

Agenda Item 6

Attachment A

Appendix G:

Nevada Energy and Infrastructure Development Standards

to Conserve Greater Sage-grouse Populations and their Habitats, excerpt page 25-29

VII. Standards to Avoid or Minimize Impacts to Sage-grouse (All Energy Developments)

It is important to note here that some recommendations differ for non-migratory and migratory populations of sage-grouse. For the purposes of this document, non-migratory populations of sage-grouse are those where the majority of individuals do not make long distance movements between or among seasonal ranges (individuals travel <10 km one way between seasonal ranges). Migratory populations are those in which a preponderance of individual grouse move ≥10 km one way between seasonal ranges (derived from Connelly et al. 2000).

A. Site Selection

1. The NGSCT considers Category 1 habitats (leks and nesting habitat) irreplaceable and Category 2 habitats (quality winter and brood rearing habitats) critical to the long term persistence of sage-grouse populations. Energy or transmission development should be avoided within Category 1 and 2 sage-grouse habitats.
2. Energy development is strongly discouraged from occurring in Category 3 habitats; however, if unavoidable, projects in these habitats should be situated to minimize impact through placement in the least suitable portion of habitat.
3. Renewable energy developers are encouraged to pursue project development activities within Category 4 and 5 habitats within the range of sage-grouse in Nevada.
4. Project proponents should focus on previously disturbed sites in high potential wind resource areas. These areas could be described as those with prior disturbances including, but not limited to, previously burned areas, dense pinyon and juniper woodlands, areas converted to agriculture and areas within existing linear rights of way (transmission corridors).
5. If habitat categories have not been identified for a certain area, energy facilities and transmission lines should not be sited within 3 miles of the nearest active lek location for non-migratory populations³.
 - a. To the greatest extent possible, energy developers should work closely with NDOW and pertinent federal agency biologists to determine important nesting, brood rearing and winter habitats and avoid those areas.
6. Where populations of sage-grouse are considered migratory, energy facilities and transmission lines should not be sited within 3 miles of the nearest active lek location and should not be sited within the associated nesting habitat for that particular population.
 - a. Consideration should also be given to movement corridors between breeding, nesting, brood-rearing or winter habitat. These movement corridors may not be well defined unless significant radio marking investigations have been conducted for a particular population. It is recommended that these investigations take place where project proponents are proposing developments in likely movement corridors for sage-grouse.
7. No development should occur within a 0.6 mile (1 km) radius around seeps, springs and wet meadows within identified brood rearing habitats.

³ Holloran (2005) found that natural gas development within 3 – 5 km (approximately 2 - 3 miles) of active sage-grouse leks led to dramatic declines in breeding populations. Walker et al. (2007) also found that coal-bed natural gas development within 0.8 km and 3.2 km had strong negative effects on sage-grouse and detected effects as far as 6.4 km. Johnson et al. (In Press) found that few leks were located within 5 km (≈3 miles) of developed land and trends in male attendance were lower for those leks with more developed land within 5 km or 18 km.

B. Pre-Development Planning and Survey Requirements (All Energy Related Developments)

Each proposed energy facility requires some level of detailed individual evaluation. Unique habitat conditions can and do exist due to local variations in wildlife populations and movement patterns, habitats, area topography, facility design, and weather (Alberta Fish and Wildlife Division 2005). The level of pre-project planning and the need for certain surveys or monitoring depends on the seasonal habitat that the project is located in and the importance of the particular habitat. It is the intent of the NGSCT to complete mapping of habitat categorizations in 2010. The following are standards recommended by the NGSCT for pre-project planning and surveys:

1. Identify the cover type of habitat and habitat category of proposed development by using R-value classifications, current seasonal habitat delineations and previous telemetry information. These habitat types and categories should be determined on a site specific basis through consultation with NDOW.
2. A remote assessment (utilizing GIS applications) of present habitat condition should be conducted. This assessment should include vegetative classification, seasonal habitat layers, aerial photos, fire polygons and other man-made structures on the landscape including transmission lines, roads or other anthropogenic features.
3. If the project happens to occur in Category 1 or 2 habitats, a comprehensive monitoring plan should be developed and approved by NDOW that addresses demographics and seasonal movement patterns. The Western Agencies Sage and Columbian Sharp-tailed Grouse Technical Committee provides sound recommendations in their Interim Guidelines for Evaluating the Impacts of Energy Development (Appendix A).
4. In Category 3 or 4 habitats, field investigations should be conducted by the applicant to determine the actual condition of the habitat and the approximate extent of use by sage-grouse through consultation with NDOW. The potential for habitat improvement should be identified and a restoration or habitat enhancement plan should be developed.
5. If a project is located in Category 5 habitats, surveys (radio-marking of individuals in adjacent sage-grouse populations or stratified random pellet counts) should be considered to determine if sage-grouse move through the area between seasonal habitat patches. If movement across the area is detected, then recommendations should be made to preserve movement patterns by grouse.

C. Project Development (All Energy Related Developments)

Through this guidance document, we hope to eliminate more direct impacts to sage-grouse populations through avoidance of Category 1 through 3 habitats. However, unless Greater Sage-grouse habitats are afforded increased protection from federal land management agencies such as the BLM, it is likely that some form of renewable energy development will occur within these types of habitats. The NSGCT recognizes that there are projects in the advanced stages of permitting or development which have obtained final or near-final siting approvals from federal, state and/or private entities, and that the siting and/or mitigation commitments for such projects may not be consistent with some of this document's recommendations. Where this is the case, and where the project has worked with federal and state agencies on matters relevant to wildlife prior to the release of this document, the NSGCT respects agreements that have

already been made with regard to siting and mitigation measures. We hope that project proponents in these situations can use the recommended guidance contained in this document to minimize the effects of development where possible. However, if sage-grouse are listed as a threatened or endangered species by the U.S. Fish and Wildlife Service in the future, then projects on federal lands would be subject to section 7 consultation. Prior agreements may be subject to further review.

It is important to note here that some recommendations differ for non-migratory and migratory populations of sage-grouse. For the purposes of this document, non-migratory populations of sage-grouse are those where the majority of individuals do not make long distance movements between or among seasonal ranges (individuals travel <10 km one way between seasonal ranges). Migratory populations are those in which a preponderance of individual grouse move ≥ 10 km one way between seasonal ranges (derived from Connelly et al. 2000). If a project were approved in Category 1 through 3 habitats, the following represents guidelines suggested by the NGSCT:

1. Where sage-grouse populations are non-migratory energy facilities should not be constructed within 3 miles of the nearest active lek site (see Chapter 1, Section C).
2. Where populations of sage-grouse are considered migratory, energy facilities should not be constructed within 3 miles of the nearest active lek location and should not be sited within the associated nesting habitat for that particular population.
3. If construction within 3 miles of an active sage-grouse lek is absolutely unavoidable, conduct construction activities from 15 July to 30 November to avoid disturbing sage-grouse during the breeding, nesting, early brood rearing and winter periods.
 - a. If pumping stations are placed within 3 miles of an active lek, consideration should be given, and attempts made to place these features in an area where noise would least impact the actual lek using topography to help mask noise.
4. Avoid practices that remove sagebrush cover in these habitat categories as they may be the most important areas to sage-grouse using these habitats.
5. No development or infrastructure features should be placed within 0.6 miles (1 km) of identified late brood rearing habitats, especially meadow complexes and springs. These features can provide a competitive advantage for avian predators; therefore increasing sage-grouse mortality during a period when birds may be susceptible.
6. A comprehensive monitoring plan approved by the Nevada Department of Wildlife will be required to monitor sage-grouse demographics, vital rates and movement patterns before, during and after the construction phase within Category 1 – 3 habitats. The Western Agencies Sage and Columbian Sharp-tailed Grouse Technical Committee provide sound recommendations in their Interim Guidelines for Evaluating the Impacts of Energy Development (Appendix D).
7. Within Category 1-3 sage-grouse habitats, a company representative should be on site to oversee compliance during construction and provide environmental training to on-site personnel. This individual is responsible for overseeing compliance with all protective measures and coordination in accordance with the permitting authority and resource agencies should have the authority to issue a “stop work order” if deemed necessary.
8. Human Activity (Daily Operations/Maintenance)
 - a. Vehicle trips should be limited to those times that would least impact nesting or wintering grouse:

- i. Vehicle trips should not occur on a regular basis within 3 miles of an active lek or in identified nesting habitats from 01 March through 15 May.
 - 1) If vehicle trips are required during the lekking period, vehicles should only be operated from 10:00 a.m. to 5:00 p.m. daily.
- ii. Public access to construction areas should be limited if construction activities are occurring from 01 March through 15 May.

