

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**White Pine Waterpower, LLC**

**Project No. 14851-003**

**PROTEST AND FURTHER COMMENTS OF  
CITY OF ELY, NEVADA,  
AND  
NEVADA NORTHERN RAILWAY FOUNDATION**

The City of Ely, Nevada, (City or Ely) and Nevada Northern Railway Foundation (NNR, Railway or Foundation) (together, ELY/NNR), pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Commission (FERC or Commission), 18 C.F.R. § 385.211,<sup>1</sup> the Commission's September 23, 2024, "Notice of Application Accepted for Filing, Scoping Meetings, and Environmental Site Review; Soliciting Motions to Intervene and Protests; and Soliciting Scoping Comments" (Scoping Notice), and the errata notice issued October 17, 2024, hereby jointly file this Protest and Further Comments to express their continuing strong concerns regarding the Final License Application (FLA) for the White Pine Pumped Storage Project (P-14851) (Project) that White Pine Waterpower, LLC (Applicant, rPlus Energies, rPlus Hydro, LLLP or WPW) submitted February 27, 2023, in this matter.

In support of this filing, ELY/NNR state the following:

**I. COMMUNICATIONS**

All communications concerning the instant Protest and Further Comments and any other

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<sup>1</sup> Ely and NNR filed separate doc-less interventions in this matter on November 22, 2024.

aspect of this proceeding should be addressed to the following persons and the same persons should be included in the official service list maintained by the Secretary for this proceeding:

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## **II. PROTEST**

### **A. Introduction**

WPW filed a seriously flawed FLA that was incomplete in critical respects under the Commission's regulations. Essential Project information, such as WPW's short-term construction plans and fundamental, foundational water and geophysical studies, should properly have been included in Applicant's original FLA submission. Since that deficient filing, WPW has failed to timely provide or correct information in its FLA that is needed for proper review by the Commission, other resource agencies, and stakeholders, including ELY/NNR.

ELY/NNR have regularly urged WPW to supply missing Project data and needed studies without success. Instead, Applicant has preferred to address the concerns of Ely and the railroad on its terms: typically, through avoidance, delay, and deflection. These tactics have done little to advance a greater understanding of the massive and complex Project. Perhaps more importantly,

WPW's actions and conduct have failed to instill confidence that they would be a good and responsible corporate citizen and steward, respectful of the rights and interests not just of Ely and the Foundation, but of the entire White Pine County community and their Steptoe Valley environment.

ELY/NNR therefore welcome the more active involvement of the Commission's staff at this point in the licensing proceeding. With the filing of their Protest and Further Comments, ELY/NNR hope that their interests and the public interest can now be served.

## **B. Argument**

### **1. The Commission should reject WPW's License Application with prejudice.**

The Application should be rejected with prejudice. It is patently deficient and should not be advanced by the Commission for further consideration. ELY/NNR incorporate by reference pages 1-19 of their February 29, 2024, submission in this docket, Document Accession #: 20240229-5179 (ELY/NNR Rejection Request), in which ELY/NNR raised a series of arguments calling for the Commission to reject the FLA with prejudice. Because the Commission has not addressed these arguments, ELY/NNR are restating them in the form of this Protest and renewing their rejection request.

In brief, ELY/NNR ask the Commission to find that WPW's license application is fatally flawed and reject the filing with prejudice for the following reasons<sup>2</sup>:

1. WPW advances a defective license application that is missing essential information needed for review of its Project. Most, if not all, of that important Project information, such as WPW's short-term construction plans and critical, foundational water and geophysical studies, should properly have been included in Applicant's original FLA submission. ELY/NNR Rejection Request, at p. 2.

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<sup>2</sup> Any matters discussed in pages 1-19 of the ELY/NNR Rejection Request and not restated expressly in this filing are not intended and should not be construed by the Commission to imply a waiver or abandonment of those arguments, issues, and concerns.

2. Allowing WPW to advance its flawed license application is fundamentally unfair for at least three reasons. First, ELY/NNR are confronted with the significant economic cost of funding advocacy efforts to protect the interests of the City and the Railway respecting a highly flawed FERC license application. Second, the burden on human resources is enormous. Ely's city leaders have other "day job" responsibilities; the mayor and city council members should not have to waste their time on an energy project that should have been better prepared before Applicant sought formal review with FERC. The Foundation's leadership, who literally have a railroad to run, also have these concerns. Third, and particularly troubling, the myriad risks and looming threats of WPW's Project to Ely, the railroad, and other White Pine County communities dwarf any of the few claimed benefits WPW's plans might have for the local region. ELY/NNR Rejection Request, at p. 3.
3. WPW has "put the cart before the horse" and unreasonably expects reviewing agencies and stakeholders, such as ELY/NNR, with their limited time and resources, to "parse through" WPW's defective application and its seemingly endless remedial efforts to "piece together . . . the information that . . . [the Commission's] regulations require be presented in a specific, detailed manner" at the outset. The serious flaws in Applicant's FLA, followed by avoidable, subsequent efforts to remedy the faulty filing, collectively represent a "wholesale failure to meet the requirements of the regulations" and Commission precedent.<sup>3</sup> ELY/NNR Rejection Request, at pp. 4-5.
4. Applicant has failed to include required exhibits and other information on a timely basis. Applicant has "side-stepped" its obligation to have meaningful consultations with ELY/NNR and other stakeholders regarding various fundamental Project issues that directly impact them. Applicant's avoidance has compromised stakeholders' ability to examine and comment fully on the license application as the Commission's regulations and precedent require.<sup>4</sup>
  - a. WPW has failed to provide information involving the NNR consistent with its status as a National Historic Landmark threatening important protections NNR enjoys under federal law. WPW has failed to consult with ELY/NNR meaningfully concerning the impact of the Project on the Foundation, which is undergoing a pivotal mission expansion for the benefit of the public under the SNPLMA Grant.<sup>5</sup> No mitigation plan discussions have ever been held with ELY/NNR regarding the Project's impact to the railroad's recreational enhancements under the Grant. ELY/NNR Rejection Request, at pp. 5-6.

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<sup>3</sup> *The Electric Plant Board of the City of Paducah, Kentucky*, 122 F.E.R.C. ¶ 61,149 at P 14 (2008) (*Paducah*); see also *Ashuelot Hydro Partners, Ltd.*, 36 F.E.R.C. ¶ 61,250 (1986) (*Ashuelot*).

<sup>4</sup> See *id.*

<sup>5</sup> The "SNPLMA Grant" or "Grant" refers to the Railway's Mainline restoration project that has been funded under the \$10,168,421 grant awarded by Southern Nevada Public Lands Management. That Grant is also funding a multi-use recreation trail (Multi-use Recreation Trail) to be located within the railroad right-of-way (ROW) between Ely and McGill that will connect to existing trails on Bureau of Land Management (BLM)- administered public land. See generally ELY/NNR Rejection Request, at pp. 2, 22-25.

