

December 11, 2023

Via eDockets

Public Advisor
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

RE: EERA Hearing Comments
Lake Wilson Solar Energy Center Project
PUC Docket No. IP-7070/GS-21-792 and CN-21-791
OAH Docket No. 5-2500-39336

Dear Public Advisor,

Minnesota Department of Commerce, Energy Environmental Review and Analysis (EERA) offers the following hearing comments regarding the Lake Wilson Solar Energy Center Project (Project) proposed by Lake Wilson Solar Energy LLC (Lake Wilson). In these comments, EERA recommends modifications to Lake Wilson's draft decommissioning plan and summarizes the changes between the sample permit and the draft site permit (DSP) included in the Environmental Assessment (EA) prepared for the Project.

Decommissioning Plan

Site permits for wind and solar facilities issued by the Minnesota Public Utilities Commission (Commission) require permittees to file decommissioning plans prior to commercial operation. The intent of the decommissioning plan is to ensure that the site is restored at the end of the energy facility's useful life, and that the restoration costs are borne by the permittee.

EERA staff has reviewed the draft decommissioning plan filed by Lake Wilson in its February 9, 2023, *Site Permit and Route Permit Application*.¹ EERA staff's review is guided by the recommendations of the Solar and Wind Decommissioning Working Group and additional comments and recommendations found in the Commission's docket on the decommissioning of solar and wind facilities (PUC Docket 17-123).

The February 9, 2023, draft decommissioning plan meets EERA's expectations for being prepared by an independent preparer, for the cost estimates, and in much of the information related to the tasks and timing of decommissioning activities.

EERA recommends that Lake Wilson incorporate the following revisions to the February 9, 2023, draft decommissioning plan prior to the project's pre-construction meeting:

- **Decommissioning Objective:** EERA believes the intent of Section 2.0 is to identify the decommissioning objective for the project. EERA recommends the plan include a clear statement of the objective of decommissioning the project. It is anticipated that the objective

¹ Lake Wilson, *Site Permit Application*, at Appendix G: Decommissioning Plan, eDocket ID: [20232-193057-10](https://edockets.mn.gov/20232-193057-10)

for most facilities will be to restore the site to its prior use as required in site permits (typically located in Section 9 of the standard site permit). Restoration to a different use is possible in the future (e.g., commercial or residential), but at this stage the objective should be consistent with the standard permit language.

The plan also should clarify the relationship between the plan and the decommissioning requirements of Murray County's [Renewable Energy Ordinance](#) (Section 1002, Abandonment and Decommissioning) and when the county requirements are not feasible. For example, the county ordinance, at Section 1002.1.A.1 requires the plan to address road maintenance during and after completion of decommissioning, but there is no discussion of maintenance or restoration of public roads in the plan.

- **Scheduled Updates:** Although the text in Sections 6 and 7 indicates that Lake Wilson will update cost estimates every five years, EERA recommends adding a section specifically addressing the schedule of updates for the plan for ease of reference. At this stage, EERA staff recommends a “permit version” of the decommissioning plan be filed with pre-construction documents, and then scheduled updates every five years thereafter. The plan should also be updated any time there is a change in ownership.
- **Project Description:** EERA recommends moving the brief project description provided in Section 1 to a separate heading and updating the project description to include:
 - Permittee: Should the Commission issue a site permit for the proposed project, Lake Wilson will be a permittee, not an applicant. EERA recommends that a pre-construction version of the plan refer to Lake Wilson as a “permittee” rather than an “applicant.”
 - Project Description: A brief narrative describing the project and associated facilities. The description should include total size in megawatts (MW), a final project size in acres, miles of access roads, miles of underground cable, number of stormwater ponds, length of fencing, etc. and an anticipated date for decommissioning. If any project elements will not be decommissioned, such as if facilities are shared between projects, then discuss briefly.
 - Location of the facility: A brief narrative describing the location of the facility including the county, nearby cities, township, range, and sections. The narrative should also include a brief description of surrounding land uses (e.g., cultivated agriculture, nearby towns, etc.).
 - Anticipated date of commercial operation: This will be an anticipated date prior to construction but should be updated in future filings once the project becomes operational.
 - Updated site map: Which shows the final location of project components (e.g., arrays, roads, cabling, switching station, O&M facility, inverter location, battery energy storage system, stormwater retention areas). Stormwater retention areas are missing on the map included in Attachment A of the decommissioning plan.

