

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426  
April 28, 2023

OFFICE OF ENERGY PROJECTS

Project No. 14851-003 – Nevada  
White Pine Pumped Storage Project  
White Pine Waterpower, LLC

VIA Electronic Mail

Mr. Luigi Resta  
President  
rPlus Hydro, LLLP  
[lresta@rplusenergies.com](mailto:lresta@rplusenergies.com)

**Reference: Deficiency of License Application and Additional Information Request**

Dear Mr. Resta:

The White Pine Waterpower, LLC's (White Pine) application for an original license for the White Pine Pumped Storage Project No. 14851 that was filed on February 27, 2023, does not conform to the requirements of the Commission's regulations. A list of deficiencies is attached in Schedule A pursuant to section 4.32(e)(1)(i) of the Commission's regulations. White Pine has 45 days from the date of this letter to correct the deficiencies in the application.

In addition, requests for additional information made pursuant to section 4.32(g) of the Commission's regulations are attached in Schedule B. Please provide this information within 90 days from the date of this letter.

If the correction of any deficiency or requested information causes another part of the application to be inaccurate, that part must be revised and refiled by the due date. Also, please be aware that further requests for additional information may be sent to the applicant at any time before the Commission takes final action on the application.

Within 5 days of receipt, please provide a copy of this letter to all agencies and Indian tribes that the applicant will consult in preparing the response to this deficiency and additional information request. Then, when White Pine files the requested information with the Commission, it must provide a complete copy of the information to each agency and Indian tribe consulted under section 4.38 of the Commission's regulations.

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The Commission strongly encourages electronic filing. Please file the requested information using the Commission's eFiling system at <https://ferconline.ferc.gov/eFiling.aspx>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov); call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number **P-14851-003**.

If you have any questions, please contact Evan Williams at (202) 502-8462, or [evan.williams@ferc.gov](mailto:evan.williams@ferc.gov).

Sincerely,

TIMOTHY  
KONNERT

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TIMOTHY  
KONNERT  
Date: 2023.04.28  
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Timothy Konnert, Chief  
West Branch  
Division of Hydropower Licensing

Attachments: Schedule A – Deficiencies  
Schedule B – Requests for Additional Information

Schedule A  
Project No. 14851-003

## DEFICIENCIES

The following deficiencies have been identified after review of White Pine Waterpower, LLC's (White Pine) final license application (FLA) for the White Pine Pumped Storage Project (project). These deficiencies must be corrected within 45 days of the filing date of this letter.

### General Requirements

1. Section 4.32(a)(2)(i) of the Commission's regulations requires that an applicant identify (providing names and mailing addresses) every county in which any part of the project, and any federal facilities that would be used by the project, would be located. The FLA states that no federal facilities would be used by the project. However, this appears to be incorrect because the proposed project would almost entirely be located within Bureau of Land Management (BLM) -administered land. Therefore, please correct the application in accordance with the Commission's regulations to (a) identify that the project would use BLM-administered land and (b) provide a name and mailing address for the administrator of this BLM land.
2. Section 4.32(a)(2)(iii) of the Commission's regulations requires that an applicant identify (providing names and mailing addresses) every irrigation district, drainage district, or similar special purpose political subdivision, (A) *in which* any part of the project, and *any Federal facilities that would be used by the project*, would be located, and (B) that owns, operates, maintains, *or uses* any project facilities or *any Federal facilities that would be used by the project*. Although comments were previously filed in response to the draft license application by the McGill Ruth Consolidated Sewer and Water District (the District),<sup>1</sup> that indicate the District has water supply sources near the location of the proposed project area, the FLA fails to identify this entity and any other irrigation district, drainage district, or similar special purpose political subdivision. Therefore, please revise the FLA to include a contact name and mailing address for the McGill Ruth Consolidated Sewer and Water District and any other irrigation district, drainage district, or similar special purpose political subdivision (A) in which any part of the project, and any Federal facilities that would be used by the project, would be located, and (B) that owns, operates, maintains, or uses any project facilities or any Federal facilities that would be used by the project.
3. Section 4.32(a)(3)(i) of the Commission's regulations requires that an applicant state that the applicant *has made, either at the time of or before filing the application*, a good faith effort to give notification by certified mail of the filing of the application to: (A) Every property owner of record of any interest in the property within the bounds of

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<sup>1</sup> Comment of McGill Ruth Sewer & Water District. May 18, 2022 (accession no. 20220518-5085).

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the project, or in the case of the project without a specific boundary, each such owner of property which would underlie or be adjacent to any project works including any impoundments; and (B) The entities identified in paragraph (a)(2) of this section, as well as any other Federal, state, municipal or other local government agencies that there is reason to believe would likely be interested in or affected by such application. The FLA fails to state that White Pine has made, either at the time of or before filing the application, a good faith effort to give notification by certified mail of the filing of the application to every property owner of record of any interest in the property within the bounds of the project, or in the case of the project without a specific boundary, each such owner of property which would underlie or be adjacent to any project works including any impoundments. Therefore, please give notification by certified mail of the filing of the application to every property owner of record of any interest in the property within the bounds of the project, or in the case of the project without a specific boundary, each such owner of property which would underlie or be adjacent to any project works including any impoundments and revise the FLA to state that a good faith effort was made to give notification by certified mail of the filing of the application to those parties. Additionally, please file proof of the certified mailings to each of the parties.

**Exhibit E**

4. Section 4.38(f)(2) of the Commission's regulations requires that an application must include any letters from the public containing comments and recommendations. However, the FLA fails to document in Exhibit E, Appendix A, *Consultation Record*, numerous comments filed with the Commission in May and June 2022 by individuals in response to the DLA. Therefore, please correct the FLA in accordance with the Commission's regulations, to include all letters from the public containing comments and recommendations.

5. Section 4.38(f)(5) of the Commission's regulations requires that an application provide evidence of all attempts to consult with a resource agency or Indian tribe, copies of related documents showing the attempts, and documents showing the conclusion of the second stage of consultation. Although Exhibit E, Appendix A, *Consultation Record* includes a list of consultation efforts and documentary evidence of many of those efforts, evidence for numerous listed efforts is not provided in Appendix A. Therefore, please correct the FLA in accordance with the Commission's regulations, to include documentary evidence of the consultations for which no evidence is provided; if the consultation type is "For the Record" or "Meeting" please provide all notes for this consultation.

6. Section 4.38(f)(6) of the Commission's regulations requires that an application provide an explanation of how and why the project would, would not, or should not, comply with any relevant comprehensive plan as defined in Section 2.19 of this chapter and a description of any relevant resource agency or Indian tribe determination regarding

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the consistency of the project with any such comprehensive plan. Section 2.2.4, *Summary of Proposed Environmental Measures*, states that White Pine understands that an exception or variance of certain requirements in the BLM *Ely District Resource Management Plan* would be required to facilitate construction of the project. Additionally, Section 5.3 *Consistency with Comprehensive Plans*, states that the project, as currently designed, is inconsistent with two of the plans – *Bureau of Land Management. 2015. Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region, Including the Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah. Washington, D.C. September 2015*, and *Bureau of Land Management. 2019. Nevada and Northeastern California Greater Sage-grouse Record of Decision and Approved Resource Management Plan Amendment. March 2019*. Section 5.3 lists eleven other comprehensive plans that are, or could be, applicable to the project. However, the FLA provides no explanation to describe how and why the project would, would not, or should not, comply with any of the listed resource management plans. Additionally, the FLA does not appear to include descriptions of relevant resource agency or Indian tribe determinations regarding the consistency of the project with any of the listed comprehensive plans. Therefore, please correct the FLA in accordance with the Commission's regulations, for all resource management plans relevant to the project.

7. Section 4.38(f)(8) of the Commission's regulations requires that an application provide a list containing the name and address of every federal, state, and interstate resource agency and Indian tribe with which the applicant consulted pursuant to paragraph (a)(1) of this section. The FLA does not appear to include this list; therefore, please correct the FLA in accordance with the Commission's regulations to include a list containing the name and address of every federal, state, and interstate resource agency and Indian tribe with which the applicant consulted pursuant to paragraph (a)(1) of this section.

8. Section 4.41(f)(5)(iv) of the Commission's regulations requires the FLA to include on-site manpower requirements and payroll during and after project construction, including a projection of total on-site employment and construction payroll provided by month. However, the FLA does not appear to include any of this information; therefore, please correct the FLA in accordance with the Commission's regulations to provide the on-site manpower requirements and payroll during and after project construction, including a projection of total on-site employment and construction payroll provided by month.

9. Sections 4.41(f)(5)(v)(A) – 4.41(f)(5)(v)(C) of the Commission's regulations requires the FLA to include the number of construction personnel who currently reside within the project's affected area, would commute daily to the construction site from places outside of the project area, and would relocate on a temporary basis within the project area. Although the FLA indicates the number of non-resident construction

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workers expected during the construction period, it fails to indicate the number of construction workers who currently reside in the affected area, would commute daily, and would relocate temporarily. Therefore, please correct the FLA in accordance with the Commission's regulations to include the number of construction workers who currently reside in the project area, would commute daily, and would relocate temporarily.

10. Section 4.41(f)(5)(viii) of the Commission's regulations requires the FLA to include a fiscal impact analysis evaluating the incremental local government expenditures in relation to the incremental local government revenues that would result from the construction of the proposed project; incremental expenditures may include, but are not limited to, school operating costs, road maintenance and repair, public safety, and public utility costs. The FLA does not appear to include this type of analysis; therefore, please correct the FLA in accordance with the Commission's regulations to include a fiscal impact analysis evaluating the incremental local government expenditures in relation to the incremental local government revenues that would result from the construction of the proposed project.

11. Section 4.41(f)(7)(i)(C) of the Commission's regulations require that a report on recreation provide a description of any areas within *or in the vicinity of* the proposed project boundary that are included in, or have been designated for study for inclusion in, a wilderness area designated under the Wilderness Act (see 16 U.S.C. 1132). Section 3.8.2 *Direct and Indirect Environmental Effects – Recreation*, states there are no designated Wilderness Areas within 10 miles of the project. However, this appears to be incorrect because the proposed project upper reservoir would be approximately 4 miles from the High Schells Wilderness and the proposed project transmission line would be approximately 1.2 miles from the Bristlecone Wilderness, at its closest point where the transmission line right-of-way (ROW) would be located just south of the Hercules Gap. Therefore, please correct the FLA in accordance with the Commission's regulations to provide a description of any areas within or in the vicinity of the proposed project boundary that are included in, or have been designated for study for inclusion in, a wilderness area designated under the Wilderness Act.

**Exhibit G**

12. Section 4.41(h)(1) of the Commission's regulation requires that Exhibit G maps show the location of all project works and principle features. Although Exhibit G, Maps G5 and G6 appear to show that the project boundary encompasses the project's cable, main access, and tailrace tunnels, neither is identified in the maps. Additionally: (a) Map G5 appears to show the switchyard access road, but it is not identified; (b) Map G5 does not appear to show the lower reservoir perimeter road and lower reservoir laydown areas; (c) Map G6 does not appear to show the upper reservoir perimeter road and upper reservoir laydown areas; (d) Map G5 does not appear to show the wellfield conveyance access road; and (e) Maps G1 through G5 do not appear to identify existing access roads

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and tracks proposed to be utilized by the project and do not appear to identify proposed locations of new access roads and tracks that would provide access to the proposed transmission line ROW. Further, Exhibit G maps do not appear to identify the location of the proposed temporary explosives storage area and the existing roads proposed to be utilized to access the storage area. Therefore, the FLA does not conform to 18 CFR 4.41(h)(1) of the Commission's regulations. Please correct Maps G5 and G6 to identify the project facilities. To aide staff's review of Exhibit G, please modify the exhibit so that the alignments of proposed project facilities and the proposed project boundary are identified using appropriate colored lines (e.g., dashed, red line for the project boundary; solid, green line for any proposed new access road; bold, orange line for any existing access roads proposed for use by the project.

