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**I. [REVISED] Commission Decision Alternatives (Item #2 – Aurora Solar)**

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*Staff recommends decision options 3-6.*

**Amendment, Suspension or Revocation, or Enforcement Action of the Site Permit**

1. Initiate revocation or suspension proceedings pursuant to 216E, providing notice of the grounds for revocation or suspension.
2. Refer the matter to the Office of the Attorney General for further investigation.
3. Amend the Site Permit to limit the permit to the sites constructed, as recommended by the DOC EERA.
4. Amend the Site Permit and add a permit condition relating to the use of a Commission Environmental Inspector. Suggested language is as follows: ~~Any scope of work approved by the Executive Secretary will supersede this permit condition.~~ [Moved]

Environmental Inspector: The Permittee shall retain an independent third-party inspector. The selection of the inspector and scope of the inspection effort shall be approved by the Department of Commerce and Commission's Executive Secretary.

The inspector shall monitor any construction, restoration, or other work and ensure that the project conforms to the site permit terms, conditions, and the specifications outlined in the record. Initially, the inspector shall file one report per site within 30 days of initiation of inspections that documents any current issues relating to compliance with the Site Permit, the AIMP or VMP, or any other applicable relevant law. Proposed corrective measures should be outlined for issues found and any timeframe in which they need to be completed by to ensure no further harm or issues arise. Any issues that are beyond the scope or ability of the inspector to provide corrective measures should be noted for further review by Commission staff. After the initial assessment of each site, the Commission EI should file with the Commission monthly reports at 30-day intervals (or as otherwise agreed upon by the Commission) to the Commission addressing compliance during construction and restoration, or any other issues deemed appropriate. The inspector should communicate as needed with Commission staff or other agencies.

Any violations of the AIMP, VMP, Site Permit or other law not found by the inspector do not absolve the company from compliance or corrective actions needed. Compliance is sole responsibility of the company.

Termination or modification of these reports and inspections and the interval in which they are conducted, or modification of this permit condition, will and can be

authorized by the Executive Secretary upon request of the Commission staff, the Commission EI or upon petition by Aurora.

Inaction on the part of Aurora to meet intervals for corrective action as outlined by the Commission EI may be grounds for Site Permit suspension or termination, or other action, in accordance with statute and rule.

### **Additional Reporting Requirements**

5. Require the following:

- Aurora shall work with Commission staff and EERA to retain a Commission EI to be onsite by September 5, 2017. Any delay to this schedule shall be requested for good cause shown from ~~(for due cause)~~ and approved by the Commission's Executive Secretary in a timely manner. Any unauthorized delay to this schedule may subject Aurora to enforcement action by the Commission and/or suspension or termination of the site permit as allowed for by law.
- The Commission EI shall be retained by Aurora in consultation with Commission staff. The Commission EI will ~~and~~ conduct its work under the terms and agreements approved by the Commission's Executive Secretary. Work will terminate when Aurora has been authorized to end inspection services. ~~The Commission EI shall be retained until authorized to terminate its work by the Commission's Executive Secretary.~~ The termination of work may be requested to be approved by the Commission's Executive Secretary by Commission staff, the Commission's EI, or upon petition by Aurora.
- Require Aurora to consult work with Commission and EERA staff to timely execute a Master Services Agreement with an inspection services company (as needed) and a Memorandum of Understanding between Aurora, EERA, and the Commission on the reporting requirements and communication protocols ~~roles and responsibilities~~ of the inspector and a scope of work. Any later scope of work approved by the Executive Secretary will supersede any conflicting permit provision. Any delay in executing these steps may subject Aurora to enforcement action by the Commission and/or suspension or termination of the site permit as allowed for by law.
- Aurora shall file a revised draft AIMP (or VMP as needed) by September 29, 2017 incorporating ~~the~~ agreed upon modifications and any other necessary modifications:
  - Inclusion and information regarding the use of Commission EI;
  - The requirements for on-going monitoring for any work that may damage vegetation, soils, or other environmental issues pertaining to the AIMP, VMP or Site Permit; and,

- Training protocols for personnel working on on-going work throughout the life of the project.<sup>1</sup>
  - Aurora shall file training protocols for future maintenance and restoration contractors by October 27, 2017.
  - Aurora shall develop with the MN DNR and the EERA and file by October 27, 2017:
    - a plan with the MN DNR regarding on-going monitoring protocols as requested by the MN DNR, and,
    - Site specific maintenance plans.<sup>2</sup>
6. ~~Authorize~~ Delegate to the Commission's Executive Secretary authority to modify any permit conditions, ~~of these ordering points~~, or other on-going inspection and compliance related authorization or requirements, ~~any contracting provisions (MSA, MOU, Scope of Work) as needed, and at any time~~, to ensure compliance and timely adherence to environmental, construction, safety laws or requirements.

**Staff recommends decision options 3-6.**

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<sup>1</sup> Modifications to drain tile provisions and landowner/ownership are not necessary at this time. The AIMP (and VMP if needed) will be reviewed, potentially modified, and approved by the Commission's Executive Secretary. Review and approval of this AIMP should not delay the execution or implementation of the Commission EI inspections.

<sup>2</sup> The on-going monitoring protocols and site specific maintenance plans will be reviewed, potentially modified, and approved by the Commission's Executive Secretary