- The date and eDocket document ID of the site permit when issued. Future updates should also reference past decommissioning plans and provide a link to those plans.
- The anticipated life of the facility: The introduction indicates the useful life of the panels to be 35 years, and Lake Wilson’s intent to operate the project for 35 years or the expiration of the site permit. EERA anticipates the term of the Commission’s site permit to be 30 years. Any decision as to whether the project continues to operate is not solely that of Lake Wilson, LLC. Should Lake Wilson wish to continue operation of the facility beyond the term of the site permit, it would need to seek an extension of the site permit from the Commission. EERA recommends that the introduction include this caveat.
- Statement of landownership: It’s assumed that the land within the site is leased, but having a clear and concise statement up front is useful.
- **Use of Generation Output**: The plan should contain a general statement of where the generation will be used. Examples include, but are not limited to:
 - Power Purchase Agreement (PPA). For any portion of the output sold through a PPA, the description should include the expiration date of any PPA(s).
 - Utility-owned generation portfolio.
 - Sale directly into the MISO market.
- **Permits and Notifications**: The plan should include a list of anticipated permits, expanding on the information included in Section 4.4. The plan should also discuss how landowners and local governments will be notified (slightly expanding on the sentence in Section 5 to indicate which landowners and local governments will be notified).
- **Tasks and Timing**: Sections 3 “Decommissioning Activities” and 4 “Best Management Practices” generally meet EERA expectations. EERA recommends additional information on assumptions for waste disposal and timeframe schedule prior to pre-construction filing:
 - Addition of a short section that generally discusses assumptions for disposal and identifies landfill and recycling facilities in place currently. EERA appreciates the notes included to Attachment B identifying the area landfills, salvage yards, and transportation distance with the acknowledgement that those locations may change over time. EERA recommends that this information be pulled into its own section/subsection either under Section 3 or Section 4 to allow for easy reference and updating as the salvage and recycling markets mature and the project ages. Currently, the salvage and recycling markets for PV panels and battery storage are in very early stages. Although the notes included in Attachment B clarify some assumptions for disposal (a metal recycling facility in Slayton), assumptions about where the PV panels and lithium-ion batteries will be taken are unclear.
 - Addition of a section on the disposition of stormwater ponds. The plan does not reference any stormwater ponds, but the Environmental Assessment (EA) anticipates that stormwater basins will be included as part of the project. The plan should identify how the stormwater basins will be decommissioned.

- Section 3.2 indicates the land will be restored to pre-solar farm condition consistent with the lease agreements. The restoration discussion should also incorporate the permittee's obligation under Section 9.2 of the proposed Draft Site Permit (Environmental Assessment, Appendix C), requiring the permittee to restore and reclaim the site to pre-project conditions to the extent feasible.
- **Cost Estimate:** The summary information in Section 6 and detailed cost estimate in Attachment B meets EERA expectations at this time. EERA appreciates Lake Wilson's efforts to account for inflation of the decommissioning-related tasks and the depreciation of the PV modules. EERA notes that the combined estimated salvage value of the PV modules and lithium-ion batteries represents approximately 69 percent of the total salvage value of the project. EERA notes that the resale market for PV panels and lithium-ion batteries is not well established and that using current resale values 30 years into the future is speculative at this point. EERA anticipates that the resale market will become more stable over time and will continue to be monitored for all solar projects.
- **Financial Assurance:** EERA recommends that this section be revised to clarify the beneficiary of the financial assurance and the timing for fully funding the financial assurance. The timing of the financial assurance provided in the draft plan is generally consistent with the Solar and Wind Decommissioning Working Group recommendation², in that the financial assurance begins in year 10 and is stepped up. Future updates should clarify that the surety provide for full decommissioning costs prior to the expiration of any PPA. This section should also identify the beneficiary of that surety (e.g., the County, Commission, etc.).

