Via BLM E-planning (https://eplanning.blm.gov/eplanning-ui/project/2017033/570)

June 23, 2025

BLM Director
Attention: Protest Coordinator (HQ210)
PO Box 151029
Lakewood, CO 80215

Re: Protest of Greenlink North Transmission Project RMP Amendments

Dear BLM Director:

We write to protest BLM's proposed resource management plan amendments to designate a new right-of way for the Greenlink North Project ("project"), and to exempt the project from critical development restrictions in Greater sage-grouse habitat management areas and near sage-grouse leks. Our organizations support the development of energy projects, transmission, and associated infrastructure sited in places and designed in ways consistent with our climate, conservation, and biodiversity goals. We understand that the development of transmission lines and renewable energy generation are necessary to meet our national climate objectives and ensure an equitable shift to a clean energy economy. Our organizations have consistently advocated that BLM ensure that energy development on public lands is done right to ensure that these lands and projects are part of the climate change solution while minimizing conflicts with ecological, environmental, and cultural resources.

The Greenlink North Transmission Line would dramatically and forever change the landscape of central Nevada, along a route currently known as the "Loneliest Road in America," due to the isolation and relative absence of human development. These changes will include the direct construction of transmission infrastructure, as well as a potentially large number of energy production projects dependent upon that infrastructure. BLM has failed to carefully examine, disclose, and analyze the impacts of this project, its connected actions, and its reasonable alternatives in the EIS. In particular, we urge the BLM to revive and complete its analysis of the Fort Churchill to Wells Transmission Alternative described in FEIS Section 2.5.2 in a supplemental EIS.

The FEIS prepared by the BLM fails to fulfill the EIS's purpose to inform the public and decisionmakers of the proposed amendments and project's environmental consequences by eliminating reasonable alternatives without an adequate or lawful basis, ignoring reasonably foreseeable environmental effects of line construction, and by assuming without evidentiary support that those effects would be mitigated, in violation of the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA).

We respectfully request that the BLM deny approval of the amendments and project, unless and until these issues are fully addressed, because approval under the current FEIS would violate NEPA and FLPMA.

Protesting Organizations

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How Protesting Organizations' Interests Would Be Adversely Affected

The **Center for Biological Diversity** ("Center") is a non-profit environmental organization dedicated to the protection of native species and their habitats in the Western Hemisphere through science, policy, and environmental law. The Center has over 1.7 million members and supporters throughout Nevada and the United States, including thousands of supporters who live in Nevada, and who utilize public lands there for recreation and other uses. The Center's Great Basin program focuses on the protection of wildlife and endangered species, the preservation of public lands, and the sustainability of groundwater resources. The Center's members recreate on undisturbed public lands within and around the Greenlink North project area, and enjoy viewing and studying plant and wildlife species in these areas, including sagebrush and Greater sage-grouse. The Greenlink North Preferred Alternative, including the proposed amendments to allow a new right-of-way in areas where transmission lines are currently excluded due to declining sage-grouse populations, would adversely affect the Center's and its members' interests in quiet recreation, aesthetic enjoyment, and spiritual connection in a relatively undisturbed natural landscape; and in viewing and/or studying sage-grouse and other wildlife and plant species. In addition, the amendments would adversely affect the Center's Nevada members' interests in avoiding electric rate increases for costly and unnecessary projects that do not serve Nevada ratepayers.

Backcountry Hunters & Anglers (BHA) is a non-profit conservation organization that seeks to ensure our North American outdoor heritage of hunting and fishing in a natural setting, through education and work on behalf of wild public lands, waters, and wildlife. Founded by sportsmen and women who recognized the need to safeguard our outdoor traditions, BHA represents hunters, anglers, and outdoor enthusiasts who value solitude, habitat integrity, and the freedom to roam on our shared public lands. BHA's members have long cherished the remote landscapes of central Nevada for their outstanding opportunities for hunting, fishing, and quiet recreation. Development of the Greenlink North project would harm BHA's members' enjoyment of these activities. The proposed Greenlink North project threatens to fragment intact sagebrush-steppe ecosystems, degrade critical Greater sage-grouse habitat, and compromise the wild character of places that define Nevada's backcountry. BHA believes that alternative routes exist that could meet energy transmission needs while minimizing harm to wildlife and the wild landscapes that our members hold dear.

The **Coalition for Nevada's Wildlife** (Coalition) is the policy, issue, and lobbying arm of sportsmen in northern Nevada. The Coalition's board of directors are typically the presidents or directors of the major sportsmen organizations representing big game, fishing, upland game, waterfowl, trapping, sporting dog, and predator interests. The Coalition's mission is "To Protect and Enhance Our Wildlife Resources While Perpetuating Our Sporting Traditions." The Greenlink North project is a direct threat to sage grouse and should be reconsidered. Sage grouse have previously been considered for listing as a "threatened or endangered species." Listing would have serious negative impacts on all outdoor users including mining, ranching, energy, wildlife conservationist, and outdoor recreationist. This project will only add to the further decline of sage grouse, at which point the Coalition would be failing in its mission. The Coalition recognizes man's need for energy, but with that need comes the responsibility not to harm an already stressed species.

Friends of Nevada Wilderness (FNW) is a non-profit, public interest organization dedicated to the conservation of Nevada's wild public lands. Founded in 1984, FNWs mission is "dedicated to preserving all qualified Nevada public lands as wilderness, protecting all present and potential wilderness from ongoing threats, educating the public about the values of and need for wilderness, and improving the management and restoration of wild lands." Friends of Nevada Wilderness has a long history of interest, involvement and partnership with BLM activities with respect to wilderness and lands with wilderness character, habitat management, riparian areas, fish and wildlife, recreation and dark sky tourism. FNW's staff and 16,000 supporters regularly use and enjoy our public land throughout Nevada, especially along the Highway 50 corridor, for hiking and camping, dark sky viewing, photography, wildlife watching including the Greater Sage-Grouse, aesthetic enjoyment, and other recreational, scientific, and educational activities. Development of the Greenlink North project would adversely harm FNW's staff and supporters' ability to enjoy these activities.

Nevada Bighorns Unlimited is a nonprofit conservation organization with over four decades of experience supporting Nevada's wildlife and wild places. Our members are deeply committed to responsible, science-based wildlife management policies that promote healthy ecosystems and ethical hunting practices. Our mission is to protect and enhance Nevada's wildlife resources for sportsmen, outdoor and wildlife enthusiasts for this and future generations. Nevada Bighorns Unlimited is opposed to the Greenlink North Preferred Alternative, including the proposed amendments, as it would negatively impact wildlife and the landscape in which our organization value deeply, and harm our members' enjoyment of outdoor recreational activities within and around the project area.

Nevada Wildlife Federation is a non-profit conservation organization that works toward a Nevada with abundant wildlife freely roaming across a healthy sagebrush-steppe ecosystem. Our organization was founded in 1951 by hunters and anglers who saw the need to be the voice for Nevada's wildlife and habitat. If the Greenlink North project proceeds on course, prime sagebrush habitat will be destroyed. Nevada has lost over 70% of its prime sagebrush habitat over the last 20 years, largely due to wildfires and developments like the Greenlink North Transmission project. This project is also planned through critical Greater sage-grouse habitat, a species that has seen a sharp decline over the past 30 years in Nevada. Over the last 75 years, our members and supporters have enjoyed the remoteness and solitude in the areas marked for development by this project. Development of the Greenlink North project would harm the Federation's members and supporters' enjoyment of these areas. The Nevada Wildlife Federation believes the alternatives that have been rejected can provide the necessary electric grid capacity while safeguarding our state's wildlife and sagebrush habitat.

Statement of the Parts of the Proposed Amendments Being Protested

We object to the following proposed amendments of the Carson City, Battle Mountain District Shoshone-Eureka, and Ely District resource management plans:

(1) designation of a new, approximately 198-mile utility corridor from Ely to Yerington, Nevada, which would be up to 3,500 feet in width, to exempt the project from the prohibition on new rights-of-way in Greater sage-grouse "hard trigger" areas, *see* 2015 Nevada and

Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment ("2015 ARMPA"), Appendix J & MD SSS 20;

(2) exemption of the project from the 3.1-mile lek avoidance buffers, 2015 ARMPA, Appendix B & MD SSS 2(D), MD SSS 3(C); and

(3) exemption of the project from a seasonal restriction on development in winter habitats (November 1 to February 28) that would affect the timing of the project's geotechnical investigations, construction, O&M, and decommissioning activities, 2015 ARMPA, MD SSS 2 (E), MD SSS 3(D).

Issues Being Protested

The following issues were raised in our organizations' (together, "Center") prior scoping and/or DEIS comments. Those comments are submitted in Attachments 1-6 to our protest.

I. The FEIS's Analysis of the RMP Amendments Is Inadequate under NEPA

A. The FEIS Fails to Consider a Reasonable Range of Alternatives and Arbitrarily Eliminated an Alternative Route Along I-80

The FEIS fails to consider reasonable alternatives to the Project. Under NEPA, "[a]gencies are required to consider alternatives in EISs and must give full and meaningful consideration to all reasonable alternatives." *Te-Moak Tribe of West Shoshone of Nev. v. U.S. Dep't of Interior,* 608 F.3d 592, 601-02 (9th Cir. 2010); *Native Ecosystems Council v. U.S. Forest Serv*., 428 F.3d 1233, 1245 (9th Cir. 2005); *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1229 (9th Cir. 1988); 42 U.S.C. § 4332(2)(E). "Informed and meaningful consideration of alternatives" is "critical to the goals of NEPA," ensuring that agency decision-makers assess a project's costs, benefits, and environmental impacts in the correct context. *Bob Marshall Alliance*, 852 F.2d at 1228-29. Whether an alternative is reasonable and should have been considered by the agency…depends on the "nature and scope of the proposed action." *Id.* at 1246-47 (citations omitted); *Native Fish Soc. v. Nat'l Marine Fisheries Serv.*, 992 F. Supp. 2d 1095, 1110 (D. Or. 2014).

1. <u>The Project Purpose and Need Are Too Narrowly Defined and Vague</u>

The purpose and need of the project are too narrowly defined in terms of the project applicant's goals, as follows:

> To construct, operate, maintain, and decommission a system of transmission facilities and associated infrastructure that would transmit electricity between the Fort Churchill and Robinson Summit Substations on BLM-administered lands and on BLM and DOD jointly administered lands in the Dixie Valley Training area. The need for this action is to fulfill the BLM's responsibility under the FLPMA and BLM's ROW regulations to manage BLM-administered lands for multiple use and sustained yield (hereafter identified as multiple use), including transmission of electric energy…
>
> As proposed, the GLNP would not conform to the resource management plans (RMPs) for the BLM Carson City, Battle Mountain, and Ely District Offices, as required by 43

> CFR 1610.5-3(a). The BLM would need to amend these RMPs to bring the GLNP into conformance. In particular, the Proponent's proposed transmission line would not conform with the management objectives of the planning area for transmission lines greater than 100 kV. The purpose of the RMPA is to ensure that development of the GLNP would conform to the RMPs' provisions, as provided for in 43 CFR 1610.5-3(c), by providing for the designation of a utility corridor and modifying restrictions in greater sage-grouse habitat management areas and in proximity to leks.

FEIS at ES-6-ES-7.

The purpose and need are defined to limit consideration of a route between Fort Churchill and Robinson Summit only, and to amend the RMPs to accommodate the applicant's proposed route. As a result, the FEIS does not consider a reasonable range of alternatives, narrowly limiting alternatives to routes between these two substations. Perversely, BLM fails to consider any alternative that would conform the project to the RMPs, and only considers alternatives that would amend the RMPs to conform them to the applicant's aims. That gets the planning and project approval processes exactly backwards.

If there is a broader goal that this routing would serve, the FEIS does not clearly explain that goal, except to vaguely refer to the applicant's goal to "increase transmission redundancy." FEIS at 2-29. The FEIS also fails to explain why routing between these two substations is necessary to achieve that goal. It is also entirely unclear whether the goal of increased redundancy is even in the public interest or would create *unnecessary* redundancy where several transmission lines already cross central Nevada, or tie into the Robinson Summit substations (or are planned to tie in there). *See, e.g.*, FEIS at 2-28 ("multiple 345 kV, 120 kV, and 60 kV transmission lines and circuits [are] near the existing Oreana, Limerick, Lonetree, and Robinson Summit Substations."). The Robinson Summit Substation also connects to the Southwest Intertie Project SWIP and the TransCanyon Cross-Tie, both lines that export energy to users outside of Nevada and that cross in the already existing Wells Substation.[1] The FEIS does not address whether having yet another line tie into the Robinson substation is even desirable given the many lines that already tie in there. If that hub were to fail, it is uncertain if the Nevada and interstate grid would be resilient to that major disruption.

2. BLM Arbitrarily Eliminated Consideration of an Alternative Route Along I-80

The FEIS fails to establish why, if the proposed project does not conform to the RMPs, it cannot be re-routed to conform to the RMPs, such as a route from Fort Churchill to Wells following Interstate 80, an already existing energy corridor and major cross-country byway through the entirety of Nevada. If constructed this way, the line could either tie into the SWIP line that is already planned to go from Wells to the Robinson Summit substation ("I-80 alternative"; or, extend south to the Robinson Summit Substation, Greenlink North's already planned endpoint. *See* Center for Biological Diversity, Map of Greenlink North Alternatives, attached as Exhibit C.

The I-80 alternative would significantly reduce impacts on greater sage-grouse. Because I-80 is already a well-traversed path, the rerouting of the project here would minimize and avoid impacts on already declining sage-grouse populations. In fact, the most profound effect of the

[1] *See* openinframap.org/#11.75/41.1331/-114.9516, last accessed on June 19, 2025.

proposed project area across Highway 50 would be that of reduced populations of this already dwindling species. Report of biologist and sage-grouse expert Allison Jones ("Jones report"), attached as Exhibit F, at 2. Because the preferred alternative would deter sage-grouse from their mating, nesting and brood-rearing grounds, it is almost certain that the population of greater sage-grouse across Central Nevada would dwindle to dangerous levels, if not entirely extirpate populations altogether. *Id.* at 13.

The Center raised the I-80 alternative in its comments on the DEIS, and asked that BLM clarify the DEIS's statement that the I-80 alternative "would not meet the purpose and need to transmit electricity between the Fort Churchill and Robinson Summit Substations. Electricity transmission between these two points is necessary to meet the Proponent's goals, especially to increase transmission redundancy." *See* FEIS at C-22. But the same vague and conclusory language can be found again in the FEIS entirely unchanged. FEIS at 2-30. The FEIS fails to state what transmission services/area Greenlink North would need to be redundant with, and why that same need could not be achieved by routing the transmission line along Interstate 80. In general, it is wholly unclear from the FEIS exactly where and what GLN will serve to begin with.

