

Appendix A

Scoping Decision

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In the Matter of the Application of Birch Coulee Solar, LLC for a Site Permit for the up to 125 MW Birch Coulee Solar Project in Renville County, Minnesota

**ENVIRONMENTAL ASSESSMENT
SCOPING DECISION**

DOCKET NO. IP-7119/GS-23-477

The above matter has come before the Commissioner of the Department of Commerce (Department) for a decision on the scope of the environmental assessment (EA) to be prepared for Birch Coulee Solar LLC's proposed 125 megawatt (MW) solar energy project in Birch Cooley, Camp, and Bandon Townships, and the city of Franklin in Renville County, Minnesota.

Project Description

On July 29, 2024, Birch Coulee Solar, LLC (Birch Coulee Solar) submitted a site permit application to the Minnesota Public Utilities Commission (Commission) to construct the Birch Coulee Solar Project – an up to 125 MW alternating current photovoltaic solar energy generating facility.¹

The project will occupy approximately 768 acres in Birch Cooley, Camp, and Bandon Townships and the city of Franklin, Minnesota. The project will use photovoltaic solar panels mounted on single axis tracking systems. Underground collection cables will gather and send the electric power generated by the solar panels to a project substation. The substation will interconnect with the electrical grid through the existing Xcel Energy Franklin Substation immediately adjacent to the Project Site, via a short (<1,500 ft) aboveground 115 kV transmission line.²

Birch Coulee Solar indicates that a generator interconnection agreement (GIA) for the project has been filed with the Midcontinent Independent System Operator (MISO). Birch Coulee Solar expects to sign a GIA in March 2025. Construction is anticipated to begin in 2028 with completion and operation anticipated in 2030.³

Project Purpose

Birch Coulee Solar states that the project will assist the State of Minnesota in meeting its renewable energy objectives, diversify electricity sources, meet anticipated growth in electricity demand, and meet consumers' growing demand for renewable energy.⁴ Birch Coulee Solar is working to secure a power purchase agreement with wholesale customers (e.g., Minnesota utilities and cooperatives) or commercial and industrial customers to sell the electric power generated by the project.

Regulatory Background

In Minnesota, no person may construct a large electric power generating plant without a site permit from the Commission.⁵ A large electric power generating plant is defined as a facility capable of

¹ Birch Coulee Solar Project, Application to the Minnesota Public Utilities Commission for a Site Permit for a Large Electric Generating Facility, July 29th, 2024, eDockets Numbers [20247-209066-01](#) (through -09), [20247-209069-01](#) (through -08).

² Site Permit Application, Section 3.3.

³ Birch Coulee Solar, Scoping Comments, October 25, 2024, eDockets Number [202410-211314-01](#).

⁴ Minnesota Statute 216B.1691.; Site Permit Application, Section 1.1.

⁵ Minnesota Statute 216E.03.

operating at a capacity of 50 MW or more.⁶ The Birch Coulee Solar project will be capable of producing up to 125 MW and therefore requires a site permit from the Commission. Because the project is powered by solar energy, the site permit application qualifies for Commission review under the alternative permitting process described in Minnesota Statute 216E.04, Subd. 2.

As Birch Coulee Solar is an independent power producer, a certificate of need (CN) is not required for the project. The project is exempt under Minnesota Statute 216B.243, subd. 8(a)(8), which provides that a CN is not required for a “solar energy generating system, as defined in section 216E.01, subdivision 9a, for which a site permit application is submitted by an independent power producer under chapter 216E.”⁷

Department of Commerce, Energy Environmental Review and Analysis (EERA) staff is responsible for conducting environmental review for site permit applications submitted to the Commission.⁸ EERA staff will prepare an environmental assessment (EA) for the project. An EA contains an overview of the resources affected by the project. It also discusses potential human and environmental impacts and possible mitigation measures.⁹ Under the alternative permitting process, an EA is the only required state environmental review document.

Scoping Process

Scoping is the first step in the environmental review process. The scoping process has two primary purposes: (1) to gather public input as to the impacts and mitigation measures to study in the EA and (2) to focus the EA on those impacts and mitigation measures that will aid in the Commission’s decision on the site permit application.

Staff uses the information gathered during scoping to inform the content of the EA. EERA staff gathered input on the scope of the EA through public meetings and an associated comment period. This scoping decision identifies the impacts and mitigation measures that will be analyzed in the EA.