13. Section 4.41(h)(2) of the Commission's regulations requires that the project boundary enclose all project features. Because Exhibit G does not appear to show all proposed project features, including the soil disposal area and the features listed above, enclosed by the project boundary, please correct Exhibit G maps to enclose all proposed project facilities and features within the proposed project boundary.

14. Section 4.41(h)(4) of the Commission's regulations requires that the maps identify by legal subdivision (i) lands owned in fee by the applicant and lands that the applicant plans to acquire in fee and (ii) lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired or to be acquired by easement or lease. Exhibit G maps identify non-federal lands that would be encompassed by the project boundary. However, the maps don't indicate: (a) which lands are currently owned in fee by the applicant; (b) which lands the applicant plans to acquire in fee; and (c) the lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired or to be acquired by easement of lease. Therefore, please correct Exhibit G to identify these types of lands.

15. Section 4.61(a)(2) of the Commission's regulations requires that Exhibit G drawings must have identifying title blocks and bear the following certification: "This drawing is a part of the application for license made by the undersigned this \_\_\_ day of \_\_\_\_\_, 20\_\_." Please revise the drawings to include this information.

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## REQUESTS FOR ADDITIONAL INFORMATION

The following is a list of additional information needs that have been identified after review of the White Pine Waterpower, LLC's (White Pine) final license application (FLA) for the White Pine Pumped Storage Project (project). Please file the requested information within 90 days of the filing date of this letter.

### General Comments

1. The consultation record is incomplete. For instance, the record is missing some agency comments and correspondence that were provided to the applicant or to the project record, but do not appear to have been filed to eLibrary or included in Appendix A, *Consultation Record* of the FLA (e.g., BLM email dated December 15, 2020, noting a need for an EA due to the roads; meeting notes from the November 15, 2022 meeting of the Natural Resource Advisory Committee of White Pine County attended by Greg Copeland of rPlus Hydro, LLLP; BLM email dated November 18, 2022, indicating BLM cannot currently support a site-specific amendment to the *Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region, Including the Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah. Washington, D.C. September 2015* and that other options should be evaluated; Park Service and Nevada Northern Railway (NNR) January 20, 2023 correspondence indicated "For the Record"; etc.). A copy of all correspondence provided by agencies to the applicant should be included in the consultation record. Please revise Appendix A accordingly so that staff has an accurate context for the agency's concerns summarized in the table in Appendix A. Additionally, if agency comments were provided to the applicant and referenced in Appendix L, *Response to Comments on the Draft License Application*, but were not filed to eLibrary or were not included in Appendix A, *Consultation Record*, please revise Appendix A accordingly so that staff has an accurate context for the agency's concerns summarized in the comment/response table in Appendix L.

2. The FLA states that the project is located outside of the coastal zone and that consistency with the Coastal Zone Management Act (CZMA) is not applicable. However, no documentation is provided to support this statement. Please file documentation from the State of Nevada confirming that a CZMA consistency determination is not needed for the project.

3. The FLA states that the project will not involve discharge into navigable waters and therefore a 401 Water Quality Certification (WQC) will not be required. On March 15, 2023, rPlus Hydro, LLLP filed a copy of correspondence from the Nevada Division of Environmental Protection (NDEP) regarding 401 WQC requirements, in which NDEP indicates that a 401 WQC is not likely to be required for the project but that it recommends the project applicant consult with the U.S. Army Corps of Engineers to



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determine whether waters of the U.S. (WOTUS) are present within the proposed project area to determine if a Section 404 permit for the project will be required. Please consult with the U.S. Army Corps of Engineers to acquire an Approved Jurisdictional Determination and a determination letter that indicates whether a Section 404 permit would be required, and file both in the revised FLA.

4. Many map figures throughout Exhibit E show a "project footprint" and the proposed location of above-ground project facilities, but do not show the proposed project boundary and proposed location of the underground project facilities, which would be encompassed by the project boundary. Section 4.41(h)(2) of the Commission's regulations indicate that project boundaries enclose the project works that are to be licensed and include land necessary for operation and maintenance of the project and for other project purposes. Please modify and re-file all map figures that do not already show the proposed project boundary and the location of underground project facilities encompassed by the project boundary. If the "project footprint" is dissimilar from the proposed project boundary, please explain what the difference is and differentiate both on the map figures using two different colored lines. Please correct the third footnote to Table 3.2-1 *Geographic Scope by Resource for Cumulative Effects Associated with the White Pine Pumped Storage Project*, to indicate that the project boundary is the permanent operation boundary, including underground works.

**Initial Statement and Exhibit A**

5. Section 1.3, *Existing Facilities and Infrastructure*, states that White Pine proposes to consult with the NNR about an additional track crossing on the surface to facilitate heavy vehicle access for project construction. However, the FLA does not describe where existing track crossings are located and what, if any, improvements would be necessary to facilitate project construction-related traffic at these crossings. Please describe, in detail, the improvements that would be necessary to facilitate project construction-related traffic at existing crossings.

6. Section 1.3, *Existing Facilities and Infrastructure*, states that the currently inactive NNR Mainline could be reactivated in the coming years but does not describe the rail use that would or could occur on this line. Please clarify whether the rail traffic on this line would only be for NNR-run trains or if other passenger or freight rail operate on this line.

7. Section 1.3, *Existing Facilities and Infrastructure*, indicates that existing power lines will be required to be rerouted and upgraded because of proposed project facilities and that details of the reroutes and upgrades will be developed with the utility owners during the FLA. For Commission staff to effectively analyze project effects on resources, details of the reroutes and upgrades must be provided. Please file these details in the revised FLA.

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8. Section 1.3, *Existing Facilities and Infrastructure*, states that no provisions have been made to reroute any unofficial unpaved roads or tracks, except for the ridge road that will be rerouted to bypass construction and permanent facilities as shown on Figure 1.0-1. However, Figure 1.0-1 does not appear to identify the ridge road and it does not indicate the current location or proposed relocation of the road. Please modify Figure 1.0-1 and all other applicable maps to identify current location and proposed relocation of the ridge road. Also, please describe in detail the characteristics of the ridge road including, but not limited to: (a) its dimensions; (b) the road surface and other materials it is constructed of; (c) the landowner(s) of the land on which the road is located; and (d) who or what entity currently maintains the road.

9. Section 1.3, *Existing Facilities and Infrastructure*, states that NV Energy will design and construct a new bay at the Robinson Summit Substation. However, it is unclear exactly where the new bay would be located. Please revise the FLA to indicate if this new bay would be constructed within the existing footprint of the Robinson Summit Substation, and if not, where it would be constructed in relation to the substation. Please also indicate who would own and maintain the new bay.

10. Section 2.4.2, *Lower Reservoir Inlet/Outlet Structure*, states that the lower reservoir intake/outlet structure is approximately 92.5 feet wide and the structure subdivides the flow between four rectangular openings, each with dimensions of 26 feet by 20 feet. However, it is not clear which dimension, 26 feet or 20 feet, is the width of each rectangular opening. Assuming the width of each rectangular opening is 26 feet wide, then the total width of all four rectangular openings is 104-feet-wide, whereas if the width of each rectangular opening is 20 feet wide, then the total width of all four rectangular openings is 80 feet wide; neither of which is equivalent to 92.5 feet. Please revise the FLA to (a) identify the width of each of the four rectangular openings and (b) clarify the apparent discrepancy that the total width of all four rectangular openings does not equal 92.5 feet.

11. Exhibit A, Table 2.1-6. *Pump-Turbine and Generators* indicates that the rated power of each turbine would be 340 megawatts. However, Exhibit A, section 2.8.1 *Pump-Turbines*, indicates the rated power of each pump turbine would be 333 megawatts. Please revise the FLA to explain this discrepancy and provide a correction if necessary.

12. Section 2.10.1 *Underground Cables*, states that nine high-voltage 345-kilovolt generator-motor conductor cables, three medium-voltage underground power cables, and one underground fiber-optic cable will be conveyed from the unit transformers in the transformer cavern through to the cable tunnel portal where the cables will then be buried in a duct bank between the portal and the outdoor switchyard where they will terminate. Although the FLA provides a description for the types of cables, it does not provide the lengths of each type of cable nor does it provide the voltage capacity of the three medium-voltage cables. Please revise the FLA to provide the voltage capacity of the three medium-voltage cables and the lengths of each type of cable that would be installed

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in the cable tunnel and the lengths of each type of cable that would be installed in the duct bank. Please revise the FLA to specify if cables of one type would be varying lengths (i.e., if one 345-kilovolt cable would be a different length than the other 345-kilovolt cables) and provide those lengths.

13. Exhibit A, Table 2.1-9 *Power and Transmission*, indicates that transmission line structures would typically be 125-feet-tall. However, Exhibit A, section 2.10.2 *High Voltage Transmission Line*, indicates that transmission line structures would be up to 150-feet-tall. Please revise the FLA to address this apparent discrepancy.

14. Section 2.10.2 *High Voltage Transmission Line*, states that "an additional high-speed communications path, if required, [would] be provided by [optical ground wire] on a separate line... installed as under-build, or a separate underground fiber-optic cable, or a combination of these to create the path". Please revise the FLA to describe the following: (1) how and when the use of an additional high-speed communications path would be determined; (2) whether the optical ground wire would be co-located on the planned new transmission line structures or would be installed on its own structures; (3) how the determination would be made to use a separate underground fiber-optic cable or combination of the two; and, (4) how, if determined it was needed, the separate underground fiber-optic cable would be installed and if it would be installed entirely within the proposed 160- to- 250-foot-wide transmission line ROW.

15. Section 2.10.3, *Low-Voltage Distribution Line*, makes three references to a "switching station", however, the remainder of Exhibit A does not reference a "switching station" when discussing electric power transmission. Please revise the FLA to address this discrepancy and revise subsection 2.10.3 if necessary to comport with the language used throughout the rest of Exhibit A.

16. Exhibit A, Table 2.1-7 *Access Tunnels* states the main access tunnel would be 5,108 feet long. However, Exhibit A, section 2.11, *Access and Cable Tunnels*, states the main access tunnel would be 4,290 feet long. Please revise the FLA to address this discrepancy and revise subsection 2.10.3 if necessary.

17. Section 2.11, *Access and Cable Tunnels*, states that several construction-access tunnels would be built to support construction of the proposed underground facilities and that some of the tunnels would be retained to provide access and emergency egress during project operation. However, the FLA does not specify the number of tunnels or other information regarding the tunnels. Therefore, please provide the following information: (a) the total number of construction-access tunnels proposed to be constructed; (b) the number of tunnels proposed to be retained for future access to underground project facilities; (c) the number of tunnels proposed to be plugged along with descriptions of how and when the tunnels would be plugged (e.g., materials); and (d) the approximate dimensions, lining, and appurtenant features of all proposed construction-access tunnels.

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18. Section 3.0 *Project Access Roads*, states that the locations of access roads, as currently proposed, could be changed at any time while the Commission staff reviews the application. For staff to effectively analyze potential project effects to environmental resources caused by construction and/or use of any proposed access roads, and appropriately condition any potential license that might be issued for the project, the final proposed locations of all current and potential/alternative access roads must be provided.

19. Section 3.1 *Western Access Road*, states that construction and operational access to the main access portal will be provided from US-93 via the 1.7-mile-long permanent, paved, dual-lane western access road. Exhibit G appears to show the following related to the proposed western access road: (a) the project boundary encompassing less than 1 mile of the existing US-93 and (b) the project boundary encompassing about 1 mile of unknown, existing roadway that leads from US-93 towards the proposed lower reservoir location; for a total of about 2 miles of roadway. Although aerial imagery indicates US-93 is paved it does not show that the unknown roadway is paved, rather it appears to be an unimproved, unpaved track. Please revise the FLA to clarify this apparent discrepancy.

