

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Valerie Means
Matthew Schuerger
Joseph K. Sullivan
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Lake Wilson Solar Energy LLC for a Certificate of Need for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota

SERVICE DATE: April 4, 2023

DOCKET NO. IP-7070/CN-21-791;
IP-7070/GS-21-792

In the Matter of the Application of Lake Wilson Solar Energy LLC for a Site Permit for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota

The above entitled matter has been considered by the Commission and the following disposition made:

- 1. Accepted the Lake Wilson Solar Energy LLC certificate of need application as complete.**
- 2. Authorized evaluation of the certificate of need application using the Commission's comment process.**
- 3. Accepted the Lake Wilson Solar Energy LLC site permit amendment application as substantially complete.**
- 4. Required Lake Wilson Solar Energy LLC to continue coordination with the Department of Natural Resources to ensure interpretation of its native prairie delineation in or near the project area is accurate prior to the public hearing for the project.**
- 5. Declined to appoint an advisory task force for the site permit application.**
- 6. Authorized use of joint proceedings for the project's site permit application and certificate of need application, including joint environmental review.**

7. Requested that an Administrative Law Judge (ALJ) from the Office of Administrative Hearings preside over a public hearing under the Commission's Summary Proceeding process and in accordance with Minn. R. 7850.3800, and as the ALJ determines appropriate, Minn. R. ch. 1405; and direct that intervention as a party is not required.
8. Requested that the ALJ (1) establish the types of filings necessary to facilitate proper record development (e.g., pre-filed direct testimony, briefs, reply briefs, proposed findings and permit recommendations) and a schedule for submitting those filings through a prehearing conference in accordance with Minn. R. 1405.1100, as determined appropriate; and (2) prepare a report setting forth findings of fact, conclusions of law, and recommendations on the merits of the site permit and certificate of need applications and provide recommendations, if any, on conditions and provisions of a certificate of need and site permit.

This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce, which are attached and hereby incorporated into the Order.

BY ORDER OF THE COMMISSION



Will Seuffert
Executive Secretary



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March 14, 2023

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. IP-7070/CN-21-791

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Application of Lake Wilson Solar Energy, LLC, for a Certificate of Need for the up to 150 MW Lake Wilson Solar Energy Center and associated 95 MW energy storage systems in Murray County, Minnesota.

The petition was filed on behalf of Lake Wilson Solar Energy, LLC on February 9, 2022 by:

Jeremy P. Duehr
Fredrickson and Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, Minnesota, 55402-1425

The Department recommends that the Minnesota Public Utilities Commission (Commission) determine that the Application is complete.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. IP7070/CN-21-791

I. BACKGROUND

On November 16, 2021, Lake Wilson Solar Energy LLC (Lake Wilson or the Applicant) filed the Company's *Request for Exemption from Certain Application Content Requirements* (Petition).

On December 8, 2021, the Department of Commerce, Division of Energy Resources (Department) filed its Comments on the Exemption Petition, recommending approval of Lake Wilson's data exemption requests with conditions.

On December 15, 2021, Lake Wilson filed its Reply Comments, agreeing with the Department's recommendations.

On January 4, 2022 the Commission issued its Order (January 4 Order) adopting the Department's recommendations with respect to the Exemption Petition and granting the following exemptions:

1. The following exemptions are approved conditioned upon Lake Wilson providing alternative data:
 - 7849.0250 (C) 7: Effect of Project on Rates System-wide;
 - 7849.0250 (D): Map of Applicant's System;
 - 7849.0270: Peak Demand and Annual Consumption Forecast;
 - 7849.0280: System Capacity;
 - 7849.0300: Consequences of Delay—System; and
 - 7849.0340: The Alternative of No Facility.
2. The following exemptions are approved as proposed:
 - 7849.0240, subp. 2 (B): Promotional Activities;
 - 7849.0250 (B) 1-5: Description of Certain Alternatives;
 - 7849.0250 (C) 1 to 6, 8 and 9: Availability of Alternatives to the Facility;
 - 7849.0290: Conservation Programs; and
 - 7849.0330: Alternatives Involving an LHVTL.

One February 9, 2022 Lake Wilson filed its *Application for Certificate of Need* (Application) for the proposed Lake Wilson Solar Energy Center (Project).

On February 21, 2022, the Commission issued a *Notice of Comment Period on Certificate of Need Application Completeness* requesting comments on completeness by March 7, 2021.

The Department requests that the Commission please consider the following late filed comments on Completeness in this matter.

II. DEPARTMENT ANALYSIS

Minnesota Statutes, section 216B.2421, subd. 2 (1) defines a large energy facility as “any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.” Further, Minnesota Statutes, section 216B.243, subd. 2 states that “no large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission.” The Application indicates that Lake Wilson plans to construct the Project, a solar energy conversion facility of approximately 150 megawatts (MW) and associated 95 MW energy storage systems in Murray County, Minnesota. Therefore, a Certificate of Need (CN) is required.

