

193 FERC ¶ 61,037
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: David Rosner, Chairman;
Lindsay S. See and Judy W. Chang.

Eagle Crest Energy Company

Project No. 13123-031

ORDER AMENDING LICENSE

(Issued October 16, 2025)

1. On October 12, 2022, Eagle Crest Energy Company (Eagle Crest), licensee for the Eagle Mountain Pumped Storage Hydroelectric Project No. 13123 (Eagle Mountain Project), filed an application to amend its license to reroute the project's primary transmission line and revise the project boundary. As discussed below, we approve the amendment.

I. Background

2. On June 19, 2014, the Commission issued an original license to Eagle Crest to construct, operate, and maintain the Eagle Mountain Project.¹ The unconstructed project will be located on the site of the inactive Eagle Mountain mine, in Riverside County, California, near the town of Desert Center, and will operate as a closed-loop, pumped storage facility with water for the initial reservoir fill and replenishment supplied by groundwater wells. The project occupies private lands and federal land under the jurisdiction of the U.S. Department of the Interior (Interior), Bureau of Land Management (BLM).

3. The license for the Eagle Mountain Project authorized the construction of: (a) an upper reservoir; (b) an upper water conveyance system; (c) generating/pumping facilities with a total capacity of 1,300 megawatts; (d) a lower reservoir; (e) a lower water conveyance system; (f) a transmission system; (g) water supply system; (h) a water treatment system; and (i) appurtenant facilities. The central project area at the mine site will include all the project's facilities except its linear features (e.g., primary transmission line and the water supply pipeline) and some groundwater monitoring wells. As licensed, the project's transmission system includes four, 6,000-foot-long, 18-kilovolt (kV)

¹ *Eagle Crest Energy Co.*, 147 FERC ¶ 61,220 (2014) (License Order), *order on reh'g*, 153 FERC ¶ 61,058 (2015).

underground transmission cables extending from the powerhouse to the ground surface, and then 4,000 feet overhead to a 500-foot-wide by 1,100-foot-long switchyard. Project power would then be transmitted to Southern California Edison's (SoCal Edison) Red Bluff Substation via a 16.4-mile-long, double circuit 500-kV primary transmission line. The Red Bluff Substation was not constructed at the time the project was licensed; however, construction has since been completed.

II. Proposed Amendment

4. Eagle Crest proposes to amend its license by: (1) revising the project boundary to accommodate a reroute of its generation-tie (gen-tie) line into the Red Bluff Substation; and (2) removing the Red Bluff Substation from the project boundary. Eagle Crest states that the original project boundary was prepared before the Red Bluff Substation was constructed, and the details of the substation design were not finalized. According to Eagle Crest, the current project boundary allows for the gen-tie line to enter the substation from the north, but the bays for 500-kV lines are located on the eastern side of the substation, requiring the gen-tie line to be rerouted to enter the substation from the east rather than from the north. Eagle Crest states that the gen-tie reroute would avoid conflicts with other existing and proposed transmission lines, and with existing and proposed solar projects nearby that are outside the Commission's jurisdiction.² Although the land that SoCal Edison's Red Bluff Substation now stands on was included in the original boundary, as put forth by Eagle Crest, for reasons that do not appear in the record, the Red Bluff Substation past its connection point with the project's primary transmission line is not a project work.³

5. The proposed reroute of the primary transmission line is approximately 1.2 miles longer than the currently approved route and would involve a slight deviation of the currently approved transmission line corridor.⁴ The proposed gen-tie line is also a double circuit line, requiring a two-pronged configuration at the entry to the Red Bluff Substation.⁵ The transmission line reroute would increase the number of steel lattice towers from the previously-proposed range of 54-68 towers in Eagle Crest's Final License Application to approximately 82 towers.⁶ In total, Eagle Crest's proposal would

² Application at 1-3.