D. Associated Infrastructure (Transmission Lines, Road, Substations, Fences, etc.)

The infrastructure associated with utility scale energy developments can potentially be as detrimental as the facility itself. Roads, transmission lines, substations, fences and vehicle traffic can all eliminate or create disturbance within sage-grouse habitats. Even though a wind generation facility or geothermal power plant may not be constructed in optimal sage-grouse habitats, it is likely that roads and/or transmission lines associated with the facility will be. The following guidelines apply to associated infrastructure:

1. Transmission lines should not be sited within 3 miles of the nearest active lek location or in nesting habitat that occurs outside lek buffers.
 - a. In instances where transmission line placement is within 3 miles of the nearest active lek location and cannot be avoided, apply standards 5-9 in this section.
 - i. Attempt to place the line in the least suitable habitat within a 3 mile radius of the nearest active lek.
 - ii. Consider placing the transmission line to the west of the nearest active lek so that avian predators are at a disadvantage (i.e., looking into the sun) in the early morning hours.
2. Roads and below ground infrastructure (i.e. buried power lines, pipelines) should not be sited within 0.6 miles (1 km) of the nearest lek site. These features are a concern because their construction directly removes potential nesting habitat and act as vectors for invasive plant species establishment (e.g., cheatgrass).
3. To the greatest extent practical, transmission lines should be placed near existing highway corridors at “minimum safe distances” designated by the BLM or project proponent to reduce direct and indirect effects to sage-grouse.
4. In all instances where structures are to be placed in sage-grouse habitat, especially nesting habitat, preliminary surveys should be conducted to identify sage-grouse nesting areas and all attempts should be made to avoid these areas.
5. Structures should be constructed with the least amount of perching or nesting substrate possible by avoiding such things as external ladders and platforms.
6. Use tubular tower designs with pointed tops rather than lattice designs.
 - a. This should be applied as a standard design within the range of sage-grouse in Nevada regardless of habitat categorization.
7. In addition to tubular towers, conventional perch and nesting deterrents should be utilized in adherence to the Migratory Bird Treaty Act. Perching and nest deterrents include:
 - a. devices installed on support towers;
 - b. actual physical maintenance through hazing; and/or
 - c. physical removal of nest structures.
8. Avoid removing sagebrush cover whenever feasible, especially in identified winter habitats.
9. Avoid use of guy wires whenever possible.

- a. In some circumstances, use of guy wires may facilitate tower design features which minimize perching and nest building (e.g. guyed V tubular tower). The overall benefit to sage-grouse of these designs is likely to compensate for any direct affect to sage-grouse from guy wire strikes; however, guy wires should be marked with devices (e.g. spiral vibration damper, FireFly™ bird flight diverter) to increase the visibility of the wires to avian species, thus minimizing strikes.
- 10. To reduce the impact of new fences on sage-grouse, new fence proposals (including those for emergency stabilization and rehabilitation) should be carefully evaluated for sage-grouse collision risk (BLM IM 2010-022).
 - a. In the process of prioritizing areas for flagging or marking fences, state wildlife agency personnel shall be consulted (BLM IM 2010-022).

E. Post Project Development

- 1. Monitoring
 - a. Within Category 1 through 3 sage-grouse habitats, a comprehensive monitoring plan will be required that addresses demographics, vital rates and seasonal movement patterns. The Western Agencies Sage and Columbian Sharp-tailed Grouse Technical Committee provide sound recommendations in their Interim Guidelines for Evaluating the Impacts of Energy Development (Appendix D).
 - b. Information gained from monitoring can be used to help develop future mitigation measures.
- 2. Noxious Weed Prevention
 - a. Roads and the footprint of wind turbine pads, geothermal energy plants, and transmission lines should be monitored at least annually for any noxious weeds and, if found, treated with appropriate techniques.
- 3. Noise Reduction
 - a. Noise levels from geothermal facilities, oil and gas pumping stations or gas pipeline compressor stations should not exceed 55 decibels (dBa) at leks. Several noise muffling techniques and equipment are available.
 - i. Noise mufflers should be installed at gas compressor stations;
 - ii. Noise barriers should be installed around oil and gas pumping stations;
 - iii. Temporary noise shields should be constructed around portions of the drilling rigs and used on standard construction equipment.
- 4. Decommissioning
 - a. Any roads that were built, primarily for construction only, should be decommissioned post construction to deter dispersed vehicle use within sagebrush habitats and the creation of new roads.
 - i. Decommissioned roadways should be restored, to the greatest extent practicable, to the pre-existing vegetative condition.
 - b. Developers should restore pathways of buried transmission lines or pathways to a desired vegetative condition.

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Attachment B

Sagebrush Ecosystem Program

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Governor



Kelly McGowan, Program Manager

Dan Huser, Forestry/Wildland Fire

Katie Andrie, Wildlife

Kathleen Petter, State Lands

Ethan Mower, Agriculture

STATE OF NEVADA
Sagebrush Ecosystem Program

June 11, 2021

Brett Burgess and Luigi Resta
White Pine Waterpower, LLC
c/o rPlus Energies, LLC
201 S. Main St, Ste. 2000
Salt Lake City, UT 84111

Dear Mr. Burgess and Mr. Resta,

The Sagebrush Ecosystem Technical Team (SETT) has completed the formal quality assurance review of the White Pine Waterpower exploration project as currently planned and based on the project data provided. The total number of term debits is 8 and the total number of permanent debits is 0 (none). These totals are prior to any applicable proximity ratios that may be applied. This was determined using the methods and protocols described in the Conservation Credit System (CCS) publications and tools associated with calculating functional acres. The SETT does validate that the information that was available to conduct this review was properly inserted and calculated by certified verifiers to run the HQT. The analysis was conducted using version 1.6.21 of the CCS publications and tools. You may consider this CCS calculation of debits as being final and, as such, can be used for the purpose of mitigating impacts. Any changes to the proposed disturbance or map unit delineations may result in a site revisit or re-analysis of the project using the HQT. It is incumbent upon the project proponent to contact the SETT immediately for determination if further analysis is necessary.

Prior to receiving any notice to proceed from the authorizing agency, the project proponent must offset the credit obligation in its entirety, complete an authorized Phased Purchase Agreement, or develop a mitigation plan in coordination with the SETT. When one of these criteria is satisfied, the SETT will provide a compliance letter notifying the authorizing land management agency that the proponent has successfully completed initial mitigation obligations.

Sincerely,

Kelly McGowan
Program Manager
Sagebrush Ecosystem Program

Cc: Jason Hines, Bureau of Land Management, Ely District office
Jared Bybee, Bureau of Land Management, Ely District office
Moira Kolada, Nevada Department of Wildlife, Eastern Region

Agenda Item 6

Attachment C



STATE OF NEVADA
DEPARTMENT OF WILDLIFE

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TONY WASLEY
Director

BONNIE LONG
Deputy Director

JACK ROBB
Deputy Director

August 17, 2021

Nancy Herms
Bristlecone Field Office Wildlife Biologist
BLM Ely District
nherms@blm.gov

Re: White Pine Waterpower Borehole Geotechnical Greater Sage-Grouse Winter Seasonal Timing Restrictions

Dear Ms. Herms,

The Nevada Department of Wildlife (the Department) acknowledges White Pine Waterpower's (the Proponent) request for an exception to the 2015 *Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment* (2015 ARMPA) for the seasonal timing restrictions described under Management Decision (MD) SSS 3 D for winter seasonal use. Under MD SSS 3 D, seasonal restrictions would be applied in winter from November 1 through February 28 to prevent disturbing greater sage-grouse during seasonal life cycle periods.

Much of the project area, especially near the bore sites, test pits, and access roads is currently mapped as greater sage-grouse (GRSG) winter habitat. Some areas not currently mapped as winter habitat in the 2015 ARMPA, specifically the areas near bore site 3 and the access road to bore site 3, the Department classifies as winter habitat. The vegetation in the non-winter habitat is very similar, if not the same, as the vegetation that is mapped as winter habitat. Through incidental observations and professional experiences in this area, it is believed that winter habitat is more extensive than what is currently mapped, and the Department believes this habitat should be treated as such.

The Schell/Antelope Population Management Unit (PMU) lek counts have declined 76% and 77% from the 10-year average and from 2019, respectively. Trend lek counts in the Schell/Antelope PMU and the Duck Creek Complex follow a similar trend, as shown in Tables 1 and 2 below.

Table 1. Schell/Antelope PMU Trend Lek Counts.

Year	Males Counted	Percent decline compared to current year
2017	115	73%
2019	80	63%
2021	31	---

Table 2. Duck Creek Lek Complex Trend Lek Counts.

Year	Males Counted	Percent decline compared to current year
2017	39	46%
2019	35	40%
2021	21	---

Due to the declines in populations and lek activity in the Schell/Antelope PMU, the Department, through the Nevada Board of Wildlife Commissioners (Commission), closed the 2021 GRSG hunting season in this PMU at the June 25-26, 2021 Commission meeting. Reasons for this recommendation follow the Western Association of Fish and Wildlife Agency Guidelines, as well as the Nevada Sage Grouse Hunting Season Strategies (Nevada Strategies). Under the Nevada Strategies a potential season closure may occur when populations are trending downward sharply and when recruitment rates are below the statewide long-term average. This PMU has been declining since 2017 at a steady rate with a large decline observed between 2019 and 2021. A season closure would have likely been recommended in 2020, but due to the Covid pandemic and fieldwork restrictions, adequate data was not collected to make such a determination.

The Department has serious concerns regarding any level of activity during seasonal timing restrictions in effect from November 1 through February 28. We acknowledge that as written in the 2015 ARMPA, “The Authorized Officer may grant an exception...” if the action does not adversely affect GRSG or its habitat, or that the Authorized Officer “may modify the size and shape of the restricted area or the period of limitation where an environmental review and consultation...determines that the action...does not adversely affect GRSG or its habitat.” However, the Department does not currently believe that these criteria can be met, or that an exception or modification to the seasonal timing restriction is appropriate.

