

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Flickertail Solar Project, LLC
Flickertail Solar Project – Richland County
Siting Application

Case No. PU-24-351

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

June 18, 2025

Commissioners Randy Christmann, Sheri Haugen-Hoffart, and Jill Kringstad.

Mollie M. Smith and Bridget Duffus, Fredrikson & Byron, P.A., 60 South 6th Street, Suite 1500, Minneapolis, MN 55402, on behalf of the Applicant, Flickertail Solar Project, LLC.

Brian Johnson, Special Assistant Attorney General, North Dakota Public Service Commission.

Hope L. Hogan, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street – Suite 303, Bismarck, ND 58503, as Procedural Hearing Officer.

Preliminary Statement

On October 8, 2024, Flickertail Solar Project, LLC (Flickertail) filed an Application for a Certificate of Site Compatibility (Application) for a 295.1 megawatt solar energy conversion facility and associated facilities to be located in Richland County, North Dakota (Project).

Also on October 8, 2024, Flickertail filed an Application for Protection of Information related to cultural resource location information.

On February 6, 2025, the North Dakota Public Service Commission (Commission) deemed the Application complete and issued a Notice of Filing and Notice of Hearing (Notice), scheduling a public hearing for March 24, 2025, at 10:00 a.m., at the Wahpeton Law Enforcement Center in the Community Room, 413 3rd Ave N, Wahpeton, North Dakota. The Notice identified the following issues to be considered:

1. Will the location and operation of the proposed Project produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?

2. Is the proposed Project compatible with the environmental preservation and the efficient use of resources?

3. Will the proposed Project location minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

On February 21, 2025, the North Dakota Game and Fish Department (NDGF) filed comments concerning the Project.

On March 17, 2025, the State Historical Society of North Dakota (SHSND) filed comments concerning the Project.

On March 24, 2025, the public hearing was held as scheduled.

On June 5, 2025, Flickertail filed Late-Filed Exhibits 11 through 13.

Also on June 5, 2025, Flickertail filed a Motion to consider post-hearing filing for proposed late-filed exhibit 13.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission makes its:

Findings of Fact

1. Flickertail is a Delaware limited liability company, and is an indirect wholly-owned subsidiary of Savion, LLC (Savion).

2. Flickertail is authorized to do business in the State of North Dakota, as evidenced by the Certificate of Authority issued by the North Dakota Secretary of State (NDSOS) on May 10, 2018 and the Certificate of Good Standing issued by the NDSOS on August 20, 2024, filed in Case No. PU-24-348.

Size, Type and Preferred Location of Facility

3. The Project is a solar energy conversion facility that will deliver up to 295.1 megawatts (MW) alternating current (AC) to the grid.

4. Project facilities will include: photovoltaic (PV) solar panels; tracking racking systems; direct current (DC) electrical system; inverter skids (inverters, step-up transformers, and supervisory control and data acquisition (SCADA) system); an underground and aboveground AC electrical collection system; security fencing, gates, and equipment; access roads; an operations and maintenance (O&M) facility; a collector substation; main power transformers; control house for protective relay panels and site

controllers; meteorological (MET) equipment including but not limited to anemometer MET monitoring weather stations; stormwater basins and/or other stormwater/drainage measures (as needed); and additional temporary facilities, including laydown yard(s) and improvements to public roads and driveways.

5. Flickertail proposes to construct the Project within approximately 3,144 acres of land in Abercrombie Township in Richland County, North Dakota (Project Area). The Project Area is depicted on the updated figure 2 in late-filed exhibit 13.

6. The Project will interconnect to the grid via an approximately 530-foot long 230 kilovolt (kV) generation tie line extending from the Project's controller substation to a new switching station that will connect to Minnkota Power Cooperative Inc.'s (Minnkota) existing Frontier-Wahpeton 230 kV transmission line via a new standing switch station that will be permitted, constructed, and owned by Minnkota.

7. The Project includes a SCADA system for performance monitoring, energy reporting, and troubleshooting.

8. Flickertail anticipates Project construction may begin in the first quarter of 2026 and be completed by the end of 2028. Commercial operations may begin fourth quarter 2028.

9. The estimated cost of the Project is \$375 million.

Study of Preferred Location

10. Flickertail reviewed an area within a one-mile radius of the Project Area (Study Area) for its environmental analysis to provide a description of the natural and human environment in which the Project will be constructed including soils, land use, woodlands, wetlands, waterbodies, and wildlife.