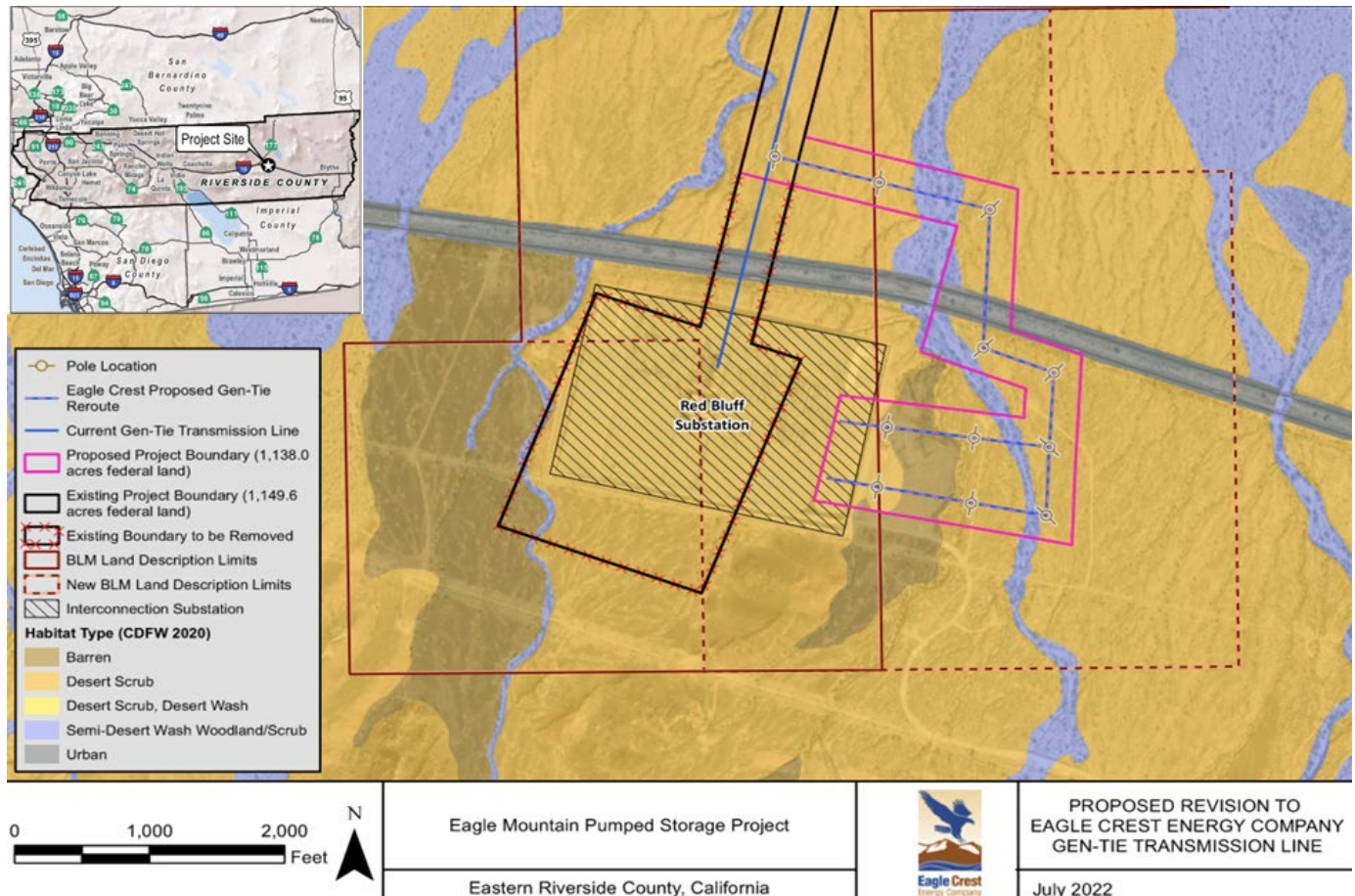
³ See License Order, 147 FERC ¶ 61,220 at ordering para. (B)(2).

⁴ The transmission line corridor consists of a 200-foot-wide corridor encompassing the transmission line and where construction, operation, and maintenance of the line will occur. January 30, 2012 Final Environmental Impact Statement at 197 (2012 Final EIS).

⁵ Application at 4.

⁶ Final License Application, Ex. E, at 2-13.

add 75 acres of land to the project boundary to accommodate the gen-tie line reroute but would remove 85.5 acres of land associated with the Red Bluff Substation from the project boundary, for a net removal of 10.5 acres.⁷ The map below depicts the as-licensed gen-tie route and proposed revised route.



6. In its amendment application, Eagle Crest states that any approved resource protection plans would apply to the relocated gen-tie line in the same manner as they would for the currently approved route, and those resource protection plans that have not been prepared yet would be developed to address the relocated gen-tie line.⁸ Resource protection plans developed in consultation with BLM and already approved by Commission staff include a Special-Status Plants Protection Plan,⁹ an Avian Protection

⁷ Application at 4.

⁸ Application attach. 3, at 2.

⁹ Article 412 of the project license required a Special-Status Plants Protection Plan, which Eagle Crest filed on February 19, 2015, and Commission staff approved on May 12, 2016. *Eagle Crest Energy Co.*, 155 FERC ¶ 62,107 (2016).