- b. WPW has failed to provide adequate or timely information on its seven-year, so-called “short-term,” Project construction activities between the NNR’s HiLine and Mainline routes. Applicant, moreover, has been inconsistent in the limited information it has provided regarding the seven-year Project construction, which puts an unreasonable burden on reviewing parties.<sup>6</sup> New Project maps and other information supplied for the first time in response to FERC’s additional information requests revealed what is essentially a “mini-city” that WPW proposes to construct and operate over the anticipated seven-year construction period to be inserted between the upper and lower reservoir areas adjacent to the NNR Mainline and HiLine tracks.<sup>7</sup> Applicant has neither communicated nor coordinated these construction plans with ELY/NNR other than through Applicant’s submissions filed with the Commission. No meaningful discussions have occurred between the City and Applicant prior to or after WPW revealed these and related significant short-term Project details. ELY/NNR Rejection Request, at pp. 6-7.
- c. WPW has failed to provide adequate or timely information demonstrating that there is sufficient water available to supply its Project without conflicting with existing water rights or causing catastrophic harm to the three principal White Pine County communities, namely, Ely, Ruth, and McGill, and the Steptoe Valley area as a whole. Relatedly, Applicant has never shown that it can drill and operate its planned Project water wells in a manner that is consistent with ELY/NNR’s Mainline property rights. WPW has failed to consult meaningfully with ELY/NNR and other stakeholders regarding these critical way-of-life and life-threatening concerns. ELY/NNR Rejection Request, at pp. 7-8.
- d. WPW has failed to supply accurate Exhibit G and related maps. WPW’s Project materials filed with the Commission do not accurately reflect correct ownership of ELY/NNR land and railroad track property that are located within and traverses the Project footprint. *Despite repeated submissions by Applicant of the required Exhibit G and other related Project maps, Applicant has failed to accurately reflect the fact that its Project plans infringe on ELY/NNR rights as an owner and operator of land and property on which the HiLine and Mainline tracks reside.* Applicant has consistently chosen not to correct its maps to address this basic issue. This failure by WPW prevents a full understanding of and decisions involving the location of essential Project features and activities that could affect the railroad’s property rights and operations (e.g., proposed location of water wells and lower reservoir and associated construction activities; proposed location and use of surface roads in the lower reservoir area that would cross the railroad

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<sup>6</sup> See, e.g., Deficiency Letter, Section B, P 30 (“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.”); see also ELY/NNR Rejection Request, Section I.A.3.d (Project features shown incorrectly on Exhibit G maps).

<sup>7</sup> See generally WPW July 27, 2023, Response to License Application Additional Information Request, Document Accession #: 20230727-5134, at pp. 34-38 (WPW 27July2023 Deficiency Response).

tracks at three separate points, power lines that would cross twice; dynamite storage areas; and a proposed tailrace tunnel that would be constructed under the HiLine track on land jointly owned by Ely and the Foundation).<sup>8</sup> Applicant, moreover, has failed to submit Exhibit G Maps that show Project features and boundary correctly. For instance, the maps omit required permanent project features in their proposed locations (*e.g.*, a permanent spoil site) and include a significant uncorrected grid/coordinate error. Applicant's lack of care and precision in the required Exhibit G map filings are not only confusing and misleading, but also fall short of regulatory requirements,<sup>9</sup> which hinders a full understanding and assessment of the Project – something the Commission has strongly warned against.<sup>10</sup> WPW has failed to consult meaningfully with ELY/NNR regarding these concerns. ELY/NNR Rejection Request, at pp. 8-12.

- e. WPW has failed to provide adequate and timely information on several other concerns with the Project. For example, WPW has neither performed nor provided reliable studies or meaningful data regarding the impact of the Project on Ely's landfill site<sup>11</sup> or on-site manpower requirements and payroll, choosing instead to rely on "estimates" only and "anticipated" projections of dubious value.<sup>12</sup> WPW has also not provided reliable information on available housing stock for its temporary workers, preferring to treat this serious matter as one that can be deferred. ELY/NNR represent that to date no meaningful discussions have occurred between the City and Applicant on these significant issues. ELY/NNR Rejection Request, at pp. 12-13.
- f. WPW has failed to provide adequate and timely information on other critical Project issues, such as geologic, seismic, and hydrostatic forces that pose a threat to major Project structures and the public's safety. *See generally* ELY/NNR Rejection Request, at pp. 13-19. The following crucial information and data, if available at all, have not been made readily available to ELY/NNR and the public for examination:
  - Bore-hole test data has only recently been provided to ELY/NNR for review. ELY/NNR are unaware if Applicant has completed all the bore-hole tests that they proposed to drill. ELY/NNR are also unaware if WPW has released a report on the drilling operations.<sup>13</sup>

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<sup>8</sup> As discussed *infra* at p. \*19, NNR does not intend to grant permission to the Applicant to cross the HiLine in the proposed lower reservoir location.

<sup>9</sup> *See* Federal Energy Regulatory Commission April 28, 2023, Letter of Deficiencies and Additional Information Requests, Document Accession #: 20230428-3050, Schedule A, Deficiency Nos. 12-15.

<sup>10</sup> *Paducah*, 122 F.E.R.C. ¶ 61,149, at P 11 (2008) (failing to include information timely, prevents "other agencies and stakeholders" from "obtain[ing] the full understanding of the project and its effects needed to decide whether, and under what conditions, to issue a license.")

<sup>11</sup> *See* ELY/NNR 14July2023 Comments, Document Accession #: 20230714-5169, at p. 5.

<sup>12</sup> *See generally id.*, at p. 3.