11. Flickertail surveyed the Project Area for natural and cultural resources.

12. Woodlands comprise less than one percent of the total Project Area. If trees or shrubs are impacted by the Project, Flickertail will coordinate with landowners regarding tree removal and replacement and comply with the Commission's tree and shrub mitigation specifications.

13. Wetland surveys were completed for the Project. Flickertail has designed the Project to avoid wetland impacts. Where collection lines intersect a wetland, impacts will be avoided by boring beneath the wetland. In the event the Project layout changes from what is depicted in Updated Figure 2 in Late-Filed Hearing Exhibit No. 13, Flickertail will complete a wetland delineation of any previously unsurveyed areas, as necessary.

14. Flickertail conducted environmental studies of the Project Area, and impacts to wildlife are anticipated to be minimal. Among the studies conducted were:

- a. Unbroken Grassland Assessment. Flickertail conducted desktop and field verifications of potentially unbroken grasslands within the Project Area. There are no unbroken grasslands present in the Project Area.
- b. Ground-Based Eagle Nest Survey. Flickertail conducted a desktop review to identify potential eagle nesting habitat within the Project Area plus a 660-foot buffer, and a ground-based field survey of the potential eagle nesting habitat. No eagle nests were identified within the Project Area or 660-foot buffer. As of September 12, 2024, the closest known eagle nest was more than 3 miles from the Project Area.
- c. Sharp-tailed Grouse and Greater Prairie Chicken Lek Surveys. Based on consultation with NDGF, listening surveys were conducted in non-cultivated areas within the Project Area plus a one-mile buffer area. No active leks were observed during any observation period.

15. Flickertail conducted a Class I literature search of the Project Area plus a one-mile buffer and a Class III cultural resources inventory of all areas that will host facilities or be impacted by construction activities. The location of the one previously identified site lead was visited during pedestrian surveys, but the resource appears to no longer be present. Field surveys also identified two new sites within the Project Area. Both the site lead and the two new sites are unevaluated for listing on the National Register of Historic Places (NRHP). Flickertail has sited the Project facilities to avoid the site lead and the two new sites. The SHSND has reviewed and accepted the revised Class III cultural resources report.

16. In the event any element of the Project layout changes from the layout provided in Updated Figure 2 in Late-Filed Hearing Exhibit No. 13, Flickertail will do the following: complete Class III cultural resource survey work for any previously unsurveyed areas, per SHSND's guidance; submit the findings to SHSND for review; and obtain and file with the Commission a copy of SHSND's concurrence prior to beginning construction in those areas.

17. Flickertail conducted a Class III inventory of architectural resources within 0.5 mile the Project's solar arrays. During field surveys, the location of one previously identified site was visited, but the resource appears to no longer be present. An additional 13 resources were inventoried. Tetra Tech prepared a Class II Cultural Resources Inventory for Architectural Resources and recommended a finding of No Adverse Effect. The SHSND has reviewed and accepted the Class III architectural resources report.

18. Flickertail conducted a glare analysis to evaluate potential impacts to road traffic and receptors (consisting of 31 residences and one church) in the Project Area and Study Area. No glare is anticipated at any residences, community buildings, or roads.

19. Flickertail initiated correspondence with federal, state and local departments, agencies and entities as follows:

- a. Federal –Federal Aviation Administration, United States Department of the Army Corps of Engineers (USACE), United States Department of Defense, United States Fish and Wildlife Service (USFWS); United States Department of Agriculture – Natural Resources Conservation Service (USDA-NRCS);
- b. State – North Dakota Department of Agriculture; North Dakota Department of Environmental Quality; North Dakota Department of Transportation; North Dakota Department of Trust Lands; North Dakota Department of Water Resources; NDGF; North Dakota Geological Survey; North Dakota Parks and Recreation Department; North Dakota Soil Conservation Committee; SHSND; and
- c. Local – Richland County Noxious Weed Board; Richland County Soil Conservation District; Richland County Floodplain Administrator; Abercrombie Township; and Southern Valley Snowmobile Trail.

20. NDCC Section 49-22-16(2) provides that no energy conversion facility site shall be designated that violates any local land use, zoning or building rules, regulations or ordinances. Flickertail obtained a conditional use permit for the Project from Abercrombie Township on November 20, 2023, and will comply with applicable township zoning ordinance requirements.

