

From: [Cornelius, Lauren](#)
To: [Staff, CAO \(PUC\)](#)
Subject: Dodge County's Comments on Byron Solar
Date: Wednesday, November 23, 2022 1:25:48 PM
Attachments: [November 2022 Byron Solar Comments.pdf](#)

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Good Afternoon,

Attached please find the comments submitted for the proposed Byron Solar project on behalf of Dodge County.

Thank you,
Lauren Cornelius,
Director of Environmental Services
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Please focus your comments on information that will help answer the following questions:

- *Should the Commission grant a certificate of need for the proposed high voltage transmission line project?*
- *Should the Commission grant a site permit for the proposed solar energy generating system?*
- *Should the Commission grant a route permit for the proposed high-voltage transmission line?*

Regarding all of the questions above asking whether or not, the commission should grant permits to the project the County would like to remind the commission that the site/route is being proposed on prime farmland. Therefore, how does this project not fall under MN Rule 7850.4400 Prohibited Sites, Subp 4 Prime Farmland Exclusion? If the Commission agrees that it meets the Prime Farmland Prohibited Sites Exclusion then the only answer to the above is no to granting the permits. To state that there is no feasible and prudent alternative does not bolster a good argument, unless the applicant can show how there are no other sites available within the State of Minnesota.

- *If granted, what additional conditions or requirements should be included in a site or route permit for the proposed project?*

Dodge County feels the Environmental Assessment recommended permit conditions were vague and lacking in comparison to the performance standards Dodge County has in place. Dodge County went under a solar moratorium for a year from July 2019 to July 2020. During this time the County established a task force and a lot of research was done to establish Performance Standards for solar project applications in Dodge County to ensure that the County's best interests are protected. For this reason, if this permit is granted, the County asks that at a minimum the project should be held to the same performance standards as any other Solar Farm that goes through the permitting process in Dodge County is held to. It is only logical that the bigger the project the more the conditions and precautions taken, not less. The Applicant indicates that the project is consistent with existing land uses and local zoning. In order for this statement to be accurate, then the solar farm must meet the attached copy of Dodge County Solar Garden performance standards.

In the Environmental Assessment there was not a lot of emphasis put on surface water and the effects this project will have. Surface water is of huge concern in our County, as this is an agricultural community and the terrain is relatively flat. The applicant should contact the Dodge SWCD, all adjacent property owners, as well as the property owners where the solar facility will be located, to determine where agricultural drain tiles and mains are located to ensure that landowners are not negatively impacted by construction activities (damage to tile, rerouting of tile, compaction, etc.) The applicant should develop a detailed plan with mapping for addressing any impacts. The county has experienced issues with the functioning of infiltration and filtration basins on solar facilities throughout the county due to high water table, lack of slope and no oversight with regards to proper construction. Neighboring properties have been impacted by surface water runoff. These stormwater issues have been brought to MPCA's attention previously; however, there is very little oversight for stormwater permits once they are granted. At a minimum Dodge County would request that the applicant be required to determine the exact solar panels they will be using and their dimensions. Therefore, the proper calculations can be done to determine the actual water storage systems that are needed and the applicant can prove they have the design to handle it prior to a permit being approved. Approximately 1,552.6 acres of pervious surface is about to have impervious surface constructed over top, this CANNOT be glossed over.

The EA references several conditions in the DSP/DRP that address preservation of agricultural land, such as the requirement to develop a Vegetation Management Plan (“VMP”) (DSP Section 4.3.17), an Agricultural Impact Mitigation Plan (“AIMP”) (DSP Section 4.3.18), and a decommissioning plan focused on returning the site to agricultural use at the end of the Project’s useful life (DSP Section 9.1). The applicant states “the current agricultural land use could be restored by removing the Project components”, in order for this to be true all components need to be removed, not just up to a certain depth. If the applicant chooses to leave the cables in the ground then they cannot claim they are going to return the land to its original conditions prior to the project, as they are not. Limit of “vegetation and surface disturbance” on a crop field does not make for an effective argument as to why the components should remain underground. One would argue the main reason for leaving them is cost to remove them. Cost that will ultimately land on the community to pay when those cables do need to be removed.