20. Section 3.2, *Upper Reservoir Access Road*, states that access to the proposed upper reservoir, and associated other proposed project facilities, will be by the 7-mile-long, permanent, paved, dual-lane upper reservoir access road. This appears to indicate that a road currently exists that would be used as the project's upper reservoir access road; however, it is unclear if a road currently exists. Please revise the FLA to clarify if a road currently exists that would be used as the upper reservoir access road or if no road currently exists and the upper reservoir access road would need to be constructed.

21. Section 3.2, *Upper Reservoir Access Road*, states that a proposed alternative access to the upper reservoir, referred to as the upper reservoir optional access road, is still under consideration. Please revise the FLA to describe how and when the need for this proposed alternative access road would be determined.

22. Section 3.3, *Wellfield Conveyance Access Road*, states that the 3.2-mile wellfield conveyance access road will provide permanent access to the groundwater wells. This appears to indicate that a road currently exists that would be used as the project's wellfield conveyance access road; however, it is unclear if a road currently exists. Please revise the FLA to clarify if a road currently exists that would be used as the wellfield conveyance access road or if no road currently exists and the wellfield conveyance access road would need to be constructed. Additionally, Table 2.1-8 does not include details of this access road and Exhibit G, Map G5 does not appear to show this access road. Please revise Table 2.1-8 to include details of this access road and modify Exhibit G, Map G5, and any other maps throughout the FLA on which this road should appear, to show this access road.

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23. Section 3.5, *Other Access Roads*, indicates that an access plan, for accessing sections of the proposed transmission line ROW, would be developed with contractors and in consultation with affected landowners. However, without this plan, staff would be unable to determine possible environmental impacts from access to the transmission line ROW. Please clarify how the plan will be developed in consultation with affected landowners and when the plan will be filed with the Commission. Additionally, considering the other proposed project access roads that would be used to access all other project facilities aside from the transmission line ROW, and the proposed use of existing roads to access other project facilities, please clarify if the access plan will be developed in consultation with affected landowners through whose land these other proposed access roads and existing roads are located and state when such consultation would occur. Please consult with BLM and other landowners that may be affected by this plan in preparing the response and provide a record of the consultation.

24. Section 4.1, *Spoil Disposal*, states that additional areas adjacent to the proposed spoil disposal location have been identified for additional soil disposal if the spoil area requirements grow through the development of project. However, the section does not identify and describe what additional areas could be used for additional spoil disposal. Please revise the FLA to identify and describe what additional areas could be used for additional spoil disposal and identify the current landowner(s) of the additional spoil disposal areas.

**Exhibit C**

25. Table 1.0-1 *Project Milestones* indicates that the anticipated date the Commission may issue any license for the project would be in February 2025. However, the table also indicates a proposal to begin construction of some project facilities (e.g., access roads, conveyance system and wells) in August 2024, several months before any license may be issued. Please note that any construction of project facilities is not authorized until Commission staff have analyzed the proposal and made recommendations to the Commission on whether to authorize the proposed project, and if authorized, what measures to include as conditions of the license. Therefore, please revise the schedule accordingly in Table 1.0-1 and elsewhere in the FLA as needed.

**Exhibit E*****Need for Pumped Storage Hydropower***

26. Section 1.1.2 *Need for Pumped Storage Hydropower*, states that White Pine County would lose thousands of construction and operation employment jobs, associated indirect income and spending over the potential life of the project if the project is not licensed, and an opportunity to use industrial water rights originally granted for energy project development, and that White Pine County and the State of Nevada would lose property tax income. These statements are inaccurate because the project does not

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currently exist for White Pine County to lose these stated benefits and for the State of Nevada to lose property tax income. Rather, White Pine County and the State of Nevada might not gain the stated benefits. Please revise the section to appropriately indicate that White Pine County and the State of Nevada might not gain the benefits that are stated for each.

***Consultation***

27. Section 1.3 *Consultation* states that: (a) White Pine understands that the NNR HiLine train excursions operate three days per week, between mid-May to mid-September; (b) there are at least two specialty train excursions on the HiLine during the period mid-May to mid-September; and (c) the NNR has other excursions that operate annually, departing from the same NNR depot, but do not use the HiLine and therefore don't intersect with the project. However, this section does not mention the Haunted Ghost Train, Santa's Reindeer Flyer, and the Fire and Ice Fireworks Train, or other excursions on which, previously indicated in this section, the Park Service recommends surveys be administered. Please revise the FLA to provide a full 2023 schedule of all HiLine excursions, including regular and specialty excursions throughout the year, including during the mid-May to mid-September timeframe during which White Pine proposes to conduct the NNR Visitor Use Assessment Survey and the mid-September to mid-May timeframe that is not proposed to be studied.

28. Figure 1.3-1 *Locations and Angles of Photosimulations* is illegible. Please edit the figure to clarify the image and refile the image.

Because the above information is specifically related to the NNR Visitor Use Survey and recreation resources, and not specifically to consultation, please appropriately revise Section 3.8 *Recreation* of the FLA to include all additional information requested above.

***Incomplete Studies***

29. Section 1.0, *Introduction* states that additional study efforts are planned by White Pine to complete surveys for the cultural and terrestrial resource studies (e.g., *Greater Sage-Grouse Lek and Habitat Study*) as well as supplemental study efforts regarding recreation, visual and aesthetic resources, and socioeconomics (e.g., *NNR Visitor Use Assessment Study*, *Visual and Aesthetic Resources Study*, *Socioeconomic Study*) resulting from stakeholder input on the DLA; Table 2.2-3 *Environmental Measures Proposed by WPW* also indicates that additional study efforts are planned (e.g., noise modeling). Additionally, Section 3.6 *Botanical Resources*, indicates that after field surveys for several terrestrial resource studies were completed in July 2022, the "project footprint" was modified. As a result, White Pine states it has scheduled additional, though unspecified, field studies in areas that were not previously surveyed. The FLA also states that results of these studies will be provided to FERC as they are completed. However, it

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is unclear which specific study elements are incomplete and when the results would be filed, as well as why the study results were not completed before the FLA was filed for staff's review. Because the ongoing studies will collect information on environmental resources that would be potentially affected by the project, the results are needed to inform staff's environmental analyses and scoping process for the project as required by the National Environmental Policy Act (NEPA). This information must be filed with the Commission before we can initiate scoping and prepare the NEPA document. Therefore, please describe the specific provisions of any study plans that are not complete and provide a schedule for completing any remaining data collection, analyses, and report preparation, including when the information will be filed with the Commission.

***Project Facilities***

30. The application does not fully describe all proposed, temporary project facilities. For example, Section 3.7.2.1 *Terrestrial Wildlife and Habitat* states that concrete batch plants would likely be erected to produce concrete for the project and no further description is provided. However, Section 2.2.1 *Project Facilities* does not describe any proposed concrete batch plants. Section 4.41(f)(3)(iv) of the Commission's regulations requires the following material and information regarding any mitigation measures or facilities, identified under clause (iii), proposed for implementation and construction:

- (A) Functional design drawings;
- (B) A description of proposed operation and maintenance procedures for any proposed measures or facilities;
- (C) An implementation, construction, and operation schedule for any proposed measures or facilities;
- (D) An estimate of the costs of construction, operation, and maintenance of any proposed facilities or implementation of any measures;
- (E) A statement of the sources and amount of financing for mitigation measures or facilities; and
- (F) A map or drawing showing, by using shading, crosshatching, or other symbols, the identity the location of any proposed measures or facilities.

For staff to have a complete and comprehensive understanding of the proposed project and proposed construction activities, please ensure that all proposed temporary and permanent project facilities, including temporary facilities installed to support construction of the project, are adequately described in Section 2.2.1 *Project Facilities*.

***Proposed Environmental Measures***

31. In Section 2.2.4 *Summary of Proposed Environmental Measures*, Table 2.2-3 lists 27 proposed environmental measures, about half of which are resource management plans that would consist of multiple provisions and measures. The table includes general

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descriptions of the goals and objectives of the proposed plans (e.g., Outdoor Lighting Plan) as well as some rudimentary examples of measures under consideration and indicates that studies (e.g., noise modeling) would be undertaken to inform development of measures. Otherwise, the FLA indicates that plans and measures are still being developed and specific measures have yet to be identified; that some plans would be developed at some future, unspecified date prior to construction; or that other measures may be proposed based on continued consultation with resource agencies. Further, no additional information on the proposed measures is provided in the resource sections that follow in Section 3.0 *Environmental Analysis*. This level of uncertainty and detail is not sufficient. For staff to adequately evaluate any proposed measures and prepare our NEPA analysis, and to weigh the benefits of the proposed measures along with their costs (economic, generation, and other competing uses) to compare with any alternative measures that may be recommended by stakeholders substantially more information must be provided in the revised FLA. Indicating that some measures may or may not be developed at an unspecified future date does not conform with the application content requirements in section 4.38 of the Commission's regulations.

For example, the proposal to construct the 25-mile-long transmission line with consideration of design guidelines recommended by the Avian Power Line Interaction Committee (APLIC) in order to minimize avian electrocution and collision hazards. The proposed *Raptor-Safe Transmission Line Structure Plan*, the *Raptor and Bat Protection Plan*, and the *Greater Sage-Grouse Mitigation Plan* provide general examples of avian-safe devices and designs, including markers, diverters, perch guards, line spacing, insulative covers, etc. that are under consideration. However, no information is provided on what specific measures are proposed, including the where, how many, when, why, and how any potential measures would be implemented. Additionally, no supporting analysis is provided on how the measures would minimize effects of the proposed project on environmental resources.

Accordingly, we are also unable to understand how costs are assigned for the proposed measures in Table 4.3-1. For example, under the *Habitat Restoration, Reclamation, and Enhancement Plan* (PME #9) the FLA lists a capital cost of \$100,000 and an annual cost of \$20,000. However, we cannot determine if this cost estimate is reasonable because we do not understand what would be implemented for a capital cost of \$100,000 and an annual cost of \$20,000. This amount seems low considering the number of acres that would be disturbed and would presumably be revegetated. For each measure listed in Table 4.3-1, please describe, at least at the conceptual level, what would be done, and the basis of the estimated cost included in the table.

Therefore, for staff to process the application more specific information is needed for all the proposed measures in listed in Table 2.2-3.



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Additionally, please review the *Guidance on Environmental Measures in License Applications* available on the Commission's website<sup>2</sup> and revise the FLA to clearly describe and specify all proposed measures and facilities, including: relevant goals and objectives; the what, where, how many, when, why, and how any measures would be implemented; the project-related effects the measures address and their benefits to specific resources; relevant conceptual drawings and maps; consultation with resource agencies leading to the measures (summarize and attach correspondence); and costs (capital and annual). Sufficient detail should be included for staff to understand and evaluate the specific provisions of each measure with reference to the related impact and where relevant: the conditions under which implementation would occur (e.g., continuously or in the event of contingencies) with reference to project design and/or operating procedures; any technical aspects for implementation; an implementation schedule that includes the timing, frequency, and duration; procedures providing information on the progress and results of mitigation and monitoring measures; any necessary monitoring including the linkages between impacts, measurement indicators, detection limits (where appropriate), and defined thresholds/triggers that would signal the need for corrective actions; and reporting protocols. This information is needed for staff to evaluate the proposed measures in our NEPA analyses as well as to draft potential license conditions with sufficient detail for clear implementation and enforcement of the measure's provisions and parameters.