EERA notes that the financial surety anticipated by Lake Wilson will cover the net cost (the total costs less than resale and salvage value of the components). The cost estimate shows a surplus with the salvage value greater than the cost of decommissioning through approximately year 16 of operation. Because the net cost shows a surplus, it is unclear to EERA how a financial surety would work in the event of a default on the part of Lake Wilson. It appears that the beneficiary may not have access to funds prior to arranging for and paying for the decommissioning work and then perhaps be reimbursed for the scrap value of the project components.

Lake Wilson's decommissioning plan anticipates leaving in place project-related infrastructure that is buried at a greater depth than four feet. Although site permits for Large Wind Energy Conversion Systems require removal of project components to a depth of four feet, the final site restoration requirements for a solar site (Section 9.2 of the site permit) does not specify a depth of removal.

EERA notes that Minnesota has developed a better understanding over the past five years about the disturbance of large areas during construction of utility-scale wind generating facilities. The experience with the construction process leads EERA to recommend a number of standard permit conditions to minimize impacts to soil health, erosion control, stormwater runoff, and to ensure that the sites are adequately vegetated after construction and throughout operation. Unfortunately, there is not similar experience with decommissioning of large solar generating facilities in Minnesota or elsewhere. EERA believes it is possible that uncovering and extracting all underground

² See comments and recommendations in the Commission's docket on the decommissioning of solar and wind facilities (eDockets No. 17-123).

project components may result in significant disturbance of solar sites. EERA believes that the five-year updates of the decommissioning plan will allow for flexibility as the knowledge about decommissioning of utility-scale solar grows.

Site Permit Modifications

Commission staff filed a sample site permit on October 2, 2023.³ EERA prepared a proposed Draft Site Permit (DSP) and included it as Appendix C of the Environmental Assessment (EA). EERA's proposed DSP attached to the EA makes several modifications to the sample site permit.⁴ Herein, EERA discusses the changes between the sample site permit and DSP. All changes are shown in the markup version of EERA's proposed DSP in Attachment A of this document and are summarized in Table 1.

Generally, the modifications proposed by EERA fall into the following categories:

- **Technical Changes:** Most of the modifications are minor, technical changes necessary to:
 - Tailor the permit to this specific project (e.g., permittee name, project location, equipment details)
 - Address typographical errors (e.g., correcting reference to "Minn. R. 7030.0100" to "Minn. R. 7030.0010") or technical inconsistencies (e.g., capitalization of terms, consistent use of terms)
 - Facilitate consistency and clarity around compliance (e.g., consistently requiring pre-construction compliance filings "14 days prior to the pre-construction meeting," clarifying recordkeeping requirements, clarity and consistency in how certain compliance filings are named/referenced throughout the permit).
- **Updates to Standard Conditions:** Some of the modifications update the permit to reflect the evolution of permit conditions that have routinely been adopted in recent dockets.⁵ In some cases, the modifications reflect the most updated version of standard permit condition language as it appears in other recent dockets. In other cases, the modifications update the permit to reflect the standardization of conditions that have been adopted as "special conditions" several times over in recent dockets and have come to be a standard expectation of permittees (e.g., Vegetation Management Plans or VMPs).
- **Applicant-Suggested Modifications:** In its pre-filed testimony, Lake Wilson proposed a modification to one permit condition which EERA responds to in this filing.

Each of these categories are discussed in further detail below Table 1.

³ Public Utilities Commission. *Sample Site Permit*, eDockets No. [202310-199322-01](#).

⁴ Minnesota Department of Commerce, Combined *Environmental Assessment and Environmental Report for Lake Wilson Solar Energy Center Project*, Appendix C: Draft Site Permit, October 18, 2023, eDocket No. [202310-199721-08](#).

⁵ See last site permit issued by the PUC for a solar facility: Byron Solar, LLC, *Oder Granting Certificate of Need and Issuing Site and Route Permits*, May 1, 2023, eDocket No. [20235-195471-02](#).