A. COMPLETENESS REVIEW

Minnesota Rules, parts 7849.0240 to 7849.0340 contain the filing requirements for a CN application for a large electric generating facility. The Department reviewed the Application for completeness considering the rule requirements and exemptions granted by the Commission in its January 4 Order.

The Department concludes that Lake Wilson has met the completion requirements with the following exceptions.

At the beginning of its Application, Louise provided a table indicating for each filing requirement whether an exemption was granted and/or the location within the Application where the relevant information can be found.¹ The Department reviewed this table and concludes that it is correct.

B. PROCESS REVIEW

During the completeness review process, the Department also makes a recommendation regarding the proper process to use for the proceeding. The Department does not anticipate significant disputes that would necessitate a contested case. Thus, the Department does not request that the Commission order a contested case proceeding at this time. Based on the information available, it appears that reliance on the Commission’s normal process of formal comments and reply comments will be sufficient to develop the issues in this proceeding. That said, the Department would not object to a

¹ Pages 4-6 of the CN Application.

Commission-ordered contested case if parties claim significant contested material facts and/or raise controversial issues and would participate to the best of its ability.

III. SUMMARY AND RECOMMENDATIONS

The Department recommends that the Commission find the Application to be complete.

The Department also recommends that the Commission evaluate the Application using the Commission's comment process.

March 7, 2023

VIA eDOCKETS

Mr. Will Seuffert
Executive Secretary
Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, MN 55101-2147

RE: **Comments and Recommendations on Application Completeness**
Lake Wilson Solar Energy Center Project
Docket No. IP-7070/GS-21-792

Mr. Seuffert:

Energy Environmental Review and Analysis staff provide the attached comments and recommendations regarding the Public Utilities Commission's February 21, 2023, *Notice of Comment Period on Application Completeness*.

Staff recommend the Commission accept the site permit application as complete but require the applicant to continue coordinating with the Department of Natural Resources; take no action on an advisory task force; request a full Administrative Law Judge report with recommendations; and process the site permit application jointly with the project's certificate of need application, including joint environmental review.

Staff are available to answer any questions the Commission might have.

Sincerely,



Jenna Ness
Environmental Review Manager
Energy Environmental Review and Analysis

Enclosure

cc: Scott Ek, Public Utilities Commission
Brett Eknes, Public Utilities Commission
Ray Kirsch, Energy Environmental Review and Analysis

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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

ENERGY ENVIRONMENTAL REVIEW AND ANALYSIS COMMENTS AND RECOMMENDATIONS

LAKE WILSON SOLAR ENERGY CENTER PROJECT DOCKET NO. IP-7070/GS-21-792

Date: March 7, 2023

EERA Staff: Jenna Ness | 651-539-1693 | jenna.ness@state.mn.us

In the Matter of the Application of Lake Wilson Solar Energy LLC for a Site Permit under the Alternative Permitting Process for the Lake Wilson Solar Energy Center in Murray County

Issues Addressed: These comments and recommendations address the completeness of the site permit application, the need for an advisory task force, the advisability of jointly processing the application with the project's certificate of need application, and the presence of contested issues of fact.

Documents Attached:

- (1) Project Overview Map
- (2) Table 1. Application Completeness Requirements
- (3) Table 2. Draft Permitting and Environmental Review Schedule

Additional documents and information can be found on:

- eDockets via <https://www.edockets.state.mn.us/EFiling/search.jsp> (21-792) and;
- The Department of Commerce's website via <http://mn.gov/commerce/energyfacilities>.

This document can be made available in alternative formats (i.e., large print or audio) by calling 651-539-1530 (voice).

Introduction and Background

On February 9, 2023, Lake Wilson Solar Energy LLC (Lake Wilson) filed a site permit application to construct and operate the Lake Wilson Solar Energy Center, an up to 150 megawatt (MW) alternating current photovoltaic solar energy generating facility in Leeds Township, Murray County, Minnesota.¹ On February 21, 2023, the Minnesota Public Utilities Commission (Commission) issued a notice soliciting comments on the completeness of the site permit application, the need for an advisory task force, the

¹ Lake Wilson Solar Energy Center Project, Application to the Minnesota Public Utilities Commission for a Site Permit for a Large Electric Generating Facility, February 9, 2023, eDockets Numbers [20232-193056-01](#) (through -10), [20232-193057-01](#) (through -10), [20232-193059-01](#) (through -07), and [20232-193060-01](#) (through -09) hereinafter the Site Permit Application.

advisability of jointly processing the application with the project's certificate of need application, and the presence of contested issues of fact..²

Project Purpose

Lake Wilson indicates that the project will assist the State of Minnesota in meeting its renewable energy objectives³, diversify electricity sources, meet anticipated growth in electricity demand, and meet consumers' growing demand for renewable energy..⁴ The project is expected to positively impact the electric grid by providing 95 MW of energy storage capacity, thus allowing output timing to the grid to shift from peak solar generation to peak electric demand..⁵ Lake Wilson is working to secure a power purchase agreement with wholesale customers (e.g., Minnesota utilities and cooperatives) or commercial and industrial customers to sell the electric power generated by the project.