<sup>13</sup> After numerous requests to Applicant, WPW made certain bore-hole and seismic information available to

- WPW’s failure to supply this important data on areas relating to the basic suitability of the proposed Project site has prevented ELY/NNR’s review and understanding of Applicant’s Project.
- Thorough studies are needed to identify and map faults within the project area for a better understanding of geologic risks. Applicant has not shown that it can construct its Project in this location despite significant geologic challenges. WPW has not addressed how the railroad’s Mainline and HiLine tracks can continue to operate safely if they are to be sandwiched between Applicant’s major Project structures that will need to overcome hazardous geologic considerations. In its FLA, WPW reports that it completed a two-day seismic study on September 8, 2022. ELY/NNR cannot confirm if WPW has ever made that study available to the City or NNR.<sup>14</sup> WPW has not discussed the contents of any such study with ELY/NNR.
- The various risk factors that are present in the Project site, namely, the faults, seismic activity, and alluvium, individually and in combination, constitute a major danger to all WPW Project structures and underground Project facilities. For example, the western wall of the lower reservoir appears to be on top of a mapped fault scarp. This creates an immense risk to the lower reservoir with respect to the following:
  - ❖ The reservoir is to be lined to prevent leakage. However, if leakage occurs into shallow alluvial layers, there could be sluffing or sinking in or near the reservoir.
  - ❖ Movement along the fault could be caused by the rapid and daily cycling of water. The tremendous weight of the water (more than 7.5 million tons) going in and out of the reservoir daily could eventually create conditions in the underlying and nearby alluvial sediments that could weaken the reservoir structure.
  - ❖ Clay layers can become slick when wet. Fault gouge is likely present in the fault zone, and water could function as a lubricant that would increase fault movement. Should movement occur on the fault, damage would occur to the reservoir.
  - ❖ Dewatering has been linked to an increase in the rate of earthquake activities, thus posing an added threat of seismic damage to the lower reservoir in an already proven, active seismic region. Dewatering has also been shown to lead to land subsidence.<sup>15</sup>

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ELY/NNR on November 15, 2024. Because this development is so recent, ELY/NNR have not had sufficient opportunity to examine the data to determine the quality or completeness of the information.

<sup>14</sup> See *id.*

<sup>15</sup> Colin B. Amos, *Uplift and seismicity driven by groundwater depletion in central California*, NATURE 509, 483–486 (2014), <https://doi.org/10.1038/nature13275>.

WPW's Project water plans rely on aquifers in the Steptoe Valley. WPW's belated disclosure of hydrogeologic plans that include hydrogeologic evaluation test wells and alluvial ground monitoring wells have not been completed or presented for any review (insofar as ELY/NNR are aware). Further information is needed to determine if the Project can be built without creating unacceptable public safety threats connected to the Project's water usage plans.

❖ If there is a large enough earthquake in the region, a danger to the lower reservoir would arise from soil liquefaction of the alluvial sediments.<sup>16</sup> It is well known that damage from earthquakes is most severe in alluvial areas where liquefaction occurs.

- ELY/NNR do not know if WPW has performed or intends to perform studies to address these concerns.
- The FLA makes no recommendations regarding seismic activity threats to the major Project features. The FLA also makes no recommendations regarding geologic and soil liquefaction hazards to the railroad whose tracks, operations, and passengers' safety will be at risk.
- WPW has never consulted with ELY/NNR regarding these matters even though these concerns directly affect their interests.
- Applicant has failed to address seismic activity threats and geologic and soil liquefaction hazards to other recreational users and the public generally from the proposed Project. This missing information on public safety matters prevents a full examination of the Project.

**2. If FERC does not reject the WPW license application with prejudice, the Commission should direct Applicant to perform additional studies sought by ELY/NNR that are needed to understand, analyze, and fully assess WPW's Project.**

The Commission's environmental review of the Project cannot proceed with the information Applicant has provided. If the Commission does not reject the WPW license application with prejudice, the FERC should require that Applicant provide the missing data and information and perform the various studies:

(a) discussed in pages 1-19 of the ELY/NNR Rejection Request; and

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<sup>16</sup> According to the University of Washington's "Soil Liquefaction" web site (2000): "Liquefaction is a phenomenon in which the strength and stiffness of a soil is reduced by earthquake shaking or other rapid loading. Liquefaction and related phenomena have been responsible for tremendous amounts of damage in historical earthquakes around the world." *What is Soil Liquefaction?* U. Wash. (last visited Nov. 20, 2024), <https://perma.cc/2JS7-GMNY>.



(b) that ELY/NNR initially sought in Sections C, D, and E, pages 12-27, of their April 28, 2023, Comments, Additional Information Requests, and Additional Study Requests submission (Additional ELY/NNR Information and Study Requests),<sup>17</sup> as supplemented in: the ELY/NNR July 14, 2023, Comments on June 12, 2023, Response and Corrections of White Pine Waterpower (ELY/NNR 14July2023 Comments)<sup>18</sup>; Section B, pages 20-43, of the ELY/NNR Rejection Request; and in the October 18, 2024, ELY/NNR Comments Supplementing the Record,<sup>19</sup> which Additional ELY/NNR Information and Study Requests, as supplemented, are hereby incorporated by reference.

### **III. COMMENTS**

#### **A. Preliminary Comments**

The Commission should deem the issues and concerns raised above in Section II.B.2 as comments under the Scoping Notice for purposes of assisting in the environmental review and preparation of the “NEPA document” involving the White Pine Project. Other relevant information and data should also be produced for examination addressing the matters discussed below.

#### **B. General Comments on Scoping Document 1 (SD1)**

According to the Commission, “Scoping Document 1 (SD1) is intended to advise all participants as to the potential scope of the NEPA documentation and to seek additional information pertinent to this analysis.”<sup>20</sup> Applicant’s submissions to date regarding its license application are currently too incomplete for this to occur.

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<sup>17</sup> Document Accession #: 20230501-5051.

<sup>18</sup> Document Accession #: 20230714-5169.

<sup>19</sup> Document Accession #:2024 1018-5174.

<sup>20</sup> Scoping Notice, Appendix 1, Section 2.0 Scoping, p. 3.

ELY/NNR and other stakeholders cannot fully and effectively comment on the Project because too many details are unknown. The public also has limited understanding of the progress of other governmental reviews of the Project that may be underway. These two problems cause crucial information gaps that deprive reviewers the opportunity to evaluate and review the Project consistent with statutory requirements of the Federal Power Act (FPA) and the National Environmental Policy Act of 1969, as amended (NEPA).

Notably, as summarized by the Commission in its Scoping Notice, many features of the Project can only be vaguely described, let alone understood for purposes of engaging in the required examination. For example, the Commission references the possibility of a half dozen Project access tunnels, including one *or more* that may be approximately a mile in length. No other details are provided, presumably because none are presently known. Many other critical aspects of the Project are similarly indefinite, with key details labeled as “unknown” by the Commission. The “unknown” details are not limited to a few incidental items:

- “concrete-lined tunnels of unknown length, downstream of the transformer cavern”
- “three busbar tunnels of unknown dimensions”
- “an unknown number of access roads for transmission line access”
- “an unknown number of temporary explosives storage facilities of unknown dimensions”
- the “project would . . . utilize existing portions of unknown lengths of U.S. highway 93”
- “an unknown number of existing access roads and tracks of unknown length to access the proposed transmission line and temporary explosives storage facilities”
- “an unknown number of existing power distribution lines would need to be re-routed and upgraded before construction of the project to avoid impacts as a result of lower reservoir construction and to facilitate crossings at the western access road”

- “an unidentified ridge road of unknown length would need to be rerouted to bypass construction and permanent facilities”

Each one of these items may have a significant impact on the rights and interests of each stakeholder, including ELY/NNR. But meaningful review to understand the impact on stakeholders is nearly impossible because so many critical Project features remain to be filled-in. Detailed information about these project features must be provided promptly to enable analysis by the public and relevant government agencies.