Further, BLM responded circularly that if a line were built along I-80 between Fort Churchill and Wells, "in order to address the Proponent's redundancy requirement, a new 525 kV transmission line would also need to be developed between the Robinson Summit Substation and Wells, Nevada." *See* FEIS at C-22. This response again fails to answer why the line must tie into Robinson substation "to increase transmission redundancy."

The FEIS also fails to address why the planned Southwest Intertie Project (SWIP) North line between the Wells and Robinson substations could not provide the needed redundancy, as suggested in the Center's DEIS comments. FEIS at C-22. According to a public filing, Nevada Energy has contracted for nearly half of SWIP North's 2,000-MW capacity in each direction:

> The Western Electricity Coordinating Council (WECC) has approved a path rating for the SWIP-North Line of 2,070 megawatts (MW) in the north-to-south direction and 1,920 MW in the south-to-north direction. The ownership, maintenance, and operation of the SWIP-North Line—including the treatment of its transmission capacity—will be governed by the Second Amended and Restated Transmission Use and Capacity Exchange Agreement (TUA) by and among Nevada Power Company and Sierra Pacific Power Company (i.e., NV Energy, as noted above), Great Basin, and GBT South that has been revised or supplemented several times in amendments accepted by the Commission.
>
> Under the currently effective TUA, completion of the SWIP-North Project will trigger a capacity swap that will result in Great Basin receiving over half of the above-listed transmission capacity on the SWIP-North Line—specifically, 1,117.5 MW north to south and 1,072.5 MW south to north—with NV Energy holding the balance of the SWIP-North Line transmission capacity.[2]

[2] California Independent System Operator Corporation, Letter to FERC re Filing of Development Agreement Between the CAISO and Great Basin Transmission, LLC Regarding SWIP-North Transmission Project, Request for Waiver of Notice Requirement, and Request for Privileged Treatment (Nov. 22, 2024), available at https://www.caiso.com/documents/nov-22-2024-

In other words, "NV Energy will hold 952.5 MW of SWIP-North Line transmission capacity north to south and 847.5 MW of SWIP-North Line transmission capacity south to north."[3] But the FEIS does not address why Nevada Energy could not use the SWIP-North line, in conjunction with the Churchill-to-Wells I-80 route, to support its need for transmission redundancy. Potentially, given Nevada Energy's rights to this significant available capacity, no new line between Wells and the Robinson Summit substation would need to be built to have transmission redundancy between Wells and Robinson substation.

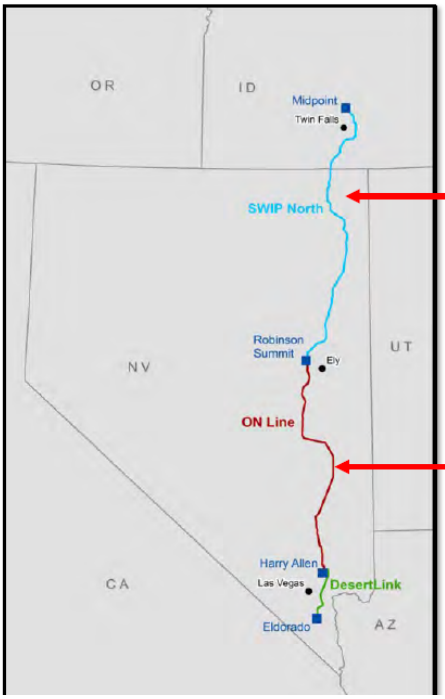
In any case, if building an additional line between Wells and Robinson Summit would be required to meet the project need to increase transmission redundancy—and would in fact meet the project need, as BLM says—BLM fails to take the next logical step of addressing whether development of the additional line would be feasible, or why it still need not be considered in the EIS. Potentially that new line could be built within the same ROW as SWIP North,[4] which, would go from Wells to the Robinson substation. And construction of the additional line within an already approved utility corridor would minimize the challenges and costs of developing the new line.

development-agreement-between-great-basin-and-caiso-regarding-swip-north-project-er25-543.pdf; *see also* FERC Docket No. ER20-2295, Second Amended and Restated Transmission use and Capacity Exchange Agreement by and among Nevada Power Company, Sierra Pacific Power Company, Great Basin Transmission South, LLC, and Great Basin Transmission, LLC (June 30, 2020).

[3] *Id*. at 6 n.2; *see also* FERC Docket No. ER20-2295, Second Amended and Restated Transmission Use and Capacity Exchange Agreement.

[4] Idaho Power, Transmission Update (March 13, 2025), available at https://docs.idahopower.com/pdfs/AboutUs/PlanningForFuture/IRPAC_TransmissionUpdate_Mar13.pdf (depicting ROW in SWIP-North figure below).

SWIP Existing Structure



SWIP North
In-Service: ~2028
Developer: GBT

SWIP South
One Nevada (ON) Line
In-Service: 2014
Ownership: 75% GBT, 25% NV

Full SWIP

In addition, the Agency asserts without evidentiary support in the FEIS that the I-80 alternative is not "economically or technically feasible." FEIS at C-24. Again, the FEIS claims that a "new 525 kV transmission line would also need to be developed between the Robinson Summit Substation and Wells, Nevada [and] therefore…[the] transmission alternative was dismissed from detailed analysis." FEIS at 2-30. But this does not state anything technically infeasible about the I-80 alternative (or about building the additional line between Robinson and Wells). Further, the FEIS offers no analysis—even on a surface level—of the alleged economic infeasibility of the I-80 alternative. All that is offered is a comparison of the "cost to Nevada ratepayers" between the proposed action and I-80 alternative, assuming "an estimated $3.2 million per mile of transmission line." FEIS at 2-30. It is unclear how BLM determined that the proposed action is economically feasible and the I-80 alternative is not. "[T]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." *Sierra Club v. Tahoe Regional Planning Auth.*., 916 F. Supp.2d 1098, 1124 (E.D. Cal. 2013) (cleaned up) (invalidating agency's finding as to alternative's infeasibility under NEPA-analogous statute). Moreover, "[t]he agency cannot simply rely on evidence proffered by the project's proponent regarding infeasibility; instead, the agency "'must independently participate, review, analyze and discuss the alternatives in good faith.'" *Id.* at 1125 (citation omitted).

The FEIS also calculates the cost comparison based on the assumption that it would cost "an estimated $3.2 million per mile of transmission line." FEIS at 2-30. But elsewhere in its comparison of the costs of constructing an underground line versus an overhead line, it assumes a cost of $1.8 million for one mile of overhead line, about half the cost assumed in its cost

comparison of the proposed action and the I-80 alternative. The FEIS does not explain this discrepancy between the two per-mile cost estimates.

The FEIS claims in its "comparison criteria" that "The Fort Churchill to Wells, Nevada Transmission Alternative would have similar increases in disturbances on private lands as described under the Revised Northern Alternative, compared with the Proposed Action." FEIS at 2-29. While it is accurate that the I-80 alternative would result in more transmission line route length, the proposed alternative would follow an already established utility corridor that does not impact nearly as many leks for the greater sage-grouse and their obligate habitats, ultimately resulting in decreased habitat disturbance. This is critical, as the population of greater sage-grouse in this area of the Great Basin are "already spiraling downwards and are at distinct risk of extirpation." Ex. F at 13. The I-80 alternative would additionally result in less miles of public lands disturbance, on lands managed by the BLM, Forest Service, DOD, and State of Nevada. *Id*. With respect to the disturbance of the greater sage-grouse habitat management areas themselves, the I-80 alternative would result in a decreased disturbance across the board—a fact that is documented in the FEIS. *Id*. To state that the I-80 alternative would come with "similar increases in disturbances" when the contrary is laid out in the FEIS is misleading at best.

Finally, the FEIS states that the I-80 alternative would come "within 1 mile of the Wells Municipal Airport, which could be an aviation risk due to the height of the towers. However, the Federal Aviation Administration would determine the actual risk." FEIS at C-23. The Center pointed out in its DEIS comments that the risk that any construction like GLN would potentially pose to air traffic is to be evaluated by the Federal Aviation Administration on a case-by-case basis. *Id*. at C-23. The notification of such a project would trigger an aeronautical study in which the FAA would evaluate the effects of the project on operating procedures and determine any hazards to air safety. *Id*. However, there is still no clear answer as to whether or not the BLM consulted with the FAA about the potential aviation risk.[5] BLM cannot dismiss the I-80 alternative on mere speculation that it could pose a hazard to air traffic. BLM does not cite any evidence that construction within one mile would be hazardous to air safety, or that purported effects on air navigation could not be mitigated. And, as the FAA notification procedures establish, that is for FAA to determine, not BLM.

Furthermore, the FEIS fails to disclose that the Wells area already is home to three existing substations with one transmission line running North and the other running East-West.[6] There is no apparent reason why GLN cannot be rerouted to Wells in a manner that would conform with FAA guidance. That the Wells substation has already been proposed for siting in this area (the Fort Churchill to Wells alternative terminates southwest of the airport) suggests that there are feasible means to avoid or mitigate any aviation risks posed by the substation and any transmission lines that would tie into it.

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[5] 14 C.F.R. § 77.9(b)(1)-(2); FAA, Notification of Proposed Construction or Alteration on Airport Part 77, Central Regional Airports Division (last updated June 2023), available at https://www.faa.gov/airports/central/engineering/part77#NewRule.

[6] *See* Open Infrastructure Map, openinframap.org/#11.75/41.1331/-114.9516, last accessed on June 19, 2025.

Overall, the FEIS fails to rationally explain why the I-80 alternative, or this line with an additional line between Wells and Robinson Summit Substation, would not meet the project purpose and need of increasing transmission redundancy, or would not be technically or economically feasible.

B. FEIS does not consider alternatives to the seasonal restriction or mitigation measures

BLM proposes for the first time in the FEIS that the project be exempt from a "seasonal restriction period in winter habitats (November 1 to February 28) that would affect geotechnical investigations, construction, O&M, and decommissioning activities of the GLNP (BLM 2015, MD SSS-3)." FEIS at ES-14.

Based on the FEIS's description, it appears that this seasonal restriction would prohibit development only "in winter habitats" or "winter range" from November 1 to February 28. FEIS at 2-22. However, the FEIS suggests that combined with other seasonal restrictions, the seasonal restriction periods "would result in a 45-day construction window per year (September 16 to October 31) for the GLNP," and claims this window is too narrow for the project to be feasible:

> Approximately 45 miles of the transmission line are outside the greater sage-grouse habitat areas and would not be affected by these seasonal restrictions. Construction of the 235-mile GLNP 525 kV transmission line cannot occur over a 2-to 3-year period with such seasonal restrictions in place. Mobilizing and demobilizing construction activities during a 45-day work window would cause greater environmental impacts and significant increases in project costs. Exempting the BLM utility corridor from the winter habitat seasonal restriction would allow for GLNP geotechnical investigations, construction, O&M, and decommissioning activities to occur between September 16 and February 28 each year and allow any future energy transmission project in the BLM utility corridor to occur during this same period.

FEIS at ES-14. But it is unclear why the construction period would only last 45 days if the winter seasonal restriction only applies to winter range. Under the seasonal restriction, couldn't construction occur in winter habitats in the non-winter season? If so, it is unclear why the exemption is still necessary or why maintaining the seasonal restriction is infeasible. 14,150 acres of winter range would be "temporarily" disturbed, out of a total of 36,830 acres that would be disturbed under the preferred alternative. FEIS at ES-12. Thus, far less than half of the area would be off limits from construction during the winter season and this winter-restricted area could be disturbed the rest of the year (unless other seasonal restrictions apply).

In addition, there is no indication that BLM considered applying the more surgical approach under MD SSS 3, which allows flexibility in seasonal date restrictions based on local conditions: "The seasonal dates may be modified due to documented local variations (e.g., higher/lower elevations) or annual climatic fluctuations (e.g., early/late spring, long/heavy winter), in coordination with [Nevada Department of Wildlife] and CDFW, in order to better protect GRSG and its habitat." 2015 ARMPA at 2-10. There may be variations in local conditions that allow the lifting or modification of the seasonal restriction in certain areas to still allow a sufficient window for wintertime construction without applying this drastic measure to exempt all winter ranges from the seasonal restriction—but the FEIS does not indicate any attempt to consider adjustments based on site-specific conditions.

Certain local areas along the route may provide more valuable winter habitat than others. According to sage-grouse biologist Dr. Clait Braun, sage-grouse need large expanses of snow-exposed sage brush during the winter with low snow-depth and taller sage-brush and may concentrate in those areas:

> Winter habitats (used early December until early or mid-March) are determined largely by the availability of large expanses of snow-exposed sagebrush, which the birds require for both food and cover. Sage-grouse feed almost exclusively on sagebrush during winter. South and southwest slopes or windswept ridges, with low snow depth and taller vegetation height, are often used. Sagebrush height (usually >30 cm above the snow surface) is important, as is the density (>10 to 30 percent canopy cover) of sagebrush stands.
>
> Sage-grouse also tend to concentrate in winter months. Size of sage-grouse flocks increases in September and especially in November into December-January. Males and females tend to form unisex flocks in winter. The number of sage-grouse in flocks can approach 100 but most seem to be 30-50 birds.
>
> Given the specific conditions required for winter survival, sage-grouse must often migrate long distance movements (>10 km) to their winter range. Flocks of sage-grouse are somewhat nomadic in early winter but may remain within chosen areas for periods of several weeks or more, depending on snow cover and depth. Overall movement during winter is often extensive and home ranges can be large. Movement appears to be related to availability of live sagebrush, especially along windswept low ridges, and soft snow suitable for roosting.

Declaration of Dr. Clait E. Braun, *Western Watersheds Project v. U.S. Bureau of Land Management*, Case no. 2:190-cv-00146-SWS (D. Wyo.), Dkt. 40-1 (Sept. 23, 2020), at 3, ¶¶ 11-13, attached as Exhibit G.

Dr. Braun also notes that sage-grouse may congregate in areas where they can ingest alkaline soils and avoid areas of human activity:

> Sage-grouse may also congregate at specific locations on winter range (often associated with alkaline soils and cutbanks) for the purpose of soil ingestion, known as "geophagy." Geophagy of sage-grouse on winter range sites may be important to grouse survival during winter for various reasons, including nutritional supplementation to their winter diet, digestion, detoxification of their sagebrush diet, and relief from endo-parasites. Geophagy sites may influence the selection of winter habitat.
>
> Avoidance of human activity also appears to be a general feature of sage-grouse winter habitat selection. (Dzialek et al. 2012).

Ex. G at 3-4, ¶¶ 14-15.