Under the 2015 ARMPA, in order to grant an *exception* to the winter seasonal timing restriction, environmental review and consultation between the BLM and the Department/Sagebrush Ecosystem Technical Team (SETT) must determine the action:

- 1) does not adversely affect GRSG or its habitat, or
- 2) the Proponent, BLM, and the Department/SETT negotiate mitigation that would provide clear net conservation gain.

In order to grant a *modification* to the winter seasonal timing restrictions under the 2015 ARMPA, environmental review and consultation between the BLM and the Department/SETT must determine that the action would not adversely affect GRSG or its habitat. As previously described, the Department believes activity in the area during winter use would adversely affect GRSG.

The Department would like to reiterate that the intent of the 2015 ARMPA Winter Timing Limitation is “To protect GRSG winter habitat.” We believe allowing activity to occur for exploration between November 1 and February 28 would not meet that intent. We also do not believe the criteria described above for exception or modification to this stipulation have been satisfied.

We greatly appreciate BLM's continued collaboration on this project, and if we can provide any additional information or clarification, please do not hesitate to contact myself, or Caleb McAdoo, Eastern Region Habitat Supervisory Biologist (cmcadoo@ndow.org).

Sincerely,

A handwritten signature in blue ink that reads "Moira Kolada".

Moira Kolada
Habitat Division
Nevada Department of Wildlife
1218 N. Alpha St
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mkolada@ndow.org

Attachment

Cc: Jasmine Kleiber, Habitat Staff Specialist, NDOW
Caleb McAdoo, Eastern Region Habitat Supervisor, NDOW
Katie Andrie, Sagebrush Ecosystem Technical Team
Kelly McGowan, Sagebrush Ecosystem Technical Team

Agenda Item 6

Attachment D



STEVE SISOLAK
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STATE OF NEVADA
DEPARTMENT OF WILDLIFE

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BONNIE LONG
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August 23, 2021

Nancy Herms
Bristlecone Field Office Wildlife Biologist
BLM Ely District
nherms@blm.gov

Re: White Pine Waterpower Borehole Geotechnical Greater Sage-Grouse Winter Seasonal Timing Restrictions

Dear Ms. Herms,

The Nevada Department of Wildlife (the Department) acknowledges White Pine Waterpower's (the Proponent) request for an waiver to the 2015 *Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment* (2015 ARMPA) for the seasonal timing restrictions described under Management Decision (MD) SSS 3 D for winter seasonal use for B1, TPL-1, TPL-2, TPL-3 and TPL-4 and for access for B-2. Under MD SSS 3 D, seasonal restrictions would be applied in winter from November 1 through February 28 to prevent disturbing greater sage-grouse during seasonal life cycle periods.

Much of the project area, especially near the bore sites, test pits, and access roads is currently mapped as greater sage-grouse (GRSG) winter habitat. Some areas not currently mapped as winter habitat in the 2015 ARMPA the Department classifies as winter habitat. The vegetation in the non-winter habitat is very similar, if not the same, as the vegetation that is mapped as winter habitat. Through incidental observations and professional experiences in this area, it is believed that winter habitat is more extensive than what is currently mapped, and the Department believes this habitat should be treated as such.

The Schell/Antelope Population Management Unit (PMU) lek counts have declined 76% and 77% from the 10-year average and from 2019, respectively. Trend lek counts in the Schell/Antelope PMU and the Duck Creek Complex follow a similar trend, as shown in Tables 1 and 2, respectively, below.

Table 1. Schell/Antelope PMU Trend Lek Counts.

Year	Males Counted	Percent decline compared to current year
2017	115	73%
2019	80	63%
2021	31	---

Table 2. Duck Creek Lek Complex Trend Lek Counts.

Year	Males Counted	Percent decline compared to current year
2017	39	46%
2019	35	40%
2021	21	---

Due to the declines in populations and lek activity in the Schell/Antelope PMU, the Department, through the Nevada Board of Wildlife Commissioners (Commission), closed the 2021 GRSG hunting season in this PMU at the June 25-26, 2021, Commission meeting. The rationale for this recommendation follows the Western Association of Fish and Wildlife Agency Guidelines, as well as the Nevada Sage Grouse Hunting Season Strategies (Nevada Strategies). Under the Nevada Strategies a potential season closure may occur when populations are trending downward sharply and when recruitment rates are below the statewide long-term average. This PMU has been declining since 2017 at a steady rate with a large decline observed between 2019 and 2021. A season closure would have likely been recommended in 2020, but due to the Covid pandemic and fieldwork restrictions, adequate data was not collected to make such a determination.

The Department would like to relay concerns regarding proposed activity(ies) during seasonal timing restrictions in effect from November 1 through February 28. We acknowledge that as written in the 2015 ARMPA, “The Authorized Officer may wave...” an environmental review and consultation with the appropriate state agency ...determines that the described lands do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG and therefore no longer warrant consideration as a component necessary for their protection.” However, the Department does not currently believe that these criteria can be met, or that waiver of the seasonal timing restriction is appropriate.

Under the 2015 ARMPA, in order to grant a *waiver* to the winter seasonal timing restriction, environmental review and consultation between the BLM and the Department/Sagebrush Ecosystem Technical Team (SETT) must determine that the described lands: “do not contain GRSG or suitable habitat or are otherwise incapable of serving the requirements of GRSG”. The Department would like to reiterate that the intent of the 2015 ARMPA Winter Timing Limitation is “To protect GRSG winter habitat.” We believe allowing activity to occur for exploration between November 1 and February 28 would not meet that intent. We also do not believe the criteria described above for waiver to this stipulation have been satisfied.

We greatly appreciate BLM's continued collaboration on this project, and if we can provide any additional information or clarification, please do not hesitate to contact myself, or Caleb McAdoo, Eastern Region Habitat Supervisory Biologist (cmcadoo@ndow.org).

Sincerely,

A handwritten signature in blue ink that reads "Moira Kolada".

Moira Kolada
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Cc: Jasmine Kleiber, Habitat Staff Specialist, NDOW
Caleb McAdoo, Eastern Region Habitat Supervisor, NDOW
Katie Andrie, Sagebrush Ecosystem Technical Team
Kelly McGowan, Sagebrush Ecosystem Technical Team

Agenda Item 6

Attachment E

Sagebrush Ecosystem Program

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Kelly McGowan, Program Manager

Dan Huser, Forestry/Wildland Fire

Katie Andrie, Wildlife

Kathleen Petter, State Lands

Ethan Mower, Agriculture

September 10, 2021

Brett Burgess and Luigi Resta
White Pine Waterpower, LLC
c/o rPlus Energies, LLC
201 S. Main St, Ste. 2000
Salt Lake City, UT 84111

Dear Mr. Burgess and Mr. Resta,

We are pleased to inform you that, rPlus Energies, LLC has fulfilled their compensatory mitigation obligation for the White Pine Waterpower exploration project with the purchase of 9 credits, offsetting the 8 debits calculated using the Habitat Quantification Tool (HQT), and are in compliance with State Mitigation Regulation NAC 232.400–232.480. However, the analysis does not account for timing or seasonal restrictions or impacts to other species which may require additional offsets or restrictions.

The proposed direct anthropogenic disturbances have been analyzed using the HQT, and the calculation of debits was approved during the Sagebrush Ecosystem Technical Team's (SETT) Quality Assurance review. The SETT does not require any additional quantifications regarding sage-grouse mitigation. All subsequent phases or newly proposed surface disturbance will require a re-running of the HQT to analyze any additional impacts to sage-grouse habitats.

Please do not hesitate to contact me or my staff if you have any questions or concerns.

Sincerely,

Kelly McGowan
Program Manager
Sagebrush Ecosystem Program

Cc: Jason Hines, Bureau of Land Management, Ely District office
Jared Bybee, Bureau of Land Management, Ely District office
Moirra Kolada, Nevada Department of Wildlife, Eastern Region

Agenda Item 6

Attachment F

September 17, 2021

Nevada Department of Conservation & Natural Resources
Kelly McGowan – Sagebrush Ecosystem Program Manager
201 South Roop Street, Suite 101
Carson City, Nevada 89701

Transmitted via email

RE: White Pine Pumped Storage Project Geotechnical Study

Dear Mr. McGowan,

White Pine Waterpower, LLC (WPW), a subsidiary of rPlus Energies, is proposing the licensing, construction, and operation of the White Pine Pumped Storage Project in White Pine County, Nevada, approximately 8 miles northeast of the City of Ely in the Duck Creek Range. The anticipated project would be a 1,000 megawatt, closed-loop, pumped storage hydroelectric facility that would require the construction of two new off-stream reservoirs joined by conduits along with a powerhouse and associated generation, pumping, and transmission equipment.

One of the studies that is required to determine the feasibility of the larger White Pine Pumped Storage Project is a geotechnical study, consisting of exploratory and geotechnical sampling activities, to support the engineering and design of the project. To meet the objectives of the geotechnical study, the testing must be conducted in very specific locations. As shown in Figure 1, the geotechnical study consists of three borings and five test pits.

Borehole B-1, which is entirely within Greater Sage-grouse (GrSG) winter habitat, and all five test pits, can be completed prior to the November 1 seasonal limitation. Boreholes B-2 and B-3 are not within winter habitat, but access to these sites on existing public roads goes through some areas of habitat classified as winter habitat. Figure 2 depicts project activities proposed after November 1.

