

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Elk Creek
Solar, LLC for a Certificate of Need for the
up to 80 MW Elk Creek Solar Project in
Rock County, Minnesota

**SUMMARY REPORT OF PUBLIC
COMMENTS**

In the Matter of the Application of Elk Creek
Solar, LLC for a Site Permit for the up to 80
MW Elk Creek Solar Project in Rock
County, Minnesota

This matter was referred to the Office of Administrative Hearings for assignment of an administrative law judge to conduct a public hearing and prepare a summary report regarding public comments (Summary Report) on the Applications for a Certificate of Need and a Site Permit for the up to 80 Megawatt Elk Creek Solar Project in Rock County, Minnesota (Applications) (PUC Docket No. CN-19-351, MPUC Docket No. GS-19-495), filed by Elk Creek Solar, LLC (Applicant).¹ This matter was assigned to Administrative Law Judge Jessica A. Palmer-Denig.

The Administrative Law Judge held a remote-access public hearing on July 23, 2020. Jeremy P. Duehr, Fredrikson & Byron, P.A., appeared on behalf of Applicant, along with Melissa Schmit, Jordan Burmeister, Michael Morris, and Chip LaCasse, of Geronimo Energy, LLC (Geronimo). Bill Storm, Environmental Review Manager, appeared on behalf of the Department of Commerce (Department) Energy Environmental Review and Analysis (EERA). Michael Kaluzniak participated on behalf of the Minnesota Public Utilities Commission (Commission).

The deadline for submission of public comments following the public hearing was August 10, 2020, at 4:30 p.m.² The deadline for submission of this Summary Report is October 12, 2020.³

¹ See Order Accepting Applications as Substantially Complete and Directing Use of Informal Review Process (Dec. 23, 2019) (eDocket No. 201912-158561-01).

² Public Hearing Transcript (Tr.) at 10 (July 23, 2020); Notice of Public Hearing and Comment Period (June 29, 2020) (eDocket No. 20206-164333-01); *see also* Amended Scheduling Order (July 8, 2020) (eDocket No. 20207-164751-01).

³ Second Amended Scheduling Order (Aug. 6, 2020) (eDockets No. 20208-165642-01).

I. The Project

1. Applicant is an independent power producer and wholly-owned subsidiary of Geronimo.⁴ Applicant proposes to construct and operate an up to 80 MW alternating current (AC) nameplate capacity solar energy conversion facility in Vienna Township, Rock County, Minnesota (the Project).⁵

2. Northern States Power Company, doing business as Xcel Energy, has entered into a power purchase agreement with Applicant to purchase the power generated by the Project and in order to satisfy its customers' growing demand under its Renewable Connect Program.⁶

3. Applicant represents that the Project will generate up to 80 MW, enough energy to provide electricity for approximately 19,000 homes each year and avoid the emission of approximately 119,000 metric tons of carbon annually.⁷

4. Applicant plans to construct the Project on a schedule that facilitates an in-service date by the end of 2021.⁸ In addition, Applicant has committed to use union labor or pay prevailing wages for construction labor.⁹

II. Procedural History

5. In September 2019, Elk Creek applied for a Site Permit and Certificate of Need with the Minnesota Public Utilities Commission.¹⁰

6. On December 23, 2019, the Commission issued an order accepting the Certificate of Need and Site Permit applications as complete and initiating an informal review process.¹¹ The Commission requested that the Administrative Law Judge hold a public hearing and prepare a summary report.¹²

7. On January 13, 2020, the Commission and the Department held a Scoping and Informational Meeting, at which they received oral and written public comments.¹³ Written public comments were accepted through January 28, 2020.¹⁴

⁴ Certificate of Need Application for a Solar Energy Conversion System at 7 (Sept. 13, 2019) (eDocket No. 20199-155857-02).

⁵ *Id.*

⁶ Site Permit Application at 1 (Sept. 13, 2019) (eDocket No. 20199-155860-02).

⁷ *Id.*

⁸ *Id.*

⁹ Tr. at 20; Meeting Presentation (July 23, 2020) (eDocket No. 20207-165342-02).