Project Description

Lake Wilson proposes to construct and operate an up to 150 MW solar farm in Leeds Township, Murray County, Minnesota. The project will occupy approximately 1,526 acres southeast of the city of Lake Wilson and just south of State Highway 30 (see Project Overview Map). The project will use photovoltaic solar panels mounted on single axis tracking systems. Underground collection cables will gather and send the electric power generated by the solar panels to a project substation. The substation will interconnect with the electrical grid via a new switching station and an overhead generation intertie transmission line. The project will also include 95 MW of battery energy storage capacity. The substation and switching station will also be used by the battery energy storage system. The switching station and intertie would be permitted, constructed, owned, and operated by Xcel Energy..⁶

Lake Wilson indicates that a generator interconnection agreement (GIA) for the project has been executed with the Midcontinent Independent System Operator..⁷ Construction is anticipated to begin in the summer of 2024 with completion and operation anticipated in the winter of 2026..⁸

Regulatory Process and Procedures

In Minnesota, no person may construct a large electric power generating plant without a site permit from the Commission..⁹ A large electric power generating plant is defined as a facility capable of operating at a capacity of 50 MW or more..¹⁰ Lake Wilson's project will be capable of producing up to 150 MW and therefore requires a site permit from the Commission. Because the project is powered by solar energy, the site permit application qualifies for Commission review under the alternative permitting process described in Minnesota Statute 216E.04, Subd. 2.

² Notice of Comment Period on Application Completeness, February 21, 2023, eDockets Number [20232-193314-02](#).

³ Minnesota Statute 216B.1691.

⁴ Site Permit Application, Section 1.1.

⁵ Id.

⁶ Site Permit Application, Section 1.2.1.

⁷ Site Permit Application, Section 2.2.

⁸ Site Permit Application, Section 1.3.

⁹ Minnesota Statute 216E.03.

¹⁰ Minnesota Statute 216E.01.

As the Lake Wilson project will be capable of producing up to 150 MW, it also requires a certificate of need from the Commission.¹¹ Lake Wilson applied to the Commission for a certificate of need on February 9, 2023.¹² The certificate of need application must be reviewed by the Commission using the processes prescribed by Minnesota Statute 216B.243 and Minnesota Rules 7849.

Site Permit Application Acceptance

Site permit applications for large electric power generating plants must provide information about the applicant, a description of the project, and discussion of potential human and environmental impacts and mitigation measures.¹³ Review under the alternative permitting process does not require an applicant to propose alternative sites in their permit application; however, if alternative sites were evaluated and rejected, the application must describe these sites and reasons for rejecting them.¹⁴

With an application, the Commission may accept it as complete, reject it and advise the applicant of the deficiencies, or accept it as complete upon filing of supplemental information.¹⁵ The environmental review and permitting process begins when the Commission determines that a permit application is complete; the Commission has six months (or nine months, with just cause) from the date of this determination to reach a permit decision.¹⁶

Public Advisor

Upon acceptance of a route permit application, the Commission must designate a public advisor.¹⁷ The public advisor answers questions about the permitting process but cannot provide legal advice or act as an advocate for any person.

Environmental Review

Site permit applications are subject to environmental review conducted by Department of Commerce, Energy Environmental Review and Analysis (EERA) staff. Projects proceeding under the alternative permitting process require the preparation of an environmental assessment (EA).¹⁸ An EA is a document which contains an overview of the resources affected by a proposed project and describes the potential human and environmental impacts and possible mitigation measures. An EA is the only state environmental review document required for site permit applications reviewed under the alternative permitting process.

EERA conducts public information and scoping meetings during a public comment period to inform the content of the EA.¹⁹ The Commissioner of the Department of Commerce determines the scope of the

¹¹ Minnesota Statute 216B.243, Subd. 2.

¹² Lake Wilson Project, Application to the Minnesota Public Utilities Commission for a certificate of need for a Large Electric Generating Facility, February 9, 2023, eDockets Numbers [20232-193062-01](#), [20232-193062-02](#), and [20232-193061-01](#) (through -05) hereinafter the certificate of need application.

¹³ Minnesota Rules 7850.1900 and 7850.3100.

¹⁴ Minnesota Rule 7850.3100.

¹⁵ Minnesota Rule 7850.3200.

¹⁶ Minnesota Statute 216E.04, Subd. 7.

¹⁷ Minnesota Rule 7850.3400.

¹⁸ Minnesota Rule 7850.3700.

¹⁹ Minnesota Rule 7850.3700, subp. 2.

EA,²⁰ and may include alternative sites suggested during the scoping process if they would aid the Commission in making a permit decision.