We have worked since September 2020 with BLM Bristlecone Field Office to obtain an SF-2920 permit to conduct the geotechnical study, including preparing a cooperators review draft, public draft, and final Environmental Assessment (EA). Nevada Department of Wildlife (NDOW) is a cooperator in BLM's process. Over the course of the last year, we have revised boring and test pit locations and access routes (within limits of study objectives) based on potential resource impacts (including potential impacts to GrSG and their habitat), obtained GrSG credits to offset impacts to GHMA habitat, and committed to numerous conditions in the permit.

The geotechnical study will require up to 120 days to complete due to the time necessary to drill deep boreholes at B-2 and B-3. There are 45 days in the calendar year when there are no seasonal restrictions for GrSG – from September 15 to November 1. The BLM Decision Record for this project states that, *“White Pine Waterpower will require a waiver from winter seasonal restrictions or an exception for Net Conservation Gain in designated Winter Habitat prior to conducting project activities in Designated Winter habitat between November 1 and February 28”*.

BLM requested a winter seasonal waiver from NDOW on August 23, 2021. Staff of the NDOW Habitat Division in Ely denied BLM's request for the waiver by letter dated August 23, 2021, and we note that you were copied on this correspondence. Therefore, WPW requests a hearing before the Sagebrush Ecosystem Council (SEC) during your October 1, 2021 meeting. WPW plans to propose additional minimization measures and alternative mitigation measures to provide for net conservation gain. We

remain open to further meaningful mitigation in order to improve GrSG habitat and support healthy GrSG populations.

The decision timeline is critical for project execution and delays could negate mitigation measures proposed; therefore, WPW commits to providing the Sagebrush Ecosystem Technical Team (SETT) our minimization and mitigation proposals prior to October 1. The SETT will be able to review and analyze proposed mitigation measures ahead of the SEC meeting such that you can advise that day and a decision can be reached during the October 1 meeting.

Regards,

A handwritten signature in black ink, appearing to read "Luigi Resta". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Luigi Resta

White Pine Waterpower, LLC

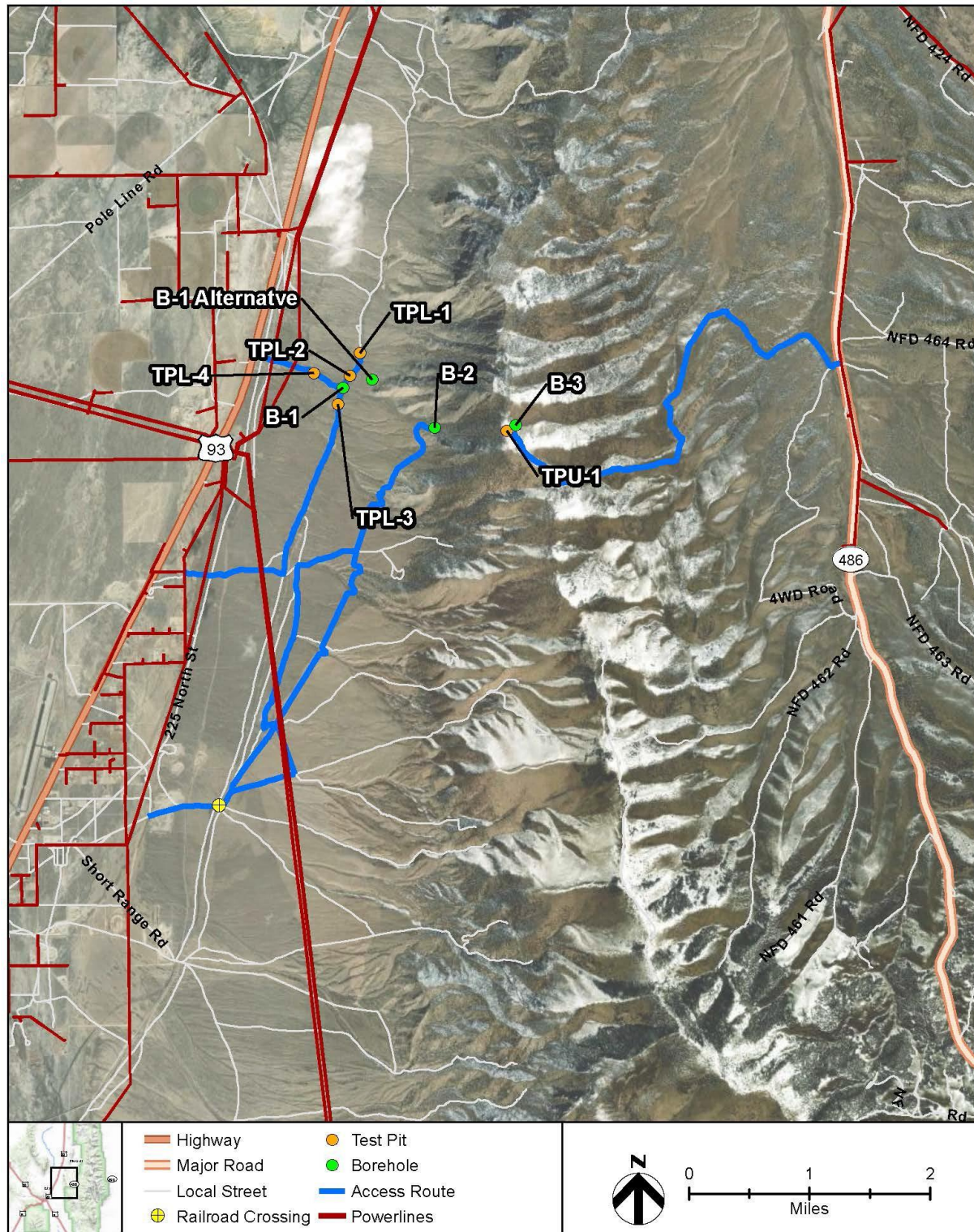


Figure 1: Geotechnical Study Elements

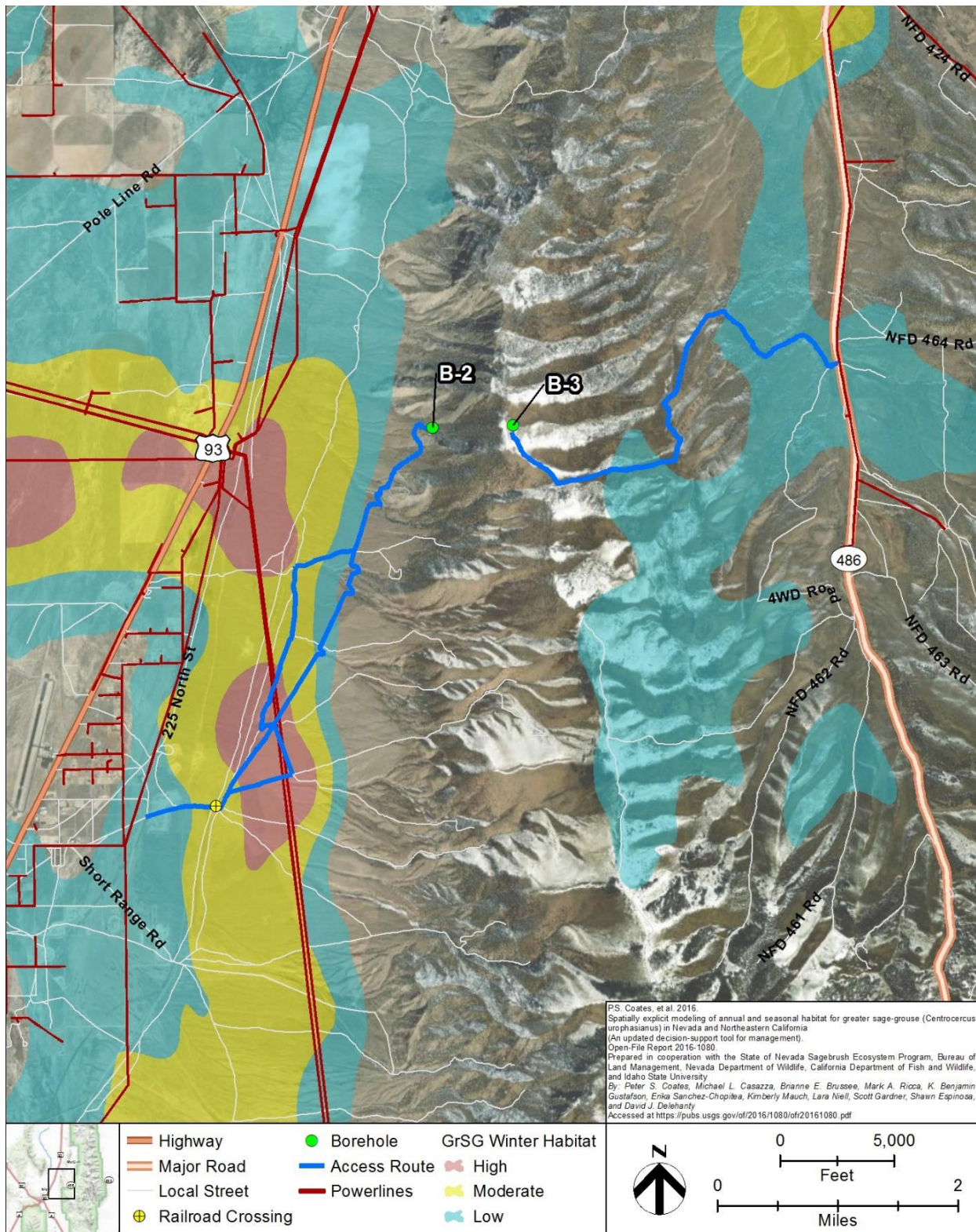


Figure 2: Geotechnical Study Elements after November 1

Agenda Item 6

Attachment G



White Pine Waterpower, LLC
c/o rPlus Hydro, LLLP
201 S Main St, Suite 2000
Salt Lake City, UT 84111