Given the limited availability of wintering habitat, sage-grouse sensitivity to human-caused disturbance, and their strong site fidelity to wintering areas, Dr. Braun concludes it is critical to protect critical wintering areas from human development:

> It is imperative that critical wintering areas are not compromised by anthropogenic development, for several reasons. First, wintering grounds are typically more limited than

> other seasonal habitats, especially in deep snow regions (Hupp and Braun 1989) or during deep snow periods. Second, the studies of Beck (1977) and (Hupp and Braun 1989) revealed avoidance of areas with repeated human-caused disturbance. Sage-grouse when disturbed had a marked tendency to flush and fly completely from view. Thus, loss or degradation of winter habitat has a disproportionate impact on the species (Beck 1977, Hupp and Braun 1989). These two studies clearly demonstrated that sage-grouse in winter avoided areas with repeated human-caused disturbance. Sage-grouse also exhibit "strong fidelity" to their seasonally used habitats, including wintering areas (Berry and Eng 1985), and may return to disturbed areas even if they can no longer survive there (e.g., to artificially cleared sites, plowed fields, and even lightly used roads and airstrips). Their adaptability to human disturbance in winter and early (prior to 1 April depending upon area and or elevation) spring is limited.
>
> Scientists have thus recommended that human disturbance, such as noise and physical presence of energy exploration, be entirely avoided in sage-grouse winter habitats, particularly known winter concentration areas where sage-grouse may be disturbed and abandon necessary habitat to survive winter conditions. Constant or repeated noise from wells and roads will decrease use of previously occupied habitats.

Ex. G at 4-5, ¶¶ 17-18.

BLM should consider an alternative that:

(1) keeps the seasonal restriction in place in the most important sage-grouse winter habitats throughout the project area, including areas that normally experience less snow cover;

(2) limits noise to 10 dBA above baseline at all hours of the day within at least a half mile of winter habitat;

(3) disallows vehicle traffic during during peak active times within at least a half mile of winter habitat; and

(4) requires surveying and monitoring of winter habitat by a qualified biologist during winter, to determine if sage-grouse are occupying or have been recently present in areas slated for construction, and, if so, avoidance of the site, or, at a minimum, restrictions on noise and vehicle traffic.

The development of part (1) of this alternative should be based on a site-specific analysis of baseline winter habitat conditions, to determine where sage-grouse tend to congregate during the winter and which areas provide the most valuable winter habitat. These may include areas with south and southwest slopes or windswept ridges, with low snow depth and taller vegetation height, and areas that likely contain geophagy sites. Ex. G at 3-4, ¶¶ 11, 14.

Give the potentially significant disturbance of sage-grouse wintering areas and great risk of population-level impacts from the proposed exemption, BLM should also prepare a supplemental EIS to allow the public the opportunity to (1) weigh in on the proposed exemption and its impacts on wintering sage-grouse and local populations, and (2) propose alternatives and mitigation measures to avoid these harms. *See* section II below.

C. The FEIS Segments the Proposed Amendments and the Recently Proposed Robinson Substation Expansion

On May 20, about a week before BLM published the Greenlink North FEIS, BLM issued a public scoping notice for the Robinson Substation Expansion & 525K Interconnection Project and Resource Management Plan Amendment ("Robinson Expansion"). Elements of the Robinson Expansion are already part of the Greenlink North project, but the May 20 Robinson Expansion proposal contains significant new information which must inform BLM's evaluation of the overall impact of Greenlink North due to the interrelated nature of both proposals.

Agencies must consider connected and similar actions in a single EIS. *W. Watersheds Project v. Abbey*, 719 F.3d 1035, 1046 (9th Cir. 2013). "The point of the connected actions doctrine is to prevent the government from segment[ing] its own "federal actions into separate projects and thereby fail[ing] to address the true scope and impact of the activities that **s**hould be under consideration." *Sierra Club v. U.S. Army Corps of Eng'rs*, 803 F.3d 31, 49–50 (D.C. Cir. 2015). Here, Greenlink North encompasses the "Robinson Summit Substation expansion," including a new transmission line going east of the substation. FEIS at 2-6; *see* Map of Robinson substation and Greenlink North, attached as Exhibit H.[7] But instead of fully evaluating the Robinson Expansion in the Greenlink North EIS, BLM unlawfully segmented the project.

In the Greenlink North EIS, the Robinson Substation Expansion was contemplated as a 46-acre expansion and 525kV transmission line, but the independent Robinson proposal has several notable changes not contemplated by BLM for Greenlink including: (I) further expanding the affected area to a new 50 acres of disturbed area (expansion), (II) specifying a new access road (interconnection) and right of way (ROW) and (III) amending the 2008 Ely RMP (as amended) to include a designated utility corridor between the interconnection and expansion locations.[8]

The Robinson Expansion proposal is a connected action to Greenlink North. Connected actions are those "closely related" to a proposed action, and "should be discussed" in the same NEPA document. BLM NEPA Handbook (H-1790-1) § 6.5.2.1 (page numbers 45-48)[9]. BLM guidance directs that connected BLM actions be considered as part of a broader "proposal" analyzed in a single NEPA document. *Id.* Because both the Robinson Substation Expansion and Greenlink North are interconnected BLM actions, they should be considered in a single NEPA document—the Greenlink North EIS.

Actions are connected if they: (I) automatically trigger other actions that may require an EIS; (II) cannot or will not proceed unless other actions are taken previously or simultaneously;

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[7] This map digitizes maps from BLM's scoping notice for the project: Public Scoping Information for Robinson Summit Substation Expansion and 525kV Interconnection Project and Resource Management Plan Amendment, available at https://eplanning.blm.gov/public_projects/2038325/200652475/20134290/251034270/RBS%20Scoping%20Information_20250520.pdf.

[8] BLM, Robinson Substation Expansion & 525kV Interconnection Project and Resource Management Plan Amendment, available at https://eplanning.blm.gov/eplanning-ui/project/2038325/510.

[9] Available at: https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_Handbook_h1790-1.pdf

or (III) if the actions are interdependent parts of a larger action and depend upon the larger action for their justification. *Id.*

BLM has identified the expansion of the Robinson substation as part of Greenlink North, demonstrating the inextricable nature of the two proposals. The project description for Greenlink North states that construction would include the "Robinson Summit 525/345-kV Substation Expansion."[10] The "Robinson Summit Substation Expansion" is listed as a component of Greenlink with a permanent disturbance of 46 acres. FEIS at 2-6. The FEIS further provides that the "existing Robinson Summit 525/345 kV Substation would be expanded to the south of the existing substation; this would require an additional area of approximately 46 acres… The proposed expansion would also require the construction of one new 525kV transmission line getaway." *Id.* at 2-6; 2-12.

It is unclear why BLM has separately proposed, in the May 20 scoping notice for the Robinson Expansion, many of the same elements of the Robinson substation expansion proposed as part of the Greenlink North project. In any case, the projects' interrelated purposes and close proximity in time and distance confirm that the projects are connected actions:

- The stated purpose of Greenlink North is to "construct, operate, maintain, and decommission a system of transmission facilities and associated infrastructure that would transmit electricity between the Fort Churchill and Robinson Summit Substations." FEIS at 1-5.

- The Robinson Summit Substation serves as an endpoint with Greenlink North's transmission line generally following US Highway 50. *Id.* at 2-2; 2-7-2-8.

- An additional line will extend beyond the Robinson substation, which appears to be part of both proposals. The Robinson Expansion proposal includes the construction of a "new 1.3 mile, single circuit 525kV alternating current transmission line connecting to the east side of Robinson Summit Substation."[11] Notably, the "terminus of the GLNP utility corridor would be approximately 1 mile east of the Robinson Summit Substation where it would connect into an existing Section 368 corridor." FEIS at 2-22.

- It appears that the RMP amendment required for Greenlink North is needed to accommodate the Robinson Expansion, as the latter falls squarely within the ROW that would be approved for Greenlink North. *See* Map of Greenlink North and Robinson Expansion projects, attached as Exhibit H; FEIS at A-81.

[10] BLM, Greenlink North Project Page, available at https://eplanning.blm.gov/eplanning-ui/project/2017033/510.

[11] BLM, Notice of Intent to Amend the Resource Management Plan for the Robinson Substation Expansion and 525kV Interconnection Project and Prepare an Associated Environmental Assessment (May 20, 2025), available at https://www.federalregister.gov/documents/2025/05/20/2025-08949/notice-of-intent-to-amend-the-resource-management-plan-for-the-robinson-summit-substation-expansion.

- Construction activities from the Robinson Summit Substation to the Lander Substation would occur "at the same time" and would occur in an "overlapping, sequential manner". FEIS at 2-15.

- It is unclear how the Robinson Expansion would have independent value without Greenlink North—the apparent purpose of the expansion is to facilitate transmission between Greenlink North and other lines.

The Robinson expansion is "interrelated and close in time and place to the project at hand," requiring that they be considered in a single EIS. *See Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, *Colo.*, 145 S. Ct. 1497, 1517 (2025).

The segmentation of these two projects masks potentially significant impacts that would result from these two projects, which both fall within the E-060 neighborhood lek cluster, Ex. H, where a "hard trigger" has been tripped (indicating recent population declines). FEIS at 3-75. Both projects occur within or near PHMA and GHMA. FEIS at A-82; *see also* Ex. _. Greenlink North will involve the upgrading of roads within 4 miles of an active lek,[12] *compare* FEIS at A-50 *with* Ex. H, while the Robinson Expansion will involve the expansion of the substation and construction of a new 1.3 mile line in close proximity to priority habitat surrounding the same lek. Ex. H. The combined impacts from these two projects could push the E-060 neighborhood lek cluster into further decline.

At a minimum, BLM must revise its cumulative impacts analysis to analyze the impacts of the Greenlink North project in connection with the Robinson Expansion.

D. The FEIS Fails to Analyze and Disclose the Environmental Baseline

Agencies must also "study, develop and describe appropriate alternatives," including a no action alternative. 42 U.S.C. § 4332(2)(C). "In general, NEPA analysis uses a no-action alternative as a baseline for measuring the effects of the proposed action." *Biodiversity Conservation All. v. U.S. Forest Serv.*, 765 F.3d 1264, 1269 (10th Cir. 2014). "Without establishing the baseline conditions ... there is simply no way to determine what effect the [action] will have on the environment, and consequently, no way to comply with NEPA." *Half Moon Bay Fisherman's Mktg. Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988).

Understanding the environmental baseline is critical to disclosing the project's impacts and the impacts of alternatives. BLM's NEPA Handbook "recommend[s] that the descriptions of the specific elements [of the affected environment] be quantitative wherever possible, and of sufficient detail to serve as a baseline against which to measure the potential effects of implementing an action." BLM NEPA Handbook H-1790-1, Sec. 6.7.1. BLM must fully analyze the baseline conditions of all potentially affected resources, including surface and ground waters (both quality and quantity), air quality, public and worker health and safety, wildlife, cultural resources, and recreation. BLM FLPMA mining regulations also require detailed baseline information in a proposed plan of operations, which is lacking here. 43 C.F.R. § 3809.401(c).

Federal courts emphasize the importance of establishing the environmental baseline.

> When conducting an environmental analysis of a proposed action under NEPA, an agency compares the action's projected environmental effects to the existing condition of the environment. Through that comparison, the agency can ascertain the magnitude of the proposed action's environmental impacts. The agency's choice of the baseline for comparison matters a great deal. If the baseline is artificially high, the agency might erroneously conclude that even highly disruptive actions will have minimal incremental environmental effects.

Marin Audubon Soc'y v. FAA, 121 F.4th 902, 915-16 (D.C. Cir. 2024). *See also Great Basin Res. Watch*, 844 F.3d 1095, 1101 (9th Cir. 2016) ("Without establishing the baseline conditions ... before a project begins, there is simply no way to determine what effect the project will have on the environment and, consequently, no way to comply with NEPA.") (citations and quotations omitted).

1. Lek Surveys

We have obtained documents from Nevada Department of Wildlife (NDOW) revealing that baseline surveys for greater sage-grouse may have been inadequate and not up to agency standards. The most important component of the baseline surveys for greater sage-grouse is the lek counts. Since leks are an essential component of the reproductive cycle for sage-grouse, and the most sensitive geographic location in their life cycle, since they have lifetime fidelity to the same sites, accurate lek data is essential for fully understanding and disclosing the environmental baseline in an EIS.

NDOW staff found, "a number of poor-quality [lek] counts by consultants," including on Greenlink North:

- "of the 12 lek counts done, only 2 lasted the required 45 minutes (3 counts at 15-minute intervals). Most counts lasted 30 minutes, which does not meet the protocol."
- "three counts were completed after 90-minute post sunrise. Per protocol, leks counts are to be completed by 90-minutes post sunrise."
- "the track logs only show one ground search, but there should be two (one for each count)."
- And as an example of the deficiencies that resulted from these problems: "the Old Hamilton Road lek has been inactive for years. The consultant did counts on 3/15 and 4/1. Incidentally, another individual counting a trend lek in the area documented double digit males at 0.3 miles from the lek point on 4/3, 4/9/ and 4/25." This indicates a lack of effort on the part of the GLN consultants.[13]

Overall, the biologist conducting this assessment noted, "The lack of time spent at leks, ground searches, and the time of year for some of these leks are leading to poor quality data.

[13] Email chain between NDOW staffers involving lek data inconsistencies (Aug. 21, 2024). 15 pp. (NDOW #3). The electronic file name for each document from NDOW is labeled as follows: "NDOW #__"

Obviously, grouse were in the vicinity of some of these leks and not documented by the consultants. It is hard to accept this data for areas that have projects going in when we know the reality is different on the landscape then what the consultants are documenting. When consultants are not following the protocol that is in place that data should not be accepted." Another commenter suggested that Greenlink North greater sage-grouse surveys were, "not an adequate survey effort."[14] In total, one NDOW biologist documented deficiencies at surveys of 24 leks for Greenlink North in 2024.[15]

On August 23, 2024, NDOW wrote a letter to Robinson Wildlife Consulting, Inc., the main sage-grouse biological consultant on Greenlink North, documenting the deficiencies in the surveys.[16] Strangely, however, NDOW decided to accept the data for the 2024 season, despite an NDOW biologist saying in previous correspondence that, "When consultants are not following the protocol that is in place that data should not be accepted. I know this will become an issue, but I am unwilling to enter this data into the database."[17]

The severe deficiencies in the lek data collected by consultants in 2024 calls into question the entire analysis of impacts to greater sage-grouse in the GLN EIS.

2. Ambient Noise Levels

The FEIS fails to analyze whether project activities would have significant noise impacts on sage-grouse. The EIS appears to assume that noise levels of more than 10 dBA above ambient levels would impact sage-grouse during "sensitive hours during the lekking season," but then the FEIS does not measure ambient noise levels on leks. This is critical "baseline" information needed to understand the project's noise impacts. As a result, the FEIS does not analyze the potential noise increase, including whether construction, vehicle, and other noise associated with the project would exceed the 10 dBA threshold.