Siting Criteria

21. North Dakota Administrative Code (NDAC) Chapter 69-06-08 sets forth criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of site compatibility. These criteria are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

22. Flickertail's studies and surveys did not identify any Exclusion Areas within the Project Area.

23. NDAC Section 69-06-08-01(3) identifies various Avoidance Areas. An electric energy conversion facility must not be sited within an Avoidance Area unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly

siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites.

24. Cultural resources are present in the Project Area, but the Project has been sited to avoid cultural resource sites. An Unanticipated Discovery Plan has been developed and was reviewed by SHSND.

25. Floodplains associated with Pitcairn Creek are present in the west-central and east-central parts of the Project Area. Project facilities have been sited to avoid and/or minimize impacts to the 100-year floodplain to the extent practical. Two access roads are proposed to be placed within the 100-year floodplain, resulting in permanent impacts to the floodplain of 0.23 acres. The southern portion of the two access roads has no alternative but to cross the 100-year floodplain because the floodplain extends between the adjacent public roads and the array on the participating parcel. The northern portion of the two access roads aligns with an existing agricultural driveway to avoid impacts to a stream, which necessitates crossing the 100-year floodplain. The siting of these segments of access roads in the 100-year floodplain also avoids impacts to wetlands, treed areas, and streams. Since the access roads will have a gravel base and be constructed at grade, no increase to the base flood elevation in these areas is anticipated.

26. Trees and shrubs are located within the Project Area. The Project has been designed to minimize tree removal to the extent practical. Any tree and shrub removal and replacement will be conducted in accordance with the Commission's tree and shrub mitigation specifications. Flickertail may need to clear areas up to 100 feet wide as depicted in Figure 9 of Hearing Exhibit No. 3 to allow for continuous development in the parcels. Flickertail requested Commission approval to remove trees and/or shrubs from certain areas wider than 50 feet in the locations shown on Figure 9 of Hearing Exhibit No. 3.

27. Wetlands are present within the Project Area, but the Project has been sited to avoid permanent and temporary impacts to wetlands. Where electrical collection cables would intersect a wetland, temporary impacts will be avoided by boring or horizontal directional drilling beneath the wetland.

28. Flickertail's studies and surveys did not identify any other Avoidance Areas within the Project Area.

29. In accordance with the Commission's Selection Criteria, a site shall be approved if it is demonstrated that any significant adverse effects resulting from the location, construction, and operation of the energy conversion facility will be at an acceptable minimum or that the effects will be managed and maintained at an acceptable minimum. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the proposed energy conversion facility.

30. During construction, the Project will likely result in a temporary increase in traffic on public roads in the vicinity of the Project. The increase in traffic during construction is not expected to be at a volume that will significantly disrupt residents or travel near the Project Area. Flickertail will coordinate with applicable road authorities to obtain haul road and other required road-related permits, as needed. Flickertail will negotiate a road use and maintenance agreement with Abercrombie Township and, if needed, other relevant road authorities. County and township roads will be restored in accordance with the Certification Relating to Order Provisions – Energy Conversion Facility Siting (Hearing Exhibit No. 7). During operation, no adverse effects to transportation facilities or networks are anticipated.

31. The Project is not anticipated to have significant adverse impacts on the ability of the affected area to provide community services, such as housing, health care, educational services, police and fire protection, water and sewer, or solid waste management.

32. Based on sound output specifications provided by the technology manufacturers for the inverter, tracker, and main power transformer equipment currently being considered for the Project, sound levels will be less than 45 dBA between 450-524 feet from an inverter, at distances greater than 5 feet from a tracker, and at distances greater than 700 feet from a main power transformer. The nearest residence to an inverter is more than 1,100 feet away. The nearest residence to a tracker is approximately 588 feet away. The nearest residence to a main power transformer is more than 3,500 feet away.

33. The Project is anticipated to benefit the local economy through the creation of construction and operation and maintenance jobs; easement payments to landowners; state and local tax revenue; and local expenditures for equipment, fuel, operating supplies, products and services.

34. One parcel enrolled in the Private Land Open to Sportsmen (PLOTS) program administered by the NDGF is present within the Project Area. Flickertail is in the process of finalizing an arrangement with NDGF to remove the parcel from PLOTS and replace it with parcels in the northeast portion of the original Project Area. To accommodate this arrangement, Flickertail has updated the Project Area to remove the proposed PLOTS parcels from the Project boundary (see Late-Filed Hearing Exhibit No. 13 and accompanying figures).