Certificate of Need and Joint Environmental Review

The applicant's project requires a certificate of need from the Commission. Certificate of need applications are subject to environmental review conducted by EERA staff in the form of an environmental report.²¹

If a certificate of need and a site permit are required for the same project, EERA staff may elect to combine the two environmental review processes and prepare an EA in lieu of an environmental report.²² If an EA is prepared in lieu of an environmental report, the EA must include an analysis of alternatives to the project that would otherwise be required in an environmental report.²³

Public Hearing

Site permit applications under the alternative permitting process require that a public hearing be held in the project area after completion and release of the EA.²⁴ The hearing is typically presided over by an administrative law judge (ALJ) from the Office of Administrative Hearings. If certificate of need and site permitting processes are proceeding concurrently, the Commission may order that a joint hearing be held to consider both need and permitting.²⁵

The Commission may request that the ALJ solely provide a summary of public testimony. Alternately, the Commission may request that the ALJ provide a full report with findings of fact, conclusions of law, and recommendations regarding the project.

Advisory Task Force

The Commission may appoint an advisory task force to aid the environmental review process.²⁶ An advisory task force must include representatives of local governmental units in the project area.²⁷ A task force would assist EERA staff with identifying additional sites or impacts and mitigation measures to be evaluated in the EA. A task force expires upon issuance of the EA scoping decision.²⁸

The Commission is not required to appoint an advisory task force for every project. If the Commission does not appoint a task force, citizens may request that one be appointed.²⁹ If such a request is made, the Commission must make this determination at its next regularly scheduled meeting. The decision whether to appoint an advisory task force does not need to be made at the time of application acceptance; however, it should be made as soon as practicable to ensure it can complete its charge prior to issuance of the EA scoping decision.

²⁰ Id. at subp. 3.

²¹ Minnesota Rule 7849.1200.

²² Minnesota Rule 7849.1900.

²³ Id.

²⁴ Minnesota Rule 7850.3800.

²⁵ Minnesota Statute 216B.243, Subd. 4.

²⁶ Minnesota Statute 216E.08.

²⁷ Id.

²⁸ Minnesota Rule 7850.3600.

²⁹ Id.

EERA Staff Analysis and Comments

EERA provides technical expertise and assistance to the Commission.³⁰ EERA and the Commission work cooperatively, but function independently to meet their respective statutory responsibilities. EERA staff provide the following analysis and comments in response to the Commission's notice requesting comments on completeness and other issues related to Lake Wilson's site permit application.

Application Completeness

EERA staff conferred with Lake Wilson about the proposed project and reviewed a draft site permit application. EERA staff believe that staff comments on the draft application have largely been addressed in the site permit application submitted to the Commission. Staff evaluated the site permit application against the application completeness requirements of Minnesota Rule 7850.3100, which refers to 7850.1900 with exception for proposing alternative sites (see Table 1). Staff find that the application contains appropriate and complete information with respect to these requirements. However, staff note one area of the application that warrants additional information – native prairie delineation.

EERA staff recommend that the Commission accept Lake Wilson's application as substantially complete and require Lake Wilson to continue coordination with the Minnesota Department of Natural Resources (DNR) to ensure interpretation of its native prairie delineation in or near the project area is accurate prior to the public hearing for the project. Potential impacts to native prairie may require a native prairie protection plan for the project.

Lake Wilson stated in its application that required permits and approvals will be obtained prior to initiating construction to the extent practicable.³¹ EERA staff would like to remind Lake Wilson that typical site permit language from the Commission requires the permittee to demonstrate that it has obtained all necessary permits, authorizations, and approvals by filing an affidavit stating as such, prior to commencing project construction.

It is important to note that the Northern Long-Eared Bat will be federally listed as endangered, rather than threatened (as stated in the application), effective March 31, 2023.³² New United States Fish and Wildlife Service requirements for the endangered status will be evaluated in the EA accordingly.

Vegetation and Soil Management Plan

The Vegetation Management Working Group (VMPWG) has reviewed the Vegetation and Soil Management Plan (VMP) submitted with the application (Appendix F). The VMP provides measurable and clearly defined long-term and short-term management objectives for the site and is consistent with the VMPWG's Guidance for Developing a Vegetation Establishment and Management Plan for Solar Facilities (March 2021).

The Lake Wilson Solar Energy Center Project does not plan to participate in the Habitat Friendly Solar Program but believes the project may minimally qualify if another owner/operator is inclined to participate. The VMPWG is concerned about the low diversity seed mixes proposed for the project. The

³⁰ Minnesota Statute 216E.03, subd. 11.

³¹ Site Permit Application, Section 1.4.4.

³² <https://www.fws.gov/media/extension-effective-date-northern-long-eared-bat-endangered-listing>

current grass dominated seed mixes likely will not meet the Habitat Friendly Solar standard requirements and will also leave the site prone to problems with Canada thistle and other invasive forbs, as their niche would not be filled by a diversity of native forbs. The VMPWG recommends additional native forbs to diversify the seed mixes.

The VMPWG would like to point out that use of the term “regionally appropriate” is only one threshold for consideration in restoring solar sites. Other important considerations such as functional resiliency and diversity are just as important, not only for the benefits associated with higher diversity mixes, but also to ensure that site restoration will be successful for the life of the project. Low diversity seed mixes are not functionally resilient and will be unable to meet the site’s long-term management objectives and have a much greater potential for invasive species establishment.