¹⁰ Site Permit Application (Sept. 13, 2019) (eDocket No. 20199-155860-02); Certificate of Need Application for a Solar Energy Conversion System (Sept. 13, 2019) (eDocket No. 20199-155857-02).

¹¹ Order Accepting Applications as Substantially Complete and Directing Use of Informal Review Process (Dec. 23, 2019) (eDocket No. 201912-158561-01).

¹² *Id.* at 4.

¹³ Notice of Public Information and Environmental Assessment Scoping Meeting (Dec. 23, 2019) (eDockets No. 201912-158585-01); Scoping and Informational Meeting Transcript (Scoping Tr.) (Jan. 13, 2020).

¹⁴ Notice of Public Information and Environmental Assessment Scoping Meeting (Dec. 23, 2019) (eDockets

8. The Administrative Law Judge held a public hearing in this matter on July 23, 2020, by remote means. In addition, written public comments were accepted until August 10, 2020, at 4:30 p.m.¹⁵

III. Scoping and Informational Meeting Oral Comments

9. At the scoping meeting, Michael Kaluzniak, Commission staff person, discussed the permitting process.¹⁶ Melissa Schmit, Geronimo's director of permitting, provided a brief overview of the Project.¹⁷ Bill Storm, of the Department's EERA, discussed the Department's environmental review process.¹⁸

10. Mike Gangestad asked several questions regarding the energy output of the Project, its efficiency, the output degradation schedule, decommissioning plans, recycling, and the number of days of sun in the county.¹⁹ Mr. Gangestad does not believe there is a need for this Project because solar power needs a backup, and it is a "very, very expensive redundancy."²⁰ Mr. Gangestad also voiced his concerns regarding animal habitats and the use of prime farmland for unnecessary solar energy.²¹

11. Ron Solberg also expressed concerns regarding animal habitat and the use of prime farmland, but he also voiced support for the Project as he believes "we need it" because we "need to save our fossil fuels."²² He stated: "If you can be creative with the plants and the animals somehow, some way, it will help your image, I feel."²³

12. Paul Arends asked if Geronimo would be buying or leasing land for the Project and if landowners would be responsible for any liabilities.²⁴ Jordan Burmeister, with Geronimo, stated that the Project would consist of both purchased and leased property.²⁵ In addition, Mr. Burmeister noted that Geronimo carries liability insurance, such that "landowners would not be held liable for the project."²⁶

13. Mr. Arends is concerned about the possibility of hail damage to the Project's panels.²⁷ He is also concerned that the panels are made with a black film that contains toxic materials.²⁸ Ms. Schmit advised that the panels would not be coated with a toxic film

No. 201912-158585-01).

¹⁵ Notice of Public Hearing and Comment Period (June 29, 2020) (eDocket No. 20206-164333-01); Amended Scheduling Order (July 8, 2020) (eDocket No. 20207-164751-02).

¹⁶ Scoping Tr. at 3-12.

¹⁷ *Id.* at 12-20.

¹⁸ *Id.* at 20-27.

¹⁹ *Id.* at 27-34.

²⁰ *Id.* at 30-31.

²¹ *Id.* at 34.

²² *Id.* at 36, 38.

²³ *Id.* at 37.

²⁴ *Id.* at 40-41.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 41.

²⁸ *Id.* at 43.

and noted that the panels are recyclable.²⁹ Lastly, Mr. Arends expressed concern about the corporate ownership of Geronimo and the funding for the Project, questioning whether some funding for the Project comes from international funding sources.³⁰ Mr. Arends expressed concern about “all of our federal tax credits going across seas,” but Mr. Burmeister stated, “It’s a U.S. operation.”³¹

IV. Scoping and Informational Meeting Written Comments

14. Patrick Baustian is in favor of the Project, stating that we “need to as a society try to increase any of our energy projects that lessen the carbon footprint of the power source.”³² Mr. Baustian also noted that the Project brings jobs to the area.³³

15. The Minnesota Department of Natural Resources (DNR) offered comments regarding potential environmental concerns, including construction impacts due to water issues, offering a recommendation that construction be accomplished during drier months; risks to two state-listed species, the Topeka shiner and the plains topminnow; the plan for perimeter fencing and impacts on deer, and the importance of establishing pollinator habitat.³⁴