Plan,¹⁰ a Wildlife Protection Plan,¹¹ a Desert Tortoise Clearance and Relocation/Translocation Plan (Desert Tortoise Removal Plan) (Article 415),¹² and a revised Predator Monitoring and Control Plan (Article 417).¹³ The required resource protection plans that have not yet been filed include the revised Revegetation Plan (Article 409), a revised Invasive Species Monitoring and Control Plan (Article 410), Couch's Spadefoot Toad Protection Plan (Article 411), and a Desert Tortoise Habitat Mitigation Plan (Article 416). These plans all require Commission approval prior to the start of construction.

III. Pre-Filing Consultation

7. On November 22, 2021, Eagle Crest submitted its draft amendment application to the U.S. Fish and Wildlife Service (FWS), National Park Service (Park Service), BLM, California State Historic Preservation Officer (SHPO), California Department of Fish and Wildlife (California DFW), Agua Caliente Band of Cahuilla Indians (Agua Caliente Band), Cabazon Band of Mission Indians, Morongo Band of Mission Indians, and Augustine Band of Cahuilla Indians. FWS, Park Service, BLM, and Agua Caliente Band provided comments. Eagle Crest incorporated all comments into the application and provided clarification on various components of the application.

¹⁰ Article 413 of the project license required a Transmission Line Avian Protection Plan, a Nesting Migratory Bird Protection Plan, a Nesting Raptor Protection Plan, a Burrowing Owl Protection Plan, and a Desalination Pond Avian Deterrence Plan. Eagle Crest combined these requirements into a final Avian Protection Plan, which it filed on February 19, 2015, and Commission staff approved on May 17, 2016. *Eagle Crest Energy Co.*, 155 FERC ¶ 62,123 (2016).

¹¹ Article 414 of the project license required a Project Facility Fencing Plan, a Badger and Kit Fox Protection Plan, and a Bat Protection Plan. Eagle Crest combined these requirements into a final Wildlife Protection Plan, which it filed on February 19, 2015, and Commission staff approved on June 6, 2016. *Eagle Crest Energy Co.*, 155 FERC ¶ 62,177 (2016).

¹² Article 415 of the project license approved a Desert Tortoise Clearance and Relocation/Translocation Plan that Eagle Crest filed on October 27, 2009. On March 14, 2011, Eagle Crest submitted a revised plan consistent with FWS's August 2010 desert tortoise translocation guidance.

¹³ Article 417 of the project license required a revised Predator Monitoring and Control Plan, which Eagle Crest filed on February 19, 2015, and Commission staff approved on May 19, 2016. *Eagle Crest Energy Co.*, 155 FERC ¶ 62,129 (2016).

IV. Public Notice, Interventions, and Comments

8. On March 16, 2023, Commission staff issued public notice of the amendment application, establishing April 17, 2023, as the deadline for filing comments, interventions, and protests. National Parks Conservation Association (Association) filed a timely motion to intervene on March 22, 2023.¹⁴ On April 18, 2023, Desert Protection Society filed an untimely motion to intervene that was subsequently granted by the Commission on May 23, 2023.

9. The Association opposes Eagle Crest's proposed amendment, arguing that the project would lead to environmental degradation, including harm to desert dry wash woodland habitat, threatened and endangered species, and groundwater resources, and that the amendment would exacerbate environmental impacts.¹⁵ It also asserts that the project requires a right-of-way from the BLM, and that the project can only proceed through an amendment to the Desert Renewable Energy Conservation Plan, developed in collaboration between the California Energy Commission, California DFW, BLM, and FWS,¹⁶ which the Association appealed to Interior's Board of Land Appeals.¹⁷ The Association urges the Commission to not grant Eagle Crest's amendment prior to Interior's Board of Land Appeals' resolution.¹⁸

10. Desert Protection Society also opposes the proposed amendment,¹⁹ arguing that it would impact wildlife and critical habitat and that Eagle Crest has not properly analyzed the environmental effects of the amendment.

¹⁴ The Association had previously filed a motion to intervene on November 4, 2022 prior to the Commission noticing the application.

¹⁵ Association November 4, 2022 Motion to Intervene at 6.

¹⁶ The Desert Renewable Energy Conservation Plan identifies areas in the Mojave and Colorado/Sonoran Desert area in southeastern California that are appropriate for utility-scale development of wind, solar, and geothermal energy projects. California Energy Commission, <https://www.energy.ca.gov/programs-and-topics/programs/desert-renewable-energy-conservation-plan> (last accessed Apr. 21, 2025). BLM approved the Desert Renewable Energy Conservation Plan Land Use Plan Amendment, which covers BLM-managed lands in the area, in 2016. *Id.*

¹⁷ Association March 22, 2023 Motion to Intervene at 2.