35. Flickertail submitted evidence to demonstrate that any significant adverse effects resulting from the location, construction, and operation of the Project as they relate to the Selection Criteria set forth in Section 69-06-08-01(5) of the NDAC will be at an acceptable minimum or managed and maintained at an acceptable minimum.

36. Flickertail submitted evidence to demonstrate its commitment to maximize the benefits of the proposed energy conversion facility as far as is possible to meet the Policy Criteria set forth in Section 69-06-08-01(6) of the NDAC.

Additional Mitigative Measures

37. Flickertail has agreed to a number of measures to mitigate potential Project impacts, as indicated by the attached Certification Relating to Order Provisions – Energy Conversion Facility Siting, with accompanying Tree and Shrub Mitigation Specifications.
38. Flickertail will utilize best management practices to minimize impacts on ground and surface water, and to prevent soil erosion. Flickertail will implement appropriate erosion control measures, including obtaining coverage under the North Dakota Pollutant Discharge Elimination System General Stormwater Permit, which requires preparation of a Stormwater Pollution Prevention Plan. Construction of the Project is not anticipated to have a significant adverse impact on surface or ground water resources or soils.
39. Flickertail developed a Vegetation Management Plan for the Project. The Vegetation Management Plan identifies how the Project will establish stable ground cover, promote pollinator habitat, reduce the potential for erosion and runoff, and improve infiltration. Flickertail consulted with the USDA-NRCS and the Richland County Soil Conservation District on the proposed seed mixes, and the agencies provided positive feedback regarding the proposed seed mixes.
40. Flickertail will participate in the North Dakota One-Call Excavation Notice System.
41. Flickertail will coordinate with local authorities and service providers to determine appropriate safety precautions and standards. Flickertail will develop an emergency response plan.
42. Lightning and grounding protection for all Project facilities is designed and constructed to be compliant with all applicable National Electrical Code (NEC) and National Electric Safety Code (NESC) requirements.
43. Flickertail will comply with the Commission's decommissioning rules, including filing a decommissioning plan with the Commission prior to the commencement of operation of the Project, and performing decommissioning in accordance with all applicable rules and regulations.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over this proceeding under NDCC Chapter 49-22.
2. The Project proposed by Flickertail is an electric energy conversion facility as defined in NDCC Section 49-22-03(5).

3. The location, construction, and operation of the proposed electric energy conversion facility will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
4. The proposed electric energy conversion facility is compatible with environmental preservation and the efficient use of resources.
5. The proposed electric energy conversion facility location will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
6. The Commission has jurisdiction to ensure compliance with National Electric Safety Code standards in the construction and operation of the proposed electric energy conversion facility.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. Flickertail shall construct, operate and maintain the facility in accordance with the Commission's findings of fact.
2. Certificate of Site Compatibility No. 70 is issued to Flickertail Solar Project, LLC, designating a site for the construction, operation, and maintenance of a solar energy conversion facility corresponding to the Project Area depicted in Updated Figure 2 in Late-Filed Hearing Exhibit No. 13.
3. If modifications are made to the Project layout, Flickertail will complete a Class III cultural resource survey for any previously unsurveyed portions of the designated site affected by Project-related construction activities, as necessary; will submit cultural resource findings to SHSND for review; and will obtain and file a copy of SHSND's response with the Commission prior to beginning construction in those areas.
4. If modifications are made to the Project layout, Flickertail will complete a wetland delineation of any previously unsurveyed areas affected by Project-related activities, as necessary.
5. The March 5, 2025, Certification Relating to Order Provisions – Energy Conversion Facility Siting (Certification) with accompanying Tree and Shrub Mitigation Specifications is incorporated by reference and attached to this Order.

6. Flickertail is authorized to clear trees and shrubs up to 100 feet wide in the areas depicted in Figure 9 of exhibit 3.

7. To the extent that there are any conflicts or inconsistencies between Flickertail Solar Project, LLC's application in this proceeding and the Certification, the Certification provisions control.

8. Prior to commencing construction of any portion of the Project, Flickertail shall obtain all other necessary licenses and permits for the construction of such portion and provide copies to the Commission.