The Commission’s description of the Project raises other concerns. The uncertainties associated with the Project’s distribution power line changes are troubling. Will the Commission alone be responsible for authorizing all modifications to power line facilities and power sales associated with the Project? If not, then who? And how will the FERC Project licensing process in the instant docket be coordinated with any other regulatory proceedings involving the Project’s short- and long-term power and siting requirements? These are just a few of the questions that need to be clarified on this issue to enable proper understanding and analysis of Applicant’s Project.

The many unknown details regarding the Project also raise the question of whether the Commission is considering segmented environmental review of the Project under NEPA. This important process detail should be made clear.

Applicant proposes to develop much of the Project on public lands that BLM administers. BLM will need to issue a right-of-way and grant other authorizations for WPW to use public land for permanent Project features including the upper and lower reservoirs, tunnels and underground caverns to house pump turbines, generator motors, and transformers. SD1 is silent on how FERC’s environmental review will dovetail and be coordinated under NEPA with BLM’s review and

authorization process for the Project. These process questions need to be clarified with respect to both permanent Project features and “short-term” Project construction activities and facilities,<sup>21</sup> so that federal environmental scoping process requirements involving public participation can be met. Additional time will need to be provided to ELY/NNR and other stakeholders to address their concerns once the agency coordination process is made known and better understood by the public.

BLM, however, is not the only resource agency with important oversight responsibilities regarding the Project. Similar concerns exist with respect to the other federal and state resource agencies that share in having NEPA responsibilities for the Project.

In these circumstances, the Commission should require that Applicant create and maintain on a current basis a publicly available document that tracks all critical milestone dates and events for all involved resource agencies as the Project advances through the licensing process. This document would show studies and important action items that have been performed, those still underway, and those that require additional information. The location of those studies and information should also be linked for easy access and review by the public.

### **C. Specific Comments on Scoping Document 1**

#### **3.1 NO-ACTION ALTERNATIVE**

The Commission should require a full analysis of a no-action alternative to the Applicant’s proposed Project. The Commission should take a hard look to determine if there is a demonstrated need for the Project. The planned commercial operation date for the Project is years in the future. The proposed Project could become obsolete by the time it might be ready for commercial operation by virtue of technology breakthroughs and market forces.

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<sup>21</sup> See generally ELY/NNR Rejection Request at pp. 20-43 (ELY/NNR comments on their serious concerns regarding WPW’s short-term Project construction plans).

### 3.2.3 Proposed Environmental Measures

ELY/NNR recommend that they be directly involved in all planning and mitigation actions covered under this section. Railroad property owned by ELY/NNR is located within and traverses the Project footprint. As a result, nearly all Project activity during the short- and long-term will or could affect the NNR and its daily operations to some degree.

### 3.3 ALTERNATIVES TO THE PROPOSED ACTION

The Commission should require a full examination of alternatives to WPW's proposed Project. The development and rapid introduction of innovative technologies involving energy storage and generation could make Applicant's Project undesirable or obsolete relative to other resources, particularly because of the numerous challenges the Project faces, the long-lead time that will be involved to secure a Project license, and the Project's current estimated \$2.8 billion price tag.

Recently, on November 15, 2024, Lincoln Battery Storage, LLC (Lincoln) and rPlus Energies filed a Notice with the Public Utilities Commission of Nevada stating that Lincoln "is filing an application with the Bureau of Land Management to construct a 345 kilovolt transmission line and ancillary facilities connecting the proposed Lincoln Battery Storage Project to the electric grid via the Robinson Summit Substation in White Pine County, Nevada."<sup>22</sup> In Exhibit C to the Battery Project Notice, rPlus Energies further explains that:

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<sup>22</sup> Notice by Lincoln Battery Storage, LLC, under the provisions of the Utility Environmental Protection Act, of an application to a federal agency for approval to construct an approximately 5-mile 345 kV transmission line connecting the proposed Lincoln Battery Storage Project to the existing Robinson Summit Substation and associated facilities to be located on federally-managed land in White Pine County, Nevada, Public Utilities Commission of Nevada, Docket No. 24-11004 (November 15, 2024) (Battery Project Notice), appended hereto as **Attachment 1**.

Lincoln Battery Storage, LLC is proposing to construct, operate and maintain an up to 1,000 mw standalone battery energy storage system (BESS) and associated facilities including a 345 kV transmission line and road improvements. The Project is anticipated to provide storage for energy on NV Energy's electrical system.

Although WPW has not informed FERC of this BESS project, it appears to be an alternative to the (pumped storage) Project and should be analyzed on that basis. In any event, FERC should require WPW to explain in detail the relationship of the BESS project to the (pumped storage) Project. The current scoping schedule in the FERC proceeding should be revised to provide sufficient time to analyze the BESS project as it might relate to the (pumped storage) Project.

#### **4.2.1 Geologic and Soil Resources**

As part of the analysis set out in 4.2.1 of SD1, the Commission should require that the following additional items are included for examination:

- Full access to any and all bore-hole and seismic test data performed by WPW relating to the Project should be made available for examination in order to provide important relevant information on the areas identified in this section. This data would supplement the various concerns ELY/NNR discussed at pages 13-19 of the ELY/NNR Rejection Request. In addition to these concerns, the list of the issues identified by the Commission should also be fully analyzed. Briefly, the concerns raised by ELY/NNR address technical feasibility of the Project and other critical Project issues involving geologic characteristics, and seismic and hydrostatic forces that pose a threat to major Project structures and public safety.
- WPW plans to position its tailrace tunnel directly beneath the railroad's HiLine track. The proposed tailrace location would be an unauthorized infringement on the City's and Foundation's property rights. Moreover, there is inadequate technical data demonstrating

that this essential Project feature can be constructed and operated successfully and safely at this location. This issue should also be analyzed in addition to the list of issues identified by the Commission.

Each of the three bullet points listed by the Commission and the two additional bulleted concerns discussed above should also be analyzed for cumulative effects. The major testing, excavation and construction associated with this Project will be affected by past, current and foreseeable future actions (*e.g.*, the Mainline restoration project, for one) and planned usage in the delineated area that require an expanded analysis for cumulative effects.