In response to our concerns that BLM failed to conduct baseline ambient noise surveys for the project area, BLM states it is deferring baseline noise studies until after approval of the project:

> The BLM has incorporated mitigation measures to address increased predation and noise impacts associated with energy development in greater sage-grouse habitat. These measures include … limiting noise levels to less than 10 decibels above ambient levels during sensitive lekking hours and seasons. While the BLM considered the suggestion for a permanent year-round noise limit, the adopted noise measures (see EMMs GRSG-3 and GRSG-21 in Appendix D of the Final EIS/Proposed RMPA) are consistent with the 2015 ARMPA and the Forest Service Greater Sage-Grouse 2015 Record of Decision and focus

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[14] Spreadsheet documenting lek data inconsistencies. July 11, 2024. 2 sheets. (NDOW #4)
[15] Word document documenting lek data inconsistencies. June 11, 2024. 4 pp. (NDOW #5)
[16] Letter from NDOW to Robinson Wildlife Consulting, documenting lek count deficiencies. August 23, 2024. 5 pp. (NDOW #6)
[17] Email chain between NDOW staffers involving lek data inconsistencies (Aug. 21, 2024). 15 pp. (NDOW #3)

> on reducing impacts during the most critical periods for greater sage-grouse. Ambient noise surveys would be conducted prior to construction.

FEIS at C-77.

The Ninth Circuit has rejected this "approve now, study later" approach. *See N. Plains Res. Council, Inc. v. Surface Transp. Bd*., 668 F.3d 1067, 1084 (9th Cir. 2011) (emphasis added). In *Northern Plains*, the STB adopted a mitigation measure for a proposed railroad line's noise impacts, requiring baseline noise surveys for a fish hatchery near the proposed project area, after the project was approved. *Id*. The Ninth Circuit held that the agency's failure to gather this baseline data *before* approving the railroad fell short of NEPA's "hard look" requirement:

> Mitigation measures may help alleviate impact *after* construction, but do not help to evaluate and understand the impact before construction. In a way, reliance on mitigation measures presupposes approval. It assumes that—regardless of what effects construction may have on resources—there are mitigation measures that might counteract the effect without first understanding the extent of the problem.

Id. at 1084-85. Moreover, collection of baseline data after project approval means "the data is not available during the EIS process and is not available to the public for comment. Significantly, in such a situation, the EIS process cannot serve its larger informational role, and the public is deprived of their opportunity to play a role in the decision-making process." *Id.* at 1085.

Here, without understanding baseline ambient noise levels, and the additional noise that construction activities and vehicle traffic would create, it is unclear whether it would even be feasible for the applicant to comply with the10 dBA noise limit; or whether compliance with "a permanent year-round noise limit" would be feasible and could provide significant conservation benefits. Notably, BLM's rejection of a permanent year-round noise limit is unexplained, FEIS at C-77—and BLM apparently has no rational basis for rejecting this measure, where it has not done the baseline and impacts analyses needed to first "understand the extent of the problem," before it can determine whether proposed measures are feasible and can "counteract the effect." *N. Plains*, 668 F.3d at 1084.

3. General Baseline Biological Surveys

The Nevada Department of Wildlife expressed concerns during the GLN permitting process, both internally and externally, about "our concerns over the lack of biological baseline[]" surveys for sensitive species.[18] In an email between NDOW biologists on November 6, 2023, one states, "Some surveys in this are being proposed as a… 'preconstruction' survey… but the major problem with that I see is the data and results won't be able to be incorporated into the EIS, so impacts to species potentially present would not be disclosed."[19] "It is unclear how

[18] Letter from NDOW to BLM regarding GLN survey recommendations. November 16, 2023. 4 pp. (NDOW #1)
[19] *Id.*

they are complying with the mitigation mandate without baselines as they simply don't know what and where they need to avoid and minimize."

This email exchange led to a letter to BLM dated November 16, 2023, requesting more detailed biological baseline surveys for the project. "it is still apparent that biological baseline surveys are largely not being required for this project, other than surveys for cliff nesting raptors that have already been completed. In all other projects the Department has collaborated with the BLM throughout Nevada, biological baseline surveys are a standard request for particularly BLM special status and sensitive species."[20] "It is difficult to determine how proposed actions of a discretionary activity, such as GLN, would affect special status and sensitive species if baseline surveys designed to characterize the existing environment are not conducted." (*Id.*)

In the end, BLM did require some amount of surveys for the GLN EIS, with surveys conducted for, "likely pinyon jay nest colonies, pygmy rabbit burrows, burrowing owl burrows, and Monte Neva paintbrush distribution in and near the temporary ROW have been completed. Surveys for other sensitive plant species and pinyon jay in 2025 are underway." (FEIS at ES-22). However, this is an extremely limited subset of sensitive species to conduct baseline surveys for, and surveys still underway in 2025 are useless from a NEPA perspective, since the data is not available for public review as a part of the NEPA process.

However, the vast majority of surveys are not being conducted as a part of a biological baseline, and instead will be simply pre-construction surveys ("Under all action alternatives, the GLNP would include preconstruction surveys for most special status wildlife, as well as all special status plant species with a high potential to occur, as listed in Table 3-15 and Table 3-32, respectively." (FEIS at 3-91)). These tables list 93 special status animals and 29 special status plants, respectively. While preconstruction surveys are intended to avoid direct impacts to special status species during construction, they do not contribute to a full disclosure and analysis of the affected environment and the effects of the proposed action under NEPA. The data from these surveys will not be available for public inspection and will not contribute to a meaningful understanding of the project in order for the agency to make a sound decision about the project.

For instance, despite reconnaissance-level vegetation surveys documenting suitable habitat for 29 special status plant species within the GLN ROW, "[t]he Proponent did not conduct inventory surveys to document the presence or absence or to characterize populations of most of the special status plant species in this analysis." FEIS at 3-86. Typically, conducting a biological baseline for an EIS would involve conducting actual on-the-ground surveys to determine whether such sensitive species are present or not in order to incorporate such data into the analysis.

4. "Soft Trigger" Avoidance Areas and "Hard Trigger" Exclusion Areas

It is unclear if the maps in the FEIS correctly reflect "soft trigger" avoidance areas and "hard trigger" exclusion areas. A map from NDOW suggests discrepancies in what NDOW and

[20] Email chain between Katie Andrle and Moira Kolada, NDOW biologists, regarding biological baseline surveys. November 2, 2023. 2 pp. (NDOW #2)

BLM consider avoidance and exclusion areas. BLM should explain how it arrived at its map, and why it's method of determining avoidance and exclusion areas is valid compared to NDOW's.[21]

5. Baseline Fire Regime, Flammable Invasive Weeds

We pointed out in our DEIS comments that "[t]he EIS should analyze whether fire regimes in the project area have already been altered by the predominance of exotic annuals like cheatgrass, and how the current fire regime and fire cycle might be affected by the increased likelihood of cheatgrass invasions triggered by the transmission line construction and associated energy development." FEIS at C-77; *see also* Ex. F at 13-14. However, the FEIS fails to conduct an adequate baseline analysis of the current fire regime. We agree with DEIS comments from Wildland Defense that the EIS must include adequate baseline surveys of cheatgrass and other flammable weeds across the project area:

> BLM must provide a detailed current baseline inventory and analysis of the current specific location and amount of flammable exotic weeds all along the ROW, within 15 miles on either side of the proposed Greenlink route, and across the affected Sage-grouse population habitats so that the current status of flammable weeds is - prior to the construction and operation of the line - and the full ecologically devastating footprint of all the linked energy facility sprawl.

FEIS at C-63.

Once these baseline studies are completed, BLM should then quantify the increased potential for fire occurrence, frequency, and size. According to one study that quantified the effects of "12 nonnative, invasive grasses on fire occurrence, size, and frequency across 29 US ecoregions encompassing more than one third of the conterminous United States," invasive grasses significantly increased fire occurrence.[22] "Eight species showed significantly higher fire-occurrence rates, which more than tripled for *Schismus barbatus* and *Pennisetum ciliare*. Six species demonstrated significantly higher mean fire frequency, which more than doubled for *Neyraudia reynaudiana* and *Pennisetum ciliare*."[23]

The FEIS should be revised to conduct a proper baseline analysis of lek conditions, ambient noise levels, and the project area's surrounding fire regime. Once this analysis is completed, BLM should analyze the project's incremental contribution of noise, lek disturbance, and wildfire risk, frequency, and size to these existing conditions.

E. The FEIS Fails to Take a Hard Look at the Project's Impacts

[21] Lek Cluster Trigger Map (NDOW #18)
[22] Fusco, Emily, J., Invasive grasses increase fire occurrence and frequency across US ecoregions, PNHAS, vol. 116, no. 47 23594-23599 (Nov. 19, 2019), available at, https://www.pnas.org/doi/full/10.1073/pnas.1908253116.
[23] *Id*.

1. Lek losses and population-level sage-grouse impacts from the project construction and operation

As discussed in a report prepared by biologist and sage-grouse expert Allison Jones ("Jones report"), attached as Exhibit F, the EIS fails to take a hard look at the project's impacts on greater sage-grouse, in particular the effects of the project on sage-grouse populations and their viability.

In our comments on the DEIS, we raised the EIS's failure to meaningfully analyze population-level impacts on Greater sage-grouse. Specifically, we pointed out that

> [t]he DEIS circumvents meaningful analysis by concluding that any impacts on sage-grouse would be entirely offset by the project proponent's participation in the state conservation credit system (CCS). But BLM cannot conclude that mitigation is sufficient to offset impacts unless it first conducts an adequate impacts analysis. *See Nat'l Audubon Soc'y v. Dep't of the Navy*, 422 F.3d 174, 200 (4th Cir. 2005) ("The sufficiency of the mitigation measures proffered in the FEIS are necessarily dependent on an adequate assessment of environmental impact. For this reason, the FEIS also fails to sufficiently address mitigation.").

FEIS at C-73. Further, it is not enough for the EIS to simply acknowledge the potential for adverse effects, but the EIS must analyze their potential severity, including impacts on local sage-grouse populations. *Id.*; *Defs. of Wildlife v. Babbitt*, 130 F. Supp. 2d 121, 138 (D.D.C. 2001) (failure to discuss project's impacts on wildlife by simply stating "noise would be increased" and "habitat will be disturbed" without analyzing "the nature and extent of the impacts" violated NEPA); *Natural Resources Defense Council v. Hodel*, 275 865 F.2d 288, 299 (D.C. Cir. 1988) ("The FEIS does devote a few more sentences here to the inter-regional effects on migrating species but these snippets do not constitute real analysis; they merely state (and restate) the obvious….").)

As the Jones report points out, by ignoring population-level impacts, BLM's analysis suggests that only individual animals would be impacted. Ex. at F at 11.

In response, BLM suggests that it need only disclose the potential acreages of sage-grouse habitat that could be adversely affected, but this approach still does not address whether and how severely local sage-grouse populations would be impacted. FEIS at C-73 ("Table 3-18 in Section 3.6.3 of the Final EIS/Proposed RMPA discloses the amount of breeding, nesting, early and late brood-rearing, and winter habitat that would be in the project ROWs.").

BLM also suggests that such a population-level analysis is not possible. Although it suggests that the project will exacerbate population declines, by "contribut[ing] to the greater sage-grouse population and habitat trends documented in the affected environment," FEIS at C-73, it stops short of addressing the likelihood of extirpation or reduced population viability, stating that it "cannot decisively conclude if the proposed project would result in changes in population viability over time," *id.*:

> The Final EIS analysis discloses the anticipated effects on greater sage-grouse, including the amount of habitat management areas and seasonal habitat areas that would be in the project ROWs, the number of leks that would be within the lek distance buffers under the 2015 ARMPA, and the effects on individuals from noise, disturbance, increased predation, and other stressors. The BLM anticipates that these effects would contribute to the greater sage-grouse population and habitat trends documented in the affected environment, including addition of anthropogenic disturbance to the analysis area. However, given the species' wide range and the other factors affecting population and habitat trends in the BSUs crossed by the GLNP, the BLM cannot decisively conclude if the proposed project would result in changes in population viability over time. Section 3.6.4 of the Final EIS/Proposed RMPA discloses that compensatory mitigation measures would help offset habitat losses but may not fully mitigate the localized impacts on habitat quality, lek stability, or population dynamics.

FEIS at C-73.

BLM's indeterminate conclusion runs contrary to the evidence before it, including:

(1) The current trend of declining populations in several neighborhood clusters along the proposed line, requiring exclusion of new ROWs under the 2015 ARMPA adaptive management plan, presumably to prevent further declines, FEIS at A-81; *see also* Ex. at F at 23 (noting prohibition on new ROWs in these areas is recommended by the best available science for the conservation of sage-grouse: "the Sage-grouse NTT recommends that BLM exclude all sage-grouse priority habitat, including connectivity areas and winter concentration areas, from new right-of-way grants and infrastructure development (SGNTT 2011)).

(2) The analysis by Prochazka et al. (2024) showing the chances of extirpation of neighborhood lek clusters within the project area, strongly suggesting that an analysis of future population declines and local population viability is feasible. *See* Ex. F at 3. Maps included in the FEIS appendix show existing extirpation risks at the localized neighborhood cluster level. FEIS at A-83. This analysis calculated the extinction risk of neighborhood clusters along the line as follows:

- E029 has a 25-50% chance of extinction within 37 years.
- E033 has a 50-75% chance of extinction within 18.4 years.
- E041 has a 75% chance of extinction within 18.4 years.
- E042 has a 25-50% chance of extinction within 37 years.
- E066 has a 50-75% chance of extinction within 55 years.

The Jones report concludes: "These statistics portend a very uncertain, and frankly grim, future for a significant proportion of the Great Basin GRSG populations, **even in the absence of the GLNP transmission line**." Ex. F at 3.

(3) Recent lek count data from NDOW. Of particular concern are the Central Jakes Valley SE and Illipah Reservoir leks, which are both active lekking sites for the Butte/Buck/White Pine Biological Significant Unit occurring within 3 miles or less of the Greenlink North project footprint. Both leks have declining low lek counts and extremely low attendance in recent years (less than 10 males). And both occur in a "hard trigger" area, where the neighborhood cluster (E-

060) is in a downward spiral and new ROWs must be excluded under the 2015 ARMPA. Ex. F at 3-5; *see also* Map of ROW Exclusion Areas and Select Leks, attached as Exhibit I. In addition, the Camp Creek lek in the Smith/Reese Biological Significant Unit is precariously close to total abandonment, with a zero lek count since 2016, except a 3-male count reported in 2022. *Id*. at 5-6. The lek occurs within 1.4 miles of a new road and 1.6 miles of the transmission line. *Id*. at at 5. Based on this data, the Jones report concludes: "It is likely that none of these downward trending leks can withstand the additional stressors that will come with the construction and operation of the GNLP transmission line. *Id*. at 3.

(4) Studies showing transmission lines result in lek abandonment; lower nest survival, recruitment, and population growth; avoidance of habitat closer to lines; reduced gene flow, movement, and lek activity; and a study showing that increased abundance of raptors and ravens or their hunting activity near transmission lines during the breeding season is negatively associated with sage-grouse breeding activities and demographic vital rates such as fecundity, nest success and chick survival. Ex. F at 7-8.