In the sections that follow, staff also outline information needs specific to individual proposed plans and measures.

### ***General Description of the River Basin***

32. Figure 3.1-3 *Topography of the Project Vicinity* shows the topography within the vicinity of the "project footprint", which includes the reservoirs, some project access roads, the underground facilities, and portion of the transmission line mostly east of Hercules Gap. However, there is no similar map that shows the topography in the vicinity of the proposed project transmission line to the west of Hercules Gap. Please provide a map(s), like Figure 3.1-3 that show the topography in the vicinity of the proposed project transmission line to the west of Hercules Gap.

33. Section 3.1.3.1 *Major Land Uses and Ownership* states that the total acreage within the "project footprint", which includes permanent and temporary disturbance areas, would be 1,338 acres. However, Exhibit A, Table 1.4-1 *Summary of Lands within the Project Boundary*, states that a total of 1,143.21 acres of land would be located within the project boundary. Please revise the FLA to address the nearly 200-acre difference and provide the correct acreage that is located within the project boundary; if the

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<sup>2</sup> Available at <https://www.ferc.gov/sites/default/files/industries/hydropower/gen-info/licensing/guidance.pdf>

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response would cause other parts of the FLA to be corrected, please provide the location within the FLA of each of these corrections. Additionally, it is unclear whether all permanent and temporary disturbance areas would occur within the project boundary or if certain of those disturbance areas would occur outside the project boundary, but within the “project footprint”. Please revise the FLA to clarify (a) what, if any, difference there is between the “project footprint” and the project boundary and (b) if certain of those permanent and temporary disturbance areas would be located outside the project boundary, but within the “project footprint”.

34. Section 3.1.3.1 *Major Land Uses and Ownership* states that approximately 1,281 acres of land administered by the BLM and approximately 57 acres of privately-owned land are located within the “project footprint”. However, Exhibit A, Table 1.4-1 *Summary of Lands within the Project Boundary*, states that 1,095.76 acres of land administered by the BLM and approximately 47.45 acres of privately-owned land are located within the project boundary. Please revise the FLA to address this discrepancy and provide the correct acreage for each of these landowners.

35. Figure 3.1-4 *Land Ownership in the Project Vicinity* shows the land ownership within the vicinity of the “project footprint”, which includes the reservoirs, some project access roads, the underground facilities, and portion of the transmission line mostly east of Hercules Gap. However, there is no similar map that shows the land ownership in the vicinity of the proposed project transmission line to the west of Hercules Gap. Please provide a map(s), like Figure 3.1-4 that show the land ownership in the vicinity of the proposed project transmission line to the west of Hercules Gap.

### ***Environmental Effects Analysis***

36. A footnote to Table 3.2-1 *Geographic Scope by Resource for Cumulative Effects Associated with the White Pine Pumped Storage Project* states that the “project footprint” encompasses the area needed for project construction and that it includes the footprint of the permanent project facilities. This appears to mean that the (a) “project footprint” would encompass the project boundary (i.e., footprint of the permanent project facilities) and (b) project-related construction activities would occur outside of the project boundary. Please revise the FLA to confirm whether project-related construction activities are proposed to take place outside of the proposed project boundary.

37. Although Section 3.2.2.2 *Reasonably Foreseeable Future Actions* references several potential, non-project projects and actions, it does not include any reasonably foreseeable future actions related to the White Pine project, such as the proposed annual groundwater pumping to supply the project with make-up water. Please revise this section to include a description of this proposed project action, and any other potential future project-related action, that could cumulatively affect environmental resources.

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### ***Soils***

38. Table 3.3.-1 *Soil Types Mapped in the Project Footprint* indicates the acreages of areas of different farmlands as classified by the Natural Resources Conservation Service that would be located within the “project footprint”. However, the table does not indicate the acreages of those farmlands that would be located within the project boundary. Please revise Table 3.3-1 to indicate the acreages of the farmlands that would be located within the project boundary and file a map showing the location of the different farmlands with respect to the proposed project boundary.

### ***Water Resources***

39. The level of detail provided in this section is not sufficient for staff to prepare its environmental analysis and to weigh the benefits of the proposed measures along with their costs (economic, generation, and other competing uses) and any alternative recommended measures.

Therefore, please review the Guidance on Environmental Measures in License Applications available on the Commission’s website and revise the FLA to clearly describe all proposed measures, including the goals and objectives; where, when, and how they would be implemented; the project-related effects the measures address and its benefits to specific resources; relevant conceptual drawings and maps; any consultation with resource agencies leading to the measures; and costs (capital and annual).

In Exhibit E– Section 3.4.1, *Water Resources*, indicates that no surface water would be affected, but five new groundwater wells would be drilled for the initial fill and periodic refill. Exhibit B– Section 4.2, *Initial Fill*, states this would use 5,000 acre-feet (AF), filled over 12 to 18 months, equal to the sum of active storage (4,082 AF); dead storage for the upper and lower reservoirs (176 AF and 159 AF, respectively); volume of the conveyance system (120 AF); and estimated net losses (approximately 240 to 560 AF) due to precipitation, evaporation, and leakage over the filling period. This would be completed under White Pine County’s permitted water rights of 20,000 AF per year.

The estimate provided in Exhibit B – Section 4.3, *Make-up Water*, for annual losses of water in the system ranges from 140 AF to a maximum of 720 AF, with a conservative average of 360 AF lost per year and 560 AF needed per year for refill. The FLA notes that the State Engineer approved the change application to move the points of diversion and places of use for the new water rights permit, but it remains unclear if the water rights are currently being used for withdrawals from the groundwater aquifer. Please provide more information on current usage by the County and supply more details on the timeline for future hydrogeological studies referenced in Exhibit B – Section 3.3, *Initial Fill and Make-up Water Sourcing and Delivery Alternatives*. Additional information is needed regarding the application to the Bureau of Land Management for the proposed hydrogeological study in the vicinity of the project, and if there is a

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potential for subsidence as the result of proposed project operations. Finally, while it is noted by the Nevada Department of Environmental Quality that a 401 certification is likely not required, please include in the revised FLA a determination from the U.S. Army Corps of Engineers that documents if the project would impact Waters of the United States (WOTUS).

***Terrestrial Resources***

40. The application defines the “project footprint” as the “area needed for construction workspace and includes the footprint of the permanent facilities”. Section 3.1.3.1 *Major Land Uses and Ownership* states that 1,338 acres would be permanently or temporarily disturbed by construction of the proposed project (i.e., the project footprint). Section 3.6.2.1 *Project Effects on Terrestrial Habitats* (Table 3.6-4) breaks down the acreage of each vegetation community type that would be permanently lost due to construction of the proposed upper and lower project reservoirs, which is 154.5 acres in total. However, the application does not similarly break down the remaining 1,183.5 acres within the project footprint that would be permanently lost due to construction of proposed project facilities or that would be temporarily affected by proposed construction activities.

Therefore, please estimate the number of acres of each vegetation community type described in the application that would either be permanently lost or temporarily impacted by proposed project facilities and construction activities (as in Table 3.6-4) including, but not limited to, new access roads and detours, existing roads proposed to be widened, ROWs for the transmission line and conveyance facilities, concrete batch plants, staging and laydown areas, temporary structures (e.g., personnel trailers), quarries, hazardous waste and stockpile sites, demolition areas and other temporary sites to be used during proposed construction, etc. Also, please provide maps displaying where any proposed temporary facilities and construction activities would be located. The maps should also include vegetation community types as well as any other relevant wildlife habitat, wetlands, landscape features, etc. This information is necessary for staff to adequately describe and assess the significance of any potential adverse effects, which includes the location and extent of potential disturbance to vegetation communities and their associated species, within the project-affected area/project footprint.

**Proposed Operation**

41. Section 3.6.2.1 *Project Effects on Terrestrial Habitats* states that project operation and maintenance activities would likely continue to affect vegetation, but at a lower intensity than during construction of the project, and that these activities would likely include periodic vegetation management along the proposed transmission line ROW and access roads, as well as around project facilities to provide access for maintenance and repairs. Please describe any proposed vegetation management activities related to project operation and maintenance activities around any facilities, access roads, and the rights-of-ways associated with the transmission line and water conveyance structures (e.g.,

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penstock), including methods (e.g., mechanical, chemical), specific herbicides, approximate dates when proposed activities would occur, and vegetation cover types or specific plant species that would be potentially affected and/or targeted for control.

Proposed Resource Management Plans and Measures

42. As discussed above under item # 31, more specific information is needed for staff to understand the proposed resource management plans, including their respective goals, objectives, provisions and measures, methods, reporting, and implementation schedules. Also, please indicate, where relevant, the resource- and/or site-specific impacts that any proposed measures would mitigate. Please address the following information needs listed below.

- (a) *Erosion and Sediment Control Plan* – describe in detail the proposed methodologies and protocols to minimize effects of windblown and fugitive dust generated from proposed construction activities, equipment, and vehicles on air quality, vegetation, and wildlife in the project area (e.g., application of water or dust-control chemicals). The plan should also include a discussion of any potential impacts and measures to mitigate effects associated with proposed measures to minimize fugitive dust (e.g., environmental effects of dust-control chemicals).
- (b) *Noxious Weed Management Plan* – describe in detail the proposed methodologies and protocols for controlling any non-native, invasive plants that could be introduced and spread by construction, operation, and maintenance of the proposed project, including control measures (e.g., mechanical and/or herbicide use); measures to minimize transport and introduction of invasive plant propagules on project equipment and vehicles, and in materials (e.g., fill); monitoring and success criteria to evaluate the implementation of measures to meet the plan’s stated goals and objectives; protection of any special-status species that could be affected as a result of plan implementation; any proposed monitoring and control measures during operation of the project; agency consultation; etc.
- (c) *Habitat Restoration, Reclamation, and Enhancement Plan* – describe in detail the proposed methodologies and protocols for restoration and revegetation efforts including methods to salvage protected cacti species prior to construction; identification of appropriate native plant species for revegetation including consideration of site-specific conditions; planting designs, locations, and methods including maintenance of revegetated areas; regrading of disturbed ground (e.g., temporary access roads); control of invasive plant species that could affect revegetation efforts; monitoring and success criteria to evaluate the implementation of measures to meet the plan’s stated goals and objectives; estimate the acres for each habitat type that is anticipated would need restoration; etc.

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- (d) *Noise Mitigation Strategies* – Table 2.2-3 states that noise modeling results will inform the development of additional mitigation strategies, if needed, to reduce potential effects of project-related noise at sage-grouse leks. The FLA describes several proposed construction activities that would generate levels of noise that are significantly above ambient conditions (e.g., blasting). Accordingly, it is unclear why measures to minimize the impacts of noise on wildlife species, including the greater sage-grouse, have not already been developed in consultation with the relevant resource agencies. Therefore, please proceed to consult with the resource agencies to develop appropriate measures to minimize and mitigate the potential effects of noise on wildlife species. Also, please clarify if proposed noise mitigation for the greater sage-grouse would be included as part *Greater Sage-Grouse Mitigation Plan* or as part of a separate plan.
- (e) *Pre-Construction Surveys* – Table 2.2-3 states that based on survey results, White Pine would consult with applicable regulating agencies to identify reasonable avoidance and mitigation measures to reduce effects to nesting raptors and other migratory bird species nesting in the project area. Staff cannot evaluate measures that may be developed at some future, unspecified date. Therefore, staff require more information to evaluate this plan in the NEPA analysis. Please consult with FWS, NDOW, and BLM to development avoidance and mitigation measures for nesting birds to describe in the revised FLA. Refer to FWS' Avian Protection Plan (APP) Guidelines available on its website for additional guidance.<sup>3</sup>
- (f) *Raptor and Bat Protection Plan* – Table 2.2-3 states that White Pine would develop the plan in consultation with FWS and NDOW prior to the onset of ground disturbance at the start of construction activities. Staff require more information to evaluate this plan in the NEPA analysis. Therefore, please consult with FWS and NDOW now to complete the development of this plan to describe in the revised FLA. Also, the plan includes a provision for protective spatial buffers around active raptor nests, which seems duplicative with the proposed measures for pre-construction surveys. To avoid confusion when staff evaluate proposed measures to potentially recommend as conditions of any license that could be issued for the proposed project, including project costs, please clarify and ensure proposed plans and measure are organized appropriately to avoid overlap and redundancy in measures.
- (g) *Reservoir Wildlife Exclusion* – the presence of artificial water sources, particularly in arid regions, is likely to attract wildlife seeking water to drink. Also, some wildlife species may still be able to gain access to the reservoirs

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<sup>3</sup> FWS' APP Guidelines can be accessed at <https://ecos.fws.gov/ServCat/DownloadFile/104185?Reference=60102>.