Table 1. EERA Proposed Site Permit Modifications

Section Title	Permit Section Number		Proposed Modification
	Sample Permit	EERA Proposed	
Cover Page	n/a	n/a	-updates with Project-specific information
Site Permit	1	1	-updates with Project-specific information
Project Description	2	2	-updates with Project-specific information
Associated Facilities	2.1	2.0	-edit to move to Section 2, Project description
Project Location	2.2	2.1	-updates with Project-specific information
Project Ownership	n/a	2.2	-new Project Ownership section to require a submittal of ownership structure 14 days prior to the pre-construction meeting and when ownership structure changes
Designated Site	3	3	-edits to clarify Permittee responsibility -Lake Wilson proposed modification
Access to Property	4.2	4.2	-add recordkeeping requirement to clarify compliance requirement
Construction and Operation Practices	4.3	4.3	-edits to remove reference to the site permit as projects are often modified over the course of review
Field Representative	4.3.1	4.3.1	-edit for clarity and consistency -add affidavit submittal to clarify compliance requirement
Site Manager	4.3.2	4.3.2	-edits for clarity and consistency -add affidavit submittal to clarify compliance requirement
Employee Training and Education of Permit Terms and Conditions	4.3.3	4.3.3	-edits for clarity -add recordkeeping requirement to clarify compliance requirement
Independent Third-Party Monitor		4.3.4	-moved from Special Conditions to standard permit condition for solar site permits
Public Services and Public Utilities	4.3.4	4.3.5	-edits for clarity -add recordkeeping requirement to clarify compliance requirement
Temporary Workspace	4.3.5	4.3.6	-edits to clarify Permittee responsibility
Noise	4.3.6	4.3.7	-correct typo in rule citation -edit for clarity and consistency
Aesthetics	4.3.7	4.3.8	-edits to clarify Permittee responsibility -edit for consistency

Section Title	Permit Section Number		Proposed Modification
	Sample Permit	EERA Proposed	
Topsoil Protection	4.3.8	4.3.9	-edit to eliminate unnecessary language; topsoil protection is a standard permit condition that landowners may not opt out of
Soil Compaction	4.3.9	4.3.10	-edits for consistency with other Commission-issued permits
Public Lands	4.3.11	4.3.12	-edits for consistency
Wetlands and Water Resources	4.3.12	4.3.13	-edits for consistency -edits to clarify Permittee responsibility
Native Prairie	4.3.13	4.3.14	-edits for clarity -edits to clarify Permittee responsibility
Vegetation Removal	4.3.14	4.3.15	-edits for clarity and consistency
Beneficial Habitat	4.3.15	4.3.16	-edits for clarity -edits to clarify Permittee responsibility
Vegetation Management Plan	4.3.16	4.3.17	-edits for clarity around standard conditions in Vegetation Management Plans -edits to clarify Permittee responsibility -adds recordkeeping requirement to clarify compliance
Agricultural Impact Mitigation Plan	n/a	4.3.18	-adds a standard condition for solar site permits
Application of Pesticides	4.3.17	4.3.19	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Invasive Species	4.3.18	4.3.20	-edit 30 days to at least 14 days prior to pre-construction meeting for consistency
Noxious Weeds	4.3.19	4.3.21	-adds recordkeeping requirement to clarify compliance
Roads	4.3.20	4.3.22	-edits for clarity and consistency -edits to clarify Permittee responsibility -adds recordkeeping requirement to clarify compliance
Archaeological and Historic Resources	4.3.21	4.3.23	-edits for clarity and consistency -edits to clarify Permittee responsibility -adds recordkeeping requirement to clarify compliance
Interference	4.3.22	4.3.24	-adds recordkeeping requirement to clarify compliance
Restoration	4.3.23	4.3.25	-edits for consistency
Cleanup	4.3.24	4.3.26	-edits to clarify Permittee responsibility

