

February 27, 2024

VIA E-FILING

Mr. William Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, MN 55101-2147

**Re: In the Matter of the Applications of Lake Wilson Solar Energy LLC for a Certificate of Need and Site Permit for the up to 150 MW Lake Wilson Solar and Associated Battery Storage Project in Murray County, Minnesota
MPUC Docket No. IP-7070/CN-21-791, GS-21-792
OAH Docket No. 5-2500-39336**

Dear Mr. Seuffert:

Lake Wilson Solar LLC (“Lake Wilson Solar” or “Applicant”) appreciates the thorough analysis and recommendations contained in the Administrative Law Judge’s (“ALJ”) Findings of Fact, Conclusions of Law, and Recommendations (“ALJ Report”) dated February 7, 2024, in the above-referenced matters. Overall, the ALJ Report presents a comprehensive and detailed review of the record in this proceeding. As such, Lake Wilson Solar submits only limited comments and exceptions regarding the findings and the permit conditions related to security fencing. Lake Wilson Solar also responds to the Minnesota Department of Commerce, Energy Environmental Review and Analysis (“EERA”) staff’s exceptions to the ALJ Report dated, February 15, 2024, in the above-referenced matters.

Security Fencing

As the ALJ Report states in Finding No. 319, Lake Wilson Solar has no objection to the EERA’s proposed site permit condition 4.3.31, which requires coordination with the EERA and the Minnesota Department of Natural Resources (“DNR”) on the fencing design prior to the pre-construction meeting. However, Lake Wilson Solar disagrees with portions of Finding No. 320 in the ALJ Report where the ALJ suggests that the DNR requested the inclusion of deer egress gates in the fencing design.

On the contrary, the DNR’s December 5, 2023 comment letter indicated that Lake Wilson Solar’s security fencing meets the DNR’s standards, provided that if Lake Wilson Solar elected to include deer egress gates then those locations should be discussed with the DNR. Here’s the relevant excerpt from the DNR letter:

Security Fencing

Page 17 of the EA states that gates will be installed at access road entrances on public roads or near transmission lines. Although security fencing meets DNR standards, the location of deer egress gates, if any, needs clarification. The DNR recommends further

coordination with our agency to address this concern.¹

Lake Wilson Solar does not believe dedicated deer egress gates are necessary to allow deer to exit the facility if they are able to jump the security fence. In the event a deer were to jump the security fence and enter the facility, Lake Wilson Solar's operation and maintenance teams will have the option to open one or more of the eleven gates currently planned for the facility to allow deer to exit the facility. Nonetheless, Lake Wilson Solar is committed to consulting with the DNR on the final fence design and will work with the DNR to address the need and location, if any, for deer egress gates. Accordingly, Lake Wilson Solar proposes revising Finding No. 320 in the ALJ Report in order to accurately reflect the DNR's December 5, 2023 comments and the coordination that will occur in accordance with site permit condition 4.3.31:

320. The DNR is responsible for all wild animals in the state.⁴²¹ Lake Wilson Solar asserts the EA found that potential impact to deer is expected to be minimal and as a result, the deer egress gates will not be included in the fencing design.⁴²² However, the EA found that studies estimate that one hoofed mammal per year becomes entangled for every two and one-half miles of fence. Although deer can jump many fences, they can become tangled in both smooth and barbed-wire fences. Predators can use fences to corner and kill prey species.⁴²³ The DNR indicated Lake Wilson Solar's fence design meets DNR's standards.² ~~DNR's expertise should be given deference and deer egress gates should be included as advised by the DNR.~~ Lake Wilson Solar should consult with the DNR on fencing design in accordance with site permit condition 4.3.31 to clarify the locations of the deer egress gates if they are going to be included in the site plan for the project.

EERA Exceptions to the ALJ Report

Lake Wilson Solar agrees with the EERA's exceptions to the ALJ Report³ related to the use of appropriate terminology in the report, the conclusion of law related to the sufficiency of the environmental assessment and the inclusion of the statutory requirement to pay no less than the prevailing wage.

Conclusion

Lake Wilson Solar respectfully requests that the Commission adopt the ALJ Report with the revisions noted herein together with the revisions noted in EERA's exceptions and grant the Certificate of Need and Site Permit for the Lake Wilson Solar Project.

¹ DNR Comments (Dec. 5, 2023) (eDocket No. [202312-200987-01](#)).