(5) Studies showing removal of sagebrush resulting in direct habitat loss and fragmentation adversely affect greater sage-grouse populations. Ex. F at 8.

(6) Studies showing that human-caused disturbance in sage-grouse winter habitat results in habitat abandonment and population declines, *see* pp. 12-13 above; Ex. G at 8, ¶ 29 (Braun Decl.) ("Avoidance or deterioration of the best winter habitat due to human activities is likely to compromise bird survival and fitness. If bird fitness or survival is affected, sage-grouse population size will decrease.")

(7) The vast areas of winter, nesting, and brood-rearing habitat in GHMA and PHMA that the transmission line would disturb across 15,360 acres, FEIS at 3-69-70, including 15 leks occurring within 4 miles of the project. FEIS at 3-117, 126. *See also* FEIS at A-73-A82 (maps showing large contiguous areas of protected habitat that would be disturbed);

(8) NDOW expert agency concerns over the project's population-level effects, including:

- "The additional increase in expected impacts may result in the loss of leks, which needs to be analyzed and disclosed." FEIS at C-67.

- "The loss of leks would result in 'residual adverse impacts' which would not be offset by the State of Nevada Conservation Credit System (CCS). Compensatory mitigation does not negate the effects of a disturbance to GRSG nor does it reduce the severity of a disturbance. Rather it is used as a means to offset impacts elsewhere but does not lessen the degradation to the area in which the disturbance takes place. As such, those impacts that are occurring still need to be analyzed and disclosed to the public as part of the NEPA process." FEIS at C-67.

- "As this line will bisect Nevada's GRSG populations, the Department believes this DEIS should include an analysis on the potential for decreasing genetic diversity between north and southern populations, as this may be direct effect of this project. FEIS at C-67.

- "If w[e] keep losing lek sites, we will lose all ou[r] birds. There[]s no mitigation that can fix that."[24]

(9) the vast areas of winter, nesting, and brood-rearing habitat in GHMA and PHMA that the transmission line will disturb across more than 15,000 acres, including 15 leks occurring within 4 miles of the project, *see* FEIS at A-73-A82 (maps showing large contiguous areas of protected habitat that would be disturbed);

(10) General principles of population ecology: "When activities associated with energy and other development displace animals from otherwise suitable habitats, the animals are forced to utilize marginal habitats or they relocate to unaffected habitats where the population density and competition increase. Consequences of such displacement and competition are lower survival, lower reproductive success, lower recruitment, and lower carrying capacity leading ultimately to population-level impacts." Ex. F at 12.

(9) The Jones report, which concludes, based on much of the same information above, that "population declines are virtually certain as leks and surrounding nest/brood and winter habitat are abandoned along the ROW, with extirpation of some of the populations dependent on these leks and winter habitat likely." Ex. F at 22.

(10) The virtual impossibility of restoring sage-grouse habitat that has been disturbed, resulting in permanent loss of habitat. Ex. F at 18 ("[A] promise to restore greater sage grouse habitat as mitigation for degrading or destroying habitat is a questionable proposition. Indeed, until the science of sagebrush restoration is proven, healthy sagebrush habitat should be considered an irreplaceable resource.").

(11) BLM's own conclusion in the FEIS's cumulative impacts section that the project's impacts "when combined with other stressors such as energy development, wildfire, grazing, and invasive species, could exacerbate the risks of population declines and local extirpations particularly for already vulnerable populations." FEIS at C-243.

(12) BLM's acknowledgment that "[t]he project's alignment could also hinder connectivity between northern and southern sage-grouse populations in Nevada, reducing genetic diversity and limiting the species' resilience to environmental changes." FEIS at 3-96. In other words, the populations along the line will be more vulnerable to extirpation.

Accordingly, BLM must revise its analysis of population-level impacts, taking into account all the evidence before it, or explain why this evidence need not be considered. Without such an analysis, BLM has no basis for concluding that it cannot determine how the project would affect sage-grouse population viability, or that the state compensatory mitigation program would adequately offset unavoidable or residual impacts to the species.

Moreover, as pointed out in the Jones report, even while acknowledging in the cumulative impacts analysis the potential for population decline and extirpation, the EIS does not adequately address the potential severity of these effects:

[24] Internal meeting notes from unknown NDOW employee on GLN mitigation and related. June 17, 2025. 2 pp. (NDOW #8)

> In summary, the FEIS's cumulative effects analysis is inadequate, principally because it does not fully address **how severely** the combined effects of various ongoing stressors, in addition to the new transmission line, will increase the rate of population decline of **already declining** GRSG in the area. Even while the FEIS readily admits that the impacts of the GLNP line, when combined with other ongoing stressors such as energy development, wildfire, grazing, and invasive species, could exacerbate the risks of population declines and local extirpations, it falls short of making these connections clear and that the timetable for precipitous decline, and extirpations, will likely be sped up because of this project.

Ex. F at 15-16.

In addition, BLM must conduct its analysis at the localized scale. As the Center pointed out in comments, the FEIS's analysis "is not grounded in any site-specific analysis to allow a meaningful comparison of alternatives. It is entirely unclear where along the 235-mile line cumulative habitat destruction, fragmentation, and other effects would be more severe for each of the alternatives, or which alternative would avoid the worst cumulative effects." FEIS at C-61. For example, as NDOW pointed out in its DEIS comments: "It should be clearly disclosed which lek sites/number of leks are most likely to be extirpated and what the impacts of that loss will mean for the GRSG populations. This analysis should be done for all leks, regardless of if they meet the 2015 ARMPA lek buffer distances requirements or not."[25] BLM must analyze the population-level impacts from potential lek disturbances and extirpations, at the neighborhood cluster scale, and the broader regional BSU scale. Without determining how many leks and which leks are at risk of abandonment and loss, and the ripple population effects, BLM cannot rationally decide how to offset these lek losses under the net conservation gain standard, or that any compensatory mitigation that it adopts would meet that standard.

2. Impacts from planned solar projects, including the impacts of connected actions, and their direct, indirect, and cumulative impacts

In our comments on the DEIS, we showed that a number of solar projects are "connected actions" with the Greenlink North project, the impacts of which must be addressed in the EIS. *See* Exhibit D (listing solar projects planned for the area). Approval of the Greenlink North ROW will trigger the development of a number of solar and other renewable projects that cannot proceed without the Greenlink North transmission line. These "connected actions" must be addressed in the EIS, on an equal footing with Greenlink North. Connected actions "are closely related Federal activities or decisions that should be considered in the same NEPA review that: (1) Automatically trigger other actions that may require [EISs]; (2) Cannot or will not proceed unless other actions are taken previously or simultaneously; or (3) Are interdependent parts of a larger action and depend on the larger action for their justification." 40 C.F.R. 1501.9(e)(1) (2024, rescinded).[26]

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[25] NDOW Final EIS Comments (NDOW #17).

[26] While CEQ regulations have been rescinded, CEQ has recommended that agencies consider continuing to rely on them while agencies review the sufficiency of, and if necessary amend or promulgate, their own regulations. CEQ, Memorandum for Heads of Federal Departments and Agencies (Feb. 19, 2025) ("CEQ Feb. 2025 NEPA Guidance") at 1 ("although CEQ is rescinding

A number of solar and other renewable projects cannot or will not proceed unless Greenlink North is approved. The Interior Department, Governor's Office, and project proponent have all touted that the Greenlink North transmission line is needed to facilitate the growth of renewable energy development in Nevada. According to the Department of Interior, the Greenlink North Transmission Project "could unlock up to 4,000 megawatts of clean energy."[27] Likewise the Governor's Office of Energy has stated that Greenlink, including Greenlink North and Greenlink West, will benefit the state by "help[ing] Nevada move closer to a future powered by increasing renewable energy" and "provid[ing] Nevadans with greater access to in-state renewable energy sources."[28] As the project proponent explains, these energy resources cannot be developed without the Greenlink transmission lines:

> Constructing Greenlink creates a renewable energy highway that allows access to Nevada's resource-rich renewable energy zones, containing about 4,000 megawatts of undeveloped renewable resources. Right now, these areas cannot be tapped into to meet growing energy demands due to the lack of necessary transmission infrastructure.[29]

The Nevada Regional Transmission Task Force has noted that Greenlink "[c]reates a renewable energy highway that allows access to Nevada's resource-rich renewable energy zones that *could not previously be developed due to the lack of necessary transmission infrastructure*."[30] "Customers' electric prices will be favorably impacted as the initiative will create more opportunities for low-cost renewable development in the state. . . ."[31]

A number of proposed solar projects and energy storage projects in Nevada plan to tie into the Greenlink North transmission line or are proposed for alignment with Greenlink North, including those projects listed in Exhibit D. According to the applications for these solar projects, a number of them will tie into Greenlink North or its connecting substations along the route. *See* Exhibit D, column K. In total, the projects listed in Exhibit D would span 143,732 acres of public land along the alignment of Greenlink North. An additional 246 miles of gen-tie transmission lines would be required to hook into Greenlink North substations. There is not currently

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its NEPA implementing regulations at 40 C.F.R. parts 1500–1508, agencies should consider voluntarily relying on those regulations in completing ongoing NEPA reviews"). BLM's NEPA Handbook refers to the CEQ regulations on connected actions.

[27] U.S. Dept. of the Interior, Biden-Harris Administration Leaders Announce New Onshore Renewable Energy Progress in Nevada to Create Jobs and Lower Energy Costs (Sept. 9, 2024), available at https://www.doi.gov/pressreleases/biden-harris-administration-leaders-announce-new-onshore-renewable-energy-progress.

[28] Nevada Governor's Office of Energy, Status of Energy Report 2023, at 8, available at https://energy.nv.gov/uploadedfiles/energynvgov/content/home/features/2023_status_of_energy_report.pdf.

[29] NVEnergy, Greenlink Nevada, available at https://www.nvenergy.com/cleanenergy/greenlink-nevada.

[30] NV Energy, Nevada Regional Transmission Task Force (Nov. 15, 2023), at 4, available at https://energy.nv.gov/uploadedFiles/energynvgov/content/Programs/TaskForces/Nevada%20Regional%20Transmission%20Task%20Force%2011-15-23.pdf; *see also id*. at 5 (stating Greenlink "creates access to new areas of the state to develop affordable renewable energy resources").

[31] *Id*. at 7.

transmission in these areas for any of these projects to be built. They are all completely dependent on the construction of Greenlink North for their viability.

In an email obtained through a public records request from Nevada Department of Wildlife staff specialist Jasmine Kleiber to her colleagues regarding Greenlink North, Ms. Kleiber says, "[I] have had meetings with energy developers who absolutely intend to site projects around that transmission corridor."[32]

Maps prepared by researchers at Boise State using data from BLM's LR 2000 database of pending solar project ROW applications show that large expanses of solar projects spanning are planned near and naer Greenlink North ROW, and the Fort Churchill, Lander, and Robinson Summit substations. *See* Exs. J, K, L, & M.

Rather than evaluating this and other evidence that we presented showing that the solar projects depend on Greenlink North and are closely related, functionally and geographically. BLM dismisses these concerns, stating: "The Proponent's primary goal is to provide for energy transmission redundancy, reliability, and resiliency," and "none of the currently pending applications for solar projects would depend on the BLM approving the GLNP." FEIS at C-48. That response contradicts information in those applications and statements by the project applicant.

The FEIS lists 24 proposed solar projects, including at least 11 projects on primarily BLM lands in Lyon and Lander counties, that occur within the cumulative effects analysis area and span a total of more than 200,000 acres. FEIS at F-1-F-5. It states that "[i]f the right-of-way (ROW) applications for the Greenlink North Transmission Line Project were to be denied by the federal ROW agencies, the pending solar projects would consider other transmission lines to distribute their generated power." FEIS at F-2. But the GEIS does not mention other transmission lines that would be available. BLM should consider whether these other solar projects are connected actions.

The FEIS's highly generalized cumulative effects analysis addressing pending solar projects and other reasonably foreseeable future actions is not an adequate substitute for an EIS jointly addressing both Greenlink North and pending solar projects. It merely states the obvious—that these activities "will likely continue to alter habitat conditions, which then will cause or favor other habitat changes. ... In general, resource use activities such as energy, mineral, and other developments have impacted special status species through habitat removal, fragmentation, weed spread, and disturbance from noise and increased human presence." FEIS at 3-241. Likewise, when considering impacts of these activities in concert with the Project, the analysis broadly states with respect to sage-grouse:

> The GLNP action alternatives, including activities such as geotechnical investigations, construction, operations and maintenance, and decommissioning, would also result in localized impacts on greater sage-grouse that would include habitat loss, the potential for introduction and spread of nonnative and invasive plant species that reduce native habitat, and an increased potential for predation by ravens foraging from transmission line structures. Proposed transmission infrastructure may increase predation pressure by providing new perching and hunting opportunities for avian predators, further threatening

[32] NDOW Email 2022 (submitted with DEIS comment references).

> sage-grouse populations. These impacts, when combined with other stressors such as energy development, wildfire, grazing, and invasive species, could exacerbate the risks of population declines and local extirpations, particularly for already vulnerable populations. Past, present, and RFFAs would also impact greater sage-grouse, as discussed above.

FEIS at 3-244.

That discussion is not grounded in any site-specific analysis to allow a meaningful comparison of alternatives. It is entirely unclear where along the 235-mile line cumulative habitat destruction, fragmentation, and other effects would be more severe for each of the alternatives, or which alternative would avoid the worst cumulative effects.

In short, Greenlink North will create *de facto* solar energy development zones across a huge swath of central Nevada, radically and fundamentally transforming a landscape which is currently mostly undeveloped and largely untouched by human hands, aside from a mostly two-lane highway and mining projects. These connected actions and their effects must be analyzed in the Greenlink North EIS, particularly in the context of comparing the proposed project against an alternative Northern route along I-80.

Alternatively, the EIS must treat Greenlink North's purpose and effect of spurring solar development as indirect effects of the project. An EIS must analyze "any reasonably foreseeable adverse environmental effects of the proposed agency action," including "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented." 42 U.S.C. § 4332(C)(i), (ii).

Here, it is reasonably foreseeable that granting the right-of-way for Greenlink North would induce solar and other renewable energy development throughout northern and central Nevada. As explained above, Greenlink North will trigger the development of solar and other renewable energy resources throughout the state. The failure to acknowledge this indirect effect infects the entire EIS, by masking significant impacts associated with expanded renewable energy production throughout the state that Greenlink North is intended to facilitate.

