permittee may submit to the Commission a request for a change in the boundary of the site for the Project. The Commission will respond to the requested change in accordance with applicable statutes and rules.

10.3 Periodic Review

The Commission shall initiate a review of this site permit and the applicable conditions at least once every five years. The purpose of the periodic review is to allow the Commission, the Permittee, and other interested persons an opportunity to consider modifications in the conditions of this site permit. No modification may be made except in accordance with applicable statutes and rules.

10.4 Modification of Conditions

After notice and opportunity for hearing this site permit may be modified or amended for cause, including but not limited to the following:

- (a) violation of any condition in this permit;
- (b) endangerment of human health or the environment by operation of the Project; or
- (c) existence of other grounds established by rule.

10.5 More Stringent Rules

The issuance of this site permit does not prevent the future adoption by the Commission of rules or orders more stringent than those now in existence and does not prevent the enforcement of these more stringent rules and orders against the Permittee.

11 SITE PERMIT AMENDMENT

This site permit may be amended at any time by the Commission. Any person may request an amendment of the conditions of this site permit by submitting a request to the Commission in writing describing the amendment sought and the reasons for the amendment. The Commission will mail notice of receipt of the request to the Permittee. The Commission may amend the conditions after affording the Permittee and interested persons such process as is required under Minn. R. 7850.4900.

12 TRANSFER OF SITE PERMIT

The Permittee may request at any time that the Commission transfer this site permit to another person or entity (transferee). In its request, the Permittee must provide the Commission with:

- (a) the name and description of the transferee;
- (b) the reasons for the transfer;
- (c) a description of the facilities affected; and
- (d) the proposed effective date of the transfer.

The transferee must provide the Commission with a certification that it has read, understands and is able to comply with the plans and procedures filed for the Project and all conditions of this site permit.

The transferee must provide the Commission with the name and contact information for the site manager, as described in Section 4.3.2, and either a current version with eDocket reference, or a revised version of the following:

- (a) VMP as described in Section 4.3.17;
- (b) complaint procedures, as described in Section 7 and Attachment 1;
- (c) ERP, as described in Section 8.12; and
- (d) Decommissioning Plan, as described in Section 9.1.

The Commission may authorize transfer of the site permit after affording the Permittee, the transferee, and interested persons such process as is required under Minn. R. 7850.5000.

13 REVOCATION OR SUSPENSION OF SITE PERMIT

The Commission may initiate action to revoke or suspend this site permit at any time. The Commission shall act in accordance with the requirements of Minn. R. 7850.5100, to revoke or suspend this site permit.

14 EXPIRATION DATE

This site permit shall expire 30 years after the date this site permit was approved and adopted.

DRAFT PERMIT

Attachment 1 – Complaint Handling Procedures for Permitted Energy Facilities

DRAFT PERMIT

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLAINT HANDLING PROCEDURES FOR
PERMITTED ENERGY FACILITIES**

1 Purpose

To establish a uniform and timely method of reporting and resolving complaints received by the permittee concerning permit conditions for site or route preparation, construction, cleanup, restoration, operation, and maintenance.

2 Scope

This document describes complaint reporting procedures and frequency.

3 Applicability

The procedures shall be used for all complaints received by the permittee and all complaints received by the Minnesota Public Utilities Commission (Commission) under Minn. R. 7829.1500 or Minn. R. 7829.1700 relevant to this permit.

4 Definitions

Complaint: A verbal or written statement presented to the permittee by a person expressing dissatisfaction or concern regarding site or route preparation, cleanup or restoration, or other permit conditions. Complaints do not include requests, inquiries, questions or general comments.

Substantial Complaint: A written complaint alleging a violation of a specific permit condition that, if substantiated, could result in permit modification or suspension pursuant to the applicable regulations.

Unresolved Complaint: A complaint which, despite the good faith efforts of the permittee and a person, remains unresolved or unsatisfactorily resolved to one or both of the parties.

Person: An individual, partnership, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private; however organized.

5 Complaint Documentation and Processing

1. The permittee shall designate a representative responsible for filing complaints to the Commission's eDocket system. This person's name, phone number and email address shall accompany all

complaint submittals. The name and contact information for the representative shall be kept current in eDockets.