16. Eric Hartman, with Rock County Land Management, stated that E-911 addresses should be required for the Project, requested the opportunity to hold public hearings and issue local conditional use and land use permits, and raised the need for other agreements related to construction and road usage.³⁵

17. Ron Solberg reiterated his belief that “we need to save fossil fuels . . . to do the heavy work done by tractors, trucks, trains, ships and factories.”³⁶

18. Another commenter, not identified by name, opposed the Project, asking rhetorically: “Wouldn’t it make more sense for a solar site to be placed somewhere where land is less valuable and the sun shines more?”³⁷ The commenter also addressed the “food v. fuel” argument, stating that, “[t]aken to the extreme, replacing too much food production with energy production could jeopardize the world’s food supply.”³⁸

²⁹ *Id.*

³⁰ *Id.* at 44-45.

³¹ *Id.* at 46.

³² Comment by Patrick Baustian (eDocket No. 20201-159824-01).

³³ *Id.*

³⁴ Comment by the Minnesota Department of Natural Resources (Jan. 28, 2020) (eDocket No. 20201-159824-01).

³⁵ Comment by Eric Hartman (Jan. 28, 2020) (eDocket No. 20201-159824-01).

³⁶ Comment by Ron Solberg (eDocket No. 20201-159824-01).

³⁷ Anonymous Comment (eDocket No. 20201-159824-01).

³⁸ *Id.*

V. Public Hearing Comments

19. At the public hearing on July 23, 2020, the Administrative Law Judge articulated that comments should relate to the two questions posed in the public hearing notice: 1) Should the Commission grant a certificate of need and site permit for the Elk Creek proposed solar project?; and 2) If granted, what additional conditions or requirements should be included in the site permit for this solar project?³⁹

20. Lucas Franco, the regional research manager for the Laborers' International Union of Minnesota and North Dakota (LiUNA), commented in support of the Project.⁴⁰ Mr. Franco noted that 46,000 construction workers statewide, including 3,000 within the Project area, recently applied for unemployment benefits and stated that "[t]his project will help meet our state's clean energy goals and also provide badly needed job opportunities for regional construction workers."⁴¹ Mr. Franco praised Applicant for prioritizing local labor and committing to provide "good, family-supporting jobs," and noted that substantial tax payments will flow from the Project.⁴²

21. Tara Kroger, with Local 563, noted that the Project would benefit the local economy because skilled laborers bring money "into the businesses around there and the motels and everything else."⁴³ She strongly supports the Project.⁴⁴

22. Steven Schneiderman asked if the Applicant intends to recycle solar panels, and, if not, whether the Commission should require it.⁴⁵ Mr. Schneiderman also questioned who would be responsible for damage and costs if a tornado spread panels on nearby property.⁴⁶ Lastly, Mr. Schneiderman asked if the site would be returned to pre-solar condition following decommission, including infrastructure above and below ground.⁴⁷

23. Michael Morris responded that the Applicant will "make every effort to recycle" and will participate in recycling programs to the extent that such participation is feasible.⁴⁸ Regarding potential tornado damage, Mr. Morris stated that Applicant "has insurance to cover those . . . sort of issues" and "would take care of any cleanup that would be necessary if that were to occur."⁴⁹

24. Ms. Schmit addressed Mr. Schneiderman's decommission question, stating that "once construction is complete, all areas that have been temporarily disturbed from

³⁹ Tr. at 10.

⁴⁰ *Id.* at 33-35.

⁴¹ *Id.* at 34.

⁴² *Id.*

⁴³ *Id.* at 35.

⁴⁴ *Id.*

⁴⁵ *Id.* at 36.

⁴⁶ *Id.* at 37.

⁴⁷ *Id.*

⁴⁸ *Id.* at 38.