PUBLIC SERVICE COMMISSION

		
Sheri Haugen-Hoffart	Randy Christmann	Jill Kringstad
Commissioner	Chair	Commissioner

PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA

Certificate of Site Compatibility
Number 70

This is to certify that the Commission has designated a site for Flickertail Solar Project, LLC for the construction, operation and maintenance of a solar energy conversion facility in Richland County, North Dakota.

The facility may be sited in this designated location in compliance with the energy conversion facility siting criteria. This certificate is issued in accordance with the Findings of Fact, Conclusions of Law and Order of the Commission in Case No. PU-24-351 dated June 18, 2025, and is subject to the conditions and limitations noted in that order.

Bismarck, North Dakota, June 18, 2025.

ATTEST:

PUBLIC SERVICE COMMISSION



Executive Secretary



Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Flickertail Solar Project, LLC
Flickertail Solar Project – Richland County
Siting Application**

Case No. PU-24-351

**CERTIFICATION RELATING TO ORDER PROVISIONS
ENERGY CONVERSION FACILITY SITING**

I am Scott Zeimetz, a representative of Flickertail Solar Project, LLC (“Company”) with authority to bind Company to requirements to be set forth by the Commission in its Order and I certify the following:

1. Company understands and agrees that the Certificate of Site Compatibility will be issued by the Commission subject to the conditions and criteria set forth in Chapter 49-22 of the North Dakota Century Code and Chapter 69-06-08 of the North Dakota Administrative Code, and that Company shall be responsible for compliance with this order and conditions and criteria set forth in the applicable laws and rules.
2. Company agrees to comply with the rules and regulations of all other agencies having jurisdiction over any phase of the proposed energy conversion facility including all city, township, and county zoning regulations.
3. Company understands and agrees that it shall obtain all other necessary licenses and permits, and shall provide copies of all licenses and permits to the Commission prior to construction activity associated with the energy conversion facility that requires said license or permit.
4. Company understands and agrees that the Certificate of Site Compatibility is subject to suspension or revocation and may, in an appropriate and proper case, be suspended or revoked for failure to comply with the Commission’s order, the conditions and criteria of the certificate or subsequent modification, or failure to comply with the applicable statutes, rules, regulations, standards, and permits of other state or federal agencies.
5. Company agrees to maintain records that will demonstrate that it has complied with the requirements of the Commission’s order and the Certificate of Site Compatibility, and that it will preserve these records for Commission inspection at any reasonable time upon reasonable notice.
6. Company understands and agrees that the authorizations granted by the Certificate of Site Compatibility for the energy conversion facility are subject to modification by

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order of the Commission if deemed necessary to protect further the public or the environment.

7. Company is aware that under North Dakota Century Code section 49-02-27 the Commission has rules for decommissioning of solar energy conversion facilities. Company agrees to comply with all decommissioning rules adopted by the Commission.

Construction:

8. Company agrees to hold a preconstruction conference prior to commencement of any construction, which must include a Company representative, its construction supervisor, and a representative of Commission Staff, to ensure that Company fully understands the conditions set forth in the Commission's order.
9. Company understands and agrees that all cultural resource mitigation plans must be approved by the North Dakota State Historic Preservation Office prior to the start of any fieldwork and construction activity in the affected area.
10. Company understands and agrees that topsoil removal will begin when the Commission's third party construction inspector is present at the Project site to observe that topsoil is properly removed and kept segregated from subsoil until replacement occurs. Company shall establish the date and time for the Commission's third-party construction inspector's topsoil removal oversight in the preconstruction conference.
11. Company agrees to inform the Commission and the Commission's third-party construction inspector of its intent to start construction on the energy conversion facility prior to the commencement of construction. Once construction has started, Company shall keep the Commission and the Commission's third-party construction inspector updated of construction activities on a monthly basis.
12. Company is aware that North Dakota law requires that all companies that own or operate electric generation of any size for the primary purpose of resale must comply with the standards of the National Electrical Safety Code in effect at the time of construction of the generation facility, and agrees to comply with that requirement.
13. Company agrees to construct and operate the energy conversion facility in accordance with all applicable safety requirements.
14. Company understands and agrees that it shall bury all underground lines to a depth of at least 48 inches to the top of the lines.
15. Company understands and agrees that topsoil, up to 12 inches, or topsoil to the depth of cultivation, whichever is greater, over and along trench areas, roadways, and

locations of associated facilities must be carefully stripped and segregated from the subsoil. Any area on which excavated subsoil will be placed must first be stripped of topsoil. The stripped topsoil must not be stockpiled in natural drainages, and must be protected from water erosion. Care must be taken to protect topsoil from unnecessary compaction by heavy machinery. Unless otherwise approved by the Commission, topsoil must be removed before topsoil freezes in the late fall/ early winter to the point that frost inhibits proper soil segregation. After backfilling with subsoil is completed, any excess subsoil must be placed over the excavation area, blending the grade into existing topography. Topsoil must be replaced over areas from which it was stripped only after the subsoil is replaced.