Public Information and Scoping Meetings

On October 9, 2024, Commission and EERA staff jointly held a public meeting in Franklin, Minnesota. Approximately 25 people attended this meeting and approximately six attendees provided comments. Verbal comments in support and opposition to the project were received. Several potential impacts and concerns related to the project were raised including labor, drainage, property values, traffic, and construction noise. Additionally, concerns were noted with wildlife access, emergency services, decommissioning, roads, and vegetative screening.¹⁰ The following evening, October 10, 2024, Commission and EERA staff held a remote-access public meeting. Three individuals from the public attended this meeting, and there were no comments.

⁶ Minnesota Statute 216E.01.

⁷ Minnesota Statute 216B.243, Subd. 8(a)(8)

⁸ Minnesota Rule 7850.3700.

⁹ Minnesota Statute 216E.04, subd. 5; Minn. Rule 7850.3700, subp. 4.

¹⁰ Birch Coulee Solar Project, Oral Comments on the Scope of Environmental Assessment, eDockets Number [202411-212174-01](#).

Written Public Comments

A comment period ending on October 25, 2024, provided the public with an opportunity to provide input on the scope of the EA. Written comments were received from 18 members of the public.¹¹

In addition to expressions of opposition to and support for the project, written public comments addressed several potential impacts and concerns related to the project including: wetland impacts and the necessity of a comprehensive hydrology analysis; whether there is sufficient local labor for construction to avoid outsourcing and keep benefits local; the impacts on the PV panels from severe weather and who bears the cost of panel replacement; and the potential need for additional generation facilities if there is not adequate solar radiation to fulfill the energy demand.

Agency Comments

The Minnesota Department of Transportation (MnDOT) provided comments on the safety of project access points from Trunk Highway (TH) 19, the management of the TH 19 right-of-way (ROW) which may contain state-listed threatened or endangered species, blowing snow concerns due to vegetation removal within the project area, and the need for ongoing coordination with MnDOT regarding future construction activities, permitting, and traffic control.¹²

The Minnesota Department of Natural Resources (DNR) provided comments on potential impacts to sensitive species (bats) and wildlife generally resulting from proposed fencing, setback distances, dust control methods, lighting design, tree removal, and erosion control methods.¹³

Local Government Comments

Representatives from the Renville County Department of Environmental Services provided comments on adherence to county required setbacks, responsibility of repairs to public or private tile lines damaged by the project, financial assurance for the decommissioning of a 125 MW solar system, site cleanliness and weed control, notification of ownership changes, maintenance of accurate contact information, road use and development agreements, collaboration and training with emergency response teams, and vegetative screening.¹⁴

Union Comments

The Operating Engineers Local 49 (Local 49) and North Central States Regional Council of Carpenters (NCSRCC) jointly noted the ability of the project to provide good paying opportunities for local workers. The unions identified that a study of local economic impacts, a potential positive human impact of the project, should be included in the scope of the EA.¹⁵

Laborers' International Union of North America [Minnesota & North Dakota] (LIUNA) noted the potential of the project to provide important energy and socioeconomic benefits to a region with limited large-scale clean energy development and remarked that the location of the project would

¹¹ Birch Coulee Solar Project, Written Comments on the Scope of Environmental Assessment, eDockets Number [202411-211553-01](#).

¹² MnDOT comment, October 24, 2024, eDockets Number [202410-211275-01](#).

¹³ DNR comment, October 25, 2024, eDockets Number [202410-211346-01](#).

¹⁴ Birch Coulee Solar Project, Written Comments on the Scope of Environmental Assessment, eDockets Number [202411-211553-01](#), pages 3-5.

¹⁵ IUOE Local 49 and NCSRC of Carpenters, October 25, 2024, eDockets Number [202410-211340-01](#).

make it accessible to workers residing in the Central and Western regions of the state. LIUNA requested that the EA assess the extent to which the jobs created or preserved by the project can meet the established legislative priorities of employing local workers, providing wages to support families, respecting the right to unionize, and supporting participation by residents in environmental justice areas and host communities.¹⁶

Applicant Comments

Birch Coulee Solar filed scoping comments on October 25, 2024, that provided three project updates relevant to preparation of the EA: details of changes to the construction and operational timeline of the project due to delays in the MISO process, the Minnesota Wetland Conservation Act Notice of Decision from the Renville County Soil and Water Conservation District which was received late due to a technical issue, and updates to the greenhouse gas emissions offset calculations.¹⁷

Birch Coulee Solar filed a response to scoping comments on November 6, 2024, regarding the topics proposed for study in the EA.¹⁸ Birch Coulee Solar did not object to any of the suggested topics being considered in the EA and indicated that it looked forward to continued coordination with state agencies and county officials. Birch Coulee Solar remarked that it does not anticipate vegetation removal in the areas along the living snow fence noted by MnDOT and provided additional details on the use of local labor for the project.