Byron Solar analyzed noise impacts in the Applications. As discussed in the Applications, Byron Solar will limit construction and maintenance activities to daytime hours to the extent practicable. The Project is expected to comply with the Minnesota noise standards. Why include “to the extent practicable”, there should be no reason the project would have to go outside of those daytime hours and disrupt surrounding land owners with late night or early morning construction.

The Project is designed with a 50-foot setback from road centerline to nearest solar array. This is too close; the County requires 50 ft from Road Right of Way or greater if required by the road authority and any structure closer than that is a non-conforming structure which is not allowed.

The County feels leaving the term “land management agencies” is necessary. The County has a Zoning Ordinance, Canisteo Township has zoning restrictions, SWCD has buffer requirements and the road authorities have restrictions. Therefore, more than the land owners’ input is necessary on landscaping decisions.

Dodge County realizes that these types of projects have procedures to follow in ways of communication, delivering notices and postings. That being said, we would think that the applicant of a proposed project coming into our County would want to make sure the community felt up to date and involved. There has been continued lack of communication from the applicant or any one involved. This does not instill the claim of benefit to the County, by not making an effort to speak with the County/Community. The County does not feel confident that there will be open communication throughout the construction and project life. As with all project’s, issues will arise and when they do who will be left to address them? If that burden is not addressed by the application or applicant representative it will fall on the County Staff, the same staff who have not been given any control to deem what standards are required to avoid these issues. The applicant has not given the County any reason to feel differently and for this reason it is crucial that there be not only a field representative but a project representative that is held to communication conditions during the construction, life and decommissioning of this project.

A violation of this standard shall constitute a private nuisance, and any owner or occupant whose solar energy system is shaded because such violation, so that performance of the system is impaired, may have in tort for damages sustained thereby and may have such nuisance abated.

As a means of evidencing existing conditions, the owner of a solar energy system may file notarized photographs of the affected area with the County prior to installation of said system.

SECTION 16.46 SOLAR ENERGY FARMS

Solar Energy Farms are distinguished from Accessory Solar Energy Systems, as they are the primary land use for the parcel or leased area on which the array is located and are not constructed for the purpose of supplying/supplementing solely to the property owner on which the project is located. Solar Energy Farms that are a size of 40 kW or greater require a Conditional Use Permit (CUP).

16.46.1 CUP REQUIRED

Solar Energy Farms require a Conditional Permit issued under the procedures of Chapter 18.

16.46.2 PERFORMANCE STANDARDS

A. LOT SIZE

The lot parcel/tract upon which a Solar Energy Farm is located shall adequately handle the stormwater produced by the impervious surface of the panels, and meet all applicable setbacks without the need or a variance, but no less than the minimum lot size of the zoning district in which it is located.

B. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

- I. Erosion Prevention and Sediment Control Plans identifying practices to be implemented during the pre-construction, construction and post construction phases shall be submitted as part of the application. Erosion Prevention and Sediment Control Plans shall comply with Chapter 17.
- II. All stormwater generated on site shall be routed to stormwater basins prior to discharge. Stormwater Management shall also comply with Chapter 17. Where

conflicts between the provisions of this section and Chapter 17 occur, the more restrictive provision/requirement shall apply.

- III. Field soil evaluations shall be required to be completed to determine the type and size of stormwater treatment pond(s) required as part of the application submittal for a solar energy farm. During the time of year when field soil evaluations cannot be completed, the solar site area shall be sized to accommodate filtration, rather than infiltration.
- IV. A MPCA licensed construction/installer shall certify the design, oversee construction and sign off of the final installation of all practices.
- V. The contractor shall provide proof of coverage under MPCA's stormwater permit to the Department with the Zoning Permit application prior to land disturbing activities.
- VI. A performance bond or cash escrow in the amount of \$20,000 shall be submitted to the Department for the purpose of addressing any issues from correcting non-functioning basins or long-term maintenance activities. The project owner is responsible for all issues with, and long-term maintenance of the stormwater facilities. The bond/escrow shall be active and maintained at \$20,000 for the permitted "project life" as indicated in the CUP application.