¹⁸ *Id.*

¹⁹ Desert Protection Society April 18, 2023 Motion to Intervene and Opposition.

11. On May 22, 2025, Commission staff issued a letter inviting the participation of several Tribes²⁰ and requesting comments on Eagle Crest's proposed amendment. On August 5, 2025, Fort McDowell Yavapai Nation responded via e-mail stating that it had no concerns, but requested to be contacted if any cultural items or ancestral remains are found during project work. On September 3, 2025, the Agua Caliente Band submitted comments on the proposed amendment discussed further below.²¹ No comments were received from any other Tribes.

V. Discussion

A. Environmental Analysis

12. On January 25, 2024, Commission staff issued a Notice of Intent informing the public that Commission staff would prepare an Environmental Assessment (EA) for the proposed amendment. In the notice, Commission staff invited federal, state, local, and Tribal agencies to participate as cooperating agencies. In response to the notice, on March 22, 2024, the Association filed another motion to intervene²² and asked the Commission to consider a range of alternatives in its EA, including both the no-action alternative and another alternative involving reintegrating the land set aside for the project into Joshua Tree National Park.²³ On February 16, 2024, the U.S. Environmental Protection Agency (EPA) requested to be a cooperating agency. However, when

²⁰ Commission staff invited several Tribes to participate in the proposed amendment: Augustine Band of Cahuilla Indians, California, Cabazon Band of Mission Indians, California, Agua Caliente Band, Cahuilla Band of Indians, California, Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Arizona, Los Coyotes Band of Cahuilla and Cupeno Indians, California, Morongo Band of Cahuilla Mission Indians, California, Pechanga Band of Indians, Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona, Ramona Band of Cahuilla, California, Santa Rosa Band of Cahuilla Indians, California, Soboba Band of Luiseno Indians, California, Torres Martinez Desert Cahuilla Indians, California, and Twenty-Nine Palms Band of Mission Indians of California.

²¹ Staff filed the Agua Caliente Band's comments to the record on September 8, 2025.

²² The Association's motion to intervene in response to the Notice of Intent to Prepare an EA was unnecessary. The Association had already intervened pursuant to the Commission's regulations, and Notices of Intent do not open another opportunity for intervention. 18 C.F.R. §§ 385.210, 385.214 (2025).

²³ Association March 22, 2024 Motion to Intervene at 31.

Commission staff met with EPA regarding the request,²⁴ EPA staff stated that, given that the scope of the proceeding is solely the boundary amendment, it no longer wished to be a cooperating agency.

13. Pursuant to the National Environmental Policy Act of 1969 (NEPA),²⁵ Commission staff issued an EA on July 31, 2024.²⁶ The EA evaluated the potential environmental effects of the proposal on vegetation, wildlife, and threatened and endangered species. Commission staff concluded in the EA that the proposal would not affect the following environmental resources: geology and soils, water quality and quantity, aquatic resources, recreation, air quality, cultural or historic resources, and climate change.²⁷ Therefore, the EA did not address these resource areas further. The EA explained that, although the proposal has the potential to affect land use and aesthetics, the EA did not reanalyze these resource areas because the area affected by the proposed gen-tie line reroute is not significantly different from that of the original gen-tie line route analyzed in the 2012 Final EIS.²⁸ Moreover, the proposed reroute is within the same watershed and land use classification as the original route analyzed in the 2012 Final EIS.²⁹ The EA concluded that the proposed amendment would have no additional adverse effects to terrestrial resources or threatened and endangered species.³⁰ Based on the analysis in the EA, we find that the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

14. The Association asserts that the EA's Finding of No Significant Impact Statement violates NEPA, the Council of Environmental Quality's (CEQ) now-rescinded NEPA

²⁴ Commission staff July 1, 2024 Memorandum Re: Phone Conversation Between Commission Staff and EPA Staff.

²⁵ 42 U.S.C. §§ 4321 *et seq.*; *see also* 18 C.F.R. pt. 380 (2025) (Commission's regulations implementing NEPA).

²⁶ Commission staff July 31, 2024 Environmental Assessment (EA).

²⁷ EA at 5-6.

²⁸ EA at 6.