In addition, even if renewable energy development were to increase with or without the project, the EIS fails to consider whether construction and operation of Greenlink North could increase the *rate* of energy development. For example, in *Davis v. Mineta*, 302 F.3d 1104, 1123 (10th Cir.2002), the court invalidated an agency's finding under NEPA that economic development "will occur with or without [the highway project]," and that the project's impacts were not significant, because it failed to consider the potential that "enhanced transportation facilities will generate *or enhance* economic activity and development." *Id*. (emphasis added). ("Defendants' refusal to study the possibility that the relatively unspoiled nature of this local area might be due, *at least in part*, to the present lack of a major roadway through it is arbitrary and capricious." (emphasis added)).

Because the project proponent's express purpose of constructing Greenlink is to increase renewable energy production in Nevada that it claims would not otherwise be produced, BLM cannot rationally conclude that the project does not have any causal connection to spurring that energy development. *Sierra Club v. Sigler*, 695 F.2d 957, 979 (5th Cir. 1983) (bulk cargo activities a "selling point" for oil project, so EIS must consider them); *City of Davis v. Coleman*,

521 F.2d 661, 676-77 (9th Cir. 1975) (EIS must include consideration of "growth-inducing effects" of proposed highway construction project, where those effects are the project's "raison d'etre"); *Sierra Club v. Marsh*, 769 F.2d 868, 879 (1st Cir. 1985) (where project proponents anticipated that development of causeway would stimulate industrial development, agency should have considered the potential growth in industrial development).

In sum, the FEIS arbitrarily fails to disclose that Greenlink North is intended to facilitate increased solar development. Consequently, the FEIS fails to disclose that Greenlink North's construction and operation could lead to reasonable foreseeably effects of this expansion in solar production, including increased habitat destruction and fragmentation, invasive species spread, increased wildfire risk, sage-grouse population declines and/or losses, and other environmental and cultural impacts. And, as discussed above, the FEIS's cumulative effects analysis is not an adequate substitute for the missing analysis.

F. The FEIS Fails to Analyze Measures to Mitigate Impacts

The Supreme Court has recognized that EISs must analyze and discuss mitigation measures because doing so is "implicit" in the requirements of NEPA itself.

> [O]ne important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences. The requirement that an EIS contain a detailed discussion of possible mitigation measures flows … from the language of [NEPA] …. Implicit in NEPA's demand that an agency prepare a detailed statement on "any adverse environmental effects which cannot be avoided should the proposal be implemented," 42 U.S.C. § 4332(C)(ii) [1989], is an understanding that the EIS will discuss the extent to which adverse effects can be avoided. More generally, omission of a reasonably complete discussion of possible mitigation measures would undermine the "action-forcing" function of NEPA. Without such a discussion, neither the agency nor other interested groups and individuals can properly evaluate the severity of the adverse effects. An adverse effect that can be fully remedied by, for example, an inconsequential public expenditure is certainly not as serious as a similar effect that can only be modestly ameliorated through the commitment of vast public and private resources.

Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 351-52 (1989).

"A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA." *Neighbors of Cuddy Mountain v. United States Forest Service*, 137 F.3d 1372, 1380 (9th Cir. 1998). Rather, the EIS should provide "[d]etailed quantitative assessments of possible mitigation measures" for a site-specific proposal. *San Juan Citizens Alliance v. Stiles*, 654 F.3d 1038, 1054 (10th Cir. 2011) (citing *Neighbors of Cuddy Mountain*, 137 F.3d at 1380-81).

BLM's NEPA guidance also require disclosure of potential mitigation measures. *See* BLM NEPA Handbook H-1790-1 (Jan. 30, 2008), Sec. 6.8.1.2 ("In an EIS, all relevant, reasonable mitigation measures that could improve the project are to be identified") (citation & quotation omitted).

The EIS fails to discuss in any meaningful detail the "possible" compensatory mitigation measures the project could rely on to offset sage-grouse impacts, including "the extent to which

adverse effects can be avoided." *Robertson*, 490 U.S. at 352. The EIS notes that the state's compensatory mitigation program would offset the project's impacts, without describing the specific measures that the project could rely on. And the number of credits that the project will require will not be disclosed until BLM's publication of the ROD:

> The mitigation program would determine the number of credits needed to compensate for anticipated debits, or the residual impacts on greater sage-grouse and greater sage-grouse habitat that would not otherwise be avoided or minimized. Under the Nevada Conservation Credit System, the application of compensatory mitigation would occur on, or the credit would be applied to, disturbance on BLM-administered lands and National Forest System lands.
>
> The Sagebrush Ecosystem Technical Team is determining the number of credits and debits that would be generated by the GLNP, and this information would be disclosed in the RODs and BLM Approved RMPA. Compensatory mitigation under the Nevada Conservation Credit System would be funded by the Proponent and could include, but would not be limited to, habitat restoration efforts, threat mitigation through wildfire fuels-reduction projects, and acquisition of conservation easements in valuable greater sage-grouse habitat areas.

FEIS at 3-102.

Deferring the disclosure of mitigation credits until publication of the ROD—and without even identifying the specific projects to be funded—defeats NEPA's informed decision making purpose. The agency and public will have no chance to weigh in on the specific measures that the credits will fund, including whether the credits are sufficient to offset any residual impacts and satisfy the RMPs' "net conservation gain" requirements.

In the FEIS, BLM clarifies now it "is not proposing vegetation treatments as compensatory mitigation for the anticipated effects on greater sage-grouse habitat, nor is the BLM proposing to use prescribed fire, chaining, mowing, mastication, herbicide application, or fuels treatments to remove or alter the successional status of the sagebrush ecosystem. In contrast, the GLNP would include vegetation management to restore temporarily disturbed areas and control the introduction and spread of nonnative, invasive plants, which may involve the use of herbicides; the effects of such management are analyzed in Section 3.4.4 of the Final EIS/Proposed RMPA." FEIS at C-75.

Still, the FEIS does not provide any further details on the proposed compensatory mitigation measure or address its effectiveness. Without this analysis, the public and agency cannot "evaluate the severity of the adverse effects" on local, regional, and statewide habitat loss and degradation, nor on local and regional population numbers or viability, let alone the measures' ability to provide net conservation gain. *Robertson*, 490 U.S. at 352.

Further information on this measure was obtained through public records from NDOW and the Sagebrush Ecosystem Council. The proposed vegetation management project covers

46,000 acres near Summit Lake in northern Humboldt County, Nevada.[33] Part of why this project was selected was because the "appeal" to NV Energy is that they could , "offset all debits in one project area," which is a "big draw."[34]

However, this project drew concerns from the beginning from NDOW staff. When their eastern region biologists were consulted, they had concerns about the location of the Summit Lake project being so far away from the actual impacts to greater sage-grouse from Greenlink North. "proximity should be greater because there[]s no shortage o[f] [sage-grouse] habitat – that would put more onus on the proponent to work with BLM."[35]

This concern about proximity became one of the chief sticking points when the project came for evaluation before the Sagebrush Ecosystem Council on June 3, 2025. SEC member Jake Tibbets expressed "heartburn about proximity of project to Greenlink North project that it is offsetting," saying that, "there are lots of NEPA-ready projects along the [power] line that could be completed to offset," and that he, "philosophically has concerns with the project being so far from the impacts."[36] He also stated that he didn't feel enough effort had gone in to identifying projects local to GLN, stating that "he can't support this project as proposed.". As the natural resources manager for Eureka County, which will be heavily impacted by GLN, Mr. Tibbets has a well situated perspective on this issue.

SEC member Swanson asked the Sagebrush Ecosystem Technical Team (SETT) representative at the SEC meeting why the mitigation credits couldn't be several small projects in close proximity to GLN instead of one large one far away. The SETT representative responded that it was, "a management burden for SETT and [NV Energy]."[37]

SEC member Hooper expressed "concern[s] about this process," feeling that they were being, "pushed to make a decision," and that she was, "worried about moving forward with a process that is inconsistent." She had concerns about proximity and couldn't support the project.[38]

The SEC ended up tabling the discussion of the Summit Lake project. As of June 23, 2025, there is still no credit project to account for GLN's huge number of debits in the CCS.

The best available science strongly suggests that vegetation management measures will not effectively offset potential harms. As the Jones report describes, habitat restoration efforts have not proven effective. Ex. F at 18-21. Even if those efforts could result in some restoration of functional habitat, there would be a significant lag time between habitat loss and the habitat restoration, by which time it may be too late to offset the loss of sage-grouse populations, if sage-grouse that would use the restored habitat are no longer around. *See id*. at 21-22. And no study has ever shown a state compensatory mitigation program for greater sage-grouse to

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[33] Internal meeting notes from unknown NDOW employee on GLN mitigation and related. April 30, 2025. 4 pp. (NDOW #7)
[34] Internal meeting notes from unknown NDOW employee on GLN mitigation and related. June 17, 2025. 2 pp. (NDOW #8)
[35] *Id*.
[36] Sagebrush Ecosystem Council, minutes for June 3, 2025 meeting. 19 pp. (NDOW #9)
[37] *Id*.
[38] *Id*.

successfully offset population losses. The FEIS must disclose the poor success rates and uncertain effectiveness of sagebrush habitat restoration.

At most, the EIS notes that the state compensatory mitigation program "may not fully mitigate" "localized" impacts on greater sage-grouse habitat and populations:

> While compensatory mitigation projects under the Nevada Conservation Credit System aim to offset greater sage-grouse habitat losses elsewhere, they may not fully mitigate the localized impacts on habitat quality, lek stability, or population dynamics.

FEIS at 3-102. This statement still says nothing about "the severity of the adverse effects," at the local level. "General statements about 'possible' effects and 'some risk' do not constitute a 'hard look' absent a justification regarding why more definitive information could not be provided." *Neighbors of Cuddy Mt. v. United States Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998). The EIS must disclose the extent to which effects in localized areas would be offset by projects in the same local vicinity or in areas outside those areas.

The EIS also suggests that because the project would not have significant population-level effects, it need not show that the state compensatory mitigation program could effectively offset population declines or losses:

> While all action alternatives of the GLNP would result in impacts on the greater sage-grouse and its habitat in the ways described above, it would not result in a trend toward federal listing of greater sage-grouse under the ESA or loss of viability of greater sage-grouse populations. As a result, the project would not conflict with the purpose or objectives of BLM Manual 6840 – Special Status Species Management.

FEIS at 3-102. Again, no analysis supports this conclusory assertion. And the EIS's claim here that the project would not result in a "trend toward federal listing" or "loss of viability of greater sage-grouse populations" is at odds with the EIS's acknowledgement in the cumulative impacts section that the project, combined with other stressors, "could exacerbate the risks of population declines and local extirpations":

> [P]roposed transmission infrastructure may increase predation pressure by providing new perching and hunting opportunities for avian predators, further threatening sage-grouse populations. These impacts, when combined with other stressors such as energy development, wildfire, grazing, and invasive species, *could exacerbate the risks of population declines and local extirpations* particularly for already vulnerable populations… Implementing the EMMs from Appendix D and the measures identified in the raven management plan (Appendix H) and bird and bat conservation strategy (Appendix I) would decrease, but not avoid, the GLNP's contribution to cumulative impacts on greater sage-grouse within the CEAA.

FEIS at 3-243 (emphasis added).

The EIS's section on cumulative impacts goes on to conclude without analytical support that any unavoidable adverse impacts would somehow be offset under the state's compensatory mitigation program:

> Compensatory mitigation, as directed by Nevada Administrative Code 232.400–232.480 and as determined and implemented by the Sagebrush Ecosystem Technical Team, would compensate for residual adverse impacts on greater sage-grouse from the GLNP that could not otherwise be avoided or minimized, offsetting or mitigating cumulative effects on this species and its habitat within the CEAA.

FEIS at 3-243. As already noted, research has not shown that the program is likely to offset habitat loss or destruction, much less population effects.

In addition, with respect to the project's noise impacts on sage-grouse, the FEIS fails to address specifically how noise levels would be limited, the effectiveness and feasibility of any available measures, or how the applicant would monitor noise levels to ensure that the 10 dBA limit is not exceeded. *See* FEIS at C-77 (not addressing the Center's comment on this issue).

G. The FEIS's Proposed Reclamation Plans Are Inadequate

In our DEIS comments, the Center objected that the proposed reclamation plans would not be made available for public review in the NEPA review process, FEIS at C-42, which continues to be the case, *id*. (BLM stating that the plan would not be prepared until after issuance of the ROD). The failure to include the plan in the EIS deprives the decisionmakers and public of important information concerning the plan's effectiveness in minimizing the project's vegetation impacts and restoring native species, and of the opportunity to weigh in on the plan. *Robertson*, 490 U.S. at 351-52. In addition, the Center raised a number of standards and measures that should be included in the vegetation restoration plan, FEIS at C-42, which are more fully detailed in Exhibit E, which we incorporate here by reference. But BLM's proposed reclamation plan requirements in Appendix D (BIO-15, BIO-21) are still too vague and open-ended to ensure successful restoration. They merely require that the applicant come up with a plan in coordination with the appropriate agency.

II. BLM Must Prepare a Supplemental EIS

A supplemental EIS is required to address the impacts of the proposed Robinson Substation expansion, for which scoping was initiated after the release of the Greenlink North FEIS; and the project's proposed exemption from the restriction on wintertime construction, which was mentioned for the first time in the FEIS.

Section I(E)(1) above addresses the potential for significant impacts on sage-grouse within the E-060 neighborhood lek cluster that could result from the development of the Greenlink North and Robinson Expansion projects. These impacts must be addressed in a supplemental EIS that analyzes these two projects as a single action or connected actions. Alternatively, the supplemental EIS must consider the cumulative impacts of the two projects on the E-060 neighborhood lek cluster, PHMA, and GHMA, and the overall health of local sage-grouse populations.

In addition, exempting the project from wintertime construction and other activities could have significant adverse effects on winter habitat spanning significant portions of the project area and on sage-grouse populations. *See* FEIS at A-74 (showing portions of route traversing winter

habitat). The availability of high-quality wintertime habitat is a limiting factor for sage-grouse populations:

> Winter is the most important period for greater sage-grouse in terms of survival and for maintaining and enhancing body condition in preparation for breeding. Avoidance or deterioration of the best winter habitat due to human activities is likely to compromise bird survival and fitness. If bird fitness or survival is affected, sage-grouse population size will decrease.

Ex. G at 8, ¶ 29 (Braun Decl.)

Moreover, studies of energy development in sage-grouse habitat "have found declines in sage-grouse populations from the noise and physical disturbance attributed to energy development." *Id*. at 9, 31. The potential for significant population declines resulting from the proposed seasonal restriction exemption, and potential alternatives and mitigation measures to avoid and/or reduce these impacts must be analyzed in a supplemental FEIS.

In addition, a supplemental EIS is required to address the many significant NEPA deficiencies that we've raised throughout this protest and in our DEIS comments.

III. The Proposed RMP Amendments Fail to Comply with FLPMA

A. The Proposed Amendments Violate FLPMA's Requirements to Include Terms and Conditions to Minimize Damage to Wildlife Habitat

FLPMA requires the right-of-way to "contain… terms and conditions which will... minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment…. "43 U.S.C. 1765(a)(ii).