2. A person presenting the complaint should, to the extent possible, include the following information in their communications:
 - a. name, address, phone number, and email address;
 - b. initial date of the complaint;
 - c. tract, parcel number, or address of the complaint;
 - d. a summary of the complaint; and
 - e. whether the complaint relates to a permit violation, a construction practice issue, or other type of complaint.
3. The permittee shall document all complaints by maintaining a record of all applicable information concerning the complaint, including the following:
 - a. docket number and project name;
 - b. name of complainant, address, phone number and email address;
 - c. precise description of property or parcel number;
 - d. name of permittee representative receiving complaint and date of receipt;
 - e. nature of complaint and the applicable permit condition(s);
 - f. summary of activities undertaken to resolve the complaint; and
 - g. a statement on the final disposition of the complaint.

6 Reporting Requirements

The permittee shall commence complaint reporting at the beginning of project construction and continue through the term of the permit, unless otherwise required below. The permittee shall report all complaints to the Commission according to the following schedule:

Immediate Reports: All substantial complaints shall be reported to the Commission the same day received, or on the following working day for complaints received after working hours. Such reports are to be directed to the Commission's Public Advisor at 1-800-657-3782 (voice messages are acceptable) or publicadvisor.puc@state.mn.us. For e-mail reporting, the email subject line should read "PUC EFP Complaint" and include the appropriate project docket number.

Monthly Reports: During project construction, restoration, and operation, a summary of all complaints, including substantial complaints received or resolved during the preceding month, shall be filed by the 15th of each month to Will Seuffert, Executive Secretary, Public Utilities Commission, using the eDockets system. The eDockets system is located at: <https://www.edockets.state.mn.us/EFiling/home.jsp>. If no

complaints were received during the preceding month, the permittee shall file a summary indicating that no complaints were received.

If a project has submitted twelve consecutive months of complaint reports with no complaints, monthly reports can terminate by a letter to eDockets notifying the Commission of such action. If a substantial complaint is received (by the company or the Commission) following termination of the monthly complaint report, as noted above, the monthly reporting should commence for a period of six months following the most recent complaint or upon resolution of all pending complaints.

If a permittee is found to be in violation of this section, the Commission may reinstate monthly complaint reporting for the remaining permit term or enact some other commensurate requirement via notification by the Executive Secretary or some other action as decided by the Commission.

7 Complaints Received by the Commission

Complaints received directly by the Commission from aggrieved persons regarding the permit or issues related to site or route preparation, construction, cleanup, restoration, or operation and maintenance will be promptly sent to the permittee.

The permittee shall notify the Commission when the issue has been resolved. The permittee will add the complaint to the monthly reports of all complaints. If the permittee is unable to find resolution, the Commission will use the process outlined in the Unresolved Complaints Section to process the issue.

8 Commission Process for Unresolved Complaints

Complaints raising substantial and unresolved permit issues will be investigated by the Commission. Staff will notify the permittee and appropriate people if it determines that the complaint is a substantial complaint. With respect to such complaints, the permittee and complainant shall be required to submit a written summary of the complaint and its current position on the issues to the Commission. Staff will set a deadline for comments. As necessary, the complaint will be presented to the Commission for consideration.

9 Permittee Contacts for Complaints and Complaint Reporting

Complaints may be filed by mail or email to the permittee's designated complaint representative, or to the Commission's Public Advisor at 1-800-657-3782 or publicadvisor.puc@state.mn.us. The name and contact information for the permittee's designated complaint representative shall be kept current in the Commission's eDocket system.

Attachment 2 – Compliance Filing Procedures for Permitted Energy Facilities

DRAFT PERMIT

**MINNESOTA PUBLIC UTILITIES COMMISSION
COMPLIANCE FILING PROCEDURE FOR
PERMITTED ENERGY FACILITIES**

A. Purpose

To establish a uniform and timely method of submitting information required by Commission energy facility permits.

B. Scope and Applicability

This procedure encompasses all known compliance filings required by permit.

C. Definitions

Compliance Filing: A filing of information to the Commission, where the information is required by a Commission site or route permit.

D. Responsibilities

1. The permittee shall file all compliance filings with Will Seuffert, Executive Secretary, Public Utilities Commission, through the eDockets system. The eDockets system is located at:
<https://www.edockets.state.mn.us/EFiling/home.jsp>

General instructions are provided on the eDockets website. Permittees must register on the website to file documents.