16. Company understands and agrees that all buried facility crossings of graded roads shall be bored unless the responsible governing agency specifically permits Company to open cut the road.
17. Company understands and agrees that staging areas or equipment shall not be located on land owned by a person other than Company unless otherwise negotiated with landowners.
18. Company understands and agrees that if any cultural resource, paleontological site, archeological site, historical site, or grave site is discovered during construction, it must be marked, preserved and protected from further disturbances until a professional examination can be made by the State Historical Society, and a report of such examination is filed with the Commission.
19. Company understands and agrees that construction must be suspended when weather conditions are such that construction activities will cause irreparable damage to roads or land, unless adequate protection measures are taken by Company.
20. Company understands and agrees that the Commission's third party construction inspector will be allowed ~~has authority~~ to stop Project construction activities to prevent an imminent hazard from occurring before the Commission could take formal action with respect to said activities. For purposes of this provision, "imminent hazard" means a condition that presents a substantial likelihood of death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment. Other Project construction activities would be allowed to continue in the event of a probable violation of the siting laws, siting rules, or applicable Commission Orders if, in the opinion of the Commission, construction activities are likely to result in irreparable or significant harm.

Restoration and Maintenance:

21. Company agrees that it shall, as soon as practicable upon the completion of the construction of the energy conversion facility, restore the area affected by the

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activities to as near as is practicable to the condition as it existed prior to the beginning of construction.

22. Company understands and agrees that all pre-existing township and county roads and lanes used during construction must be repaired or restored to a condition that is equal to or better than the condition prior to the construction of the energy conversion facility and that will accommodate their previous use, and that areas used as temporary roads or working areas during construction must be restored to their original condition.
23. Company understands and agrees that reclamation, fertilization, and reseeding is to be done according to the Natural Resources Conservation Service recommendations, unless otherwise specified by the landowner and approved by the Commission.
24. Company will fulfil its obligation for reclamation and maintenance of the approved site continuing throughout the life of the energy conversion facility.
25. Company will repair all fences and gates removed or damaged during all phases of construction and operation of the proposed energy conversion facility.
26. Company will repair or replace all drainage tile broken or damaged as a result of construction and operation of the proposed energy conversion facility.
27. Company agrees to comply with the Tree and Shrub Mitigation Specifications, attached.
28. Company understands and agrees that it shall work with landowners and residents to mitigate any increase in television and residential radio interference that results from the construction of the energy conversion facility.
29. Company understands and agrees that it shall remove all waste that is a product of construction and operation, restoration, and maintenance of the site, and properly dispose of it on a regular basis.
30. Company understands and agrees that it shall provide any necessary safety measures for traffic control or to restrict public access to the energy conversion facility.

Communication with Landowners and PSC:

31. Company agrees to provide the Commission with engineering design drawings showing surveyed structure and collection substation locations prior to construction.

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32. Company understands and agrees that it shall advise the Commission as soon as reasonably possible of any extraordinary events which take place at the site of the energy conversion facility, including injuries to any person.
33. Company agrees to report to the Commission, as soon as reasonably possible, the presence in or near the approved site of any critical habitat of threatened or endangered species that Company becomes aware of and which were not previously reported to the Commission.
34. Company agrees to provide the Commission with both an electronic and a paper copy of the site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built, and will provide this information within 3 months of the completion of the construction. Company also agrees to provide an electronic version of the site approved by the Commission and the facility design specifications for the construction of the energy conversion facility showing the location of the energy conversion facility as built that can be imported into ESRI GIS mapping software within 3 months of the completion of the construction. This electronic map data must be referenced to the North Dakota coordinate system of 1983, North and/or South zones US Survey feet (NAD 83) UTM Zone 13N or 14N feet (NAD 83), or geographic coordinate system (WGS 84) feet. The vertical data must be in the appropriate vertical datum for the coordinate system used. All submissions must specify the datum in which the data was developed.
35. Company shall notify the Commission, as soon as reasonably possible, if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate or permit issued in this proceeding. In the event of any damage to underground facilities, Company shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined.
36. Company agrees that it shall provide, if requested, educational material for landowners within the site boundaries about the proposed energy conversion facility and any restriction or danger concerning the proposed energy conversion facility.
37. Company understands and agrees that it shall implement a procedure for how complaints concerning the proposed energy conversion facility will be handled by Company