The preferred alternative, including amendments exempting the project from the following requirements, violates this "minimization" requirement:

- Exclusion of ROWs from areas in which "hard triggers" have been tripped
- The 3.1 mile buffer that is required for 14 leks that would fall within 3 miles of the proposed line
- The seasonal restriction on construction and other activities during the winter

Although the 2015 ARMPA determined that these measures were necessary to minimize damage to sage-grouse habitat and habitat loss, the FEIS fails to explain how exempting the project from these requirements would still satisfy the minimization requirement. The FEIS also fails to determine if site-specific measures tailored to local conditions on a case-by-case basis would be more appropriate than a blanket exemption from the above measures. For example, the U.S. Fish and Wildlife Service noted that "any modification of lek buffers should be based on biologically (or habitat) relevant information and should not be made to enable or justify siting details of GLNP to conform to the proposed plan."[39] It is unclear whether the FEIS considers modification of lek buffers based on site-specific conditions.

[39] U.S. Fish and Wildlife Service, Preliminary Draft EIS Agency and Cooperator Review Comments, at 3 (May 2024).

Instead, the lek buffer distance exemption, in particular, was apparently allowed pursuant to the non-existent energy emergency declared by President Trump. Executive Orders 14154, Unleashing American Energy, and 14156, Declaring a National Energy Emergency, and Secretarial Orders 3417, Addressing the National Energy Emergency, and 3418, Unleashing American Energy, are mentioned in the FEIS as being "aligned" with Greenlink North. FEIS at 1-1. However, no specific policies or components of the FEIS are justified by these orders. Nonetheless, public records reveal that these orders may have driven the lek buffer modification. In an NDOW email exchange, one biologist asked: "was there rationale behind removing the buffers?" To which another replied, "it was related to one of the energy [Secretarial Orders] and the evaluation on if they [lek buffers] would impede energy projects."[40]

BLM's failure to include the following terms and conditions as a condition of the proposed amendments also violates the minimization requirement:

- Noise restrictions that would apply during all hours of the construction season and not just in the 2 hours before sunrise and until 2 hours after sunset.
- Terms and conditions that would minimize damage to and disruption of winter habitat, where the project would now be exempt from the restriction on wintertime construction. *See* suggested alternatives and measures on p. 13 above.
- All new and temporary fences in occupied GRSG habitat should be flagged with sage-grouse fence markers. Ex. F at 16 (noting inadequate measure that would require evaluation of new fences "for sage-grouse collision risk," and "[i]n the process of prioritizing areas for flagging or marking fences, state wildlife agency personnel would be consulted" (citing FEIS at D-41).

In addition, it is impossible to determine whether the reclamation plan will minimize damage, when the plan will be developed only after the ROW is approved. *See* p. 34 above. And because BLM has failed to conduct adequate baseline studies to determine ambient noise levels at leks, BLM cannot quantify the project's noise impacts, and thus whether proposed measures to limit noise levels would be feasible and effective in minimizing habitat damage, or whether more protective measures should be required. *See* pp. 18-19 above.

BLM fails to address these potential minimization measures and why they should not apply to minimize impacts of the proposed exemptions. And BLM fails to conduct any analysis as to whether habitat damage has not only been mitigated, but also "minimized."

One of the key ways BLM could comply with this mandate would be early and frequent coordination with the state wildlife agency. And yet public records reveal that BLM was, "strategically and intentionally is excluding NDOW from key conversations," leading one biologist to exclaim that, "this whole process has been maddening."[41] As an example, after BLM canceled the monthly biology coordation call in October of 2023, one NDOW biologist noted

[40] Email chain between Moira Kolada and Jasmine Kleiber, NDOW biologists, regarding lek buffers and Secretarial Orders. February 10, 2025. 3 pp. (NDOW #11)

[41] Email from Caleb McAdoo, NDOW Deputy Director, to Alan Sheperd, BLM, regarding NDOW's exclusion from GLN permitting processes. May 30, 2024. 4 pp. (NDOW #13); Email from Jasmine Kleiber to NDOW staff regarding GLN NEPA process. February 21, 2024. 2 pp. (NDOW #14).

that, "it has been close to 6 months since we have had a call and [as] such NDOW would like to keep this call on the schedule so that an update as to where the project is in the process can be provided."[42] The situation caused one biologist to remark, "Overall coordination on this project has not been consistent with how other projects have been handled either. In general, while NDOW is a cooperating agency on this project, we haven't been given much deference as the wildlife experts, nor acknowledged much."[43] This type of candor and frustration is uncommon in agency emails such as this, and highlights the gravity of the situation regarding BLM's attention to wildlife matters in the GLN EIS process.

B. The Proposed Amendments Violate FLPMA's Requirement to Locate the ROW Along a Feasible Route Causing the "Least Damage to the Environment."

FLPMA requires that the right-of-way contain "such terms and conditions as the Secretary concerned deems necessary to ... (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors." 43 U.S.C. 1765(b)(v).

For the reason discussed in section A addressing the FEIS's inadequate consideration of alternatives, BLM has failed to explain how the Preferred Alternative, including the proposed amendments, meets this requirement to locate the ROW along a feasible route causing the "least damage to the environment." 43 U.S.C. 1765(b)(v). The FEIS does not demonstrate that an alternate route along I-80 is not feasible, or would not meet the applicant's project objectives, even though that route would certainly cause significantly less damage to sage-grouse habitat than the preferred alternative.

C. BLM Fails to Demonstrate that the State Compensatory Mitigation Program Will Offset Unavoidable Impacts and Provide a "Net Conservation Gain"

FLPMA requires BLM to develop and adhere to resource management plans ("RMPs"), 43 U.S.C. §§ 1701(a)(2), (7), 1712(a), which "describe[], for a particular area, allowable uses, goals for future condition of the land, and specific next steps." *Pennaco Energy, Inc. v. U.S. DOI*, 377 F.3d 1147, 1151 (10th Cir. 2004) (citation omitted). Once an RMP is adopted, "[a]ll future resource management authorizations and actions . . . and subsequent more detailed or specific planning, shall conform to the approved plan." 43 C.F.R. § 1610.5-3. This is known as the FLPMA "conformity requirement." *See id.* FLPMA therefore requires that the project conform to all resource management plan requirements, management objectives, and standard operating procedures, and the FEIS must demonstrate compliance with those standards.

The EIS acknowledges that the project must provide a "net conservation gain" for unavoidable or residual impacts: "If impacts from the GLNP result in habitat loss and degradation that remain after avoidance and minimization measures are applied, then compensatory mitigation projects would be required to provide a net conservation gain to greater sage-grouse through the Nevada Conservation Credit System (BLM 2015a)." FEIS at 1-7; *see*

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[42] Email from Moira Kolada to GLN biological working group members, regarding biology calls. October 30, 2023. 2 pp. (NDOW #15)

[43] Email from Katie Andrle to Rory Lamp, Sierra Club, regarding Sierra Club comments on GLN. April 9, 2024. 1 p. (NDOW #16)

also 2015 ARMPA at 2-8 (MD SSS 2); *id*. at 2-9 (MD SSS 3); *id*. at 2-11 (MD SSS 9a). These are binding requirements, and not merely recommendations of the 2015 ARMPA.

There was some back-and-forth about this between BLM and the state agencies. In a January 22, 2024 email from BLM project lead Brian Buttazoni, he stated, "Mitigation is not mandatory under the National Environmental Policy Act." Kathleen Steele, manager of the state Sagebrush Ecosystem Technical Team (SETT) replied, "please see the attached packet regarding the State of Nevada's mitigation requirements as part of the BLM's NEPA checklist. It is not a voluntary thing… Per NAC 232.400-480, the State requires mitigation to be completed on any and all projects that are directly or indirectly impacting Greater Sage Grouse habitat. There are few exceptions, and Greenlink does not fall under any of them."[44]

The EIS also acknowledges that the project could have unavoidable population effects, including "*population declines and local extirpations* particularly for already vulnerable populations." FEIS at 3-243. As explained above in section I(F), the FEIS fails to establish that a net conservation gain to sage-grouse will be achieved, because the EIS fails to adequately analyze the project's impacts on sage-grouse habitat and populations, including the extent to which local sage-grouse populations would be reduced or lost; identify the CCS measures that the project proponent will rely upon; and establish the effectiveness of the CCS program in restoring sagebrush habitat and/or sage-grouse population numbers. As a result, the EIS lacks adequate support for its conclusion that the state's compensatory mitigation program "would compensate for residual adverse impacts on greater sage-grouse from the GLNP that could not otherwise be avoided or minimized." FEIS at 3-243.

The specific activities that the applicant would fund have not been identified, so it is impossible to conclude they would be effective at mitigating impacts from Greenlink North, or even feasible. *Cf. O'Reilly v. United States Army Corps of Eng'rs*, 477 F.3d 225, 234 (5th Cir. 2007) ("[T]he EA provides only cursory detail as to what [proposed mitigation] measures are and how they serve to reduce those impacts to a less-than-significant level. Because the feasibility of the mitigation measures is not self-evident, . . . the EA does not provide a rational basis for determining that the Corps has adequately complied with NEPA.").

There is no evidence to support that compensatory mitigation has ever restored sage-grouse populations, and there is no reason to believe it could now. *Cf. Wyo. Outdoor Council v. United States Army Corps of Eng'rs*, 351 F. Supp. 2d 1232, 1252 (D. Wyo. 2005) (invalidating agency's finding of no significant impact, because "record is devoid of any information whatsoever that would support the efficacy of wetland replacement mitigation"). We are unaware of any cases in which a compensatory mitigation program has resulted in a significant increase in sage-grouse compared to an untreated landscape, and the FEIS fails to provide such evidence.

The removal of sagebrush and loss of habitat would have immediate and long-term impacts that could not be offset in the short-term, assuming it is even possible to restore lost habitat. Studies show big sagebrush (*Artemesia tridentata)* requires 25 to over 100 years to naturally recover after removal.[45] The conclusion that compensatory mitigation would offset

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[44] Email from Kathleen Steele, SETT, to Brian Butazzoni, BLM, regarding mandatory sage-grouse mitigation. January 22, 2024. 2 pp. (NDOW #12)

[45] Connelly, J.W., Guidelines to manage sage grouse populations and their habitats, 28 Wildlife Society Bulletin 967 (2000); Welch, B L., Big Sagebrush: A Sea Fragmented into Lakes, Ponds,

residual adverse impacts makes no sense when there would be a significant lag time between the removal of sagebrush and the actual restoration.

There is also no assurance that the compensatory mitigation would be tied to the same lek cluster, population group, or biologically significant area harmed by the Project. The FEIS does not require this. The compensatory mitigation would not necessarily offset residual effects on the local population affected. BLM states that "The Nevada CCS requires the Nevada Sagebrush Ecosystem Council to consider the location of the proposed habitat credits relative to the anticipated debits but does not require assurance that mitigation would be tied to the same lek cluster, population group, or BSU where the debit-generating action would occur." FEIS at C-74. But regardless of what the Nevada CCS requires, BLM is still required under the 2015 ARMPA to provide a "net conservation gain." BLM fails to explain how making up for the loss or reduction of populations in a localized area by restoring habitat in areas far from the area impacted is a "net conservation gain" for sage-grouse.

In our scoping and DEIS comments, we detailed a number of reasons why BLM cannot rely upon the state's compensatory mitigation program to mitigate impacts on sagebrush vital rates, population, or loss of leks, which we incorporate here by reference.

In addition, the inadequacies of the CCS are most apparent when one considers the actual population-level impacts of anthropogenic disturbance on greater sage-grouse in Nevada. By the State of Nevada's own admission, the CCS does not adequately account for the population impacts of anthropogenic disturbance, and cannot compensate for the permanent loss of leks.[46] Sage-grouse populations across the State have continued to decline, despite the BLM's "net conservation gain" requirement, and new science has shown that anthropogenic disturbances are driving population declines.[47] By the State's own admission, the CCS does not currently account for or mitigate many of these impacts.

Although the State's Sagebrush Ecosystem Council recently adopted minor changes in the ways it calculates "credits" and "debits" for CCS transactions, these changes do not adequately compensate for all of the demographic or population-level impacts of anthropogenic development, such as the impacts that would occur under either the Proposed Action or the

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and Puddles, RMRS-GTR-144, Ft. Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station (2005), https://doi.org/10.2737/RMRS-GTR-144; Kitchen, S.G. & D. McArthur, Big and Black Sagebrush Landscapes. Chapter 5 in: Fire Ecology and Management of the Major Ecosystems of Southern Utah. USDA Forest Service Rocky Mountain Research Station General Technical Report RMRS-GTR-202 (S.M. Hood and M. Miller, Eds.) (2007).

[46] Nevada Sagebrush Ecosystem Council, Meeting Minutes, March 2, 2023, available at https://sagebrusheco.nv.gov/uploadedFiles/sagebrusheconvgov/content/Meetings/2023/03.02.2023%20Final%20Minutes(1).pdf (NDOW: "This update will not address los[s] of leks, we do not have mitigation for loss of source leks.").

[47] Nevada Sagebrush Ecosystem Technical Team, Staff Report Incorporation Of Greater Sage-Grouse Population Space Use Into CCS Version 1.8, March 2, 2023, available at https://sagebrusheco.nv.gov/uploadedFiles/sagebrusheconvgov/content/Meetings/2023/Agenda%20Item%207%20Staff%20Report%20March2023.pdf.

Wildlife Alternative.[48] Moreover, there is no effective mitigation under the CCS for the loss of leks, particularly the loss of critical "source leks."[49]

Given that population impacts and lek loss are currently not accounted for in CCS mitigation transactions, it is difficult to envision how this system can achieve a "net conservation gain" in the context of the project. And, because sage-grouse populations and lek attendance continue to decline, it is likely that the system is failing to achieve even "no net loss." Some impacts simply cannot be mitigated through a market-based transaction, and the loss of some important habitats—such as "source leks" in the case of sage-grouse—is simply not mitigable.