Section Title	Permit Section Number		Proposed Modification
	Sample Permit	EERA Proposed	
Damages	4.3.26	4.3.28	-adds recordkeeping requirement to clarify compliance
Public Safety	4.3.27	4.3.29	-edits for clarity and consistency -adds recordkeeping requirement to clarify compliance
Site Identification	4.3.28	4.3.30	-edits to clarify Permittee responsibility
Security Fencing	n/a	4.3.31	-adds a standard condition for solar site permits
Feeder Lines	4.4	4.4	-edits to clarify Permittee responsibility
Safety Codes and Design Requirements	4.5.1	4.5.1	-edits to clarify Permittee responsibility -edit to clarify that staff can request records
Other Permits and Regulations	4.5.2	4.5.2	-edits for clarity and consistency
Prevailing Wage	n/a	4.5.3	-adds a standard condition for solar site permits to comply with 2023 Statute changes
Complaint Procedures	7	7	-edit 12 days to simply “prior” to construction for consistency
Pre-Construction Meeting	8.1	8.1	-edit for clarity
Pre-Operation Meeting	8.2	8.2	-edits for clarity and consistency
Site Plan	8.3	8.3	-edits for clarity and consistency -edits to require notification from Commission before Permittee may construct
Status Reports	8.4	8.4	-edits to clarify compliance requirements
Labor Statistic Reporting	8.5	8.5	-edits for consistency
Project Energy Production	8.9	8.9	-edits for consistency
Emergency Response	8.10	8.10	-edits for consistency -add affidavit submittal to clarify compliance requirement
Decommissioning Plan	9.1	9.1	-edits to clarify compliance requirements and include Project-specific information -edits for consistency
Site Final Restoration	9.2	9.2	-edit to add “Final” to the title, distinguishing it from section 4.3.22 Restoration -edits for consistency -add notification of final restoration completion to clarify compliance requirement
Abandoned Equipment	9.3	9.3	-edits for clarity and consistency

Section Title	Permit Section Number		Proposed Modification
	Sample Permit	EERA Proposed	
Final Boundaries	10.1	10.1	-edits for consistency
Proprietary Information	10.7	n/a	-removed
Permit Transfer	12	12	-changed text to a list format -add transferee submittal requirements

Technical Changes

Most of these changes are minor technical changes that update the permit with the specifics of this Project (e.g., permittee name, Project location, equipment details), correct minor errors in the sample permit language (e.g., correcting reference to “Minn. R. 7030.0100” to “Minn. R. 7030.0010”), or provide better consistency across the permit (e.g., capitalization of terms, consistent use of terms).

In addition, EERA recommends several changes to facilitate consistency and clarity of permit compliance. As part of the technical assistance the Department provides to the Commission under Minnesota Statute 216E.03, subpart 11, EERA reviews compliance filings required by site and route permits issued by the Commission and assesses consistency of these filings with permit requirements. In order to fulfill this responsibility, EERA works to ensure that permit conditions are written in a manner that makes compliance requirements clear, direct, and consistent.

The proposed modifications are not meant to alter the substance of permit conditions but rather to provide clarity for the Permittee, Commission, EERA, and the public in assuring compliance. In general, EERA’s proposed modifications include the following:

- **Active voice:** Using active voice makes it abundantly clear who is responsible for taking actions required by the permit. For example, changing “personal litter.... shall be removed...” to “The Permittee shall remove personal litter...” removes any potential confusion about who is responsible for litter removal.
- **Compliance verification:** In certain cases, requiring standard filings that “close the loop” on completion of mailings, postings, or notifications make it simpler to verify compliance. EERA recommends several changes, clarifying that the Permittee must document their action by filing an affidavit so the action is easier to verify.
- **Recordkeeping:** In certain cases, clarifying recordkeeping requirements can ensure that if questions were to arise regarding compliance, they could be easily addressed. To this end, EERA recommends several changes clarifying expectations around records the Permittee should keep and make available upon request of Commission or Commerce staff. EERA believes this will aid in resolving potential compliance disputes. In addition, EERA recommends several changes that clarify that Commission or Commerce staff can ask for records or information to assist with evaluating compliance or reviewing complaints. This clarifies the obligation to coordinate with staff.

Updates To Standard Permit Conditions

EERA proposed several modifications to the sample site permit to add what were formerly special permit conditions to the standard conditions in the body of the permit. EERA also proposes adding one new standard condition to clarify project ownership.

Project Ownership

EERA recommends adding section 2.2 to the permit concerning Project ownership to supplement Section 12 (Permit Transfer). It is critical that the entity providing oversight of the implementation of plans and procedures detailed in the permit understand the requirements and that EERA and Commission staff have a clear pathway to identify and communicate with that entity. Section 12 addresses this need in the case where the named permittee changes.