HAVING REVIEWED THE MATTER, consulted with EERA staff, and in accordance with Minnesota Rule 7850.3700, I hereby make the following scoping decision:

MATTERS TO BE ADDRESSED

The EA will describe the project and the human and environmental resources of the project area. It will provide information on the potential impacts of the project as they relate to the topics outlined in this scoping decision and possible mitigation measures. It will identify impacts that cannot be avoided and irretrievable commitments of resources, as well as permits from other government entities that may be required for the project. The EA will discuss the relative merits of the proposed project site with respect to the siting factors in Minnesota Rule 7850.4100.

The issues outlined below will be analyzed in the EA for the project. This outline is not intended to serve as a table of contents for the document itself.

I. GENERAL DESCRIPTION OF THE PROJECT

- A. Project Description
- B. Project Purpose
- C. Project Costs

¹⁶ LIUNA Minnesota/North Dakota, October 25, 2024, eDockets Number [202410-211350-01](#).

¹⁷ Birch Coulee Solar, Scoping Comments, October 25, 2024, eDockets Number [202410-211314-01](#).

¹⁸ Birch Coulee Solar, Response to Scoping Comments, November 6, 2024, eDockets Number [202411-211682-01](#).

II. REGULATORY FRAMEWORK

- A. Site Permit
- B. Environmental Review
- C. Grid Interconnection
- D. Other Permits and Approvals

III. ENGINEERING, DESIGN, AND CONSTRUCTION

- A. Solar Arrays
- B. Electrical Collection Systems
- C. Substation
- D. Associated Facilities

IV. OPERATION AND DECOMMISSIONING

- A. Maintenance
- B. Vegetation Management
- C. Repowering and Decommissioning

V. AFFECTED ENVIRONMENT, POTENTIAL IMPACTS AND MITIGATIVE MEASURES

The EA will include a discussion of the human and environmental resources potentially impacted by the project. Potential impacts of the project will be described and characterized. Based on the impacts identified, the EA will describe mitigation measures that could reasonably be implemented to reduce or eliminate the identified impacts. The EA will describe any unavoidable impacts resulting from implementation of the project.

Data and analyses will be commensurate with the level of impact for a given resource and the relevance of the information to consider mitigation measures. EERA staff will consider the relationship between the cost of data and analyses and the relevance and importance of the information in determining the level of detail of information to be prepared for the EA. Less important material may be summarized, consolidated, or simply referenced.

If relevant information cannot be obtained within timelines prescribed by statute and rule, the costs of obtaining such information is excessive, or the means to obtain it is unknown, EERA staff will include in the EA a statement that such information is incomplete or unavailable and the relevance of the information in evaluating potential impacts or alternatives.

- A. Environmental Setting
- B. Human Settlements
 - 1. Noise (construction)
 - 2. Aesthetics (vegetative screening)
 - 3. Displacement
 - 4. Property Values
 - 5. Zoning and Land Use Compatibility (setbacks)
 - 6. Cultural Values
 - 7. Transportation and Public Services (TH 19, county and local roads, snow fences, road use, increased traffic, housing capacity, safety risks)
- C. Socioeconomics
 - 1. Environmental Justice

2. Local Economies (taxes, employment, financial assurances, wages)
- D. Public Health and Safety
 1. Electric and Magnetic Fields
 2. Emergency Services (training, fire risk)
- E. Land Based Economies
 1. Agriculture (drain tile, dredge ditches)
 2. Forestry
 3. Mining
 4. Recreation and Tourism
- F. Archaeological and Historic Resources
- G. Natural Environment
 1. Water Resources (wetlands, Minnesota River)
 2. Soils
 3. Geology
 4. Flora (weed control)
 5. Fauna (wildlife travel corridors, roosting habitat, lighting effects)
 6. Air Quality (traffic dust)
 7. Climate Change / Climate Resiliency
- H. Threatened / Endangered / Rare and Unique Natural Resources (TH 19 right-of-way management)
- I. Electric System Reliability (generative capacity)
- J. Adverse Impacts that Cannot be Avoided
- K. Irreversible and Irretrievable Commitments of Resources

ISSUES OUTSIDE THE SCOPE OF THE EA

The EA will not address following topics:

- Any site other than the project site proposed by the applicant.
- The manner in which landowners are compensated for the project.

SCHEDULE

The EA is anticipated to be completed and available in February 2025. Upon completion, it will be noticed and made available for review. Public hearings will be noticed and held in the project area after issuance of the EA. Comments on the EA may be submitted into the hearing record.

Signed this 21st day of November, 2024

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

A handwritten signature in black ink, appearing to read "Pete Wyckoff", is written over a horizontal line.

Pete Wyckoff, Deputy Commissioner

Birch Coulee Solar Project Overview Map