#### **4.2.5 Recreational Resources**

The second bullet (*i.e.*, “Effects of project construction, operation, and maintenance on the City of Ely and NNRF jointly owned Nevada Northern Railroad”<sup>23</sup>) should also be marked and analyzed for cumulative effects. The major testing, excavation, construction, and maintenance impacts over the multi-decade long life of the Project on Ely and the railroad, both of which are economic drivers for the entire White Pine County community, will be affected by past, current and foreseeable future actions (*e.g.*, the Mainline restoration project) and planned usage in the delineated area that require a comprehensive cumulative effects analysis.

#### **4.2.6 Land Use and Aesthetic Resources**

The fourth bullet should be revised to include the following bolded word: “Effects of project construction, **dust** and associated noise on visitors . . .” Dust is regularly present in

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<sup>23</sup> In sections 4.2.5 and 4.2.6 of SD1, the Commission refers to “Nevada Northern Rail**road**.” The correct name is “Nevada Northern Rail**way** [F**oundation**].”

the dry desert and would only be exacerbated by construction activity. Applicant has already acknowledged as much<sup>24</sup> and dust should be assessed as part of the analysis.

#### **4.2.8 Cultural Resources**

This bullet should also be marked and analyzed for cumulative effects. The major testing, excavation, construction and maintenance impacts over the Project's more than 50-year projected operational life on Ely and the NNRF's jointly owned NNR (a National Historic Landmark), both of which are economic drivers for the entire White Pine County community, will be affected by past, current and foreseeable future actions (*e.g.*, the Mainline refurbishment project) and planned usage in the delineated area that require a comprehensive cumulative effects analysis.

#### **4.2.9 Socioeconomics**

There is either no or inadequate data to analyze whether there is sufficient infrastructure in Ely and White Pine County communities -- such as schools, public safety, utilities, hospitals, and housing -- to support the Project. In lieu of hard data and supporting analysis, WPW has only given vague assurances that it "anticipates" all community impact issues can be adequately addressed. WPW has offered little beyond its "expectation" that the Project will generate positive tax revenue gains at all levels of government while conceding *that the bulk of Project construction expenditures tax revenues will not remain locally.*<sup>25</sup> Applicant should provide sufficient data and analysis to support its assurance regarding community impact and its tax revenue projections. These tax

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<sup>24</sup> See FLA, Exhibit E, Section 3.8.2.

<sup>25</sup> See WPW June 12, 2023, Deficiency Letter Response and Corrections, Document Accession #: 20230612-5177, at p. 21.



revenue projects should include whether WPW expects any tax abatements or other tax benefits and the extent of any such tax relief or benefit.<sup>26</sup>

#### **4.2.11 Developmental Resources**

As part of the 4.2.11 analysis, the Commission should require:

- A full examination of the Project’s ownership structure. Applicant should fully identify its investors, affiliate relationships, and energy projects to assess if the Project ownership and organization structure is sound and will not present undue risk to ELY/NNR and other interests. The Lincoln BESS project discussed above under “3.3 ALTERNATIVES TO THE PROPOSED ACTION” should be included in that analysis.
- Applicant demonstrate that it can meet the residency requirements of Section 4 of the FPA and that the Project does not raise Foreign Ownership, Control, or Influence (FOCI) concerns and restrictions.
- Applicant demonstrate its financial stability and technical qualifications to ensure it has the resources and capabilities to construct and operate the Project, which is currently projected to cost \$2.8 billion and have a long developmental period and a project life of more than 50 years.
- Applicant demonstrate that it has the financial resources to cover future liability and increasing maintenance costs over the Project’s license and operational duration.
- A full examination of the service agreements that are supporting the Project, including whether there is an adequate contractual commitment for the Project consistent with the Commission’s FPA requirements.

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<sup>26</sup> See generally ELY/NNR 14July2023 Comments, at pp. 2-5.

- A full examination of the costs of the Project to determine the rate impact to Project customers. The Commission should not license a project that could harm ELY, NNR, and other White Pine County residents and communities (collectively, the County Interests) and be an uncompetitive white elephant.
  - The Commission should analyze who is supposed to foot the bill for the Project.
 

It is not clear who will bear the responsibility for the Project costs, what those rate impacts might be, and if those rates will be consistent with FPA requirements.
  - The Commission should require a full economic analysis to allow for a meaningful cost comparison of Project alternatives. This information is needed to provide an order-of-magnitude approximation of rate increases under the Project vs. alternatives. FERC should also require an analysis of “life cycle” projections of both capital and operating costs, as well as the avoided costs for alternatives under various scenarios that account for changes in technology, energy costs, inflation, and other variables.
- Comprehensive protections be considered and established to ensure ELY/NNR and other County Interests are properly safeguarded from harm. Before the Project is licensed, Applicant should be required to demonstrate that--
  - there is adequate water to support the needs of the Project without causing permanent, fatal depletion of and damage to the aquifer on which the County Interests depend. The Commission cannot lose sight of the fact that the

southwestern United States is in the worst drought since the year 800 CE,<sup>27</sup> with abnormally dry conditions persisting.<sup>28</sup>

- Applicant's alleged water rights associated with the Project are fully supported by law.<sup>29</sup>
- Applicant has secured or is in a position to secure all the rights to construct, operate and maintain the Project facilities. The Project as proposed, with the lower reservoir and other key features to be inserted between and close to the railroad's HiLine and Mainline routes, would infringe over the short- and long-term on property rights of ELY/NNR and other protections the NNR enjoys as a National Historic Landmark. Applicant has never asked permission to cross the City's property, nor has Applicant requested the Foundation's permission to cross the railroad tracks. NNR does not intend to grant permission to the Applicant to cross the HiLine in the proposed lower reservoir location, creating serious obstacles for the Project and may even make it impossible to develop the Project there. Further regulatory rights and protections governing NNR's operations fall under the jurisdiction of the Surface Transportation Board and would need to be addressed satisfactorily. Additionally, there is either no or insufficient data to determine if the Project will cause unacceptable degradation of recreational activities and experiences

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<sup>27</sup> Williams, A.P., Cook, B.I. & Smerdon, J.E. *Rapid intensification of the emerging southwestern North American megadrought in 2020–2021*. NAT. CLIM. CHANG. 12, 232–234 (2022), <https://doi.org/10.1038/s41558-022-01290-z>.

<sup>28</sup> See <https://droughtmonitor.unl.edu/>.