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due to their smaller size or their ability to burrow under (e.g., pygmy rabbit) or climb over the proposed 10-foot-high game fencing. Section 2.2.1 *Project Facilities* states that the proposed upper and lower reservoirs would be designed with an impermeable liner to reduce water losses from seepage. We note that the materials for such liners are often relatively smooth and potentially afford little traction for wildlife that may enter the reservoir, which could cause wildlife to become trapped and drown. Therefore, please describe in more detail the design of the proposed reservoirs, including the steepness of the shoreline, additional materials or structures around the reservoir perimeter that could be used by stranded wildlife to exit the water, and what the proposed monitoring of the reservoirs would entail.

- (h) *Pygmy Rabbit Management* – Section 3.7.2.3 *Rare, Threatened, and Endangered Wildlife Species* states that direct mortality of the pygmy rabbit, a BLM sensitive species, could occur through destruction of occupied burrows during vegetation clearing, excavation, and grading, or by collision with vehicles on project roads. The FLA proposes to avoid active pygmy rabbit habitat during proposed construction, when feasible, and if habitat cannot be avoided, BLM would be consulted to coordinate the develop of appropriate mitigation measures. Because suitable habitat for the pygmy rabbit occurs throughout the project area, please consult with BLM now to develop appropriate measures to minimize impacts to this sensitive species and describe the measures in the revised FLA. Also, please describe the methodology for identifying and avoiding active habitat during construction.

#### Wildlife Seasonal Restrictions

43. To mitigate the effects of the proposed project on wildlife, the FLA proposes to implement Wildlife Seasonal Restrictions (PM&E #18) in consultation with BLM Nevada Department of Wildlife (NDOW) to plan for construction windows that provide for wildlife protection and allow for feasible project construction timelines. However, the application indicates that year-round construction would be necessary. Yet, BLM's timing restrictions for protecting various wildlife species, outlined in Table 3.7-10 Current BLM Seasonal Timing Restrictions Applicable to the Project Footprint, seem to preclude developing effective construction windows that would allow for year-round construction.

Additionally, in Appendix L *Response Comment Matrix*, the response to comments by White Pine County indicates that an exception or variance from the BLM and NDOW would be requested to allow for continued construction activity in the area of the proposed upper and lower reservoirs. The response also states that if construction activities are necessary during seasonal timing restrictions you may consult with BLM and NDOW to develop additional mitigation or request that some construction activities be permitted during seasonal restrictions dates. However, the application does not

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specify with any certainty what seasonal timing restrictions and additional mitigation, if any, are proposed. Therefore, please consult with BLM, NDOW, and FWS now to at least define a conceptual construction schedule that addresses the agencies' concerns and any additional proposed measures to mitigate potential adverse effects to wildlife. If you disagree with any agency recommendations explain why and provide alternative measures with an explanation as to why they would be more appropriate.

44. Section 3.7.2 *Direct and Indirect Environmental Effects – Wildlife Resources* does not adequately describe the potential effects of construction and operation of the proposed project for some wildlife species because the application does not fully quantify the effects on existing wildlife habitat. To adequately prepare our NEPA analysis, staff must be able to describe potential adverse effects of the proposed project on wildlife and assess the significance of those effects. Therefore, please provide the following information on the species listed below.

- (i) Table 3.7-11 *Big Game Habitat Within the Project Footprint* estimates that amount of suitable habitat for elk, mule deer, and pronghorn antelope in the project footprint, but the quantity of habitat that may be permanently lost and temporarily impacted by the project is not estimated. Please provide a table that includes this spatial habitat information (in acres) for each ungulate species by habitat type (e.g., winter range, summer range, etc.).
- (j) For the greater sage-grouse, please estimate the acreage of each BLM-designated Habitat Management Area and Seasonal Habitat Type (e.g., Priority Habitat Management Area, Nesting/Breeding, etc.) that would be temporarily affected by or permanently lost due to construction of the proposed project and provide the basis for these acreages.
- (k) For temporary impacts on the species' habitat types listed in (a) and (b), describe the length of time and time of year that impacts are expected to occur, including consideration of any proposed seasonal wildlife restrictions.

#### Greater Sage-Grouse

45. Appendix L *Response Comment Matrix* states that on November 18, 2022, BLM indicated to White Pine that it cannot currently support a site-specific amendment to BLM's 2015 *Nevada and Northeastern California Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (ARMPA)* for Greater Sage-grouse and that other options should be evaluated. Therefore, WPW is coordinating with BLM and NDOW to form a technical working group to develop a path forward and potential mitigation plans, likely in the form of a Resource Management Plan (RMP) exception or variance to allow for project construction. However, Section 3.7 Wildlife Resources of the FLA does not: (1) discuss why BLM cannot support an amendment, (2) summarize ongoing consultation on the grouse with BLM, or (3) provide a schedule



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outlining future consultation and development of plan(s) with BLM and NDOW. Please provide this information in the revised FLA.

46. Section 2.2.4 *Summary of Proposed Environmental Measures* states that a *Greater Sage-Grouse Mitigation Plan* is still being developed in consultation with BLM and NDOW and that the plan will be completed before initiating ground-disturbance activities associated with construction of the proposed project. However, the plan does not include enough information to evaluate for the NEPA analysis. Please clarify if this plan is separate from the RMP discussed in item #46 above, as it is unclear what specific plans and measures are being developed for the greater sage-grouse and if any of them are duplicative. As discussed under item #30 above, proposed resource management plans must have sufficient detail to evaluate in our environmental analysis in order to weigh their benefits along with their costs, and to compare with any alternative measures recommended by stakeholders. Therefore, please consult with BLM and NDOW now to finish developing the plan for inclusion in the revised FLA.

Project Power Lines

47. To transmit electricity from the proposed project to the grid, the FLA proposes to construct an approximately 25-mile-long, 345-kV project transmission line. Additionally, to provide back up control power to the proposed switchyard and the powerhouse, the FLA proposes to construct a 24.9-kV distribution line from the switching station to the nearest acceptable existing distribution line and that upgrades to the existing distribution line may be required. However, the length and specific route of the proposed 24.9-kV distribution line are not included in the FLA as it indicates the final design is still undecided. As discussed above, more information is needed on the proposed measures (*Raptor-Safe Transmission Line Structure Plan* PM&E #10, *Raptor and Bat Protection Plan* PM&E #14, *Greater Sage-Grouse Mitigation Plan* PM&E #17). Therefore, please provide the information for the items below.

- (l) Describe the final plan for the proposed 24.9-kV distribution line including its length, route, phase-to-phase spacing, avian-safe structures, and any necessary modifications.
- (m) Describe in detail the any avian-safe designs for the proposed transmission and distribution lines that the FLA proposes to construct/modify and any additional devices (e.g., markers, perch deterrents) you propose to install, including the number of devices with relevant specifications (e.g., dimensions, spacing, etc.) and their locations.
- (n) The use of shield wires, guy lines, and appurtenant project structures associated with the power lines that could affect wildlife and their habitat.
- (o) Describe and provide maps of the proposed transmission and distribution lines that display the features listed below that occur within at least a 500-foot buffer surrounding the respective rights-of-way of the two power lines:

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- i. the location and/or spans where any avian-safe structures would be installed;
  - ii. shield wires, guy lines, access roads, and other appurtenant project structures;
  - iii. relevant wildlife habitat/vegetation cover types (including sage-grouse habitat types and leks) and wetlands, topography, and other landscape features that have the potential to increase the risk of bird interactions (e.g., ridgelines, water bodies, cliff faces, etc.); and
  - iv. an analysis of potential, species- and location-specific impacts to birds and other wildlife associated with the proposed power lines should also be provided and that include justifications supporting proposed measures, construction designs, devices, and related measures that would be implemented to minimize effects.
- (p) Describe the routine maintenance and retrofitting you anticipate as well as any monitoring protocols to assess: the condition and effectiveness of avian-safe devices and structures and bird interactions including nests on electrical structures, bird-caused outages, and injured and dead birds found along power line corridors, which may necessitate re-evaluation and follow-up actions (e.g., repair and retrofitting equipment, consultation with resource agency, etc.), as necessary.

48. To be effective, avian-safe structures and devices should be maintained over the license term. For the *Raptor-Safe Transmission Line Structure Plan* (PME #10), in Table 4.3-1 *Cost of Environmental Measures* provides a capital cost of \$1,750,000, but no annual maintenance cost. However, the description states that regular maintenance of the line is included as part of the measure; therefore, annual maintenance costs should also be specified here. Please provide an estimated cost for annual maintenance activities or indicate if the maintenance costs are factored elsewhere.

49. Both the *Raptor and Bat Protection Plan* (PM&E #14) and *Greater Sage-Grouse Mitigation Plan* (PM&E #17) list measures related to the design of the proposed power lines, including raptor-safe guidelines for all new electrical construction and minimizing spacing between existing and proposed transmission lines. However, it is unclear if these proposed measures are also included as part of the *Raptor-Safe Transmission Line Structure Plan* (PME #10), and in Table 4.3-1, under which proposed plan(s) their associated capital and annual costs are accounted. Please clarify this information in the revised FLA.

50. Sections 3.9.1.2 and 3.9.2.3 state that over 100 acres of the proposed transmission line corridor are in 100-year or 500-year floodplains and that it is anticipated that the location of transmission line foundations and structures would have to be adjusted during the final design to avoid or minimize temporary and permanent impacts on floodplains.

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The proposed environmental measure, *Transmission Line Design* (PME #24) states that if proposed transmission line structures and access roads could not be located outside of floodplains, BLM would be consulted to identify measures to minimize adverse impacts to water features. Because adjustments would likely be needed, it is unclear why necessary measures have not already been developed and described in the FLA. Staff cannot evaluate unknown measures that could be developed in future consultation. Therefore, please consult with BLM now to develop final contingency measures for when such adjustments are needed in to minimize potential effects on water features and vegetation resulting from construction, repairs, and maintenance of the proposed transmission and distribution lines, including the access roads/trails and the transmission line ROW (e.g., vegetation management).

***Recreation Resources***

51. Table 3.8-1, *Outdoor Recreation Facilities within Approximately 10 miles of the Proposed Project Location*, lists existing, non-project recreational facilities within about 10 miles of the proposed project location and provides a brief description of the facilities, their ownership, and their estimated use. However, the estimated use provided for some of the facilities gives no quantitative data on use but states “unknown”, “light”, “medium”, and “heavy” use. So that staff can properly analyze recreation use within the project area and potential project effects on that use, please revise the table to provide quantitative use data for the facilities where quantitative data on use is not provided. Additionally, although the table indicates the listed facilities are within about 10 miles of the proposed project location, the table does not provide the distance of each facility to the proposed project site. Please revise the table to provide the distance from each existing, non-project recreational facility to the proposed project location.