September 21, 2021

Nevada Department of Wildlife
Attn: Tony Wasley, Director
6980 Sierra Center Pkwy #120
Reno, NV 89511

Nevada Department of Conservation & Natural Resources
Attn: Kelly McGowan – Sagebrush Ecosystem Program Manager
201 South Roop Street, Suite 101
Carson City, Nevada 89701

Via email to: twasley@ndow.org and kmcgowan@sagebrushco.nv.gov

RE: Request for Winter Seasonal Waiver for White Pine Waterpower, LLC Geotechnical Study Activities

Dear Mr. Wasley and Mr. McGowan

White Pine Waterpower, LLC (WPW or Proponent), a subsidiary of rPlus Hydro, LLLP (rPlus), a highly experienced developer of large scale renewable energy and energy storage facilities, acknowledges receipt of the letter dated August 23, 2021 from the Nevada Department of Wildlife (NDOW) to the Bureau of Land Management (BLM) Bristlecone Field Office denying grant of a waiver to the 2015 Nevada and Northeastern California Greater Sage-Grouse (GrSG) Approved Resource Management Plan Amendment (2015 ARMPA) Winter Timing Limitation (the "waiver"). The requested waiver, which is supported by BLM, is for winter seasonal use per Management Decision SSS 3D of the 2015 ARMPA and would allow the Proponent to obtain a Notice to Proceed (NTP) from the BLM for geotechnical sampling and exploration activities on BLM-managed lands, with certain activities taking place between November 1 and February 28 (Proposed Action, SF-2920 NVL0600, N-100140). The Proposed Action is described in the Proponent's Environmental Assessment DOI-BLM-NV-L060-2021-0033-EA (EA). The EA received a Decision Record and Finding of No Significant Impact (FONSI) from the BLM on September 3, 2021.

Overall, the Proposed Action is critical to determining the subsurface characteristics and suitability for the White Pine Pumped Storage Project. WPW would like to bring the below information to your attention as we look for ways to move forward while addressing NDOW's and the Sagebrush Ecosystem Technical Team's (SETT) recently raised concern for potential impact to GrSG winter habitat. This letter includes clarifications of the requested waiver and Proposed Action, consideration for Nevada's broader climate and habitat conservation objectives, justifications for seasonal restriction modification, and additional mitigation measures for consideration.

THE REQUEST

WPW respectfully requests a presentation before the Sagebrush Ecosystem Council (SEC) during its scheduled October 1, 2021 meeting to request that the SEC, with concurrence from NDOW and SETT, consider alternative mitigation to achieve net conservation gain for GrSG winter habitat. In doing so, BLM, NDOW, and the SETT may approve a waiver for the 2015 ARMPA Winter Timing Limitation to carry out portions of the Proposed Activity during the winter season. Specifically, the waiver would allow the Proponent, between November 1 and February

28, to drive along existing roads (approximately 20 trips per day), which cross portions of winter habitat (as defined in P.S Coates, et al. 2016), to reach Borehole B-2 and Borehole B-3, and complete drilling as described below and in the approved EA. To be clear, no borehole drilling would occur within the winter habitat regions. **In support of obtaining a waiver for winter seasonal use, WPW looks forward to working further with the DCNR/SEC/SETT, NDOW, BLM and other agencies to apply further mitigation efforts as described below.**

BACKGROUND ON WHITE PINE PUMPED STORAGE PROJECT AND NEVADA CLIMATE GOALS

Attachment 3 is a chronology of salient events illustrating WPW's agency consultations and efforts-to-date related to the Proposed Action. As described in the EA, WPW is proposing the licensing, construction, and operation of the White Pine Pumped Storage Project in White Pine County, Nevada, approximately 8 miles northeast of the City of Ely in the Duck Creek Range. The anticipated project would be a 1,000 megawatt, closed-loop, pumped storage hydroelectric facility comprised of two new off-stream reservoirs joined by conduits along with a powerhouse and associated generation, pumping, and transmission equipment. WPW has initiated a licensing process for the White Pine Pumped Storage Project with the Federal Energy Regulatory Commission (FERC), the federal agency with jurisdiction over non-federal hydropower projects in the United States. During this process, FERC will ultimately serve as the lead agency under the applicable National Environmental Policy Act (NEPA) and FERC Licensing process. WPW has and will continue to engage stakeholders and conduct resource studies that will inform FERC's and cooperating agency's environmental and developmental analyses and decision regarding license issuance. FERC has assigned Project No. 14851 to the White Pine Pumped Storage Project.

When built, the project will contribute significantly to the local and regional economy and advance Nevada's energy transition progress in alignment with the State of Nevada Climate Strategy and greenhouse gas reduction goals outlined in Nevada Executive Order 2019-22, SB 358, and SB 254. This Executive Order established clear directives related to taking action on climate change, inclusive but not limited to:

"Section 1: State agencies within Executive branch of Nevada government shall collaborate, as applicable, to advance Nevada's climate goals."

"Section 10. The administration shall coordinate as much as possible with federal bureaus and agencies that manage land and natural resources in Nevada to help advance the priorities identified in the Executive Order."

As described in the EA, the Proposed Action would consist of exploratory and geotechnical drilling activities, the results of which will support the ultimate engineering and design of the White Pine Pumped Storage Project.

Due to the unique geophysical requirements for siting pumped storage hydro facilities, geotechnical testing must be conducted in very specific locations. As shown in Figure 1, and as further described in the EA and the section below, the proposed geotechnical study consists of three borings and five test pits.

WPW has been working with the BLM Bristlecone Field Office since June 2020 to obtain an SF-2920 permit to conduct geotechnical studies. Consistent with applicable requirements under NEPA, WPW's work with the BLM has included preparation of a cooperator agency review draft, public draft, and the EA. WPW has appreciated NDOW's participation as a cooperator in BLM's NEPA process. Over the course of the last year, WPW has revised boring and test pit locations and access routes (within limits of study objectives) based on potential resource impacts (including potential impacts to GrSG and their habitat), obtained GrSG credits to offset impacts to GHMA habitat, and committed to the conditions listed in the BLM's Decision Record dated September 3, 2021. Specifically, the Decision Record included a requirement for *"a waiver from winter seasonal restrictions or an exception for Net Conservation Gain in designated Winter Habitat prior to conducting project activities in Designated Winter habitat between November 1 and February 28."*

As described in the EA, it is anticipated that the Proposed Action (planned to commence as early as October 4, 2021, subject to NTP from BLM, and conclude in approximately mid-February 2022) would cause minimal impact to GrSG. Per the guidance of the SETT, the Proponent has, among other efforts, conducted analysis as required by Nevada Mitigation Regulation 232.400-232.480 and used the Habitat Quantification Tool (HQT) to calculate and purchase nine Conservation Credit System (CCS) credits. **It is WPW's view that it has met the applicable mitigation requirements under the 2015 ARMPA through purchase of CCS credits, however WPW is willing to work with NDOW to apply further mitigative measures as further described below.**

PROPOSED ACTIVITY AND JUSTIFICATIONS FOR SEASONAL RESTRICTION MODIFICATION

The Proposed Action, as described in detail in Section 2.2 of the EA, would include three borings (B-1, B-2, B-3), five test pits (TPU-1, TPL-1, TPL-2, TPL-3, TPL-4), and a temporary staging area. WPW would use existing roads to perform the geotechnical study and no new roads would be constructed.

The Proposed Action will require up to 120 days to complete due mainly to the time necessary to drill deep boreholes at B-2 and B-3. There are 45 days in the calendar year, between September 15 and November 1, when there are no seasonal restrictions for GrSG. During the EA scoping period, biologists indicated that of any seasonal restriction periods, the winter period between November 1 and February 28 would be the next-best alternative for completing the Proposed Action, as opposed to other seasonal restriction periods. As discussed with BLM and NDOW/SETT, 45 days is enough time to complete the work at B-1 and the test pits, however it is insufficient time to complete all the Proposed Action, specifically at B-2 and B-3 – work at these sites would need to occur during the winter season.

Borehole B-1 and Lower Test Pits 2, 3 and 4 are located within “moderate-quality” winter habitat¹. Lower Test Pit 1 is located within “low-quality” classified winter habitat. **With an October 4 issuance of the permit by BLM, we can complete all geotechnical study in the B-1 and TPL locations prior to November 1, completely avoiding activity at those locations during the GrSG winter season.**

Boreholes B-2 and B-3 and Upper Test Pit 1 are situated outside of winter habitat, but access to these sites would utilize existing roads, portions of which cross through winter habitat¹. Work at B-2 and B-3 would also begin by October 4, 2021, however it would require up to 120 days to complete due to the time needed for drilling deeper boreholes. If it is NDOW's practice to use the winter habitat areas available in P.S. Coates, et al. 2016¹ as shown in Figure 2, then Boreholes B-2 and B-3 are *not* within GrSG winter habitat. It is only portions of the access routes to these sites over existing public roads that overlap with winter habitat, and that is largely low-quality winter habitat. Denying a waiver for activities in GrSG winter habitat that amount to travel over existing roads where public travel is not restricted seems unfounded.