The VMP identifies several potential native prairie locations and Minnesota Sites of biodiversity significance within and adjacent to the project boundary. A large remnant prairie (approximately 70 acres) is adjacent to Management Units A2 and B4. Higher diversity seed mixes in these areas would enhance the existing native prairie and provide additional ecological benefits.

Advisory Task Force

EERA staff analyzed the merits of establishing an advisory task force for the Lake Wilson project and conclude that a task force is not warranted.

In analyzing the need for an advisory task force for the project, EERA staff considered four characteristics: project size, project complexity, known or anticipated controversy, and sensitive resources.

- **Project Size.** The project will utilize a relatively large area of land – approximately 1,526 acres. However, the concerns associated with such a large acreage are muted, to a great extent, by the fact that land for the project has been assembled by agreements with local landowners interested in and willing to dedicate their land to solar electric production. Lake Wilson has secured all necessary land rights for construction and operation of the project. Thus, this project-size factor does not weigh for or against a task force.
- **Project Complexity.** With respect to energy production and land use, the project is not complex. Though large solar electric projects are fairly new in Minnesota, they are relatively straightforward – solar panels are arranged to gather sunlight and create electric energy, which is then transferred to the electric transmission grid. Land use in the project area is agricultural and the topography is relatively flat. There are no special construction techniques or operational features that make the project complex. This project-complexity factor weighs against a task force.
- **Known or Anticipated Controversy.** To date, EERA staff have received no comments concerning the project, and there are currently no public comments in the record. Lake Wilson has conducted outreach with state and federal agencies as well as Minnesota tribal nations and local governments in the project area.³³ The project has been assembled by agreements with local landowners. As a whole, EERA staff do not anticipate controversy with the project.

³³ Site Permit Application, Section 5.0 and Appendix H.

- **Sensitive Natural Resources.** There are few sensitive natural resources in the project area. The project area is 95 percent agricultural land.³⁴ The DNR recommends avoidance of MBS Sites of Biodiversity Significance ranked High or Outstanding, none of which are present in the project area. The DNR also recommends avoidance of rare native plant communities. There may be such communities in the project area (see discussion, above, regarding native prairie delineation).

There are no state-listed endangered or threatened species in the project area. There is one species of concern, a vascular plant known as the red three-awn.³⁵ Species of special concern are not protected by Minnesota's endangered species regulations; however, the DNR has recommended best practices to avoid impacts to the species if it occurs in the project area. There is one federally-listed species in the project area – the northern long-eared bat. However, there are no known roost trees or hibernaculum for northern long-eared bats in Murray County or surrounding counties. As a whole, potential impacts to sensitive natural resources weigh against a task force.

Based on the assessment of the factors above, EERA staff believe that an advisory task force is not warranted for the project.

Joint Environmental Review

The Commission has before it a certificate of need application and a site permit application for the project. It appears to EERA staff that the need and permitting processes for the project will proceed concurrently. Thus, at this time, EERA staff anticipate that it will prepare one environmental review document for the project – an EA.

EERA staff believe that preparation of an EA in lieu of an environmental report for the certificate of need will not lengthen the certificate of need or site permitting processes. Additionally, Lake Wilson has requested that the certificate of need and site permitting processes be conducted jointly.³⁶ Finally, EERA believes that joint environmental review is relatively more efficient for the public, local governments, agencies, and tribes, and that there are benefits to having an environmental analysis of need and siting in one document.

Contested Issue of Fact

Based on its review of Lake Wilson's application and the record to date, EERA staff has not identified any contested issues of fact. Staff are unaware of any issues or concerns associated with the application or project that require a contested case hearing.

EERA staff recommend that the Commission request a full ALJ report for the project's public hearing. EERA staff believe that a full ALJ report with recommendations provides an unbiased, efficient, and transparent method to voice and resolve any issues that may emerge as the record is developed. Requiring a full ALJ report reduces the burden on staff and helps to ensure that the Commission has a robust record on which to base its decision. Additionally, a full ALJ report does not significantly lengthen the site permitting process. EERA staff provided a draft schedule for the Lake Wilson permitting process,

³⁴ Site Permit Application, Section 4.2.11.2.

³⁵ Site Permit Application, Section 4.5.6.

³⁶ Site Permit Application, Section 1.4.5.

which includes a comparison of potential hearing work products and schedules – i.e., a summary of public testimony versus a full ALJ report with findings, conclusions, and recommendations (see Table 2).

EERA Staff Recommendations

EERA staff recommend that:

- The Commission accept Lake Wilson’s site permit amendment application as substantially complete and require Lake Wilson to continue coordination with the DNR to ensure interpretation of its native prairie delineation in or near the project area is accurate prior to the public hearing for the project.
- The Commission does not appoint an advisory task force for the site permit application.
- The Commission process Lake Wilson’s site permit application jointly with the project’s certificate of need application, including joint environmental review.
- The Commission request a full ALJ report with recommendations for the project’s public hearing.