⁴⁹ *Id.*

construction that will not contain permanent project facilities for the life of the project will be restored.”⁵⁰

25. Following these responses, Mr. Schneiderman further stated that the Project is “a bad idea” because the Applicant will be “converting prime farmland to solar energy” and as food demand is likely to increase, “we shouldn’t be reducing our ability to produce food.”⁵¹ He noted: “There’s lots of different ways to produce electricity, but so far agriculture is the only way we have to produce food.”⁵²

26. Tara Kroger, with Local 563, spoke again, noting in response to Mr. Schneiderman that construction workers “always clean up. We always take good care of the ground. We pick up our garbage and everything else. There’s nothing around. We take care of our surroundings.”⁵³

27. Paul Arends, a farmer within the Project vicinity, noted that the Applicant had indicated that 90 percent of the solar panel materials were recyclable and wondered: “What happens to the other 10 percent?”⁵⁴ Mr. Morris replied that the other 10 percent “would be most likely disposed of in a landfill.”⁵⁵

28. Mr. Arends further stated that he does not “feel that it’s a great use of our taxes to be giving tax incentives to these projects.”⁵⁶ He also wondered if Geronimo intended to develop this project and then sell it.⁵⁷ Ms. Schmit stated that Geronimo intends to own and operate the Project for its life.⁵⁸

29. Mr. Arends next asked, “[a]s far as restoration, what happens to the cement in the ground?”⁵⁹ Ms. Schmit noted that any “substation foundation would be removed” up to a depth of four feet; any cement below four feet underground would remain, unless the landowner wanted it removed.⁶⁰ Mr. Arends noted that remaining cement “will come up eventually,” and he believes “the state needs to address that in their permitting process.”⁶¹

30. Mr. Arends also inquired about the Project’s requirement “to have some sort of farming back into it.”⁶² Mr. Storm noted that, in the permit application, Geronimo indicated that it would “restore the land back, so it will be field returned to agricultural

⁵⁰ *Id.*

⁵¹ *Id.* at 39.

⁵² *Id.*

⁵³ *Id.* at 40.

⁵⁴ *Id.* at 41.

⁵⁵ *Id.* at 42.

⁵⁶ *Id.* at 43.

⁵⁷ *Id.*

⁵⁸ *Id.* at 44.

⁵⁹ *Id.*

⁶⁰ *Id.* at 44-45.

⁶¹ *Id.* at 47.

⁶² *Id.*

production.”⁶³ Also, Mr. Storm indicated that the permit would require Geronimo to have a decommissioning plan, updated every five years as information changes.⁶⁴ Mr. Arends noted that the land would not be very productive “after all this happens on it for 20 years” and indicated other non-farmland locations might be better suited to solar projects.⁶⁵

31. Bret Ekness, with the Commission, stated that he was “going to suggest that the company let us know what considerations they have made selecting the site that they did and also what sort of mitigation techniques” the company planned, but he noted that “those things ha[d] been touched on.”⁶⁶

32. Mr. Storm next commented that EERA and the DNR planned to support a permit condition for a vegetation management plan based on the agencies’ proposed language, noting that the Applicant’s “current plan will have to be fleshed out a bit more.”⁶⁷ He also stated that he was having a difficult time visualizing the Applicant’s idea to have “harvestable crops ... be used in association with the solar panels.”⁶⁸

33. Ms. Schmit responded that the Applicant “had discussions with third party vendors who have had experience and success in haying in areas within a solar facility. You know, it could be in the area in between the panels in the fence or the area between the panels or the rows themselves.”⁶⁹ She indicated she would be willing to “flesh that out a bit more in the vegetation management plan.”⁷⁰

34. Mr. Arends asked an additional question regarding the terms and duration of the power purchase agreement between the Applicant and Xcel.⁷¹ Ms. Schmit stated that the agreement has a term of 20 years.⁷² Mr. Arends then asked how many years would pass before the Applicant asked the Commission for a rate increase and how many times a rate increase can be sought in those 20 years.⁷³ Ms. Schmit responded that she did not have that information, but could follow up.⁷⁴

35. Mr. Arends next asked if state tax incentives for the Project “are . . . one time only or are they spaced out through the project, through the 20 years?”⁷⁵ Jeremy Duehr, Applicant’s counsel, stated that, to his knowledge, “there are no state tax dollars being paid to fund the project” and noted that the Commission would be considering the

⁶³ *Id.*

⁶⁴ *Id.* at 47-48.

⁶⁵ *Id.* at 48-49.

⁶⁶ *Id.* at 52.

⁶⁷ *Id.* at 54.

⁶⁸ *Id.* at 54-55.

⁶⁹ *Id.* at 55.