- Access to B-2 would cross approximately 0.7 to 1.3 miles of access through winter habitat classified as “high quality”, approximately 0.9 to 1.6 miles of access through winter habitat classified as “medium quality” and approximately 1 miles through winter habitat classified as “low quality”. As put forth in the EA, approximately twenty (20) trips would occur each day for the duration of the activity.
- Access to B-3 would cross approximately 1.7 miles of access through winter habitat classified as “low quality”¹. As put forth in the EA, approximately twenty (20) trips would occur each day for the duration of the activity.

¹ Available in *Spatially explicit modeling of annual and seasonal habitat for greater sage-grouse (Centrocercus urophasianus) in Nevada and Northeastern California—An updated decision-support tool for management* (P.S. Coates, et al. 2016, [ofr20161080.pdf \(usgs.gov\)](https://www.usgs.gov/media/publications/20161080.pdf))

Figure 1 attached illustrates all of the locations of the Proposed Action that would commence by October 4, 2021 subject to NTP from the BLM. Figure 2 illustrates only those portions of the Proposed Action (B-2 and B-3) that would continue after November 1.

Regarding the remaining geotechnical study locations, the 2015 ARMPA describes the winter restrictions for PHMA and GHMA in MD SSS 2 and MD SSS 3, respectively. All boring and test pit locations are in GHMA. The vast majority of the access routes are in PHMA and GHMA, with only a short segment of access route in OHMA.

If NDOW is relying on the 2015 ARMPA (and not the 2016 model from Coates et al.) to guide a decision on seasonal restriction modification, it seems a modification may be justified due to “local variations” (MD SSS 2 and 3) in the vicinities of B-2 and B-3 access routes. For the B-3 access route, “long/heavy winter” (MD SSS 2 and 3) conditions may exist, permitting modification to the winter restriction under MD SSS 2 and MD SSS 3. And for the B-2 access route, local variations may include presence of existing public roads open to vehicular use, a generally heavy anthropogenic presence that has resulted in habitat degradation, and lack of any documentation of GrSG in these locations.

We remain open to further meaningful mitigation requirements to improve GrSG habitat and support healthy GrSG populations.

PROPOSED MITIGATION UPDATES

Subject to further discussion with NDOW/SEC/SETT, WPW would like to consider the following mitigation strategies, in addition to the CCS Credits which it has already purchased, in support of obtaining a winter waiver. **It should be noted the mitigations clarified in this letter are slightly modified from the Form for Proposed Activities in GRSG Habitat Management Areas request previously submitted on August 23, 2021 by the BLM and result in overall less activity occurring during the winter habitat period.**

- Complete activities at B-1 and all 5 test pits prior to November 1. In the previously considered waiver request, NDOW/SEC/SETT factored activity at B1 and Test Pits 2, 3, 4. Eliminating activity at B1 and the Test Pits should be considered as favorable, and the impact calculations should be updated.
- Include one or more full-time environmental monitors on-site during the Proposed Action activities occurring between November 1 and February 28 to monitor and ensure there is no “take” of GrSG or other special status species during work.
- Purchase of additional CCS credits.
- Further collaboration with NDOW/SETT to identify credit generating actions or compensatory mitigation, such as riparian habitat enhancement and conifer removal, or other credit generating actions on federal lands.
- Additional habitat quantification efforts to support NDOW’s scientific efforts to develop habitat conservation methods that also consider the successful development of large-scale energy storage facilities in support of Executive Order 2021-18.

In closing, it is WPW’s view that the NDOW, along with the divisions of the DCNR, BLM and other public lands stewards, are uniquely positioned to affect the diverse benefits held in Nevada’s public lands, particularly through collaboration with developers of renewable energy, thereby supporting progress in the energy transition and

mitigation of the threats of climate change. WPW notes that such collaboration is part of NDOW's specific charter per the recent Executive Order 2021-18 and the establishment of a new Habitat Conservation Framework. WPW looks forward to working collaboratively with NDOW and related agencies to ensure encompassing and equitable outcomes for Nevadans and the state's wildlife species alike, specifically regarding the integration of large-scale energy storage facilities.

It is WPW's view that, in the absence of any framework for mitigation specific to large scale energy storage development, per the guidance in Nevada Executive Order 2021-18, the NDOW, SEP, SETT and related agencies should work collaboratively with project proponents such as WPW to devise viable alternative mitigation strategies. It is WPW's view that the approval of this specific winter waiver is an example of taking direct action in accordance with the clear guidance issued in Order 2021-18 and previously referenced Executive Orders.

WPW appreciates NDOW and the DCNR/SEP's consideration of the winter waiver. Given the long-lead nature unique to pumped storage hydro development, the decision timeline for the Proposed Action is critical and the overall project may be irreparably harmed due to inability to access this winter season. **In summary, WPW respectfully requests approval of its waiver request and looks forward to discussing further mitigation efforts prior to the October 1 SEC meeting such that the SEC will be able to reach a decision during the meeting.**

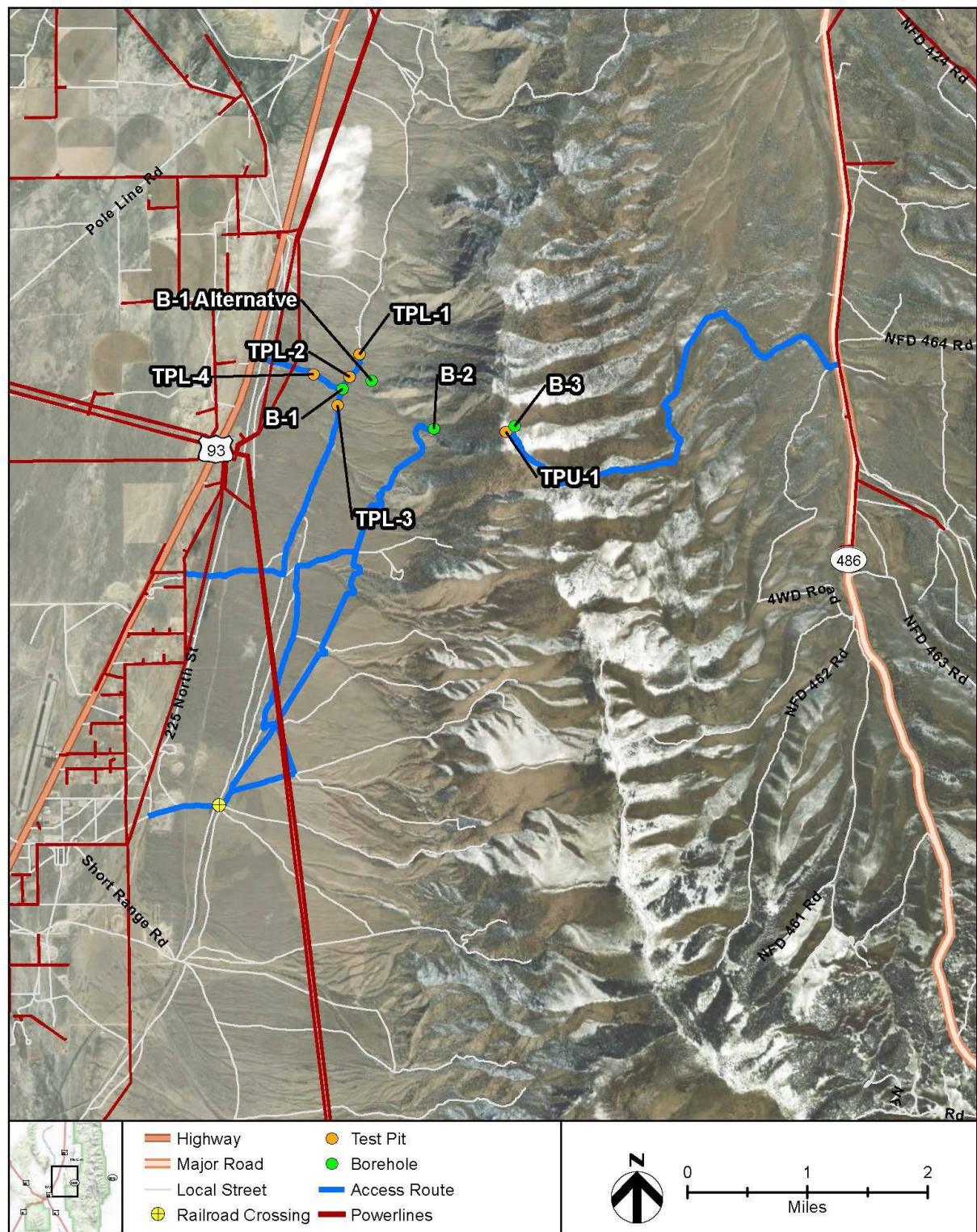
Sincerely,

A handwritten signature in black ink, appearing to read "Luigi Resta", with a stylized flourish at the end.