<sup>29</sup> Serious challenges are being raised regarding Applicant's representations that it has the legal right to meet all its Project water needs. See, e.g., Great Basin Water Network, August 5, 2024, Comments and Request to Reject FLA, Document Accession #: 20240806-5013.

to the NNR and recreational users, including under the improvements and benefits associated with the SNPLMA Grant.<sup>30</sup>

- the Project will not jeopardize plans to restore the NNR to commercial operation. The railroad's refurbished Mainline has potential to ship commercial products, including copper, gold, silver, molybdenum, and lithium that can serve national security and strategic interests. Ely and the Foundation have applied for grants to reopen the railroad to freight traffic that will increase economic opportunities for the community. The opportunities for economic growth that are envisioned are low-impact businesses, such as warehousing, mining support businesses, and light manufacturing. ELY/NNR are optimistic that stimulating these types of new businesses can offset economic downturns in mining that the community has repeatedly suffered over time. But if there is no water to sustain population growth, opening the railroad for new commercial opportunities would be frustrated and likely unsuccessful.
- Financial assurances and other needed measures are in place to ensure public safety and protect the County Interests while the Project is being developed in the event the Project, for any reason, cannot (or does not) undertake and/or complete the Project construction, or if Applicant is unable to operate the Project over the duration of the Project once the construction is completed. Because of the especially long life of the Project, strong protections must be covered for risks associated with aging infrastructure, climate change and

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<sup>30</sup> See *supra* at n.5.

other environmental challenges. A financial assurance plan should be provided to secure ongoing financial stability throughout the license term and include measures to reduce risks for the County Interests, particularly if Applicant were to default or fail to meet environmental or operational standards.

- Applicant will assume full responsibility for both short- and long-term Project costs and negative impacts (that may not be recoverable through rates) so that ELY/NNR and the other County Interests are financially protected from Project risks. ELY/NNR are concerned that WPW has never conducted a comprehensive study of the negative impacts the Project will have on NNR throughout the seven-year “short-term” construction period. It is highly likely that adverse impacts during those seven-years would be financially catastrophic to the Foundation. The Commission is directed to pages 33-37 of the ELY/NNR Rejection Request, which describes how Applicant’s own study exposes that the Project will seriously threaten the Foundation. That study and data are incomplete, however, because Applicant refused to study the Project’s impacts on the Foundation sufficiently over the short-term construction phase. Nevertheless, Applicant’s October 9, 2023, WPW-Cicero Visitor Use and Experience Survey and Assessment Report (WPW-Cicero Report), NNR Visitor Use and Experience Survey (WPW-Cicero Survey)<sup>31</sup> is indicative of the financial risks NNR faces during that short-term period. The WPW-Cicero Survey shows at page 36 that 40% of NNR Members compared

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<sup>31</sup> Document Accession #:20231010-5217.

to non-members, and at page 34 that 27% of return riders compared to first time riders acknowledged that the Project would negatively impact their experience on the train. Negative impacts of the Project by NNR Members and return riders are especially concerning because these two rider categories comprise some of the most important sources of sustaining revenues for the Foundation. A thorough study is therefore necessary to determine with greater precision the level of revenue injury NNR is likely to experience, which Applicant should be prepared to shoulder as part of its mitigation obligation under the Project license.

#### **D. Final Comments on Scoping Document 1**

An additional environmental site review is needed. Applicant failed to secure permission to enter and cross property of private landowners for the environmental site review that WPW scheduled for October 23, 2024. As a result, stakeholders and the Commission staff were prevented from visiting and viewing the location for the Project's proposed upper reservoir, a key Project facility.

The Commission should also be mindful that until November 8, 2024, FERC had not posted transcripts in the docket from the October 22, 2024, morning and evening scoping meetings. This delay impinges on the time period that would otherwise have been available for review and comment by the public under the current procedural schedule.

In these circumstances, the current November 22, 2024, comment deadline for SD1, is far too short, having originally been set for 30 days following the October 2024 scoping meetings and environmental site visit. ELY/NNR therefore request that the Commission revise the current procedural schedule and provide a minimum of 30 days to file comments from the date a

rescheduled upper reservoir site visit occurs. In no event should the deadline for scoping comments be set for less than 30 days from the date the scoping transcripts were placed in the record and made available for review by the public.

The Commission should also revise the procedural schedule to provide for additional scoping opportunities. Additional scoping periods should be set for 60 days after all of the following occur: (i) Applicant clarifies and details all the “unknown” Project features and plans identified by the Commission in its Scoping Notice; (ii) Applicant corrects and files all Exhibit G maps consistent with its clarified and properly detailed Project plans; (iii) ELY/NNR and other stakeholders and members of the public are provided a better understanding of the several Project reviews and authorization proceedings that may be underway by BLM and other state and federal resource agencies, and how those various reviews and proceedings are being coordinated with the Commission’s licensing process in this docket; and (iv) to the extent not otherwise covered in the preceding items (i), (ii), and (iii), Applicant provides all the missing data and information and performs the various studies discussed in Section II.B.2 and Section III.C above.

ELY/NNR also request that all state and federal governmental bodies with NEPA responsibilities arising under the Project participate and make presentations in future Commission scoping meetings.

An enormous quantity of crucial information and data on the Project is missing. This necessitates a further modification of the current schedule, which sets “April 2025” as the scheduled date to issue the Notice of Ready for Environmental Analysis. That date should be revised to afford sufficient time for needed-but-missing information to be produced and studies to be performed and analyzed consistent with FPA and NEPA requirements.

#### IV. CONCLUSION

**WHEREFORE**, for the foregoing reasons, ELY/NNR Protest WPW's White Pine Project Application and request the Commission (i) find that the FLA is patently deficient and reject it with prejudice, or (ii) otherwise provide the relief sought herein and in these Comments.

Respectfully submitted,  
**City of Ely, Nevada**  
**Nevada Northern Railway Foundation**

/s/ Marvin T. Griff  
Marvin T. Griff  
Thompson Hine LLP  
1919 M Street NW  
Suite 700  
Washington, DC 20036  
202.263.4109  
[Marvin.Griff@ThompsonHine.com](mailto:Marvin.Griff@ThompsonHine.com)  
*Their Attorney*

Nathan Robertson  
Ely City Mayor  
501 Mill Street  
Ely, Nevada 89301  
(775) 289-2430

Mark S. Bassett  
President  
Nevada Northern Railway Foundation  
PO Box 150040  
Ely, Nevada 89315  
(775) 289-2085  
[president@nnry.com](mailto:president@nnry.com)

Dated: November 22, 2024



## **CERTIFICATE OF SERVICE**

I hereby certify that I have on this 22nd day of November 2024, caused a copy of the foregoing PROTEST AND FURTHER COMMENTS OF CITY OF ELY, NEVADA, AND NEVADA NORTHERN RAILWAY FOUNDATION to be served upon the service list established by the Secretary of the Commission in this proceeding.