NDOW staff themselves were skeptical of the ability of the CCS to mitigate the harms of GLN. In one notes document obtained through a public records request, an NDOW biologist states, "If w[e] keep losing lek sites, we will lose all ou[r] birds. There[]s no mitigation that can fix that. BLM can[]t fix [this]."[50] The biologist also implied that NDOW was being muzzled about these concerns: "Conversation with CCS about Lek issue- how are we supposed to deal with- ndow isn't allowed to say ccs is inadequate to handle lek loss. We aren't accounting for it. We have no teeth." "What we used to say- additional mitigation needs to go forth for the loss of leks- cant say that anymore."[51] Another NDOW biologist, in handwritten notes, states, "GLN – loss of leks – what will that look like – CCS doesn't account for this? An adequate offset would be creating 'new leks'."[52]

D. The Proposed Amendments Violate the 2015 ARMPA's Adaptive Management Plan

The project as proposed also violates the adaptive management plan in Appendix J of the 2015 ARMPA. The plan's hard trigger response for population declines in either PHMA or GHMA outside a designated utility corridor is to "manage affected BSU as exclusion for high-voltage transmission lines ([greater than or equal to] 100 kV))."[53] Although hard trigger responses are now required, instead of managing such areas as utility-line exclusion areas, BLM is now proposing to amend the plan to designate those areas for high-voltage transmission lines. The proposed amendment directly violates the spirit and letter of the 2015 ARMPA adaptive management plan. If land designations may be changed in direct violation of plan-required hard

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[48] *See* Nevada Sagebrush Ecosystem Council, Meeting Minutes (Nov. 2, 2023), available at https://sagebrusheco.nv.gov/uploadedFiles/sagebrusheconvgov/content/Meetings/2023/11.2.23%20SEC%20Final%20Minutes.pdf.; *see also* Recording of Nov. 2, 2023 Meeting of the Sagebrush Ecosystem Council, available at https://dcnr.nv.gov/uploads/sage/sec-meeting%20110223_A.mp3 (Part I); https://dcnr.nv.gov/uploads/sage/sec-meeting%20110223.mp3 (Part II).

[49] *See id*.; *see also* Nevada Sagebrush Ecosystem Council, Meeting Minutes, March 2, 2023, available at https://sagebrusheco.nv.gov/uploadedFiles/sagebrusheconvgov/content/Meetings/2023/03.02.2023%20Final%20Minutes(1).pdf.

[50] Internal meeting notes from unknown NDOW employee on GLN mitigation and related. June 17, 2025. 2 pp. (NDOW #8)

[51] *Id*.

[52] Handwritten notes from NDOW staffer Marissa Murphy on GLN mitigation and related. September 23, 2024. 1 p. (NDOW #10)

[53] *Id*., Appendix J at J-8, J-9 (Tables J-1, J-2).

trigger responses, BLM should be required to supplement the 2015 ARMPA EIS, or prepare a supplemental EIS here, to analyze the environmental consequences of those loopholes. BLM's proposed amendments would set a dangerous precedent by rendering the adaptive management plan, along with the lek-buffer and seasonal restriction protections, toothless, creating the risk of lack of meaningful management prescriptions and increase the risk of extirpation and listing of sage-grouse. BLM must go back to the drawing board to consider alternative schemes for conserving declining sage-grouse populations to ensure that the 2015 ARMPA's express intent and effect to avoid ESA-listing of sage-grouse is preserved. As the 2015 ARMPA states, where plan goals and objectives are not being met, BLM must consider whether management practices must be adjusted:

> Plan evaluation is the process by which the plan and monitoring data are reviewed to determine if management goals and objectives are being met and if management direction is sound. Land use plan evaluations determine *if decisions are being implemented*, if mitigation measures are satisfactory, *if there are significant changes in the related plans of other entities, if there is new data of significance to the plan, and if decisions should be modified via amendment or revision*. Monitoring data gathered over time is examined and used to draw conclusions on whether management actions are meeting stated objectives, and if not, why not. Conclusions are then used to make recommendations on whether to continue current management or to identify what changes need to be made in management practices to meet objectives.
>
> The BLM will use land use plan evaluations to determine if the decisions in the ARMPA, supported by the accompanying NEPA analysis, are still valid in light of new information and monitoring data.

2015 ARMPA 4-2-4-3.

The failure to implement critical 2015 ARMPA management direction, including adaptive management plan "hard trigger" responses "indicating that *immediate* plan-level action is necessary to stop a *severe deviation* from GRSG conservation objectives set forth in the ARMPA," 2015 ARMPA at 4-3, requires that BLM now consider alternative "plan-level action to stop a severe deviation" from those conservation objectives. But nothing in the FEIS indicates any movement in that direction. So, as of now, BLM has no plan to stop the precipitous decline in greater sage-grouse populations, in direct violation of the 2015 ARMPA's conservation management objectives.

Although, initially, BLM suggested in the DEIS that it would, at the very least, consider the development of a new adaptive management plan for the proposed action, DEIS at 3-90, the FEIS inexplicably has now abandoned its plans to do so. FEIS at C-67. The failure to develop a new adaptive management plan "as required by the 2015 RMPA," DEIS at 3-90, violates FLPMA.

In addition, BLM now incorrectly suggests, that once the proposed RMP amendments are approved, the project area would no longer be subject to hard or soft triggers. FEIS at C-2 ("Under the land use plans as amended by the 2015 ARMPA, utility corridors are not subject to soft and hard triggers.") But nothing in the plan supports that hard or soft triggers would not apply to existing ROWs, once designated (unless BLM is now proposing to amend the adaptive management plan). *See* 2015 ARMPA at J-8. Rather, once the new ROW is designated, BLM

would no longer be required to exclude ROWs in the relevant area, but BLM would still be required to manage the existing ROW as an "avoidance area." *Id*. Here, because both hard and soft triggers have been tripped, the project is still subject to "avoidance" measures and adaptive management planning. *See id*.; *id*. at J-4 & n.2 (noting that when a soft trigger is hit, adaptive management is required: "All projects implemented consistent with the GRSG LUPA/FEIS would contain a project-specific adaptive management strategy (response)."). BLM must therefore still prepare an adaptive management plan to ensure the conservation of already declining sage-grouse populations in this area.

BLM should revise the proposed action so that it complies with the 2015 ARMPA.

E. BLM Fails to Demonstrate that the Project Will Not Result in Undue or Unnecessary Degradation

FLPMA authorizes the Secretary of Interior, through BLM, to "regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands" but in implementing that authority, requires that the Secretary "take any action necessary to prevent unnecessary or undue degradation [UUD] of the [public] lands." 43 U.S.C. § 1732(b). The requirement to prevent unnecessary or undue degradation of public lands is distinct from the requirement to comply with NEPA. *Ctr. for Biological Diversity v. U.S. Dep't of Interior*, 623 F.3d 633, 645 (9th Cir. 2010). For instance, a "finding that there will not be significant impact [under NEPA] does not mean either that the project has been reviewed for unnecessary and undue degradation or that unnecessary or undue degradation will not occur." *Id.* at 645 (quoting *Kendall's Concerned Area Residents*, 129 I.B.L.A. 130, 140 (1994)) (internal quotation marks omitted).

BLM's failure to engage in any detailed analysis of options that would avoid impacts to the greater sage-grouse and other sensitive wildlife species by reducing the footprint of development, or shifting the footprint out of important areas, violates BLM's obligation to protect the public lands against UUD.

Written in the disjunctive, BLM must prevent degradation that is "unnecessary" and degradation that is "undue." *Mineral Policy Ctr. v. Norton*, 292 F.Supp.2d 30, 41-43 (D.D.C. 2003). BLM's recently adopted "Conservation and Landscape Health Final Rule" expressly recognizes these two distinct elements of BLM's obligation to prevent UUD:

> Unnecessary or undue degradation means harm to resources or values that is not necessary to accomplish a use's stated goals or is excessive or disproportionate to the proposed action or an existing disturbance. Unnecessary or undue degradation includes two distinct elements: "Unnecessary degradation" means harm to land resources or values that is not needed to accomplish a use's stated goals. For example, approving a proposed access road causing damage to critical habitat for a plant listed as endangered under the Endangered Species Act that could be located without any such impacts and still provide the needed access may result in unnecessary degradation. "Undue degradation" means harm to land resources or values that is excessive or disproportionate to the proposed action or an existing disturbance. For example, approving a proposed access road causing damage to the only remaining critical habitat for a plant listed as

> endangered under the Endangered Species Act, even if there is not another location for the road, may result in undue degradation. The statutory obligation to prevent "unnecessary or undue degradation" applies when either unnecessary degradation or undue degradation, and not necessarily both, is implicated.

43 C.F.R. § 6101.4; *see also* 89 Fed. Reg. 40341, 40308.[54]

The FEIS fails to acknowledge this obligation or explain how BLM intends to prevent UUD associated with the project. In addition, BLM's refusal to examine reasonable alternative routes for the proposed transmission line would result in impacts that are both unnecessary and undue. For instance, the impacts to greater sage-grouse (discussed above) could be avoided by re-routing the line so that it does not cross large areas of intact sage-grouse habitat and PHMAs, and does not impact a large number of leks. Such an alternative would be consistent with BLM's commitments in the ARMPAs to halt and reverse sage-grouse population declines. Yet BLM failed to examine in detail any alternative that would meaningfully reduce impacts to greater sage-grouse, and thus failed to even consider whether the project's impacts to this vulnerable species are "unnecessary" (i.e., avoidable).

The project's impacts would also be "undue"—that is "excessive or disproportionate." 43 C.F.R. § 6101.4. As noted, all project alternatives analyzed in detail would require exemptions from the ARMPA's core protections for greater sage-grouse, including lek buffers, disturbance caps, energy and transmission exclusion zones, and adaptive management protocols. BLM itself has determined that these conservation measures—based on the best available science—are necessary to reverse sage-grouse population declines and prevent the species from being listed under the Endangered Species Act. Removing these critical protections and allowing large-scale development in sage-grouse strongholds across northern Nevada will have significant and long-lasting impacts on local and regional sage-grouse populations, as detailed elsewhere in this protest and the Jones report. Ex. F at 2-6, 11-12, 22-24. Further, and as discussed above, no amount of offsite mitigation will adequately compensate for the project's anticipated impacts to sage-grouse populations, as no mitigation mechanism currently exists at either the federal or State levels for population impacts. *Cf.* Interior Solicitor Opinion M-37039 at 20 (reinstated by M-37075) ("Although mitigation may contribute in some instances to the avoidance of UUD, in other cases, the impacts to resources may be of a nature or magnitude such that they cannot be mitigated sufficiently to prevent UUD.").

Unlike contexts such as hard-rock mining or development on already-issued leases where BLM may have more limited discretion remaining at the development/permitting stage to completely prohibit the activity causing degradation, in the present context, BLM has complete discretion to reject the project. Consequently, whether the degradation resulting from that project would be unnecessary or undue must be evaluated with regard to that broad discretion. To approve any of the action alternatives here without a more thorough evaluation of whether impacts could be reduced or shifted out of the high-quality habitat violates the requirement to avoid unnecessary or undue degradation. Further, because high quality sage-grouse habitat with

[54] Although the Trump Administration recently announced its intent to rescind the rule, the rule currently remains in effect.

confirmed thriving grouse populations is a finite resource, and there is no need, from the public perspective, to use these particular lands for energy development, destroying that finite resource for energy development results in undue and unnecessary degradation.

NDOW themselves commented on the potential for undue degradation due to the exemptions made in the RMP amendment proposals: "this proposal is actively circumventing protections, plans, and policy that were established for a reason to provide avoidance and minimization measures for sage grouse and other wildlife. Actions like this are ultimately accelerating SG and potentially others sensitive species towards an ESA listing status."[55]

F. BLM Must Show that the Proposed Transmission Right of Way Is in the Public Interest

FLPMA authorizes BLM to grant rights of way on public lands for specifically enumerated purposes, including for systems for generation, transmission, and distribution of electric energy, as well as "such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands." 43 U.S.C. § 1761(a) (emphasis added). The term "right-of-way, or "ROW," as defined by FLPMA, includes an easement, lease, permit, or license to occupy, use, or traverse public lands. 43 U.S.C. § 1702(f).

BLM may grant such rights-of-way on any lands under its jurisdiction except when: (1) A statute, regulation, or public land order specifically excludes rights-of-way; (2) The lands are specifically segregated or withdrawn from right-of-way uses; or (3) BLM identifies areas in its land use plans or in the analysis of an application as inappropriate for right-of-way uses. 43 C.F.R. § 2802.10(a). BLM's grant of a right of way "[w]ill include any terms, conditions, and stipulations that we determine to be in the public interest, such as modifying [the] proposed use or changing the route or location of the facilities." 43 C.F.R. § 2805.10(a)(1)).

BLM may deny a right of way where, *inter alia*:

- "The proposed use is inconsistent with the purpose for which BLM manages the public lands described in [the] application";
- "The proposed use would not be in the public interest; . . . "
- "Issuing the grant would be inconsistent with [FLPMA], other laws, or these or other regulations"; or
- "[The applicant does] not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way . . ."

The FEIS does not acknowledge these regulatory provisions, or demonstrate that the project and associated RMP amendments would be in the public interest. In the FEIS, BLM must consider whether constructing the proposed project in the proposed configuration is in the public interest, particularly in light of the substantial impacts to sage-grouse and other wildlife, and the preferred alternative's inconsistency with the governing land use plans. BLM must weigh those significant adverse impacts against the applicant's questionable need for the project. As we

[55] Email from Katie Andrle to Rory Lamp, Sierra Club, regarding Sierra Club comments on GLN. April 9, 2024. 1 p. (NDOW #16)

describe on pp. 5-6 above, the applicant's project goals are poorly defined and not supported by evidence that the additional redundancy is even needed. Further, the FEIS does not support that the project goals could not be feasibly achieved in a less harmful way. *See* pp. 6-11, 35-36 above.

IV. Conclusion

The FEIS arbitrarily eliminates reasonable alternatives, ignores reasonably foreseeable environmental effects of line construction, and fails to support its conclusion that significant effects to sage-grouse would be fully offset, in violation of the National Environmental Policy Act (NEPA). We respectfully request that the BLM deny approval of the right-of-way unless and until these issues are fully addressed, because approval under the current FEIS would violate NEPA and FLPMA. Thank you for considering our protest.

Sincerely,

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Exhibits & Attachments submitted via ePlanning:

Attachments 1-6 – Protesting organizations' prior comments
Exhibit A – Map of Churchill to Wells Route and Sage-Grouse Habitat and Leks [corrected]
Exhibit B – Map of Churchill to Wells Route near Wells Municipal Airport
Exhibit C – Satellite Map of Churchill to Wells Route near Wells Municipal Airport
Exhibit D – Solar and Storage Projects Along Greenlink North Route
Exhibit E – Comment of Ileene Anderson on Vegetation Plan
Exhibit F – Report of Biologist Allison Jones
Exhibit G – Declaration of Dr. Clait Braun
Exhibit H – Map of Greenlink North and Robinson Substation Expansion projects
Exhibit I – Map of ROW Exclusion Areas and Select Leks
Exhibit J – Map of Solar Buildout Near Greenlink North
Exhibit K – Map of Solar Buildout Near Fort Churchill Substation
Exhibit L – Map of Solar Buildout Near Lander Substation
Exhibit M – Map of Solar Buildout Near Robinson Summit Substation

References submitted via ePlanning:

References submitted with Center's DEIS comments
References submitted with Center's scoping comments
References submitted with other protesting organizations' comments
Additional references not previously submitted, including:

- NDOW records
- Solar project applications referenced in Exhibit D
- All other studies and references cited in this protest (that were not already submitted with our DEIS comments)