²⁹ *Id.*

³⁰ *Id.* at 18.

regulations,³¹ and the Commission's NEPA regulations,³² and it is therefore arbitrary and capricious, requiring the Commission to issue a supplemental EA.³³ EPA also raised concerns on the EA that overlap with the Association's comments and, additionally, provided recommendations for a "Final EA."³⁴ The Association's and EPA's comments are further discussed below.³⁵

1. **Substantial Change**

15. The Association and Desert Protection Society state that the license amendment constitutes a substantial change to the project.³⁶ Specifically, the Association points to the additional 1.2 miles of transmission line, approximately 10 new steel lattice towers, extension onto additional desert dry wash woodland habitat, and use of lands under development for the Clearway Solar Project.³⁷ It claims that the revised transmission line would "exacerbate the risk of wildfires; cause habitat disturbance during construction and maintenance; and increase perching habitat for predatory wildlife, thereby increasing predation pressure on desert tortoises and other native wildlife, which preferentially use Dry Wash Woodland habitat."³⁸ For these reasons, the Association contends that Eagle Crest's proposed amendment involves "fundamental and significant" changes under section 4.35(f)(1) of the Commission's regulations and Commission precedent.³⁹ The

³¹ Association August 30, 2024 EA Comments at 20. The CEQ's final rule rescinding its NEPA regulations became effective on April 11, 2025. 90 Fed. Reg. 10610 (Feb. 25, 2025).

³² Association EA Comments at 19.

³³ *Id.* at 18.

³⁴ EPA August 27, 2024 EA Comments.

³⁵ The Metropolitan Water District of Southern California also filed comments in response to the EA, confirming that the proposed amendment would not interfere with existing transmission lines or solar projects but not specifically addressing any analyses or conclusions within the EA. Metropolitan Water District of Southern California August 28, 2024 Comments.

³⁶ Association EA Comments at 18; Desert Protection Society April 18, 2023 Motion at 7.

³⁷ *Id.* at 18-19.

³⁸ *Id.*

³⁹ *Id.* at 18 (citing 18 C.F.R. § 4.35(f)(1) (2025); *Kings River Conservation Dist.*, 36 FERC ¶ 61,365, at 61,883 (1986) (*Kings River*); *City of Hamilton, Ohio*, 62 FERC

Association appears to subsequently argue that Eagle Crest's proposal amounts to a substantial change from the original license requiring the Commission to supplement its environmental review under NEPA. According to the Association, the EA inadequately supplemented the 2012 Final EIS.

16. We disagree. The regulation the Association cites governs amendments to pending license applications, not amendments to licensed projects, and is thus inapplicable to the proceeding before us. Specifically, section 4.35(f)(1) of the Commission's regulations defines a "material amendment" to plans of development proposed in an application for a license or exemption from licensing as "any fundamental and significant change" and provides examples for the purpose of determining when a filed application must be amended, triggering reissuance of public notice and another opportunity for intervention.⁴⁰ The Commission precedent cited by the Association is similarly inapposite as the cases concern when notice and the opportunity to intervene is required in post-licensing proceedings and when Commission approval of project changes is necessary.⁴¹ None of those issues is implicated here. Eagle Crest filed an amendment application seeking Commission approval for the requested changes to the licensed project, and the Commission issued notice of Eagle Crest's proposed amendment, providing the opportunity for intervention.

17. Commission staff's EA appropriately considered the environmental impacts of the amendment.⁴² Specifically, the EA analyzed the impacts of the amendment on vegetation and wildlife, including the desert tortoise.⁴³ While the EA recognized the amendment's potential impacts to desert tortoises, staff also considered the mitigation measures in Eagle Crest's approved Worker Environmental Awareness Program, Desert Tortoise Removal Plan, and Predator Monitoring and Control Plan.⁴⁴ Additionally, Eagle Crest is

¶ 61,061, at 61,302 (1993) (*Hamilton*)).

⁴⁰ 18 C.F.R. § 4.35(f)(1).

⁴¹ See *Kings River*, 36 FERC at 61,882-83 (explaining that the Commission is only required to give notice of, and entertain interventions in, post-licensing proceedings where the licensee's filings entail material changes in the plan of project development or in the terms and conditions of the license, or could adversely affect the rights of property holders in a manner not contemplated by the license); *Hamilton*, 62 FERC at 61,303 (finding relocation of project transmission line not permitted without prior Commission approval).

⁴² *Tenn. Gas Pipeline Co., LLC*, 187 FERC ¶ 61,136, at P 50 (2024).

⁴³ EA at 7-12.