2. All filings must have a cover sheet that includes:
 - a. Date
 - b. Name of submitter/permittee
 - c. Type of permit (site or route)
 - d. Project location
 - e. Project docket number
 - f. Permit section under which the filing is made
 - g. Short description of the filing

3. Filings that are graphic intensive (e.g., maps, engineered drawings) must, in addition to being electronically filed, be submitted as paper copies and on CD. Paper copies and CDs should be sent to: 1) Will Seuffert, Executive Secretary, Minnesota Public Utilities Commission, 121 7th Place East, Suite 350, St. Paul, MN 55101-2147, and 2) Department of Commerce, Energy Environmental Review and Analysis, 85 7th Place East, Suite 500, St. Paul, MN 55101-2198.

The Commission may request a paper copy of any electronically filed document.

DRAFT PERMIT

PERMIT COMPLIANCE FILINGS¹

PERMITTEE: Birch Coulee Solar, LLC

PERMIT TYPE: Solar Energy Generating System Site Permit

PROJECT LOCATION: Renville County

PUC DOCKET NUMBER: IP7119/GS-23-477

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	2.1	Project Ownership	At least 14 days before the preconstruction meeting
	4.1	Site Permit Distribution	30 days after permit issuance
	4.3.1	Field Representative	14 days before the preconstruction meeting
	4.3.2	Site Manager	14 days before the pre-operation meeting
	4.3.14	Native Prairie	At least 30 days prior to submitting the Site Plan
	4.3.17	Vegetation Management Plan	14 days before the preconstruction meeting
	4.3.18	Agricultural Impact Mitigation Plan	14 days before the preconstruction meeting
	4.3.19	Application of Pesticides	At least 14 days prior to pesticide application
	4.3.20	Invasive Species Plan	14 days before the preconstruction meeting
	4.3.26	Restoration	60 days after completion of all restoration activities

¹ This compilation of permit compliance filings is provided for the convenience of the permittee and the Commission. It is not a substitute for the permit; the language of the permit controls.

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	4.3.30	Public Safety	14 days before the preconstruction meeting
	4.3.32	Security Fencing	With Site Plan
	4.4	Feeder Lines	With Site Plan
	4.5.2	Other Permits and Regulations	14 days before the preconstruction meeting
	5.12	Bald Eagle	14 days before the preconstruction meeting
	6	Delay in Construction	Four Years after permit issuance, as needed
	7	Complaint Procedures	14 days before the preconstruction meeting
	8.1	Pre-Construction Meeting	14 days after the meeting
	8.2	Pre-Operating Meeting	14 days before the commercial operation of the Project
	8.3	Site Plan	14 days before the construction meeting
	8.4	Status Report	Monthly
	8.5	Labor Statistics Reporting	Quarterly

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	8.7	In-Service Date	Three days before
	8.8	As-Builts	90 days after the completion of construction
	8.9	GPS Data	90 days after the completion of construction
	8.11	Project Energy Production	February 1st, following each complete or partial year of Project operation
	8.12	Emergency Response	at least 14 days before the pre-construction meeting
	8.13	Extraordinary Events	Notification within 24 hours of discovery and report 30 days after the occurrence
	8.14	Wildlife Injuries and Fatalities	Quarterly
	8.15	Power Purchase Agreement	As needed
	9.1	Decommissioning Plan	14 days before the pre-operation meeting
	9.2	Site Restoration	Within 18 months of project termination
	10.3	Periodic Review	Every 5 years
	Complaint Reporting	Attachment 1 to Site Permit	Monthly Complaint Reports

Filing Number	Permit Section	Description of Compliance Filing	Due Date
	Complaint Reporting	Attachment 1 to Site Permit	Immediate Complaint Reports

DRAFT PERMIT

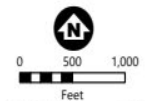
Attachment 3 – Site Permit Map

DRAFT PERMIT

Schedule B



- Site
- Anticipated Development Area
- Proposed Solar Arrays
- Access Routes
- Stormwater Basin
- Laydown Yard (temporary or permanent)
- Laydown Yard (temporary)
- Project Substation
- Utility-Owned Switchyard
- Inverter
- Franklin 115 kV Substation
- Utility Distribution Substation
- Gen-Tie
- Field-Identified Watercourse
- Field-Identified Wetland Boundaries
- Tree Areas
- Native Vegetation Areas
- Tile Lines (Renville Co)
- Open Ditches (Renville Co)
- Dwelling



USDA NAIP Imagery, 2021

Map 3
SITE LAYOUT
 Site Permit Application
 Birch Coulee Solar LLC