52. Section 3.8.1.4 *Specially Designated Recreation Areas, National Trails System and Wilderness Areas*, states that no portion of the project boundary is located within any designated Wilderness Areas. Although this appears to be correct, as stated above the proposed project upper reservoir would be approximately 4 miles from the High Schells Wilderness and the proposed project transmission line would be approximately 1.2 miles from the Bristlecone Wilderness, at its closest point to the transmission line ROW. Please revise the FLA to indicate the proposed project's proximity to the High Schells Wilderness and Bristlecone Wilderness, and provide details about the wilderness areas, including details on recreation facilities, such as trails, that might be present within each.

53. Section 3.8.4.2 *Applicant Recommendations*, states that White Pine proposes to manage lands over which it has control in the project boundary for appropriate public access. However, the FLA does not explain how this would occur or for what purpose public access would occur within the project boundary. Please revise the FLA to provide details about how White Pine would manage lands within the project boundary for public access and what types of public access are anticipated.

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54. Section 3.8.4.2 *Applicant Recommendations*, states that White Pine proposes to coordinate with NNR throughout the project construction to minimize potential effects to NNR operations. However, the FLA does not explain how this coordination would occur. For staff to analyze potential project effects in our NEPA analysis and evaluate the proposal to coordinate with NNR, along with any recommended measures, this information is needed. Therefore, please provide details about how coordination with NNR would occur.

55. Section 3.8.4.2 *Applicant Recommendations*, states that the Recreation Resources Study was adequate for the Commission to conduct its NEPA review. However, this statement is inaccurate. The Commission has not determined that the proposed Recreation Resources Study is adequate, and it has not yet begun its NEPA review (which begins once the Commission issues a Notice of Ready for Environmental Analysis). Please remove this statement from the FLA.

56. Section 3.8.4.2 *Applicant Recommendations*, states that the supplemental Recreation Resources Study would include a survey period of sixteen survey days to be accomplished over an eighteen-week timeframe, and that four survey events are planned during this period. However, no explanation is provided regarding the methodology that would be used to choose the sixteen survey days or the four survey events. Please revise the FLA to explain the methodology that would be used to choose the sixteen survey days and four survey events.

### ***Land Use Resources***

57. Section 3.9.1 *Affected Land Use Environment*, states that the upper and lower reservoirs would be located mostly within an industrial area. Although the general area in the Steptoe Valley, where the Town of McGill and City of Ely are located and in which the lower reservoir would be located, currently has industrial uses, the area in which the upper reservoir would be located (identified as “37 – Duck Creek Bench”, in Appendix H, *Visual and Aesthetics Report*, Appendix B. *BLM Maps*, Map 2-10a), is public land administered by the BLM and BLM classified this area as Scenic Quality B and Sensitivity Level – High. As such, there appears to be a discrepancy and incompatibility between the prescriptions of county land use management and BLM visual resource management for this land. Please revise the FLA to clarify this discrepancy, if possible, and describe what actions would be necessary to correct this incompatibility in order for the proposed upper reservoir and other related project facilities to be constructed on this land.

58. Section 3.9.1 *Affected Land Use Environment*, states that 1,281 acres of land, administered by the BLM, and 57 acres of private land are located within the “project footprint”. However, the FLA does not specify the amount of BLM administered land or private land that would be encompassed within the proposed project boundary. Please revise the FLA to clarify the acreage of BLM and private land that would be

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encompassed by the project boundary. Additionally, because the project boundary does not appear to encompass subsurface project facilities, (i.e., powerhouse, tunnels, and related subsurface features) the acreage and the landownership of that subsurface land is unknown. Please revise the FLA to specify who or what entity is the landowner of the subsurface lands in which the underground facilities would be located and how many acres of subsurface lands would be occupied by the project.

59. Section 3.9.1.1 *Section 368-Designated Transmission Corridor*, and 3.9.1.2 *Floodplains and Wetlands* state that the proposed transmission line would be completely within the Section 368-designated transmission corridor, but Section 3.9.2.2 *Transmission Line Corridor* states that it would be primarily within the Section 368-designated transmission corridor. Please revise the FLA to clarify this discrepancy and revise the FLA where necessary to appropriately indicate the location of the proposed transmission line within the Section 368-designated transmission corridor. Additionally, please file a map that clearly shows the Section 368-designated transmission corridor and the proposed ROW of the project transmission line.

60. Section 3.9.1.1 *Section 368-Designated Transmission Corridor*, states that the proposed project transmission line would be completely within the existing transmission ROW from the proposed project switchyard approximately 25 miles to the interconnection location. This statement is confusing because it appears to indicate that a ROW currently exists, running from the location of the proposed, non-existing project switchyard to the interconnection point. Please revise the FLA to clarify if there is an existing ROW in which the proposed transmission line would be located or if the ROW does not currently exist and is also proposed.

61. Section 3.9.1.3 *Grazing*, states that all BLM land within the project boundary is managed as grazing allotments and Table 3.9-2 *Grazing Allotments in the Project Footprint* provides the percentage of land area in each affected grazing allotment that would be encompassed by the "project footprint". However, the table does not provide the percentage of land area in each affected grazing allotment that would be encompassed by the *project boundary*. Please revise Table 3.9-2 to show the percentage of land area in each affected grazing allotment encompassed by the project boundary and the number of acres the project boundary would encompass in each affected grazing allotment. Additionally, please file a map that shows the entire project boundary and each grazing allotment that would be affected by the project.

62. Section 3.9.1.2 *Agricultural Lands*, states that approximately 66.8 acres of land within the proposed project boundary is classified by the County Assessor as farm or agricultural lands. Please file a map that shows the entire project boundary and the farms/agricultural lands that would be encompassed by the project boundary.

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63. Section 3.9.2 *Direct and Indirect Environmental Effects – Land Use*, describes permanent land use impacts associated with the proposed project boundary and project facilities including the proposed reservoirs, transmission line and substation, wellfield, access roads, and water conveyance for make-up water. However, the section does not describe permanent land use impacts to subsurface lands associated with the proposed tunnels and the proposed powerhouse and transformer caverns. Please revise Section 3.9.2 to describe and quantify permanent land use impacts to subsurface lands that would occur because of construction of the proposed tunnels and the proposed powerhouse and transformer caverns.

64. Section 3.9.2 *Direct and Indirect Environmental Effects – Land Use*, states that land will be temporarily removed from its current use and converted to construction workspaces while project construction occurs. However, FLA does not specify the acreage of, and the current uses for, the amount of land to be temporarily impacted by this proposal. Additionally, Table 3.9-3 *Permanent Land Use Impacts Associated with Project Boundary*, indicates acreages of permanent impacts to land would result from siting the proposed upper and lower reservoirs, access roads, wellfield, water conveyance facilities for makeup water, substation, and transmission line. However, the table does not indicate the acreage of permanent impacts that would result from siting the proposed spoil disposal site and subsurface project facilities. Please revise the FLA to (a) specify the acreage of, and the current uses for, the amount of land to be temporarily impacted and (b) provide the acreage of permanent impacts that would result from siting the proposed spoil disposal site and subsurface project facilities.

65. Section 3.9.2.1 *Reservoir and Conveyance Areas*, Table 3.9-1 *Land Use in the Project Footprint*, and Figure 3.9-1 *Land Use in the Project Vicinity*, indicate that most of the land where the upper reservoir would be located is classified by the White Pine County Assessor's Office as industrial. However, this appears contradictory because the upper reservoir would be located within public land administered by the BLM and in an area classified by BLM as a Class II Visual Resource Management (VRM) Area (identified as "37 – Duck Creek Bench", in Appendix H, *Visual and Aesthetics Report*, Appendix B. BLM Maps, Map 2-10a), described in Table 3.11-1 *BLM VRM Classes*, which is managed to "retain the existing character of the landscape" and that "the level of change to the characteristic landscape should be low, that management activities can be seen but not immediately noticeable by casual observation, and that any changes must repeat (i.e., imitate) the basic forms, lines, colors and textures found in the predominant natural features of the characteristic landscape". Additionally, the FLA states in Section 3.9.2.1 that remaining lands will be converted to industrial land, but it does not specify which remaining lands would be converted and why they would be converted. Please revise the FLA to address this apparent land management discrepancy and clarify what remaining lands would be converted to industrial land and why, and if the project boundary would encompass any of these lands.

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66. Although maps in Appendix B, *BLM Maps* of Appendix H, *Visual and Aesthetics Report* are good to show the full extent of BLM visual resource assessments within the broad area of Nevada in which the project would be located, they do not very clearly show the BLM visual resource assessments within the immediate area of the proposed project. Please file four new maps, one each to show the BLM visual resource assessments as indicated in Map 2-10a, Map 3-2a, Map 4-1, and Map 5-1a, within a 1, 5, 10, and 15-mile buffer (i.e., like what is shown in Attachment 1, *Map of Study Area*) of the project boundary. Please include the full extent of the project boundary in each map.

67. Appendix L, *Responses to DLA Comments*, includes a response to BLM's comment (BLM-3) that indicates White Pine is continuing to coordinate with BLM and NDOW to form a technical working group with the goal of reaching consensus on potential mitigation plans, specifically in the form of a resource management plan exception or variance that would allow construction of the project on BLM lands. Because the mitigation plan or measures for this have not been filed, staff cannot properly analyze the effects of the measure or plan on resources for the purpose of NEPA analysis. Please file measures and/or plans in accordance with the instructions provided above under *Proposed Environmental Measures*.

67. Appendix L, *Responses to DLA Comments*, in response to White Pine County's comment (WPC-56) that it understands potential limitations to public access to the immediate project area but that it does not support restrictions (even temporary in nature to recreation access to surrounding public lands, states that White Pine will restrict areas only as required for health and safety and that: (a) permanent fencing would be used only to restrict access to the reservoirs and switchyard; (b) additional access restrictions required during construction would be removed when no longer needed for safety reasons; and (c) permanent fencing would not restrict access to surrounding public lands. This appears to indicate that because of the project, certain public lands administered by the BLM would become off limits to the public (i.e., public access to the lands on which the reservoirs and switchyard would be located would be permanently prohibited). Please revise the FLA to explain how existing public access to those lands would be permanently prohibited, taking into consideration that a ROW does not cede ownership of real property from the current landowner (BLM) to the recipient of the ROW (White Pine), rather a ROW allows access to the land for an approved use. Also, please clarify if any other BLM lands, aside from those previously indicated for use for the project reservoirs and switchyard, would be used for project purposes and would be permanently off limits to public access.

### ***Cultural Resources***

68. Section 3.10.1.2, pages 248-249, states that the project design has undergone several updates and is not yet final, and as a result, while the general "project footprint" is known, the specific area where potential project-related effects may occur, including indirect, visual, atmospheric, and cumulative effects is unknown. Therefore, the FLA

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states that there is no proposed area of potential effects (APE) provided so far, and as a result, White Pine plans to define the APE under the protocols set forth in the historic properties management plan (HPMP) after a license is issued by the Commission.