It is not uncommon, however, for the ownership of an independently owned project to change after permits and approvals have been acquired. Most typically the named permittee (e.g., an LLC identified in the site permit) remains the same, but the ownership of the LLC changes, either through acquisition or a change in the partnership owning the LLC. Due to this feature of the independent power producer model, additional permit language is needed to address the need more traditionally served by Section 12 of the permit.

The new proposed section is intended to establish a solid base of understanding of the project's ownership structure prior to construction and to ensure that the Project's owner is aware of all the plans, procedures and conditions of the permit and is willing and able to meet the conditions of the permit.

2.2 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 Permittee must provide the Commission with a certification that it has read, understands and is able to comply with the plans and procedures it filed and all conditions of this permit.

Construction and Operation Practices

EERA proposes removing the reference to the site permit application. It is common for a project or for aspects of the Project, impacts, or mitigation measures to change significantly between the initial application and the final permit decision.

4.3 Construction and Operation Practices

The Permittee shall comply with the construction practices, operation and maintenance practices, and material specifications described in the ~~{Site Permit Application date and title}~~, and the record of the proceedings unless this permit establishes a different requirement in which case this permit shall prevail.

Independent Third-Party Monitor

EERA proposes moving the requirement for an Independent Third-Party Monitor from a Special Condition to a standard condition. Due to the large amount of land disturbance for a utility-scale solar generating facility, third-party monitors have been required of many solar site permits⁶ issued by the Commission to ensure compliance with permit conditions.

4.3.4 Independent Third-Party Monitor

Prior to any construction, the Permittees shall propose a scope of work and identify one independent third party monitor 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. The Permittee shall file the scope of work, and the name, address, email, phone number, and emergency phone number of the third-party monitor with the Commission at least 14 days prior to the pre-construction meeting, and upon changes to the scope of work or third-party monitor contact information.

Topsoil Protection

EERA proposes removing language allowing landowners to opt out of topsoil protection, including soil segregation during construction. Topsoil protection is a standard permit condition and not optional.

4.3.9 Topsoil Protection

The Permittee shall implement measures to protect and segregate topsoil from subsoil on all lands ~~unless otherwise negotiated with affected landowners.~~

Beneficial Habitat

EERA proposes modifications to this section of the permit to clarify the objective of using beneficial habitat and encourages the Permittee to meet the standards for Minnesota's Habitat Friendly Solar Program while moving the VMP language into its own section.

⁶ Permit conditions requiring third-party monitors were included in the site permits for Aurora Solar (14-515), Marshall Solar (14-1052), Louise Solar (20-647), Hayward Solar (21-113), and Byron Solar (20-763).

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 ~~improves~~ 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). ~~All~~ If the Permittee chooses to participate in Minnesota's Habitat-Friendly Solar Program, it shall file documents required by to be filed with BWSR for meeting and maintaining Habitat Friendly Solar Certification and maintenance of that Certification should also be filed with the Commission.

Vegetation Management Plan

Due to the large amount of land disturbance for a utility-scale solar generating facility, Vegetation Management Plans (VMPs) have been required for all solar site permits issued by the Commission, and Lake Wilson has included a draft VMP as Appendix F of its application. EERA proposes modifications to clarify what is required of the VMP, including coordination with State agencies. Additionally, edits are suggested to use active voice to make it clear who is responsible for taking actions required by the permit.

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 vegetation management plan shall be prepared in coordination with the Department of Commerce, DNR, and BWSR. The vegetation management plan~~ The Permittee shall file the VMP and documentation of the coordination efforts between the pPermittee and the coordinating agencies shall be filed 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 Vegetation Management Plan. The Permittee shall provide all affected landowners within the Project Boundary with copies of the plan 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 ~~vegetation management plan~~ VMP must include the following:

- (a) management objectives addressing short term (year 0-~~35~~ 5, seeding and establishment) and long term (year 45 through the life of the ~~permit~~ 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 (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.) ~~responsible~~ 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.