Modification of Energy Conversion Facility or Energy Conversion Site Plan:

38. Before conducting any construction activities for any modification within the designated site, the Company will file the name and contact information for a key

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contact person for the purposes of notice and communication during the site modification application and will use the following procedures:

- A. Before conducting any construction activities for any modification within the designated site, and such **construction activities will not affect any known exclusion or avoidance areas** within the designated site, the Company will file certification and supporting documentation:
 1. Affirming that construction activities will not affect any known exclusion or avoidance areas within the designated site;
 2. Including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying the designated site and site modification(s); and
 3. Affirming that Company will comply with the Commission's order, law and rules designating the site.
 - B. Before conducting any construction activities for any modification within the designated site, and such construction activities will not affect any known exclusion but **may affect an avoidance area** within the designated site, the Company will file:
 1. A specific description of the avoidance area expected to be impacted, including a map meeting the requirements of N.D. Admin. Code § 69-06-04-01(2)(n) identifying:
 - a. the designated site and the site modification;
 - b. all exclusion and avoidance areas within the portion of the designated site containing the site modification.
 2. Certification and supporting documentation affirming that construction activities will not affect any known exclusion area.
 3. All field studies performed on the portion of the designated site containing the site modification;
 4. Specific information about any mitigation measures Company will take within the modification area;
 5. Certification that each owner of real property on which the modification is to be located and any applicable governmental entity with an interest in the same modification area do not oppose the modification;
 6. Certification that unless the Commission previously authorized the impact to the same avoidance area, that the utility has good cause and a specific reason to impact the avoidance area and a reasonable alternative does not exist;
 7. Certification that Company will comply with the Commission's order, law and rules designating the site.
39. Company acknowledges and agrees that written authorization from the Commission for impacting the avoidance area is necessary prior to commencement of construction activity.

EXHIBIT 7

Dated this 5th day of March, 2025.

Flickertail Solar Project, LLC

By 

Its Authorized Person

EXHIBIT 7

STATE OF NORTH DAKOTA PUBLIC SERVICE COMMISSION

**Flickertail Solar Project, LLC
Flickertail Solar Project – Richland County
Siting Application**

Case No. PU-24-351

Tree and Shrub Mitigation Specifications

Inventory

Prior to cutting or clearing trees or shrubs for construction:

- All trees one-inch or greater in diameter at breast height must be inventoried to record the location, number, and species.
- All shrubs and all coniferous trees of any diameter must be inventoried to record the location, number, and species.

Clearing

The maximum width of tree and shrub removal is 50 feet, unless otherwise approved by the Commission.

Replacement

1. Landowners must be given the option to have trees and shrubs that are removed from their property replaced on their property. The landowner may waive this option in writing. If the landowner waives this option, the company shall plant replacement trees and shrubs in an alternate location in the same region, if practical.
2. Trees and shrubs must be replaced on a minimum two-to-one basis. The company shall develop a Tree and Shrub Mitigation Plan (Plan) in consultation with landowners who are seeking replacement trees and shrubs and in accordance with USDA-NRCS-North Dakota Field Office Technical Guide: Windbreak and Woodland Tree Care and Management. The guidelines outlined in the Technical Guide shall be followed until filing of the Plan summary outlined in number 5 below.
3. The purpose of the company's Tree and Shrub Mitigation Plan is to create sustainable plantings, appropriate for the local soil and growing conditions that will provide long-term benefit to landowners, farmers and ranchers, the community, wildlife and the environment.
4. The Plan, including the proposed number, variety, type, location, and approximate date for plantings, shall be filed with and approved by the Commission.
5. Two years after completion of the plan, the company must file a summary documenting how the plan achieved the purpose outlined in number 3 above. The summary must also report the number of surviving replacement trees and shrubs.
6. The Commission will consider, on a limited basis as conditions warrant, mitigation plans that provide long-term wildlife habitat and conservation benefits but do not involve the replanting of trees and shrubs.