⁴⁴ *Id.* at 11-12. The Worker Environmental Awareness Program requires that all maintenance activities potentially requiring ground disturbance occur in the presence of

required to submit to the Commission for approval a Desert Tortoise Habitat Mitigation Plan at least 60 days prior to commencing construction.⁴⁵ Staff found that these plans would have similar mitigation effects on the proposed boundary amendment.⁴⁶ The EA also found that the amendment would not interfere with nearby solar projects, nor would the proposed additional towers be located in desert dry wash woodland.⁴⁷ Because the EA for this amendment thoroughly analyzed potential impacts of the amendment, no more is required.⁴⁸

2. Purpose and Need and Reasonable Alternatives

18. The Association asserts that the EA's purpose and need statement and range of alternatives is unlawfully narrow.⁴⁹ It faults the EA's purpose and need statement for resembling the statement of purpose in Eagle Crest's amendment application and argues that the EA should have "discussed the proposed project in the context of the larger energy market and . . . how the project would assist California in meeting renewable energy portfolio standards and goals, address anticipated electric demand, and improve reliability and resilience of the Western electric grid."⁵⁰ The Association also objects that

biological monitors. *Id.* at 9. The Desert Tortoise Removal Plan provides guidance for how to move desert tortoises out of harm's way via either translocation (moving an animal to outside its home range) or relocation (moving an animal within its home range). Eagle Crest March 14, 2011 Desert Tortoise Removal Plan at 5. The Predator Monitoring and Control Plan identifies project features that may attract predators to the site and determines potential mitigation measures. Eagle Crest February 19, 2015 Predator Monitoring and Control Plan at 6.

⁴⁵ EA at 12.

⁴⁶ *Id.*

⁴⁷ EA at 7, 19.

⁴⁸ See *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 145 S. Ct. 1497, 1513 (2025) (*Seven Cnty.*) ("an agency will invariably make a series of fact-dependent, context-specific, and policy-laden choices about the depth and breadth of its inquiry...Courts should afford substantial deference and should not micromanage those agency choices so long as they fall within a broad zone of reasonableness."); *Sierra Club v. FERC*, No. 24-1099, 2025 WL 2779345 at *7 (D.C. Cir. September 30, 2025).

⁴⁹ Association EA Comments at 19.

⁵⁰ *Id.* at 22.

the EA considered only the proposed action and a no-action alternative.⁵¹ According to the Association, the Commission should have also considered “reintegrating the public lands set aside by the [license] into Joshua Tree National Park.”⁵²

19. NEPA provides that agencies must include “a detailed statement” of “a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal.”⁵³ Where, as here, a federal agency is not the sponsor of a project, “the Federal government’s consideration of alternatives may accord substantial weight to the preferences of the applicant and/or sponsor in the siting and design of the projects,” and courts have upheld federal agencies’ consideration of applicants’ project purpose and need in environmental documents and as a basis for evaluating alternatives.⁵⁴ When an agency is asked to consider a specific proposal, the needs and goals of the parties involved in the application should be taken into account.⁵⁵

20. We recognize that a project’s purpose and need may not be so narrowly defined as to preclude consideration of reasonable alternatives. Nonetheless, an agency need only consider alternatives that will bring about the ends of the proposed action, and the evaluation is “shaped by the application at issue and by the function that the agency plays in the decisional process.”⁵⁶ Moreover, because the alternatives considered under NEPA

⁵¹ *Id.* at 24.

⁵² *Id.*

⁵³ 42 U.S.C. § 4332(c)(iii).

⁵⁴ *E.g., City of Grapevine, Tex. v. U.S. Dep’t of Transp.*, 17 F.3d 1502, 1506 (D.C. Cir. 1994); *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 199 (D.C. Cir. 1991) (explaining that the evaluation of alternatives is “shaped by the application at issue and by the function that the agency plays in the decisional process.”). *See also Seven Cnty.*, 145 S. Ct. at 1512 (stating that agencies exercise “substantial discretion” in identifying significant environmental impacts and feasible alternatives); *Am. Whitewater v. FERC*, 125 F.4th 1139, 1147-48 (D.C. Cir. 2025) (citing *City of Alexandria, Va. v. Slater*, 198 F.3d 862, 867 (D.C. Cir. 1999)).

⁵⁵ *Citizens Action Coal. of Indiana, Inc. v. FERC*, 125 F.4th 229, 237 (D.C. Cir. 2025) (citing *Citizens Against Burlington, Inc.*, 938 F.2d at 196 (explaining that the Commission “must identify a project’s purpose in light of the applicant’s goals and the agency’s statutory authority”).

⁵⁶ *Citizens Against Burlington*, 938 F.2d at 199.

are informed both by “the project sponsor’s goals,”⁵⁷ as well as “the goals that Congress has set for the agency,”⁵⁸ i.e., the goals set in enacting the Federal Power Act (FPA),⁵⁹ the Commission’s consideration of alternatives includes the no-action alternative and reasonable alternatives that achieve the purpose of the amendment project.