C. FOUNDATIONS

The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels are within accepted professional standards, given local soil and climate conditions.

D. OTHER STANDARDS AND CODES

All solar energy farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota's Uniform Building Code, as amended; and the National Electric Code, as amended.

E. POWER AND COMMUNICATION LINES

Power and communication lines running between banks of solar energy panels and to electric substations or interconnection from the solar array

to the ROW shall be buried under ground.

Power and communication lines for the purpose of transporting energy from the solar farm are considered Essential Service Lines and are regulated under Section 16.21 of this Chapter.

F. GLARE

Solar Energy Farms shall not be permitted in areas where glare or reflection poses a risk to airports or traffic on public roadways. In addition, Solar Energy Farms shall not be permitted in areas where glare or reflection poses a nuisance to nearby receptors unless there is the ability to adequately mitigate the impacts through screening or other methods. Glare studies shall be required as part of the application to evaluate impacts to:

- I. Public and/or private airports located within 5 miles of the proposed array (when present)
- II. Two-way car and truck traffic on roads within a 1-mile radius of the proposed array
- III. All receptors within a 2-mile radius of the proposed array

G. VEGETATION MANAGEMENT

Vegetation planned for the solar energy farm area shall be planted and managed to promote successful establishment, meet the pollinator-friendly vegetation standard established by Minn. Stat. Section 216B.1642, Subd. 2, and prevent and control the spreading of noxious/invasive weeds to surrounding properties.

Low growing native pollinator species shall be utilized both under and surrounding the array.

H. SETBACKS

Solar Energy Farms shall meet the following setbacks:

- I. 200 feet from dwellings and other sensitive receptors
- II. 50 feet from property lines
- III. 50 feet from interstate, state and county road rights of ways or greater distance when required by the road authority

- IV. 60 feet from wetlands, unless it meets all exemption requirements of items “a” listed below:
 - a. The posts for pole-mounted solar panels is exempt from wetland setback standards for *Structures* defined in Chapter 4, provided:
 - i. The post is installed by driving the post into the soil and is not secured by concrete pier or foundation; and
 - ii. The wetland is classified as “PC” or “Prior Converted” by the Farm Service Agency and has been planted with annually seeded crops or was in a crop rotation seeding of pasture grass or legumes six of the last 10 years; and
 - iii. The impacts are approved in accordance to the Minnesota Wetland Conservation Act Rules

This exemption does not apply to other *Structures* that are part of the solar energy system, including but not limited to, transformers, service buildings, gates, inverters, and other related *Structures*. A wetland delineation shall be submitted as part of the application to determine the appropriate setback.

- VI. 100 feet from the OHW of a public watercourse
- VII. 50 feet from other watercourses, ditches and county tile mains
- VIII. The interconnection shall be the farthest away possible point from neighboring feedlots
- IX. Prohibited in the Floodplain Overlay District
- X. Prohibited in the Urban Expansion Zone. Agricultural parcels located adjacent to existing urban expansion areas or to cities which have a valid annexation agreement with the township in the area proposed for the array must obtain approval from the city to proceed with an application for a solar farm in order for the applicant to be accepted by the Department.

Solar Energy farms that obtained land use approval through the CUP

process prior to adoption of this section are not subject to the more restrictive setbacks of dwelling and road setbacks listed in 16.46.2.H.I & II, of this section.

I. SCREENING/AESTHETICS

The applicant shall submit a visual impact analysis as part of the application to assist in any required screening plan. The analysis shall be of sufficient detail to provide the Planning Commission and County Board a visual representation of the site as viewed from the public roadways and neighboring receptors.

Screening may include earthen mounds/berms/ neutral colored fences, or landscaping of 80% opacity prior to energizing of the solar facility. Any screening plan must be submitted as part of the application and approved by the Planning Commission and County Board.

Three rows of trees planted at minimum 200 FT from road center line. The rows will be spaced 16 FT, 10 FT and 8 FT off center apart. The first two rows closest to the boundary line will be shrubs to achieve a mature height of 8-30 FT and the third row will be evergreens to achieve a mature height of 30-60 FT.