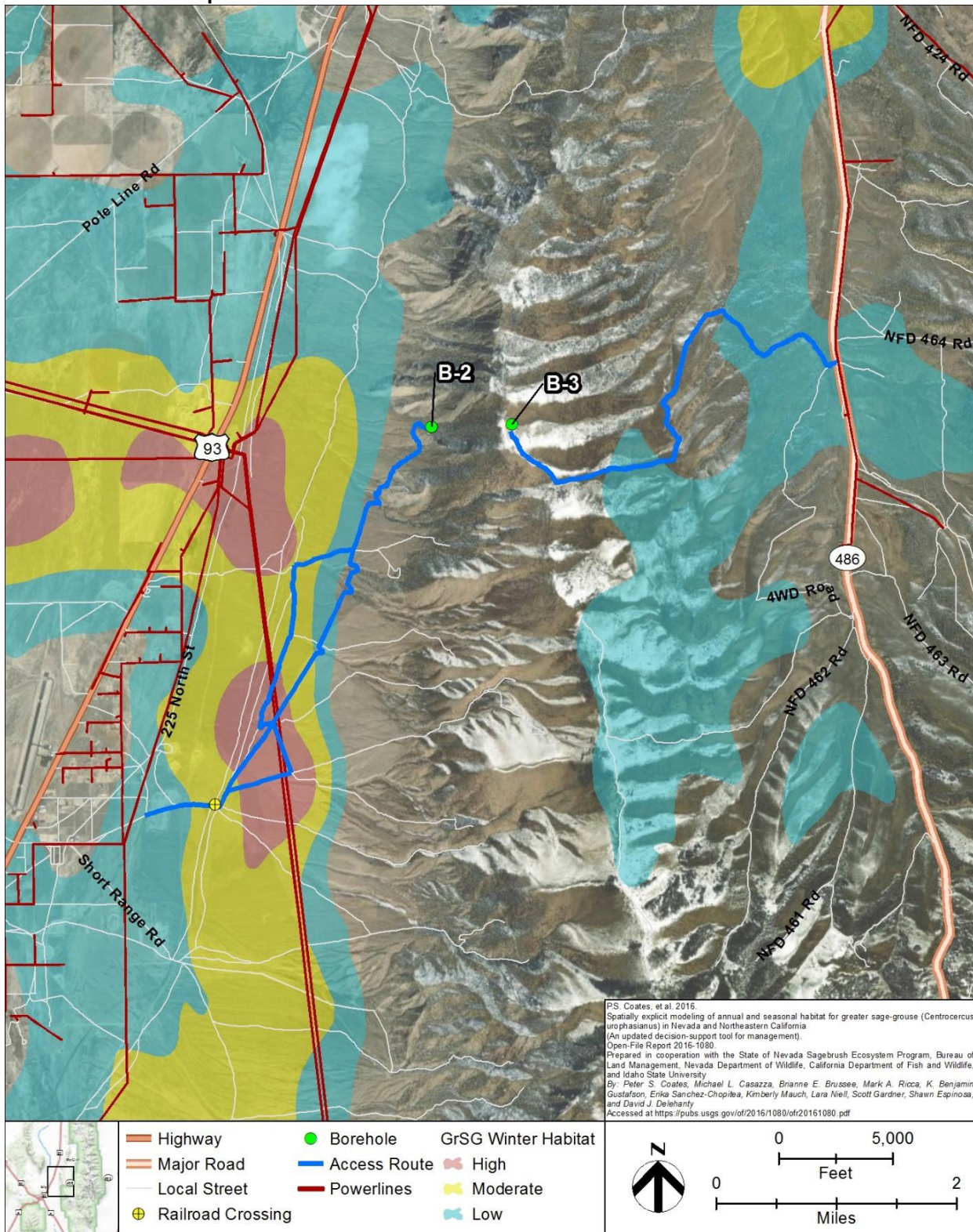
Luigi Resta, President
rPlus Hydro, LLLP

(Attachments)

ATTACHMENT 1 – Map of activities to occur before November 1



ATTACHMENT 2 – Map of activities to occur after November 1



ATTACHMENT 3 - Timeline of coordination among rPlus/WPW, BLM, NDOW, and SEP/SETT:

- On June 23, 2020, rPlus held a meeting with the BLM Bristlecone District staff to introduce and discuss the concept of the need for geotechnical study in support of the White Pine Pumped Storage Project.
- On November 5, 2020, WPW held a consultation meeting with the NDOW to discuss the White Pine Pumped Storage Project, the NDOW sage grouse assessment and mitigation credit system, and other general concerns or questions.
- On November 20, 2020, WPW submitted its initial SF-2920 permit application to BLM (serialized as 2920 NVL0600, N-100140) detailing the proposal for geotechnical study. WPW subsequently worked closely with the BLM to modify the Plan of Development to mitigate impacts, including avoidance of any new construction of linear features.
- On November 23, 2020, WPW submitted a notice of Application for Energy Projects pursuant to Nev. Rev. Stat. 701.610 using the newly revised NDOW Form AB-307.
- On March 9, 2021, WPW circulated its GrSG Lek and Habitat Study Plan to stakeholders, including the NDOW, per the FERC-mandated study process under FERC Project No. 14851.
- On March 19, 2021, WPW received guidance from the Sagebrush Ecosystem Technical Team (SETT) to assess the Geotechnical Study as an exploratory project for the Conservation Credit System (CCS). The desktop analysis was completed and submitted to the SETT on June 4, 2021. The SETT reviewed the analysis and sent a letter on June 11, 2021, confirming that the Geotechnical Study would result in 8 debits.
- On April 19, 2021, WPW submitted its final revised SF-2920 Application to the BLM.
- On May 13, 2021, WPW provided the NDOW with updated 2920 Application map data for review.
- On Thursday May 27, 2021 the BLM had a call to kick off the NEPA process for the geotechnical study. NDOW was identified as a cooperating agency and Kody Menghini (NDOW) and Katie Andrie (SETT) were in attendance on this call.
- Because NDOW is a cooperating agency, a preliminary draft of the EA was sent to NDOW during the week of June 9, 2021 for a 21-day review.
- NDOW comments received on the preliminary draft EA were delivered to BLM and rPlus' NEPA contractor on June 18, 2021. The NEPA contractor incorporated responses to the comments into the public draft EA.
- On July 17, 2021, WPW executed a Mitigation Credit Purchase Agreement with Secret Pass Ranch, LLC for the purchase of nine (9) Conservation Credit System (CCS) credits approved by the Nevada SETT for transfer and sale.
- On July 30, 2021, the BLM published the public draft EA for a 14-day review.

- NDOW submitted comments on the public draft EA on August 13, 2021. In these comments, for the first time, NDOW expressed concern about the habitat mapping in the area and about granting an exception or modification to any seasonal timing restriction.
- On August 23, 2021, the BLM requested from NDOW a seasonal waiver for rPlus' proposed activities in winter GrSG habitat. **In BLM's judgement, a winter seasonal waiver would not result in adverse impacts to GrSG.**
- By letter dated August 23, 2021, NDOW denied BLM's request for the waiver.
- On September 1, 2021, BLM and rPlus held a call with Kelly McGowan of SETT to further coordinate with the SETT.
- On September 10, 2021 the NDOW and WPW fully executed Debit Project Review Form and Credit Fulfillment Summary pursuant to the Nevada Credit Conservation System. WPW secured 10 credits due to the required proximity ratio, as credits were not available for purchase in the same Population Management Unit (PMU) or Biologically Significant Management Unit (BSU) of the Geotechnical Study.
- On September 13, 2021, rPlus, SETT, and NDOW held a conference call in which NDOW stated that no mitigation or minimization measures could be implemented that would allow NDOW to grant a seasonal waiver in winter 2021 or in late summer 2022. Caleb McAdoo, Moira Kolada, and Kody Menghini attended. At this time, NDOW/SETT had based their statements upon calculations run previously to WPW committing to completing B1 and Test Pits outside the Designated Winter seasonal restriction period.]

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Attachment H

Table 2.2. Estimated Anticipated Schedule for Geotechnical Study (Draft EA)

Activity	Anticipated Duration
Road Improvements, B-1 and B-2	1 day for each location
Road Improvements, B-3	1 to 2 day
Mobilization to B-1 and B-2	1 day for each location
Mobilization to B-3	2 days to complete
B-1 Drilling and Testing	13 to 15 working days
B-2 Drilling and Testing	50 to 55 working days (Double shift)
B-3 Drilling and Testing	60 to 65 working days (Single & Double Shift)
Demobilization and Reclamation, B-1 and B-2	1 day for each location
Demobilization and Reclamation, B-3	1 to 2 days
Field Work Completed	150 to 155 working days

Table 2.2. Estimated Anticipated Schedule for Geotechnical Study (Final EA)

Activity	Anticipated Duration
Mobilization of Equipment and Personnel to White Pine County, following Notice to Proceed	Up to 30 days
Existing Road Maintenance, B-1 and B-2	1 day for each location
Existing Road Maintenance, B-3	1 to 2 days
Mobilization to B-1 and B-2	1 day for each location
Mobilization to B-3	2 days
B-1 Drilling and Abandonment	13 to 15 days
Test Pits TPL-1 through TPL-4	1 day for each location
B-2 Drilling and Abandonment	100 to 110 days (single and double shift)
B-3 Drilling and Abandonment	65 to 70 days (single and double shift)
Test Pit TPU-1	1 day
Demobilization and Reclamation, B-1 and B-2	1 day for each location
Demobilization and Reclamation, B-3	1 to 2 days
Proposed Action Completed	Approximately 150 days
Note: Days are single shift unless otherwise indicated.	