21. Commission staff explained in the EA that the purpose of the proposed amendment is to remove the Red Bluff Substation from the project boundary and to relocate a portion of the transmission line so that it enters the substation from the east rather than from the north.⁶⁰ The EA further explained that, at the time of licensing, the substation bays were expected to be on the north, but ultimately were constructed by SoCal Edison on the east.⁶¹

22. Alternatives may be eliminated if they will not achieve a project’s goals or are otherwise unreasonable.⁶² As stated in the EA, the amendment’s purpose is to allow the licensed project to function.⁶³ “[R]eintegrating the public lands set aside by the [license] into Joshua Tree National Park”⁶⁴ was not considered because it does not further the aims of the amendment. Further, the Commission does not have the authority to reintegrate land owned by BLM into Joshua Tree National Park, rendering that alternative infeasible. We find that the EA’s consideration of purpose and need and scope of alternatives complies with NEPA and is consistent with court precedent.

3. **Biological Resource Impacts**

23. The Association and EPA contend that the EA’s analysis of the proposed amendment’s impacts on biological resources is inadequate. They argue that the January 30, 2012 Final Environmental Impact Statement (2012 Final EIS) for the license

⁵⁷ *Id.* at 196.

⁵⁸ *Sierra Club, Inc. v. U.S. Forest Serv.*, 897 F.3d 582, 598-99 (4th Cir. 2018).

⁵⁹ *See* 16 U.S.C. § 797(e).

⁶⁰ EA at 1.

⁶¹ *Id.*

⁶² *Ctr. for Biological Diversity v. FERC*, 67 F.4th 1176, 1182 (D.C. Cir. 2023) (*Alaska LNG*) (“Because some alternatives will be impractical or fail to further the proposed action’s purpose, agencies may reject unreasonable alternatives after only brief discussion.”).

⁶³ EA at 1.

⁶⁴ Association EA Comments at 19.

proceeding, which the 2024 EA in this proceeding relied on, did not address consistency with the 2016 Desert Renewable Energy Conservation Plan,⁶⁵ and that the resource protection plans the EA relied on are outdated or underdeveloped.⁶⁶ The Association and EPA both assert that the EA's consideration of cumulative effects was inadequate.⁶⁷ The Association states that the EA should have considered the cumulative effects of the license amendment with solar and battery storage projects developed since the 2012 Final EIS and additional proposed development on land use and groundwater availability.⁶⁸ The EPA questions whether the EA considered the cumulative effects of construction, habitat loss, displacement of wildlife, and fragmentation of connectivity corridors.⁶⁹ Finally, the Association states that the Commission failed to consult with California DFW on the amendment's impacts on desert bighorn sheep.⁷⁰ EPA asks that staff estimate the acreage of desert dry wash woodlands, desert tortoise critical habitat, and wildlife linkages that that the amendment will impact.

24. On August 30, 2024, Eagle Crest filed a response, pointing out that BLM considered the Desert Renewable Energy Conservation Plan during its NEPA analysis of the right-of-way and the California Desert Conservation Plan Amendment, and found that the Commission's license requirements meet or exceed the requirements of the plan.⁷¹ Further, the NEPA analysis conducted by BLM concluded that the Commission's license requirements met or exceeded the goals and objectives of the Desert Renewable Energy Conservation Plan, and BLM stated that the license requirements would be implemented in lieu of the plan's Conservation Management Actions.⁷² Thus, staff was not required to consider the amendment's consistency with the Desert Renewable Energy Conservation Plan.

⁶⁵ *Id.* at 28.

⁶⁶ Association EA Comments at 28; EPA EA Comments at 2.

⁶⁷ Association EA Comments at 28-29; EPA EA Comments at 1-2.

⁶⁸ Association EA Comments at 28-29, 32-34.

⁶⁹ EPA EA Comments at 1-2.

⁷⁰ *Id.* at 29-30.

⁷¹ Eagle Crest August 30, 2024 EA Comments at 2.

⁷² Bureau of Land Management, BLM Case File No. CACA-050946 BLM-DOI-CA-D060-2016-0017-EA, 9 (Aug. 2018), https://eplanning.blm.gov/public_projects/nepa/66002/152856/187124/Eagle_Crest_ROW_Decision_Record_SIGNED_08.01.2018.pdf.

25. The Association and EPA provide no evidence that the resource protection plans are outdated or underdeveloped. “NEPA ‘involves an almost endless series of judgment calls’ left primarily to the agency.”⁷³ Eagle Crest states that these plans, which have been approved by Commission staff or by the Commission in the license order, apply to the relocated gen-tie line in the same manner as the currently approved line, and that Eagle Crest is developing additional resource protection plans to address the proposed gen-tie line, including the relocated section.⁷⁴ Furthermore, Eagle Crest consulted with BLM to develop the resource protection plans and will continue to consult with BLM to develop resource protection plans to address the rerouted gen-tie line.⁷⁵ We see no need to require more.