² *Id.*

³ EERA's Exceptions to the ALJ Report (Feb. 15, 2024) (eDocket No. [20242-203461-01](#)).

Mr. William Seuffert
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A copy of this filing is also being served upon the persons on the Official Service Lists of record.
Please let me know if you have any questions regarding this filing.

Sincerely,

/s/ Jeremy P. Duehr

Jeremy P. Duehr
Attorney at Law
Direct Dial: (612) 492-7000
Email: jduehr@fredlaw.com

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

CERTIFICATE OF SERVICE

**OAH Docket No. 5-2500-39336
MPUC Docket No. IP-7070/CN-21-791
MPUC Docket No. IP-7070/GS-21-792**

Breann L. Jurek certifies that on the 27th day of February 2024, she served true and correct copies of the following documents by electronic filing:

1. Exceptions to the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommendations; and
2. Certificate of Service

to the parties on the attached Official Service Lists as attached hereto.

Executed on: February 27, 2024

Signed: /s/ Breann L. Jurek

Fredrikson & Byron, P.A.
60 South Sixth Street
Suite 1500
Minneapolis, MN 55402

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.	60 South Sixth Street Suite 1500 Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-791_IP7070- 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_IP7070- 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_IP7070- 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_IP7070- CN-21-791
Mark D	Crowl	MCrowl@invenenergy.com	Invenenergy, LLC	1401 17th St Ste 1100 Denver, CO 80202	Electronic Service	Yes	OFF_SL_21-791_IP7070- 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_IP7070- CN-21-791
Richard	Dornfeld	Richard.Dornfeld@ag.state.mn.us	Office of the Attorney General-DOC	Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_IP7070- CN-21-791
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-791_IP7070- CN-21-791
Bridget	Duffus	bduffus@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-791_IP7070- 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_IP7070- CN-21-791

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Bret	Eknes	bret.eknes@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	No	OFF_SL_21-791_IP7070-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_IP7070-CN-21-791
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_IP7070-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_IP7070-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_IP7070-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_IP7070-CN-21-791
Craig	Janezich	craig.janezich@state.mn.us	Public Utilities Commission	121 7th Pl E #350 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_IP7070-CN-21-791
Breann	Jurek	bjurek@fredlaw.com	Fredrikson & Byron PA	60 S Sixth St Ste 1500 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_21-791_IP7070-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_IP7070-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_IP7070-CN-21-791

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_IP7070- CN-21-791
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_IP7070- CN-21-791
James	Mortenson	james.mortenson@state.mn.us	Office of Administrative Hearings	PO BOX 64620 St. Paul, MN 55164-0620	Electronic Service	Yes	OFF_SL_21-791_IP7070- CN-21-791
Jenna	Ness	jenna.ness@state.mn.us	Department of Commerce	85 7th place east St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_IP7070- CN-21-791
Cezar	Panait	Cezar.Panait@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-791_IP7070- 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_IP7070- 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_IP7070- CN-21-791
Nathaniel	Runke	nrunke@local49.org	International Union of Operating Engineers Local 49	611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_21-791_IP7070- 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_IP7070- CN-21-791

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-791_IP7070-CN-21-791
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	Yes	OFF_SL_21-791_IP7070-CN-21-791
Jayme	Trusty	execdir@swrdc.org	SWRDC	2401 Broadway Ave #1 Slayton, MN 56172	Electronic Service	No	OFF_SL_21-791_IP7070-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_IP7070-CN-21-791
Cynthia	Warzecha	cynthia.warzecha@state.mn.us	Minnesota Department of Natural Resources	500 Lafayette Road Box 25 St. Paul, MN 55155-4040	Electronic Service	No	OFF_SL_21-791_IP7070-CN-21-791
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_IP7070-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_IP7070-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_IP7070-CN-21-791

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Richard	Dornfeld	Richard.Dornfeld@ag.state.mn.us	Office of the Attorney General-DOC	Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, MN 55101	Electronic Service	No	OFF_SL_21-792_IP7070- GS-21-792
Jeremy	Duehr	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	60 S Sixth St Ste 1500 Minneapolis, MN 55402-4400	Electronic Service	Yes	OFF_SL_21-792_IP7070- GS-21-792
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Craig	Janezich	craig.janezich@state.mn.us	Public Utilities Commission	121 7th Pl E #350 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-792_IP7070- GS-21-792
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