16.46.3 DISCONTINUATION, DECOMMISSIONING & RESTORATION

A. DISCONTINUATION – A solar energy farm shall be considered a discontinued use after one (1) year without production of energy, unless a plan is developed and submitted to the Dodge County Zoning Administrator outlining the steps and schedule for returning the array to service.

B. DECOMMISSIONING PERIOD - All panels, arrays and accessory facilities shall be removed within six (6) months of the discontinuation of use.

C. DECOMMISSIONING AND RESTORATION REQUIREMENTS – Decommissioning and site restoration requires complete removal of all equipment, components, poles, wiring, and any other features associated with the solar energy farm and bring the site to pre-solar farm conditions. This includes, but is not limited to:

I. Dismantling and removal of all arrays and costs associated with recycling of the panels. Landfilling of panels at the end of life is prohibited unless recycling is not a viable option. Economics between landfilling and recycling is not considered in determining whether or not recycling is viable.

- II. Removal of underground cables, conduits, etc....
 - III. Removal of accessory structures, fencing, poles and other ancillary facilities
 - IV. Removal of all foundations
 - V. Restoration and reclamation to the same general topography and vegetation that existed pre-solar installation
- D. DECOMMISSIONING & RESTORATION PLAN – All solar energy farms shall submit a Decommissioning and Restoration Plan as part of the project application. The cost estimate for decommissioning shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experiences with decommissioning. The plan shall include the following information:
- I. The manner in which the project will be decommissioned and the site restored.
 - II. The anticipated life of the project.
 - III. The estimated cost of decommissioning in current dollars not including anticipated salvage value.
 - IV. The Decommissioning and Restoration Plan shall identify the party financially responsible for carrying out the requirements of the Decommissioning and Restoration Plan. The plan shall include a description of how the financially responsible party plans to pay for the decommissioning and restoration
 - V. DECOMMISSIONING FINANCIAL ASSURANCE.
 - a. After issuance of the CUP and prior to construction, the permittee shall submit a Performance Bond or cash escrow in the amount of 110% of the estimated cost of decommissioning or in the amount according to the tiered decommissioning sums listed in the table below, whichever is greater, to finance the Decommissioning and Restoration plan of the solar energy farm.

Minimum Amounts for Initial Solar Farm Escrow Deposit or Surety

Megawatts of Solar Energy Farm	Amount of required Bond or Escrow
1.0 Megawatts or less	\$200,000
1.01 to 1.49 MW	\$250,000
1.5 to 1.99 MW	\$300,000
2.0 to 2.49 MW	\$350,000
2.5 to 2.99 MW	\$400,000
3.0 to 3.99 MW	\$450,000
4.0 to 4.99 MW	\$500,000
5.0 to 5.99 MW	\$550,000

*After 5.99 MW, the amount of surety will increase \$50,000 per every additional half megawatt

- b. The cost of decommissioning and the required escrow fund shall be updated to reflect the current cost of decommissioning in years 10, 20, & 30 (if applicable) from the date the permit is issued. The performance bond shall be set up as “continuous until cancelled” and automatically renewed on an annual basis for the life of the project. Dodge County shall receive annual notification upon renewal.

- E. FAILURE TO DECOMMISSION – If the financially responsible party of a solar energy farm does not complete the Decommissioning and Restoration Plan, Dodge County may take such action as may be necessary to complete decommissioning, including but not limited to, requiring forfeiture of the performance bond or assessment of the cost of decommissioning against the land. The issuance of the Conditional Use Permit shall constitute agreement and consent by all parties to the agreement, including their respective heirs, successors, and assigns, that Dodge County may take such action as may be necessary to decommission the solar farm and adequately restore the site, including the exercise by the county, county staff, and their contractors of the right of ingress and egress for the purpose of decommissioning the solar farm and restoring the property.

SECTION 16.47 STORES (RETAIL, GROCERY, DRY GOODS OR SIMILAR)

16.47.1 PERFORMANCE STANDARDS

A store shall be subject to the following performance standards:

- A. The site shall be served by a minor collector or higher functional classification of roadway

- B. The parcel shall have a lot area no less than four times the area of the building footprint.