/s/ Marvin T. Griff

Marvin T. Griff

Thompson Hine LLC

1919 M Street, N. W.

Washington, D.C. 20036-1600

Tel (202) 263-4109

Email: [marvin.griff@thompsonhine.com](mailto:marvin.griff@thompsonhine.com)

# **ATTACHMENT 1**

**BULLEN LAW, LLC**  
**8635 W. Sahara Ave. #454**  
**Las Vegas, NV 89117**

**Linda M. Bullen**  
**702-279-4040**  
**[linda@bullenlaw.com](mailto:linda@bullenlaw.com)**

November 15, 2024

Ms. Trisha Osborne  
Assistant Commission Secretary  
Public Utilities Commission of Nevada  
1150 East William Street  
Carson City, Nevada 89701-3109

Re: Notice Pursuant to the Utility Environmental Protection Act of an Application to a Federal Agency by Lincoln Battery Storage, LLC to Construct a 345kV Transmission Line and Ancillary Facilities Associated with the Lincoln Battery Storage Project

Dear Ms. Osborne:

Enclosed for filing is the Notice Pursuant to the Utility Environmental Protection Act of an Application to a Federal Agency by Lincoln Battery Storage, LLC to Construct a 345kV Transmission Line and Ancillary Facilities Associated with the Lincoln Battery Storage Project.

If you have any questions about this filing, please do not hesitate to contact me at (702) 279-4040.

Best Regards,

/s/ Linda M. Bullen  
Linda M. Bullen  
Attorney for Lincoln Battery Storage, LLC

1                                   **BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

2       **IN THE MATTER OF:**

3       Notice Pursuant to the Utility Environmental  
4       Protection Act of an Application to a Federal  
5       Agency by Lincoln Battery Storage, LLC to  
6       Construct a 345kV Transmission Line and  
      Ancillary Facilities Associated with the  
      Lincoln Battery Storage Project

Docket No. 24- \_\_\_\_\_

7                                   **I.     INTRODUCTION**

8               Pursuant to the Nevada Utility Environmental Protection Act ("UEPA"), Nevada Revised  
9       Statutes ("NRS") Sections 704.820 to 704.900 and Sections 703.415 to 703.427 of the Nevada  
10      Administrative Code ("NAC"), Lincoln Battery Storage, LLC ("Lincoln Battery Storage") files  
11      this Notice with the Public Utilities Commission of Nevada (the "Commission") that it is filing an  
12      application with the Bureau of Land Management ("BLM") to construct a 345 kilovolt ("kV")  
13      transmission line and ancillary facilities connecting the proposed Lincoln Battery Storage Project  
14      to the electric grid via the Robinson Summit Substation in White Pine County, Nevada (the  
15      "Project").

16             All correspondence related to this Notice should be directed to:

17                               Linda M. Bullen  
18                               Bullen Law, LLC  
19                               8635 W. Sahara Ave. #454  
20                               Las Vegas, Nevada 89117  
                              linda@bullenlaw.com  
                              702-279-4040

21             The Project falls within the definition of a "utility facility" pursuant to NRS 704.860.2  
22      because it is an electric transmission line of 200kV or greater. Because the Project is located on  
23      federal land administered by the BLM, the BLM is required to conduct an environmental analysis  
24      of the Project pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. §4321.  
25      Accordingly, this Notice is being filed pursuant to NRS 704.870(2)(a) and NAC 703.421. No later  
26      than 30 days after the issuance of the final federal environmental document, Lincoln Battery  
27      Storage will file a UEPA Application with the Commission pursuant to NRS 704.870(2)(b). Upon  
28

1 submission of the Application and supporting documents, Lincoln Battery Storage will seek one  
2 or more Permits to Construct (“PTCs”) the Project from the Commission.

3 **II. INFORMATION REQUIRED**

- 4 **1. The name, address and telephone number of the person who filed the application with**  
5 **the appropriate federal agency (NAC 703.421.1).**

6 Luigi Resta  
7 Lincoln Battery Storage, LLC  
8 201 Main, Suite 2100  
9 Salt Lake City, UT 84111  
10 801-456-1575

- 11 **2. The date on which the application was filed with the appropriate federal agency (NAC**  
12 **703.421.2).**

13 The SF 299 application for the Project is being filed contemporaneously with the BLM on  
14 November 15, 2024.

- 15 **3. A general description of the location of the proposed utility facility (NAC 703.421.3).**

16 The Project is located approximately .04 miles south of Hwy 50, west of the Town of  
17 McGill, in White Pine County, Nevada.

- 18 **4. A general description of the proposed utility facility (NAC 703.421.4).**

19 The Project is a 345kV transmission line approximately 5 miles in length and ancillary  
20 facilities to interconnect to the electric grid via the Robinson Summit Substation.

- 21 **5. Proof that a copy of the notice has been submitted to the Nevada State Clearinghouse**  
22 **within the Department of Conservation and Natural Resources (NAC 703.421.5).**

23 A copy of this Notice has been submitted to the Regulatory Operations Staff of the  
24 Commission, the Nevada Attorney General’s Bureau of Consumer Protection, Nevada State  
25 Clearinghouse, the Nevada Department of Conservation and Natural Resources – Division of  
26 Environmental Protection, the White Pine County Clerk and others. *See* Certificate of Service  
27 attached to this Notice as Exhibit A.

- 28 **6. Draft Notice (NAC 703.1620).**

A copy of the draft notice pursuant to NAC 703.162 is attached as Exhibit B.



1     **7. Proof of Compliance with the Nevada Department of Wildlife Energy Cost Recovery**  
2     **Fund Program (NRS 701.600-640).**

3     Pursuant to NRS 701.610, a person who files an application with the Federal Government  
4     for a lease or easement for a right-of-way for an energy development project or an application with  
5     the Public Utilities Commission of Nevada or any county in this State relating to the construction  
6     of an energy development project shall, concurrently with the filing of the application, file a notice  
7     of the energy development project with the Nevada Department of Wildlife ("NDOW"). The  
8     NDOW Application for Energy Projects Fund for the Recovery of Costs for the Project was filed  
9     on November 13, 2024, and a copy is attached to this Notice as Exhibit C.

10                     **III. CONCLUSION**

11     Lincoln Battery Storage will submit its UEPA Application at the conclusion of the federal  
12     environmental review process. At that time, it will request that the Commission issue to it one or  
13     more UEPA Permits to Construct the Project pursuant to NRS 704.870(2)(b) and NAC 703.423.