Agricultural Impact Mitigation Plan

EERA has added an Agricultural Impact Mitigation Plan (AIMP) as a standard condition. Although this condition was not included in the Sample Permit, AIMPs have been required for most solar site permits on agricultural land.⁷ Lake Wilson has included a draft AIMP as Appendix E of its application.

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 Project Boundary with 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.

Security Fencing

EERA has moved Security Fencing from a special condition in the Sample Permit to a standard condition in the DSP. Security Fencing has become a standard condition in solar site permits.

4.3.31 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 EERA and the DNR. The final fence plan shall be submitted to the Commission as part of the site plan pursuant to Section 8.3.

⁷ AIMPs were not required for the North Star Solar Project (15-33) issued in 2016 or the Sherco Solar Project (21-189) issued September 2022. The North Star Project in Chisago County was on agricultural land that was not prime farmland and the Sherco Solar Project was on the site of a former coal plant. AIMPs were required for the following projects: Aurora Solar (14-515), Marshall Solar (14-1052), Regal Solar (19-395), Elk Creek Solar (19-495), Louise Solar (20-647), Red Rock Solar (19-620), and Byron Solar (20-763).

Decommissioning Plan

EERA proposes modifying Section 9.1 of the DSP to include project-specific information on the decommissioning plan, require submittal prior to pre-construction meeting instead of pre-operation meeting, and clarify updates to the decommissioning plan.

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 ~~issuance~~ 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 shall be updated 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~~ Project components, which shall include labor and equipment. The plan shall identify cost estimates for the removal of solar panels, racks, underground collection cables, access roads, transformers, substations, and other ~~project~~ Project components. The decommissioning plan may also include anticipated costs for the replacement of panels or repowering the ~~project~~ 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~~ 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~~ 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.

Permit Transfer

EERA recommends modifications to Section 12 of the permit concerning transfer of permit, including:

- formatting items the Permittee must provide the Commission into a list format for easier reading;
- eliminating unnecessary language about what the Commission may do;
- replacing “new Permittee” and “person or entity to whom the permit is requested to be transferred” with “transferee” to simplify the language; and
- requiring the transferee to provide the Commission a certification that it has read, understands and is able to comply with the plans and procedures it filed, and all conditions of the permit.

EERA believes the proposed changes improve clarity. By requiring the transferee to submit a certification, disputes in plans and procedures and conditions of the permit should be worked out before the transfer of permit request is submitted.

12. Transfer of Permit

The Permittee may request at any time that the Commission transfer this permit to another person or entity. ~~The Permittee shall provide the name and description of the person or entity to whom the permit is requested to be transferred, the reasons for the transfer, a description of the facilities affected, and the proposed effective date of the transfer (transferee). The person to whom the permit is to be transferred shall provide the Commission with such information as the Commission shall require to determine whether the new Permittee can comply with the conditions of the permit. The Commission may authorize transfer of the permit after affording the Permittee, the new Permittee, and interested persons such process as is required. In its request, the Permittee shall 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 the name and contact information for the site manager, as described in Section 4.3.2, and either a current version with e-docket 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 8.10; and*
- (d) decommissioning plan, as described in Section 9.*

Applicant-Proposed Modifications:

In its pre-filed testimony, Lake Wilson proposed modifications under the “Designated Site” heading in Section 3. In accordance with Lake Wilson’s proposed modification to the DSP, with a slight modification as shown in underline, EERA recommends that “*The site designated by the Commission for the Lake Wilson Solar Energy Center Project is the site depicted on the site maps attached to this permit*” be replaced with:

“The site maps show the Project Boundary and the approximate location of the solar energy generating system and associated facilities within the Project Boundary. The Commission sought to locate the solar energy generating system and associated facilities in a way that minimizes the overall potential human and environmental impacts of the Project, which were evaluated in the permitting process. The Project Boundary 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. The Permittee shall make any modification to the location of the solar energy generating system or associated facilities in such

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a manner to have comparable overall human and environmental impacts relative to the siting factors of Minnesota Rule 7850.4100 and shall specifically identify them in the site plan pursuant to Section 8.3."

EERA appreciates the opportunity to comment on the proposed project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenna Ness', with a stylized flourish at the end.

Jenna Ness
EERA Environmental Review Manager