⁷⁰ *Id.*

⁷¹ *Id.* at 56.

⁷² *Id.*

⁷³ *Id.* at 56-57.

⁷⁴ *Id.* at 57.

⁷⁵ *Id.*

terms and conditions of the power agreement between the Applicant and Xcel as part of a separate docket.⁷⁶

36. Mr. Arends then stated:

Well, the root of the question is we all get into these projects, and then the tax dollars go away. So then we need a rate increase, so then the ratepayers of the State of Minnesota have to pay more. That's where the root of the question goes. That's why I want to know where the tax dollars go and what the incentives are for putting up a solar project, 'cause I know you as Geronimo as a company aren't doing this just because you like solar panels.⁷⁷

37. Mr. Duehr responded that it "might be best for us to respond in writing . . . in the docket."⁷⁸

38. Mr. Schneiderman then asked a follow-up question regarding the vegetation management plan, specifically asking about the type of plantings that the Applicant intended to use, mowing, and whether the Applicant would use chemical control for weeds.⁷⁹

39. Ms. Schmit noted that mowing would be used to help establish vegetation, and, along with spot-spraying, to manage weeds.⁸⁰ In addition, mowing "is done to control the height of the vegetation under the arrays so that there will not be any shading as to impact the productivity of the facility and to also stabilize soils and control erosion."⁸¹

VI. Other Written Public Comments

40. LiUNA submitted a comment favoring the Project.⁸² LiUNA stated:

The Elk Creek Solar Project will contribute tens of millions of dollars in economic activity to southwestern Minnesota at a time when workers throughout the state desperately need new economic opportunities. . . . New investments in clean energy projects like the Elk Creek Solar Project will create good family-supporting jobs for Minnesota workers and help create a pathway out of the recession. . . . For construction workers, a project like the Elk Creek Solar Project is more than just a "job", it can mean having enough for a down payment on a house or enough to start working on a two- or four-year degree. For members who are also farmers or ranchers, it is the kind of outside income that can help keep the wolves from the door in

⁷⁶ *Id.* at 57-58.

⁷⁷ *Id.* at 59.

⁷⁸ *Id.*

⁷⁹ *Id.* at 61.

⁸⁰ *Id.* at 62.

⁸¹ *Id.*

⁸² Comment by LiUNA (July 24, 2020) (eDocket No. 20207-165258-01).

a tough year.⁸³

41. LiUNA further noted it estimates that a typical construction worker on the Project would receive \$59,000, in taxable income, more than a year of family medical coverage, and more than \$16,000, retirement contributions.⁸⁴ LiUNA also estimated that the Project could generate \$3.5 to 4.4 million in direct spending in the regional economy.⁸⁵

42. Jason George, on behalf of the International Union of Operating Engineers, Local 49, applauded Applicant “for its commitment to using local labor, at prevailing wage and benefit rates, to complete the project,” and noted Local 49’s strong support for the Project.”⁸⁶

43. Steven Schneiderman submitted a written comment opposing the Project.⁸⁷ Mr. Schneiderman stated: “Allowing the proposed project to continue would be an unwise use of Minnesota resources and a violation of Minnesota Law. Prime farmland is an incredibly valuable resource that will only become more important as world food demand increases due to increased population and improved standards of living.”⁸⁸ Mr. Schneiderman further noted that Geronimo’s interest in this prime farmland is “economically motivated” due to concentration of solar irradiation at the site, proximity to existing infrastructure, landowner interest, minimal environmental impact, and the purchase agreement with Xcel for renewable connect customers.⁸⁹ But Mr. Schneiderman notes that Minn. R. 7850.4400 (2019) “stipulates that ‘Economic considerations alone do not justify the use of more prime farmland’” and that “[p]reventing this sort of installation is the intent of 7850.4400 and good policy in general.”⁹⁰

44. Jeff Westgor, a landowner in the vicinity of the Project, commented in support of the Project.⁹¹ Mr. Westgor agreed to participate in the Project because “Geronimo is a proven company with a known track record and much of the revenue generated will benefit the local economy, [i]ncluding the school district,” Geronimo has contingencies for environmental issues that could arise in the future, the Project helps further Xcel’s mandate for renewable energy creation, and the Project will offset carbon dioxide emissions and provide an alternative to fossil fuels.⁹²

45. Klay Walinga, on behalf of Chambers Family Farms, LLC, which signed a lease/solar easement with Geronimo, commented in support of the Project.⁹³ Mr. Walinga stated that “[a]s a multigenerational landowner, it is [an] exciting prospect for the

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Comment by Jason George (July 27, 2020) (eDocket No. 20207-165315-01).

