



November 20, 2020

Will Seuffert, Executive Secretary
Minnesota Public Utilities Commission
127 7th Place East, Suite 350
St. Paul, MN 55101-2147

RE: **Minnesota Rule 7850.4400, Subpart 4, Prime Farmland Exclusion**
Elk Creek Solar Project
Docket No. IP7009/GS-19-495

Dear Mr. Seuffert:

Attached are EERA's clarifying comments regarding apparent conflicts between the Elk Creek Solar, LLC's project site and Minnesota Rule 7850.4400, Subpart 4, the prime farmland exclusion.

Relative to renewable energy development and prime farmland, the State of Minnesota has two conflicting mandates; on one hand is the advancement of solar energy production and on the other is the protection prime farmland soils.

The conflict arises out of the geological and geographical fact that the circumstances which make for excellent agriculture production and those that support the growth of solar energy generation overlap in the southwestern portion of Minnesota. The greatest concentration of solar irradiation in Minnesota occurs in the southwest and this area also has a long history of agricultural activities, in part due to the nutrient rich soils.

The proposed Elk Creek Solar Project is located in Sections 27, 34, and 35, Township 103 North, Range 44 West, Rock County, Minnesota; approximately 1.5 miles north of Magnolia and 2 miles west of the Nobles County line. In Rock County, approximately 91 percent of the soils are classified as prime farmland as defined under 7 CFR 657.5 paragraph (a). In neighboring Nobles County, approximately 92 percent of the soils are classified as prime farmland.

On May 19, 2020, the Department of Commerce and the Department of Agriculture released a document titled "Solar Energy Production and Prime Farmland - Guidance for Evaluating Prudent and Feasible Alternatives". The document was to serve as a balance between 1) a strict reading of the "...unless there is no feasible and prudent alternative" provision of Minnesota Rule 4850.4400, Subpart 4, which essentially ask the applicant to prove a negative, exhausting every other site in the universe, or 2) either dismissing the rule as too onerous through a variance or establishing a bar so low as to forego the original intent of the legislation.

Should an applicant maintain that its site selection process satisfies the *"...unless there is no feasible and prudent alternative"* prime farmland clause of Minnesota Rules 7850.4400, subpart

4, thus allowing development of a proposed site, the guidance document instructs the applicant to show their work by providing a supporting narrative that at a minimum addresses the following areas:

- Describe the solar resource in the proposed region vs. otherwise compliant areas reviewed. While Elk Creek states that it selected Rock County based on the high solar resource, it did not provide any comparative evaluation of other possible compliant sites. For example, they could have extrapolated from data at other sites located outside of Minnesota's peak solar area (Regal Solar Project, Royal Solar Project, North Star Solar Project, etc.).
- Describe the process of determining available interconnection points. While Elk Creek states that it selected the Magnolia Substation as its point of interconnect because of the available capacity to interconnect to the transmission system, surrounding topography, and other existing infrastructure, it did not provide any comparative analysis to other points of interconnect outside of the prime farmland rich area (as an example the existing Platte River Substation proposed for the Regal Solar Project), or an analysis of transmission prerequisites (size, type, length, costs, etc.) required to site the Elk Creek Solar Project outside of the prime farmland rich area, while utilizing a HVTL to connect to the Magnolia Substation.
- Describe efforts in investigating developable sites (sites with appropriate topography and willing participants) in otherwise compliant areas. The Applicant has stated that its site selection process included the following factors: solar irradiance; electrical infrastructure; transportation infrastructure; willing landowners; and environmental and regulatory constraints, but the key consideration in the selection process was the Project's proximity to existing electrical and transportation infrastructure.

The Applicant continues, acknowledging that it did not consider alternative sites other than the Project site because Elk Creek is not required to analyze alternative sites pursuant to 7850.3100 and due to the proximity of the site to electrical transmission infrastructure, a willing Project participant, optimal solar resource, and the minimal environmental impacts expected from the construction of the Elk Creek Solar Project at the Project site.

- If there are areas of nonprime farmland within a chosen radius of an interconnection site, demonstrate a good faith consideration of those sites. As stated in their application, Elk Creek conducted a search radius of approximately five miles around the Magnolia substation for a suitable site for the Elk Creek Solar Project. This distance was selected to account for transmission interconnect efficiency; Elk Creek believes that siting the Project in close proximity to an existing substation, makes for efficient use of existing equipment,

minimize line loss and avoids the impacts associated with transmission line construction. The applicant provided no comparative analysis of the actual distance from the Magnolia Substation to the nearest otherwise compliant site and the subsequent inefficiencies (line losses, construction costs and impacts) resulting from such a selection. It has become common for recently proposed LWECS to have lengthy HVTs (Plum Creek @ 26-miles, Dodge County Wind @ 21-miles).

- Describe how avoidance of other prohibited areas influenced site selection. Within the 5-mile search area around the Magnolia Substation, Elk Creek did conduct parcel evaluations for potential regulatory, human settlement and environmental constraints.
- Demonstrate a good faith consideration of alternative site configurations or technologies:
 - Explain why, in addition to economic reasons, an alternate configuration such as transmission to an alternate, compliant site or the use of multiple dispersed sites is not feasible and prudent. See previous comments above.
 - Demonstrate how alternative technologies, such as panel/rack designs that allow siting on steeper slopes, or any other alternative technologies reviewed are not feasible and prudent. This item is applicable if sites that avoid prime farmland are identified, but have limitation (i.e., topography) that could be overcome via the application of certain design specifications. This point is moot, since Elk Creek did not evaluate any alternative sites.

It should be noted that developing the information identified in the guidance document does not equate to compliance with the prime farmland exclusion. It simply provides the Commission and stakeholders with the record necessary to make an informed and defensible decision related to the prime farmland exclusion.

I have no doubt that the site selected for the Elk Creek Solar Farm has many features that make for an excellent site from the developer's perspective, however, EERA staff questions whether such a limited geographical search, in light of Minnesota Rule 7850.4400, Subpart 4 (Prime Farmland Exclusion) is adequate to meet the "no feasible and prudent alternative" exemption. To date, EERA staff does not believe the record supports a finding as to whether or not this threshold has been met.

EERA staff is available if you have any questions or concerns.

Sincerely,

William Cole Storm
Environmental Review Manager

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CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. IP7009/CN-19-351 and IP7009/GS-19-495

Dated this 20th day of November 2020

/s/Sharon Ferguson

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Jordan B	Burmeister	jordan@geronimoenergy.com	Geronimo Energy, LLC	8400 Normandale Lake Blvd Ste. 1200 Bloomington, MN 55437	Electronic Service	No	OFF_SL_19-351_Official CC Service List
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_19-351_Official CC Service List
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Jessica	Palmer Denig	jessica.palmer-Denig@state.mn.us	Office of Administrative Hearings	600 Robert St N PO Box 64620 St. Paul, MN 55164	Electronic Service	Yes	OFF_SL_19-351_Official CC Service List
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_19-351_Official CC Service List
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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_19-495_Official CC Service List
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