For the Commission to be in full compliance with section 106 of the National Historic Preservation Act (section 106), staff need White Pine to define both the APE for direct and indirect effects now for the proposed project and submit the defined APE to the Nevada State Historic Preservation Office (SHPO) for concurrence. As stated above in section 3.10.1.2, the general footprint of the proposed project is known where direct, potential project-related adverse effects--related to ground disturbing activities, can be assessed for historic properties (i.e., those cultural resources considered eligible for the National Register of Historic Places).<sup>4</sup> Therefore, and consistent with the May 2021 letter White Pine submitted to the Nevada SHPO for concurrence on the APE, staff deem that this portion of the proposed project is, in fact, the APE for direct, project-related adverse effects. As White Pine has already established and defined a cultural resources study area one-mile beyond the proposed "project footprint", this is to be deemed as the APE for all potential indirect project-related effects, including, visual, atmospheric, and cumulative effects. The expanded one-mile APE would encompass potentially affected cultural resources for such indirect effects, and of which these cultural resources have already been noted within the one-mile study area, and as detailed in the cultural resources study report. With the definitions of both APEs, please resubmit the APE descriptions (including detailed maps) to the Nevada SHPO for concurrence. In the FLA, in both Exhibit F and G, staff identified some inconsistencies involving new project modifications for the proposed "project footprint" that need to be fully consistent with the "project footprint" APE for direct effects, and that any new modifications thereof, should also be included in the APE descriptions and maps submitted to the Nevada SHPO for concurrence. Any such new modifications to the proposed "project footprint" for the direct APE should be also consistent with the expanded indirect APE, as well.

Section 3.10.1.5, page 285, states that to date, no traditional cultural properties (TCPs) have been identified by the Indian tribes potentially affected by the proposed project. This statement is not clear regarding the presence or absence of TCPs that could potentially be affected by the proposed project and further documentation from White Pine, and any of the involved Indian tribes, needs to be provided. Furthermore, the Ely Shoshone Tribe has identified cultural areas that may be affected by the project, and even though TCPs are more specifically defined as historic properties, other such cultural and tribal resources need to be identified and assessed within the proposed project APEs. Thus, more consultation with the Ely Shoshone Tribe needs to take place in order see if

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<sup>4</sup> As will be discussed further below, there appear to have been recent modifications to the proposed "project footprint", and as a result, the direct APE needs to accurately reflect these modifications.



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any tribal resources are within the proposed project's APE. This point will also be addressed in more detail in our comments on the draft HPMP below.

Draft Historic Properties Management Plan (General)

69. The general approach of the draft HPMP is too anticipatory and avoids direct site-specific approaches to evaluate cultural resources for National Register eligibility, or to resolve adverse effects to historic properties (i.e., those cultural resources considered eligible for the National Register), especially in regarding potential adverse effects to historic properties involving an unconstructed project that may receive an original license from the Commission. As the draft HPMP reads now, it reflects more about an existing hydroelectric project that would be undergoing relicensing as opposed to describing the appropriate processes and procedures involving an unconstructed hydroelectric project. Also, keep in mind that all anticipated adverse effects to historic properties, as a result of project construction (or involving any related activity), need to be resolved prior to project construction of the proposed project, and that such an approach needs to be done on a site-specific level.<sup>5</sup> Once the proposed project has been licensed and constructed, then other standard, post construction measures about managing historic properties can be illustrated, as would be expected in a relicensing. These points need to be incorporated into the final HPMP. Also, as discussed in our comments involving the FLA, define both direct and indirect APEs for the proposed project, and incorporate this throughout the revised draft HPMP. If additional areas of the direct APE have been changed or modified, due to changes in the proposed "project footprint", then these areas need to be recognized and inventoried for cultural resources, beyond the original footprint of the proposed project.<sup>6</sup> A specific plan on inventorying these new areas should also be

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<sup>5</sup> On a site-specific level, each individual cultural resource that is either potentially eligible or considered eligible, needs to be assessed as far as what specific project-related adverse effect (such as specific construction activities, flooding of the upper and lower reservoirs, assembling the transmission line, staging areas, ingress and egress routes, etc.) could occur on each site or resource.

<sup>6</sup> Modifications to the "project footprint" has also been noted in the Nevada SHPO comments on the DLA and to which White Pine acknowledges. These new modifications need to be accounted for in any new definition of the direct APE, and these modifications also need to be included on associated maps. Comments from our office on the DLA (issued on May 11, 2022) and corresponding responses from White Pine also reflect these same issues concerning the APE which needs to be addressed now, and as explained above. Our May 11, 2022 comments also reflect the need for White Pine to assess and address all know potential project-related effects on the site-specific level, especially ground disturbing effects that would be caused by project construction, or by other related activities.

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detailed in the revised HPMP, and a post-licensing schedule (in months after license issuance) provided for completion.

Once the draft HPMP is revised, accordingly, and prior to filing it with the Commission, provide it to the other section 106 consultation parties for review and comment, and make the appropriate changes as a result of their comments, or detail why any such recommended changes were not incorporated.

Draft Historic Properties Management Plan (Specific)

70. Section 1.2.1, page 1-4, states that the Ely Shoshone Tribe is concerned about the location of the proposed project in relation to native plant gathering areas, hunting use, and the surrounding environment. In revising the draft HPMP, allow for additional consultation with the Ely Shoshone Tribe to identify any of these areas of tribal interest in both the direct and indirect APE for the proposed project. Once any of these areas are identified, assess any potential direct or indirect effects that may occur on them as a result of the proposed project.

71. Section 1.2.1, page 1-4, mentions that the final cultural resources study report will be filed with the Commission. It is not clear whether this particular report is the same one that was filed with the FLA. Please clarify. If the final cultural resources study report is not the same one filed with the FLA, then file the final report with the Commission after the section 106 consulting parties have had an opportunity to review and comment on the report and provide a table or section in the final report for any recommended changes to the report, and reasons why, or why not, the recommended changes were adopted.

72. Section 1.5 discusses particular aspects of the APE, and that it will be defined two years after license issuance for the proposed project. As discussed in the comment above involving the FLA, and draft HPMP, define both the direct and indirect APE now, and submit them to the Nevada SHPO for concurrence. As a result, this section should be revised, accordingly.

73. Section 4 details particular approaches in how White Pine will address potential, project-related adverse effects after the direct and indirect effects have been defined, and that managing of any such project-related adverse effects will occur afterwards. Overall, section 4 needs to be re-written to address known potential project-related adverse effects, especially direct effects caused by ground disturbing activities related to the proposed project (also see general comments above on the draft HPMP). As discussed above, the APE for direct effects is equivalent to the "project footprint", and where White Pine has recorded cultural resources within the direct APE. Therefore, it is known how each of the recorded cultural resources within the direct APE will be potentially affected by the proposed project. As a result, please provide site-specific treatment measures in

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this section on how to avoid, reduce, or mitigate any anticipated project-related adverse effect to each of the National Register-eligible cultural resources, or other cultural resources considered potentially eligible for the National Register. All cultural resources presently considered eligible, or ineligible for the National Register should also be submitted now to the Nevada SHPO for concurrence. For those specific resources where National Register eligibility remains unknown, provide steps, in periods of months after license issuance, when each these cultural resources will be evaluated and assessed for project-related adverse effects, and for resolution of adverse effects. As will be discussed further below, a site-specific monitoring plan should also be included in this section that will entail how other specific cultural resources can be monitored during specific aspects of construction of the proposed project to avoid any potential project-related effect by either relocating particular actions or other related aspects of the project. If such actions cannot be altered or change, and where it is anticipated that direct project-related activities will have adverse effects, then National Register eligibilities need to be conducted on those particular cultural resources, and/or plans for data recovery to be conducted on cultural resources considered eligible for the National Register. These steps should also be detailed in the monitoring plan.

74. Section 4.3.1, page 4-7, states that the APE will be defined within two years of license issuance after the project design is further refined. This particular sentence and following paragraph need to be changed and modified based on the APE being defined now, as described above.

75. Section 4.3.1, page 4-7, states that it will be at White Pine's discretion that newly identified cultural resources may also be assumed eligible for the National Register. Please change this to say that all such resources will be assumed eligible, until they are rendered ineligible (in consultation with the Nevada SHPO) for the National Register.

76. Section 4.3.1, page 4-7, states that National Register evaluations of archaeological resources, unless able to be completed during a reconnaissance level investigation, will be completed by first drafting a resource-specific evaluation plan intended to develop measures appropriate for each resource to identify those characteristics that could qualify each resource for the National Register. As discussed above, National Register evaluations for unevaluated cultural resources should be conducted as soon as possible (within a series of months) after license issuance and done on a site-specific level. Please rephrase this part, accordingly. The same should be done for section 4.3.2 on the same page involving built environment resources.

77. Section 4.3.3, page 4-8, states that no TCPs are known to exist in the Project vicinity, and none were identified during the cultural resources study. As discussed above, please consult further with the Ely Shoshone Tribe to identify any areas of tribal interest that may be located within the direct and indirect APE, and if such resources are identified, put their locations on the APE maps and put in measures (in consultation with

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the Ely Shoshone Tribe) to resolve any potential project-related adverse effects that may occur on them, as a result of the proposed project.

78. Section 4.4 provides a general approach to assessing potential project-related adverse effects, but as discussed above in the general comments involving the draft HPMP, you need to revise and tailor this section to address site-specific adverse effects, especially to all the National Register-eligible and potentially National Register-eligible cultural resources located within the direct APE which would experience potential ground-disturbing adverse effects.

79. Section 4.6.1 indicates a proposal to craft a draft mitigation plan within one year of finding potential project-related adverse effects to historic properties. As discussed above, involving the previous sections in the draft HPMP, White Pine needs to incorporate a detailed mitigation plan now and incorporate it into your revised HPMP, and apply such mitigation measures to existing historic properties, or to other cultural resources considered potentially eligible for the National Register, on a site-specific level. The mitigation plan should focus mostly on those cultural resources located within the direct APE, but also consider mitigation measures to other cultural resources that are known to exist in the indirect APE, as appropriate.

80. Section 4.6.3 states that to date, no TCPs have been identified in the project vicinity. However, as pointed out in section 1.2.1, the Ely Shoshone Tribe has pointed out that there are native plant gathering areas, hunting use, and the surrounding environment that are of concern to them in relation to the proposed project. As discussed above, these areas also need to be considered and further identified in relation to both the direct and indirect APEs for the proposed project. If these particular areas of tribal interest have been identified in the APE, then site-specific management measures and mitigation efforts need to be detailed further in this section.

81. Section 4.7.1 notes in footnote 19 that areas that were not surveyed due to access issues or that were on private property will be exempt for consideration of potential project-related effects. Nevertheless, if ground-disturbing activities, as a result of project construction, is to take place within these areas, these places will need to be surveyed, or at least monitored for the presence of cultural resources, and steps taken in order to resolve potential adverse effects to historic properties if they exist in these area. This would also apply to any new modifications made in the proposed "project footprint" that have not been previously inventoried.

82. Section 4.8 provides a diagram for a program for future cultural resources inventory involving modifications to the "project footprint" and associated APEs, as well as for project activities planned in areas not previously subjected to an adequate inventory of cultural resources. As pointed out in the comments made above in the FLA, and on the draft HPMP, more specific plans need to be detailed in the revised HPMP on

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future and potential cultural resources inventories involving the proposed “project footprint” where new modifications have been recently made or are planned in the near future. If additional cultural resources inventories are needed, they should be scheduled within a period of months after license issuance.

83. Section 6.3 and Table 6.1 provide an implementation schedule involving several items on the section 106 process and steps to be carried out through the HPMP, including a definition of the APE, identification and evaluation of archaeological and built environment resources, evaluation of Native American TCPs, assessment of adverse effects, etc. As discussed in the FLA and in draft HPMP, White Pine will need to revise and revamp the implementation schedule to handle the more immediate measures involving the anticipated construction of the proposed project on a site-specific level involving all the known cultural resources that have been recorded in the direct and indirect APE and that are highlighted in the cultural resources study report and draft HPMP that was filed with the FLA. Anticipated post-licensing procedures that cannot be done prior to license issuance, involving such measures as National Register evaluations and resolutions of effects, need to be scheduled in terms of months, not years after license issuance.