⁸⁷ Comment by Steven J. Schneiderman (Aug. 10, 2020) (eDocket No. 20208-165787-01). *See also* eDocket No. 20208-165816-02.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Comment by Jeff Westgor (Aug. 10, 2020) (eDocket No. 20208-165787-02).

⁹² *Id.*

⁹³ Comment by Klay Walinga (Aug. 10, 2020) (eDocket No. 20208-165787-02).

Chambers family to be able to expand renewable energy from their family's property."⁹⁴ Mr. Walinga acknowledged that some farmland will be displaced by solar panels, but he noted that "the Chambers own more farmland in Rock County and throughout parts of Southwestern Minnesota and [will] continue to work to make those acres continue to be much more productive (i.e. higher yields) to offset some of these acres being taken out of crop production."⁹⁵

46. The DNR suggested revised site permit language related to the vegetation management plan to "encourage the establishment of pollinator habitat," and provided language regarding specific objections and monitoring requirements.⁹⁶

47. The Minnesota Department of Agriculture (MDA) expressed support for the development of an alternative vegetation management plan for the site that includes perennial agricultural crops that can be "harvested and/or grazed by regional famers."⁹⁷

VII. EERA and Applicant Written Comments

48. The EERA filed comments regarding the Applicant's proposed findings of fact,⁹⁸ many of which related to the impact of the prime farmland exclusion on the Project.⁹⁹ Among these comments, the EERA noted the difficulty of siting utility-scale solar facilities in the high solar resource area of southwest Minnesota.¹⁰⁰ The EERA proposed adding findings noting that a similar generic solar farm located in the same area would have similar impacts on agriculture and prime farmland, but that a wind farm would have fewer impacts on land use.¹⁰¹ The EERA also proposed a conclusion of law noting that there is no feasible and prudent alternative to the Project site within Rock or Nobles Counties, and within five miles of the Magnolia substation, and that would be conducive to the development of the Project, that is not prime farmland.¹⁰²

49. The EERA ultimately made no recommendation as to whether the Commission should grant the Applicant the requested Certificate of Need or Site Permit, because it determined that the Applicant's geographic search for a site for the Project was limited and did not adequately consider alternative sites.¹⁰³

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Comment by the Minnesota Department of Natural Resources (July 21, 2020) (eDocket No. 20207-165148-01).

⁹⁷ Comment by the Minnesota Department of Agriculture (Aug. 10, 2020) (eDocket No. 20208-165739-01).

⁹⁸ See Elk Creek Solar, LLC's Proposed Findings of Fact, Conclusions of Law, and Recommendations (Aug. 20, 2020) (eDocket No. 20208-166065-02).

⁹⁹ EERA Comments on Elk Creek Solar's Proposed Findings (Sept. 24, 2020) (eDocket No. 20209-166814-02).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

50. The Applicant submitted its responses to public comments on October 5, 2020.¹⁰⁴ The Applicant indicated it appreciated positive and supportive comments from labor organizations, noting its commitment to using union labor or paying prevailing wage rates.¹⁰⁵

51. The Applicant also appreciated the comments of Mr. Westgor and Mr. Walinga, noting that these commenters are farmers in the area who have chosen electricity production rather than agricultural uses for the impacted land.¹⁰⁶

52. The Applicant noted it was amenable to modified permit language suggested by the DNR, indicating that it was revising its vegetation management plan to include grazing and haying as possible solutions.¹⁰⁷ Similarly, the Applicant indicated it was responding to the MDA's comments by continuing to explore ways to co-locate agricultural uses at the Project site, including planting a native perennial seed mix that could be controlled through mowing, haying, or grazing.¹⁰⁸ The Applicant noted that it is in the process of determining whether local farms have the equipment, sheep flock, and insurance necessary to perform vegetation management on the site, though in the absence of a partnership on haying or grazing, the Applicant could rely on standard mowing management to control vegetation.¹⁰⁹ The Applicant estimates that grazing or haying could not occur until 2023 or 2024, after the vegetation has become established.¹¹⁰