Table 1. Application Completeness Requirements

Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
A. a statement of proposed ownership of the facility at the time of filing the application and after commercial operation;	1.2.1 and 1.2.2	Satisfactory. Lake Wilson Solar Energy LLC is the owner of the project.
B. the precise name of any person or organization to be initially named as permittee or permittees and the name of any other person to whom the permit may be transferred if transfer of the permit is contemplated;	1.2.1 and 1.2.2	Satisfactory. Lake Wilson Solar Energy LLC will be the permittee.
C. at least two proposed sites for the proposed large electric power generating plant and identification of the applicant's preferred site and the reasons for the preference;	Not applicable.	The project can use the alternative permitting process of Minnesota Statute 216E.04, which does not require providing this information via Minnesota Rule 7850.3100.
D. a description of the proposed large electric power generating plant and all associated facilities, including the size and type of the facility;	2.0 and Appendix C	Satisfactory.
E. the environmental information required under subpart 3;	See Minnesota Rule 7850.1900, subpart 3 below.	
F. the names of the owners of the property for each proposed site;	1.2.1 and 1.2.2	Satisfactory. Lake Wilson has lease or easement agreements with all landowners.
G. the engineering and operational design for the large electric power generating plant at each of the proposed sites;	3.0 and Appendix B	Satisfactory.
H. a cost analysis of the large electric power generating plant at each proposed site, including the costs of constructing and operating the facility that are dependent on design and site;	2.6	Satisfactory.

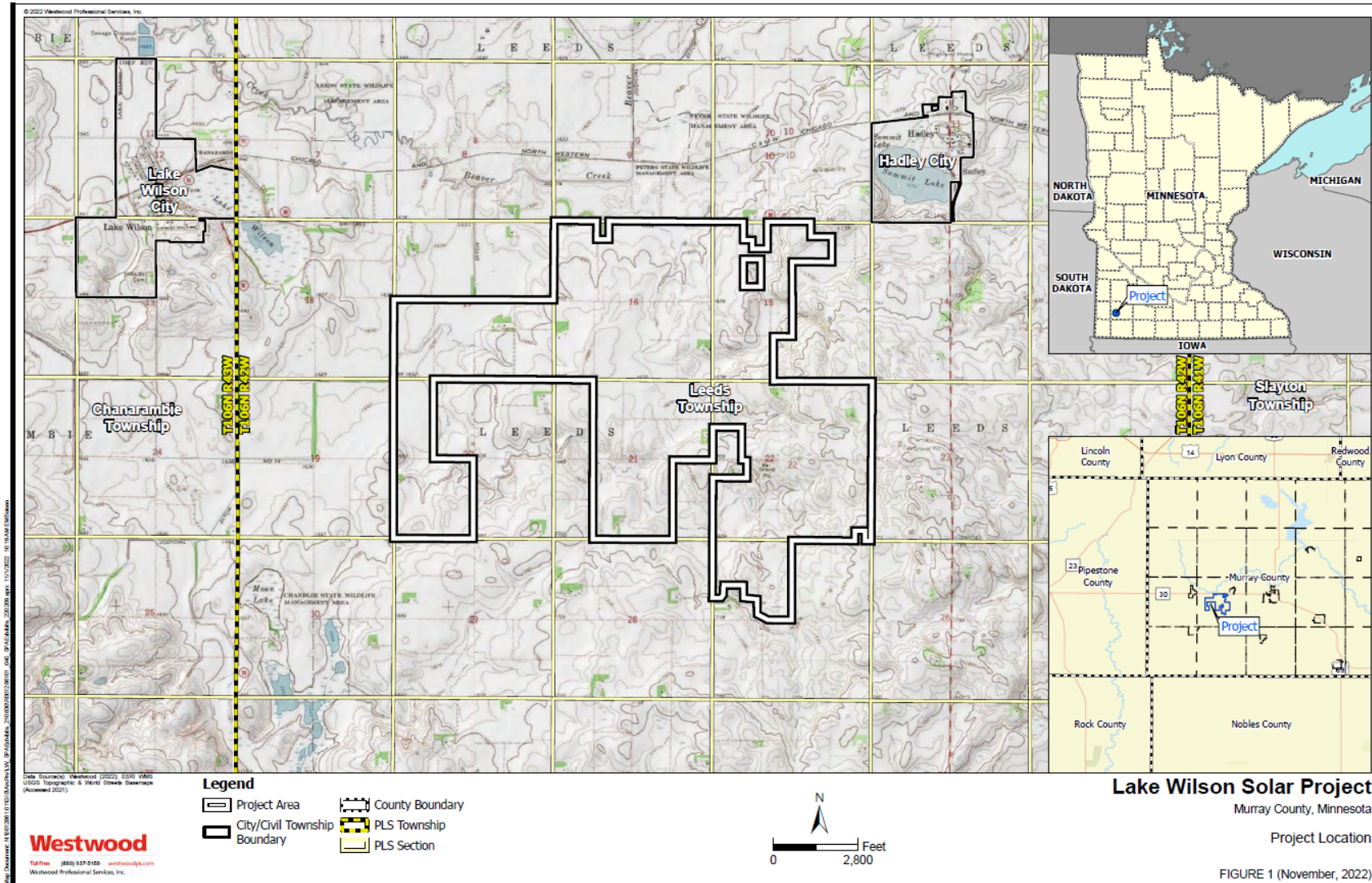
Minnesota Rule 7850.1900, Subpart 1	Location in Site Permit Application	EERA Staff Comments
I. an engineering analysis of each of the proposed sites, including how each site could accommodate expansion of generating capacity in the future;	2.5, 2.7 and 3.1	Satisfactory.
J. identification of transportation, pipeline, and electrical transmission systems that will be required to construct, maintain, and operate the facility;	2.0, 2.3.2, 3.1.8 and 3.1.9	Satisfactory.
K. a listing and brief description of federal, state, and local permits that may be required for the project at each proposed site; and	1.4	Satisfactory.
L. a copy of the certificate of need for the project from the Commission or documentation that an application for a certificate of need has been submitted or is not required;	1.4.2	A certificate of need is required for the project, which Lake Wilson applied to the Commission for on February 9, 2023.