14     Respectfully submitted on November 15, 2024.

15                             Linda M. Bullen

16                             /s/ Linda M. Bullen

17                             Bullen Law, LLC

18                             Attorney for Lincoln Battery Storage, LLC

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**EXHIBIT A**

**CERTIFICATE OF SERVICE**

It is hereby certified that on November 15, 2024, a true and correct copy of the attached Notice Pursuant to the Utility Environmental Protection Act of an Application to a Federal Agency by Lincoln Battery Storage, LLC to Construct a 345kV Transmission Line and Ancillary Facilities Associated with the Lincoln Battery Storage Project was served via electronic mail on the following:

Staff Counsel Support	Office of the Attorney General
Public Utilities Commission of Nevada	Bureau of Consumer Protection
1150 E. William Street	100 North Carson Street
Carson City, Nevada 89701	Carson City, Nevada 89701
pucn.sc@pucn.nv.gov	bcp@ag.nv.gov
Public Utilities Commission of Nevada	NV Dept. of Conservation and Natural Resources
Mr. Don Lomoljo, Staff Counsel	Mr. James Settelmeyer, Administrator
1150 E. William Street	901 South Stewart Street
Carson City, Nevada 89701	Carson City, NV 89701
dlomoljo@puc.nv.gov	jsettelmeyer@ndcr.nv.gov
State Clearinghouse	White Pine Clerk-Treasurer
Division of State Lands	Ms. Nicole Stephey
901 South Stewart Street, Suite 5003	1786 Great Basin Blvd., Suite 3
Carson City, NV 89701	Ely, NV 89301
nevadaclearinghouse@lands.nv.gov	wpclerk@whitepinecountynv.gov
Nevada Division of Environmental Protection	
Ms. Jennifer Carr, Administrator	
901 South Stewart Street, Suite 400	
Carson City, NV 89701	
jcarr@ndep.nv.gov	

Dated: November 15, 2024

/s/ Matthew C. Voelker  
Bullen Law, LLC

## **Exhibit B**

### **PUBLIC UTILITIES COMMISSION OF NEVADA DRAFT NOTICE (Applications, Tariff Filings, Complaints, and Petitions)**

Pursuant to Nevada Administrative Code ("NAC") 703.162, the Commission requires that a draft notice be included with all applications, tariff filings, complaints and petitions. Please complete and include **ONE COPY** of this form with your filing. (Completion of this form may require the use of more than one page.)

A title that generally describes the relief requested (*see* NAC 703.160(4)(a)):

**Notice Pursuant to the Utility Environmental Protection Act of an Application to a Federal Agency by Lincoln Battery Storage, LLC to Construct a 345kV Transmission Line and Ancillary Facilities Associated with the Lincoln Battery Storage Project**

The name of the applicant, complainant, petitioner or the name of the agent for the applicant, complainant or petitioner (*see* NAC 703.160(4)(b)):

**The applicant is Lincoln Battery Storage, LLC ("Lincoln Battery Storage").  
Linda M. Bullen of Bullen Law, LLC is legal counsel for the applicant.**

A brief description of the purpose of the filing or proceeding, including, without limitation, a clear and concise introductory statement that summarizes the relief requested or the type of proceeding scheduled **AND** the effect of the relief or proceeding upon consumers (*see* NAC 703.160(4)(c)).

**Lincoln Battery Storage is filing a Notice of an Application to a Federal Agency with the Public Utilities Commission of Nevada (the "Commission") of an application with the Bureau of Land Management to construct a 345 kilovolt ("kV") transmission line approximately 5 miles in length and ancillary facilities connecting the proposed Lincoln Battery Storage Project to the Robinson Summit Substation. The Project is located approximately .04 miles south of Hwy 50, west of the Town of McGill, in White Pine County, Nevada. It is not anticipated that the proceeding will have an effect on consumers.**

A statement indicating whether a consumer session is required to be held pursuant to Nevada Revised Statute ("NRS") 704.069(1)<sup>1</sup>:

**A consumer session is not required.**

If the draft notice pertains to a tariff filing, please include the tariff number **AND** the section number(s) or schedule number(s) being revised.

**The draft notice does not pertain to a tariff filing.**

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<sup>1</sup> NRS 704.069 states in pertinent part:

1. The Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110 inclusive, in which:

- (a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale or an application to clear its deferred accounts; and
- (b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.



Exhibit C



## Application for Energy Projects "Fund for the Recovery of Costs"

Nevada Revised Statutes 701.600-640  
Nevada Administrative Code 701.800-820

Project Name Lincoln Battery Storage  
Applicant Lincoln Battery Storage, LLC  
Mailing Address 201 Main, Suite 2100  
City Salt Lake City State UT Zip Code 84111  
Name of Contact Jessica Brooks Phone 858.882.7417 Email jbrooks@rplusenergies.com  
Name of Responsible Corp. Officer/Agency Rep. Luigi Resta Title CEO

Applicant:	
<input type="checkbox"/>	Self
<input checked="" type="checkbox"/>	Private Company
<input type="checkbox"/>	Government Agency
<input type="checkbox"/>	Other _____

### Project Type

☐ Solar ☐ Wind ☐ Geothermal ☐ Fossil Fuel ☐ Biomass ☐ Fuel Pipeline ☒ Power Transmission ☒ Other  
Net Maximum Generation Capacity 1,000 MW Estimated Voltage (power transmission) 345 kV  
Proposed Project Size (acres) 640 Proposed Transmission Length (miles) 5  
Proposed Length of Fuel Lines/Pipelines (miles) \_\_\_\_\_

Other Infrastructure (e.g., evaporation/holding ponds or tanks, recharge stations; estimated acres) \_\_\_\_\_  
Access road = 0.5miles; Total project acres = 200-acre BESS (in a 640-acre ROW area of interest)

Proposed County Location (submit project map and shapefiles) White Pine County, NV

Project Description Lincoln Battery Storage, LLC is proposing to construct, operate and maintain an up to 1,000 mw standalone battery energy storage system (BESS) and associated facilities including a 345 kV transmission line and road improvements. The Project is anticipated to provide storage for energy on NV Energy's electrical system. The Project would be constructed on BLM managed lands. The BESS facility will include of lithium ion battery cells, or similar. The proposed BESS is anticipated to have a 25-year physical life.

Estimated Project Schedule/Timeline The project is anticipated to start construction as early as 2026.

Project construction is anticipated to last 12-18 months.

Applicant Signature Luigi Resta Date 11/13/2024

Enclose initial payment made out to **Nevada Department of Wildlife**.

- Remit **\$5,000** for fuel pipelines less than 50 miles in length, power transmission projects greater than 50kV and less than 50 miles in length, or geothermal production projects.
- Remit **\$10,000** for fuel pipelines more than 50 miles in length, power transmission projects greater than 50kV and more than 50 miles in length, or solar, wind, fossil fuel or other energy production projects.

Submit project shapefiles (ArcGIS or GoogleEarth are acceptable) to: Jasmine Kleiber at [jkleiber@ndow.org](mailto:jkleiber@ndow.org)

Submit application, payment, and maps to:

Nevada Department of Wildlife  
Habitat Division – AB307  
6980 Sierra Center Parkway, Suite 120  
Reno, NV 89511 USA

Revised 10/2020