53. The Applicant disagrees with Mr. Schneiderman's concerns about the impact of the prime farmland exclusion, noting that there is no feasible or prudent alternative and that the Project was located in southwestern Minnesota because that portion of the state has the best solar resource available.¹¹¹ The Applicant contends that it performed the required analysis to determine whether a feasible and prudent alternative existed, and that it appropriately considered the level of solar irradiance, proximity to transmission capacity, and that there were willing landowners in the area, all of which favored the Project.¹¹²

54. The Applicant also responded to questions raised by Mr. Arends at the public meeting.¹¹³ The Applicant noted that the power purchase agreement between the Applicant and Excel Energy does not contain provisions allowing the Applicant to seek a rate increase for power generated and delivered to Xcel.¹¹⁴ Additionally, the Applicant assets that the Project will receive no direct funding from the State of Minnesota, though

¹⁰⁴ Response to Public Comments (Oct. 5, 2020) (eDocket No. 202010-167068-02).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*


¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

there are available state and federal tax exemptions and credits for solar facilities.¹¹⁵ Finally, the Applicant notes that it will pay a production tax to local communities over a term of 25 years which it estimates will result in annual payments to Rock County of \$144,000, and \$36,000, to Vienna Township.¹¹⁶

Dated: October 9, 2020



JESSICA A. PALMER-DENIG
Administrative Law Judge

¹¹⁵ *Id.*

¹¹⁶ *Id.*

October 9, 2020

See Attached Service List

Re: *In the Matter of the Application of Elk Creek Solar, LLC for a Certificate of Need for the up to 80 MW Elk Creek Solar Project in Rock County, Minnesota*

In the Matter of the Application of Elk Creek Solar, LLC for a Site Permit for the up to 80 MW Elk Creek Solar Project in Rock County, Minnesota

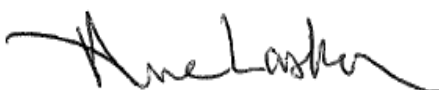
**OAH 71-2500-36619
MPUC IP-7009/CN-19-351
MPUC IP-7009/GS-19-495**

To All Persons on the Attached Service List:

Enclosed and served upon you is the Administrative Law Judge's **SUMMARY REPORT OF PUBLIC COMMENTS** in the above-entitled matter.

If you have any questions, please contact me at (651) 361-7881, at anne.laska@state.mn.us; or via fax at (651) 539-0310.

Sincerely,



ANNE LASKA
Legal Assistant

Enclosure

cc: Docket Coordinator

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
PO BOX 64620
600 NORTH ROBERT STREET
ST. PAUL, MINNESOTA 55164

CERTIFICATE OF SERVICE

In the Matter of the Application of Elk Creek Solar, LLC for a Certificate of Need for the up to 80 MW Elk Creek Solar Project in Rock County, Minnesota	OAH 71-2500-36619 MPUC IP-7009/CN-19-351 MPUC IP-7009/GS-19-495
In the Matter of the Application of Elk Creek Solar, LLC for a Site Permit for the up to 80 MW Elk Creek Solar Project in Rock County, Minnesota	

Anne Laska certifies that on October 9, 2020, she served the true and correct

SUMMARY REPORT OF PUBLIC COMMENTS by eService, and U.S. Mail, (in the manner indicated below) to the following individuals:

Electronic Service Member(s)				
Last Name	First Name	Email	Company Name	Delivery Method
Beckett	Daniel	daniel.beckett@state.mn.us	Department of Commerce	Electronic Service
Burmeister	Jordan B	jordan@geronimoenergy.com	Geronimo Energy, LLC	Electronic Service
Commerce Att	Generic Notice	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	Electronic Service
Duehr	Jeremy	jduehr@fredlaw.com	Fredrikson & Byron, P.A.	Electronic Service
Eknes	Bret	bret.eknes@state.mn.us	Public Utilities Commission	Electronic Service
Fairman	Kate	kate.frantz@state.mn.us	Department of Natural Resources	Electronic Service
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