Minnesota Rule 7850.1900, Subpart 3	Location in Site Permit Application	EERA Staff Comments
A. a description of the environmental setting for each site or route;	4.1	Satisfactory.
B. a description of the effects of construction and operation of the facility on human settlement, including, but not limited to, public health and safety, displacement, noise, aesthetics, socioeconomic impacts, cultural values, recreation, and public services;	4.2	Satisfactory.
C. a description of the effects of the facility on land-based economies, including, but not limited to, agriculture, forestry, tourism, and mining;	4.3	Satisfactory.
D. a description of the effects of the facility on archaeological and historic resources;	4.4	Satisfactory.
E. a description of the effects of the facility on the natural environment, including effects on air and water quality resources and flora and fauna;	4.5	Satisfactory. EERA staff recommends that Lake Wilson continue coordination with the DNR to ensure interpretation of its native prairie delineation in or near the project area is accurate prior to the public hearing for the project.
F. a description of the effects of the facility on rare and unique natural resources;	4.5.6	Satisfactory.
G. identification of human and natural environmental effects that cannot be avoided if the facility is approved at a specific site or route; and	4.7 and 4.8	Satisfactory.
H. a description of measures that might be implemented to mitigate the potential human and environmental impacts identified in items A to G and the estimated costs of such mitigative measures.	4.7 and 4.8	Satisfactory.

Table 2. Draft Permitting and Environmental Review Schedule

Permitting Day	Process Step (Summary of Public Testimony)	Process Step (Full ALJ Report)
0	Site Permit Application Filed	
	Comment Period on Application Completeness	
	Reply Comment Period	
	Commission Considers Application Completeness	
1	Application Acceptance Order	
5	Public Information and Scoping Meeting Notice	
30	Public Information and Scoping Meeting	
60	Scoping Decision Issued	
170	EA Issued Notice of EA Availability and Public Hearing	
190	Public Hearing	
200	Public Hearing Comment Period Closes	
210	Applicant Responses to Hearing Comments	
220	Applicant Proposes Findings	
230	EERA Responses to Comments on EA; Technical Analysis; Replies to Applicant Proposed Findings	
230	ALJ Submits Summary of Public Testimony	NA
260	Commission Prepares Findings and Proposed Site Permit	ALJ Submits Full Report
275	NA	Exceptions to ALJ Report
280	Commission Considers Site Permit Issuance	NA
290	NA	Commission Prepares Proposed Site Permit
310	NA	Commission Considers Site Permit Issuance

Project Overview Map



CERTIFICATE OF SERVICE

I, Robin Benson, hereby certify that I have this day, served a true and correct copy of the following document to all persons at the addresses indicated below or on the attached list by electronic filing, electronic mail, courier, interoffice mail or by depositing the same enveloped with postage paid in the United States mail at St. Paul, Minnesota.