84. Section 7 outlines the procedures for HPMP review and updates. Please coordinate all the outline management activities with the recently executed programmatic agreement (PA) issued on September 14, 2021, for the Bucks Creek Hydroelectric Project (FERC Project No. 619). This PA has been crafted in consultation with both the Advisory Council on Historic Preservation and California SHPO and involves a lot of detail relevant to the procedures for HPMP and review and updates. Also, make sure that the referenced sections in the revised HPMP are consistent with the same HPMP sections referenced in the Bucks Creek PA.

85. Section 7.2.3 provides a dispute resolution process. Please delete this section as this will be provided in the PA, depending on a decision from the Commission to issue an original license for this proposed project. The dispute resolution process provided in the PA will also apply to the revised HPMP.

### ***Aesthetic Resources***

87. Appendix H, *Visual and Aesthetics Report*, Section 3.6 appears to indicate that KOPs were chosen because they are almost all on BLM land, “provide representative views of existing conditions and depict changes from the project”, and stakeholder input was used. However, it is unclear why these KOPs are representative of where the greatest number of people could view the project area the most often (i.e., KOP 1 is 9 miles north of the project area, while McGill is about 4 miles away and within the viewshed visible area. Additionally, why were no KOPs established east of Route 486, within the viewshed visible area, in the Duck Creek Range or High Schells Wilderness? Please revise the FLA to address how the KOPs were determined but do not appear to

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fully represent likely locations where the greatest number of people could view the project area the most often and explain why no KOPs were established east of Route 486 in the Duck Creek Range or High Schells Wilderness.

88. The Humboldt-Toiyabe National Forest, including the High Schells Wilderness, administered by the United States Forest Service is located approximately 4 miles from the proposed location of the project upper reservoir with many locations within the forest from where the upper reservoir could be visible (see Figure 3.11-1 KOPs and Viewshed Analysis). However, it appears that no consultation with Forest Service was conducted regarding potential project effects on visual resources within the National Forest. Please clarify if consultation with Forest Service was conducted regarding potential project effects on visual resources within the National Forest, and if not, why a decision was made not to conduct consultation with Forest Service on potential project effects on visual resources within the National Forest when it is clear from viewshed analysis that views from Forest Service administered land could be affected by project construction and operation.

89. Although stated several times in this section that nighttime construction activities may introduce temporary lighting in the project area, the FLA does not appear to provide details about nighttime lighting that would be in place at the project once it would be constructed. Additionally, although the FLA provides nighttime and dusk simulations from KOP 5 and KOP 7, respectively, it is not apparent during which phase of the project (construction or operation) each represents. Further, the FLA does not include nighttime simulations from all other KOPs. Please revise the FLA to: (a) describe the locations and types of permanent lighting that would be used at the project for project operation and (b) include nighttime simulations from each KOP showing the project's likely nighttime lighting during project construction and operation.

90. Figure 3.11-1 *KOPs and Viewshed Analysis*, indicates the existence of a KOP – Highline Excursion Turnaround, Approximate Location. However, it appears no current image or simulated image for this identified KOP is provided. Please provide a current image and a simulated image for this identified KOP. Additionally, although Figure 3.11-1 indicates land from which the project could be visible it does not identify specific land types or places such as private residential areas and public spaces (e.g., parks and wilderness areas) from which the project could be visible. Please revise Figure 3.11-1, or provide a new figure, to show and identify these types of lands and places from which the project could be visible.

91. Section 3.11.1 *Affected Aesthetic Environment*, states that most lands within the project boundary are managed by BLM and are located within the BLM VRM Class II, Class III, and Class IV lands. The section further explains that certain proposed project facilities would be located within certain VRM Class lands (e.g., the upper reservoir would be located in a Class II area). While these explanations are helpful it is difficult to

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understand spatially where proposed project facilities would be located related to VRM classified lands and where VRM classified lands are located in relation to each other. Please file a map showing (a) the VRM classifications of all lands on which project facilities would be located (please use a color to represent each VRM classified land) and (b) the proposed project boundary and all proposed project facilities within those lands.

92. Although Section 3.11.1 *Affected Aesthetic Environment*, provides a brief description of the general aesthetic environment of the project area it does not provide sufficient detail about aesthetics of the actual lands on which the proposed project facilities would be located. Please revise the FLA to provide more details about the aesthetic character of all lands on which all proposed project facilities would be located.

93. Section 3.11.2.3 *KOP 2: County Road 28*, states that the KOP location in the foothills of the Egan Range was selected to be representative of views from the nearby BLM Bristlecone Wilderness. Whereas, KOP 2 appears to be located at about 6,200 feet elevation, the Bristlecone Wilderness (not shown in Figure 3.11-1 *KOPs and Viewshed Analysis*) encompasses the higher elevations of Heusser Mountain, from 7,000 feet to over 8,800 feet elevation, and does not extend down to the foothills. Therefore, views from KOP 2 cannot be representative of views from the Bristlecone Wilderness. Please revise the FLA to provide KOP both current views and simulated views towards the proposed project location from the Bristlecone Wilderness.

94. Appendix H *Visual and Aesthetics Report*, Attachment 1, *Map of Study Area*, appears to show State Route 893 but does not show State Route 486 which is currently used by visitors to access portions of the High Schells Wilderness and could be used by project construction vehicles to access the proposed upper reservoir access road to the east of the proposed upper reservoir. Please modify Attachment 1, *Map of Study Area*, to show State Route 486, the boundary of the High Schells Wilderness, and the boundary of any other wilderness area within the 15-mile study area buffer shown on the map.

95. Appendix H *Visual and Aesthetics Report*, Section 2.3 *Photosimulation*, indicates images were created compositing a scaled, geo-referenced model of existing and proposed conditions with a photograph. However, it is unclear from this explanation and from the photosimulations that *all* proposed project facilities within specific viewsheds of each KOP are represented within the view shown in each photosimulation. All proposed permanent and temporary project facilities and features including, *but not limited to*, the wellfield, access roads, spoil disposal site, construction and staging areas (including any potential office/operations trailers), and explosives storage facilities, must be represented in each photosimulation in which they are located within the viewshed of the corresponding KOP. Additionally, while the descriptions provided in Section 4.1 *Construction and Operational Impacts*, of the locations of some project facilities within the KOP photosimulations are helpful, the image resolution of the photosimulations is not high enough for the viewer to properly see project facilities that are included in some

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images; specifically, in the images where the KOP is at a greater distance from the proposed project location (e.g., Figure 19). Therefore, please (a) modify the photosimulations to include *all* proposed project facilities and features that would be located within the viewshed of the corresponding KOP and increase the image resolution of the photosimulations where the KOP is at a greater distance from the proposed project location, then refile these photosimulations, and (b) file a duplicate of each photosimulation that identifies project facilities and features that appear in the image.

***Socioeconomic Resources***

96. Section 3.12.2.2 *Social Impacts Analysis*, states that the project is expected to bring to the county more than 900 non-resident, construction-related workers during the construction period. However, it is not clear whether the more than 900 workers would relocate temporarily to the project area. Please revise the FLA to clarify whether this means that some or all of the 900 non-resident construction related workers would relocate temporarily to the project area for the duration of construction activities. If not all of the workers are expected to relocate temporarily, how many would relocate temporarily and how many would commute daily to the construction site from places outside of the project-affected area?

97. Section 3.12.2.2 *Social Impacts Analysis*, states that few if any displacements of residences or businesses would likely occur in order to construction and operate the project. This appears to indicate that displacements of residences and/or business could occur. Please describe the residences and/or businesses that could be displaced and the location(s) of each. Please also describe how White Pine would acquire these properties and what types of payments would be made to the affected land or business owner(s).

***Comprehensive Plans***

98. Section 5.3 *Consistency with Comprehensive Plans*, states that White Pine is considering four additional plans recommended by stakeholders, including: (a) *Bureau of Land Management. 2019. Nevada and Northeastern California Greater Sage-grouse Record of Decision and Approved Resource Management Plan Amendment. March 2019*; (b) *White Pine County. 2018. White Pine County Public Lands Policy Plan. Prepared by the White Pine County Public Land Users Advisory Committee. October 2018*; (c) *White Pine County. 2019. Approval of Resolution 2020-051 Adopting White Pine County Water Resource Plan Element to the White Pine County Master Plan*; and (d) *White Pine County. 2005. White Pine County Open Space Plan. September 2005. Ely, Nevada*. Please file these plans with the Commission so that staff can properly review the plans and analyze potential project effects that could impact resources managed by these plans.

99. Section 5.3 *Consistency with Comprehensive Plans*, states that the project, as currently designed, is inconsistent with two of the plans: *Bureau of Land Management. 2015. Record of Decision and Approved Resource Management Plan Amendments for the*



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*Great Basin Region, Including the Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah. Washington, D.C. September 2015 and Bureau of Land Management. 2019. Nevada and Northeastern California Greater Sage-grouse Record of Decision and Approved Resource Management Plan Amendment. March 2019.* However, the FLA does not appear to explain why the project is inconsistent with the plans. Please revise the FLA to explain why the project, as currently designed, is inconsistent with the two plans.

100. Section 5.3 *Consistency with Comprehensive Plans*, states that: (a) White Pine has begun consultation with the BLM; (b) BLM will evaluate the project to determine if it is in conformance with the goals and objectives of the *Ely District Resource Management Plan* (BLM 2008); and (c) White Pine proposes to continue to coordinate with BLM to adopt measures to ensure compliance with the *Ely District Resource Management Plan* and the *2015 Record of Decision and Approved Resource Management Plan Amendments for the Great Basin Region, Including the Greater Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and Northeastern California, Oregon, and Utah*. It appears that consultation activities are not complete and that additional, relevant information from further consultation activities may be forthcoming that would be necessary to complete the FLA. As such, please: (a) explain this apparent incomplete consultation with BLM; (b) indicate if additional consultation has also just begun (or is ongoing) with other stakeholders and agencies; (c) identify when consultation activities are anticipated to be complete; and (d) identify when additional, relevant information (including potential measures) from further consultation activities may be filed with the Commission. Additionally, please explain why the *Ely District Resource Management Plan* is not included in the list of applicable comprehensive plans identified by White Pine as relevant to the project. If the *Ely District Resource Management Plan* is relevant to the project, as it appears to be because White Pine proposes to adopt measures to ensure compliance with the it, then revise the list of applicable comprehensive plans to include the plan.

**Exhibit F**

101. Section 4.41(g)(3)(iv) of the Commission's regulations requires that the supporting design report include the stability and stress analyses for all major structures and critical abutment slopes under all probable loading conditions, including seismic and hydrostatic forces induced by water loads up to the Probable Maximum Flood as appropriate. Although the Preliminary Supporting Design Report is acceptable, the following additional analyses would need to be completed as per FERC Engineering Guidelines, Chapter 4 during the project design phase if a license is issued:

- Considering the frequent drawdown operation expected for the project, stability evaluation for the lower and upper reservoir embankments should be completed for sudden drawdown under static and seismic loading. This stability evaluation should consider the potential impacts of linear failure and defects. Since some

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input parameters and considerations for these analyses may depend on other noncompleted yet studies and evaluations, the sudden drawdown stability analyses should be performed after completing the site-specific Seismic Hazard Assessment.

- Time history seismic deformation analyses should be performed for the lower and upper reservoirs. These analyses should be performed after completing the Final Site-Specific Seismic Hazard Assessment. Refer to our Engineering Guidelines, Chapter 13, for guidance on site-specific Seismic Hazard Assessments.

**Exhibit G**

102. Although Maps G5 and G6 appear to show that the project boundary encompasses the project cable, main access, and tailrace tunnels, neither is identified in the maps. Please modify Maps G5 and G6 to identify the project facilities.

103. Although Map G6 shows PLSS sections, it does not identify the associated Townships and Ranges. Please modify Map G6 to identify the Townships and Ranges.

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