Agenda Item 6

Attachment I

**SAGEBRUSH ECOSYSTEM COUNCIL: MITIGATION OF ADVERSE IMPACT TO
GREATER SAGE-GROUSE AND HABITAT**

NAC 232.400 Definitions. ([NRS 232.162](#)) As used in [NAC 232.400](#) to [232.480](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 232.405](#) to [232.450](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.405 “Anthropogenic disturbance” defined. ([NRS 232.162](#)) “Anthropogenic disturbance” means any direct or indirect adverse impact to the greater sage-grouse or the habitat of the greater sage-grouse, as determined by the Sagebrush Ecosystem Council.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.410 “Credit” defined. ([NRS 232.162](#)) “Credit” means a unit of habitat conservation of the greater sage-grouse as quantified pursuant to the habitat quantification tool or other method approved by the Sagebrush Ecosystem Council.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.413 “De minimis impact” defined. ([NRS 232.162](#)) “De minimis impact” means an anthropogenic disturbance for which the adverse impact to the greater sage-grouse or the habitat of the greater sage-grouse has been determined by the Sagebrush Ecosystem Council to be minor or trivial.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.415 “Debit” defined. ([NRS 232.162](#)) “Debit” means a unit of loss or degradation of habitat of the greater sage-grouse caused by an anthropogenic disturbance as quantified pursuant to the habitat quantification tool.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.420 “Greater sage-grouse” defined. ([NRS 232.162](#)) “Greater sage-grouse” means the species of bird classified as *Centrocercus urophasianus*.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.423 “Habitat quantification tool” defined. ([NRS 232.162](#)) “Habitat quantification tool” means the science-based method of calculating debits and credits in the Nevada Conservation Credit System.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.430 “Mineral exploration” defined. ([NRS 232.162](#)) “Mineral exploration” means the exploration of gas, oil, coal and other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand, gravel, road material, building stone,

chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, precious metals, base metals and industrial minerals.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.433 “Nevada Conservation Credit System” defined. ([NRS 232.162](#)) “Nevada Conservation Credit System” means the system established by the Sagebrush Ecosystem Council pursuant to [NRS 232.162](#) that calculates:

1. Debits that will be caused by a proposed activity or a project.
2. Credits that are created to protect, enhance or restore sagebrush ecosystems.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.438 “Program Manager” defined. ([NRS 232.162](#)) “Program Manager” means the program manager of the Sagebrush Ecosystem Technical Team.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.440 “Public lands” defined. ([NRS 232.162](#)) “Public lands” means all lands within the exterior boundaries of the State of Nevada except lands to which title is held by any private person, private entity or local government.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.445 “Sagebrush Ecosystem Council” defined. ([NRS 232.162](#)) “Sagebrush Ecosystem Council” means the Sagebrush Ecosystem Council created by [NRS 232.162](#).

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.447 “Sagebrush Ecosystem Technical Team” defined. ([NRS 232.162](#)) “Sagebrush Ecosystem Technical Team” means the interagency technical team created by the Governor pursuant to Executive Order No. 2012-19 to support the Sagebrush Ecosystem Council.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.450 “Verifier” defined. ([NRS 232.162](#)) “Verifier” means a person trained and certified by the Sagebrush Ecosystem Technical Team to use the habitat quantification tool for the purpose of calculating:

1. The debits related to an anthropogenic disturbance; and
2. The number of credits necessary to offset such debits.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.460 Applicability. ([NRS 232.162](#))

1. Except as otherwise provided in this section and to the extent it is not prohibited by federal law, the provisions of [NAC 232.400](#) to [232.480](#), inclusive, apply to any

person or entity that proposes an activity or project on public lands subject to state or federal review, approval or authorization, that will cause an anthropogenic disturbance.

2. The provisions of [NAC 232.400](#) to [232.480](#), inclusive, do not apply to:

(a) A direct anthropogenic disturbance on private lands;

(b) An activity or project which was approved by all relevant federal agencies and state agencies before December 7, 2018, so long as the activity or project maintains compliance with any condition or requirement for any such approval;

(c) An activity or project using a mitigation agreement or framework agreement for greater sage-grouse signed by the United States Fish and Wildlife Service before December 7, 2018, and any amendments thereto;

(d)) A mineral exploration project which is limited to a surface disturbance of not more than 5 acres;

(e) An activity or project that:

(1) Is necessary to protect public health or safety; or

(2) Will have a de minimis impact to greater sage-grouse and sagebrush ecosystems in this State; or

(f) Any emergency activity or routine administrative activity that:

(1) Is performed by a federal agency, state agency, local government or utility for a public purpose; and

(2) Does not require any additional approval from the Federal Government or the State.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.470 Duties of person or entity proposing activity or project on public lands that will cause anthropogenic disturbance; submission of certain information to Sagebrush Ecosystem Technical Team; criteria for approval of mitigation plan by Council. ([NRS 232.162](#))

1. Any person or entity that proposes an activity or a project on public lands, subject to state or federal review, approval or authorization, that will cause an anthropogenic disturbance shall:

(a) Submit to the Sagebrush Ecosystem Technical Team sufficient information for determining the adverse impact the proposed activity or project will have to the greater sage-grouse or the habitat of the greater sage-grouse, including, without limitation, geographic information system data files and work with the Sagebrush Ecosystem Technical Team to avoid and minimize such adverse impact to the greatest extent possible; and

(b) Have the direct and indirect impacts of the anthropogenic disturbance:

(1) Quantified by a verifier in terms of the number of debits that the activity or project will cause. Upon completion of his or her calculations, the verifier shall submit the calculations to the Program Manager. The Program Manager shall use the habitat quantification tool and available field data to conduct a quality assurance of the

calculations of the verifier not later than 30 days after the verifier submits his or her final calculations to the Program Manager. If there is a difference between the calculations of debits by the verifier and Program Manager, the Program Manager will work with the verifier to finalize the calculation. If there is still a difference between the calculations of debits by the verifier and the Program Manager, the calculations of debits by the Program Manager apply to the activity or project; and

(2) Mitigated by:

(I) Acquiring from or transferring a sufficient number of credits in the Nevada Conservation Credit System to offset the number of debits determined pursuant to subparagraph (1); or

(II) Developing a mitigation plan with the Sagebrush Ecosystem Technical Team approved by the Sagebrush Ecosystem Council pursuant to subsection 2 that will generate enough credits to offset the direct and indirect adverse impacts the proposed activity or project will have to the greater sage-grouse or the habitat of the greater sage-grouse.

2. In determining whether to approve a mitigation plan, the Sagebrush Ecosystem Council must consider:

(a) The conservation actions that are included in the plan and the number of credits to be generated from such conservation actions;

(b) The location where the credits will be generated;

(c) The length of time necessary to generate the credits;

(d) The length of time the credits will be maintained;

(e) Whether the credit durability provisions of the plan include appropriate mechanisms to ensure that a sufficient number of credits will be maintained for the appropriate amount of time; and

(f) Whether the financial provisions ensure maintenance of the credits for the duration of the activity or project.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.475 Issuance of certification of mitigation by Program Manager; compliance with terms set forth in certification. ([NRS 232.162](#))

1. Not later than 10 working days after completion of the process set forth in [NAC 232.470](#), the Program Manager must issue to the person or entity that is proposing the activity or project a certification of mitigation that sets forth:

(a) The number of credits that the person or entity will acquire from or transfer to the Nevada Conservation Credit System; or

(b) The mitigation plan approved by the Sagebrush Ecosystem Council pursuant to [NAC 232.470](#) that will mitigate the direct and indirect adverse impacts that the proposed activity or project will have to the greater sage-grouse or the habitat of the greater sage-grouse.

2. The person or entity to whom a certification of mitigation is issued must ensure compliance with the terms set forth in the certification of mitigation for the duration of the activity or project.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

NAC 232.480 Training and certification of verifiers by Sagebrush Ecosystem Technical Team; maintenance of list of trained and certified verifiers. ([NRS 232.162](#)) The Sagebrush Ecosystem Technical Team shall:

1. Train and certify persons to be verifiers; and
2. Maintain a list on the Internet website of the Sagebrush Ecosystem Program of all verifiers who have been so trained and certified for the current calendar year.

(Added to NAC by Sagebrush Ecosystem Council by R024-19, eff. 10-30-2019)

Agenda Item 6
Attachment J

SEASONAL RESTRICTIONS

E. Seasonal restrictions will be applied during the period specified below to manage discretionary surface-disturbing activities and uses on public lands to prevent disturbances to GRSG during seasonal life-cycle periods:

1. In breeding habitat within 4 miles of active and pending GRSG leks from March 1 through June 30
 - a. Lek—March 1 to May 15
2. Approved Resource Management Plan Amendment September 2015 Nevada and Northeastern California Greater Sage-Grouse Approved RMP Amendment 2-9
 - b. Lek hourly restrictions—6 p.m. to 9 a.m.
 - c. Nesting—April 1 to June 30
2. Brood-rearing habitat from May 15 to September 15
 - a. Early—May 15 to June 15
 - b. Late—June 15 to September 15
3. Winter habitat from November 1 to February 28