Minnesota Public Utilities Commission ORDER

Docket Number: **IP-7070/CN-21-791; IP-7070/GS-21-792**

Dated this **4th** day of **April, 2023**

/s/ Robin Benson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-791_CN-21- 791
Sarah	Beimers	sarah.beimers@state.mn.us	Department of Administration - State Historic Preservation Office	50 Sherburne Avenue Suite 203 St. Paul, MN 55155	Electronic Service	No	OFF_SL_21-791_CN-21- 791
David	Bell	david.bell@state.mn.us	Department of Health	POB 64975 St. Paul, MN 55164	Electronic Service	No	OFF_SL_21-791_CN-21- 791
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-791_CN-21- 791
Mark D	Crowl	MCrowl@invenergy.com	Invenergy, LLC	1401 17th St Ste 1100 Denver, CO 80202	Electronic Service	Yes	OFF_SL_21-791_CN-21- 791
Randall	Doneen	randall.doneen@state.mn.us	Department of Natural Resources	500 Lafayette Rd, PO Box 25 Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-791_CN-21- 791
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, Minnesota 55402-1125	Electronic Service	Yes	OFF_SL_21-791_CN-21- 791
Bridget	Duffus	bduffus@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-791_CN-21- 791
Adam	Duininck	aduininck@ncsrcc.org	North Central States Regional Council of Carpenters	700 Olive Street St. Paul, MN 55130	Electronic Service	No	OFF_SL_21-791_CN-21- 791
Kate	Fairman	kate.frantz@state.mn.us	Department of Natural Resources	Box 32 500 Lafayette Rd St. Paul, MN 551554032	Electronic Service	No	OFF_SL_21-791_CN-21- 791

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Annie	Felix Gerth	annie.felix-gerth@state.mn.us		Board of Water & Soil Resources 520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-791_CN-21-791
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-791_CN-21-791
Todd	Green	Todd.A.Green@state.mn.us	Minnesota Department of Labor & Industry	443 Lafayette Rd N St. Paul, MN 55155-4341	Electronic Service	No	OFF_SL_21-791_CN-21-791
Kari	Howe	kari.howe@state.mn.us	DEED	332 Minnesota St, #E200 1ST National Bank Bldg St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_CN-21-791
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	200 South Sixth St Ste 400 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-791_CN-21-791
Ray	Kirsch	Raymond.Kirsch@state.mn.us	Department of Commerce	85 7th Place E Ste 500 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_CN-21-791
Chad	Konickson	chad.konickson@usace.army.mil	U.S.Army Corps of Engineers	180 5th St # 700 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_CN-21-791
Stacy	Kotch Egstad	Stacy.Kotch@state.mn.us	MINNESOTA DEPARTMENT OF TRANSPORTATION	395 John Ireland Blvd. St. Paul, MN 55155	Electronic Service	No	OFF_SL_21-791_CN-21-791
Karen	Kromar	karen.kromar@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-791_CN-21-791

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Dawn S	Marsh	dawn_marsh@fws.gov	U.S. Fish & Wildlife Service	Minnesota-Wisconsin Field Offices 4101 American Blvd E Bloomington, MN 55425	Electronic Service	No	OFF_SL_21-791_CN-21-791
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-791_CN-21-791
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_21-791_CN-21-791
Nathaniel	Runke	nrunke@local49.org		611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_21-791_CN-21-791
Joe	Sedarski	joe.sedarski@westwoodps.com	Westwood	12701 Whiewater Dr Ste 300 Minnetonka, MN 55343	Electronic Service	No	OFF_SL_21-791_CN-21-791
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-791_CN-21-791
Jayme	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1 Slayton, MN 56172	Electronic Service	No	OFF_SL_21-791_CN-21-791
Jen	Tyler	tyler.jennifer@epa.gov	US Environmental Protection Agency	Environmental Planning & Evaluation Unit 77 W Jackson Blvd. Mailstop B-19J Chicago, IL 60604-3590	Electronic Service	No	OFF_SL_21-791_CN-21-791
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, Minnesota 55155-4040	Electronic Service	No	OFF_SL_21-791_CN-21-791

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Alan	Whipple	sa.property@state.mn.us	Minnesota Department Of Revenue	Property Tax Division 600 N. Robert Street St. Paul, MN 551463340	Electronic Service	No	OFF_SL_21-791_CN-21-791
Jonathan	Wolfgram	Jonathan.Wolfgram@state.mn.us	Office of Pipeline Safety	445 Minnesota St Ste 147 Woodbury, MN 55125	Electronic Service	No	OFF_SL_21-791_CN-21-791
Robert	Young	Ryoung@invenenergy.com	Invenenergy, LLC	One S Wacker Dr Ste 1800 Chicago, IL 60606	Electronic Service	Yes	OFF_SL_21-791_CN-21-791

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Lisa	Agrimonti	lagrimonti@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Mark D	Crowl	MCrowl@invenergy.com	Invenergy, LLC	1401 17th St Ste 1100 Denver, CO 80202	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, Minnesota 55402-1125	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Bridget	Duffus	bduffus@fredlaw.com	Fredrikson & Byron, P.A.	200 South Sixth Street Suite 4000 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_21-792_GS-21-792
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	200 South Sixth St Ste 400 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_21-792_GS-21-792
Joe	Sedarski	joe.sedarski@westwoodps.com	Westwood	12701 Whiewater Dr Ste 300 Minnetonka, MN 55343	Electronic Service	No	OFF_SL_21-792_GS-21-792
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-792_GS-21-792

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Robert	Young	Ryoung@invenergy.com	Invenergy, LLC	One S Wacker Dr Ste 1800 Chicago, IL 60606	Electronic Service	Yes	OFF_SL_21-792_GS-21-792