26. The EA considered the proposal’s potential impacts on wildlife, particularly desert tortoises,⁷⁶ and vegetation, including desert dry wash woodland.⁷⁷ EPA provided no justification for its recommendation that staff provide acreage estimates, particularly given the limited nature of the proposed amendment and that the record does not demonstrate that the amendment will result in significant impacts on these resources. Additionally, FWS did not require a modified Biological Opinion in response to Eagle Crest’s amendment request, due to the proposal’s similarity to baseline conditions. We find the EA’s analysis complies with NEPA. There was no need to go further and provide precise acreage estimates.

27. Nor was Commission staff’s analysis of the proposed amendment’s potential cumulative effects inadequate. An agency is entitled to “substantial deference” when making “fact-dependent” and “context-specific” decisions in determining the scope of its NEPA analyses.⁷⁸ In the 2012 Final EIS, staff’s broader cumulative effects analysis of the project as a whole was based on the larger range of resources impacted by the construction and operation of a pumped-storage project.⁷⁹ The Association’s criticism of Commission staff’s decision not to conduct a broad cumulative effects analysis in the EA relies heavily on the EPA’s Scoping Comments, which focused primarily on groundwater

⁷³ *Food & Water Watch v. FERC*, 104 F.4th 336, 344 (D.C. Cir. 2024).

⁷⁴ Application at 4.

⁷⁵ Eagle Crest August 30, 2024 EA Comments at 2.

⁷⁶ EA at 7-12.

⁷⁷ *Id.* at 7-9.

⁷⁸ *Seven Cnty.*, 145 S. Ct. at 1513.

⁷⁹ 2012 Final EIS at 44-45.

availability.⁸⁰ However, that resource is outside of the scope of this amendment. Regarding EPA's question of whether staff considered the cumulative effects of habitat loss, construction, and fragmentation of connectivity corridors, in the EA, Commission staff considered the amendment's effect on vegetation, wildlife, and listed species and concluded that impacts on those resources would be so minor as to not cause any reasonably foreseeable cumulative effects.⁸¹ The EA's consideration of cumulative effects was appropriately limited in scope and commensurate with the proposed amendment, which involves only a reroute of the primary transmission line that is approximately 1.2 miles longer than the currently approved route and removal from the project boundary of an existing substation.⁸² Courts afford agencies substantial deference regarding the scope of their inquiry into evaluating environmental impacts of any given project, and here Commission staff made a reasonable decision about the scope of its evaluation of cumulative effects.⁸³

28. The Association also asserts Commission staff erred by not inviting California DFW to be a cooperating agency and consult on the impact of the amendment on Nelson bighorn sheep, and that the EA failed to adequately consider potential impacts on the species.⁸⁴ We disagree. In Commission staff's January 25, 2024 Notice of Intent to Prepare an EA, staff invited federal, state, local, and Tribal agencies to cooperate in the preparation of the EA.⁸⁵ BLM, which has classified the bighorn sheep as a sensitive species, raised no concerns about project impacts on that species. In any event, the Commission invited California DFW to participate in the amendment proceeding but California DFW did not provide comments or request to cooperate.⁸⁶ The 2012 Final EIS analyzed the potential minor and temporary impacts of the project on the bighorn sheep's

⁸⁰ Association EA Comments at 31-32 (citing EPA February 16, 2024 Scoping Comments at 1, 4).

⁸¹ EA at 6, 9-10, 12.

⁸² See 2012 Final EIS at 229; Application at 19.

⁸³ See *Seven Cnty.*, 145 S. Ct. at 1513 (agencies have substantial deference regarding their decisions about where to "draw the line" in conducting their NEPA analysis).

⁸⁴ Association EA Comments at 29-30.

⁸⁵ Commission staff January 25, 2024 Notice of Intent to Prepare an EA at 1-2.

⁸⁶ Eagle Crest also attempted to consult with California DFW and received no response. Application at 90.

migratory patterns and other potential disturbance caused by human activity.⁸⁷ The EA for the boundary amendment appropriately considered only the impacts reasonably foreseeable from the additional 1.2-mile length transmission line. Any minor increase in impacts to bighorn sheep that may result from the amendment will be mitigated by the measures outlined in the original license order.⁸⁸

4. Groundwater Impacts

29. The Association faults the EA for not analyzing the Eagle Mountain Project's impacts on groundwater. It argues that the 2012 Final EIS was deficient at the time the project was licensed and is now outdated, requiring the amendment EA to consider not only the impacts of the amendment itself, but also the project as a whole.⁸⁹ The Association cites groundwater studies conducted by Lawrence Berkely National Laboratories⁹⁰ and Argonne National Laboratory⁹¹ that, in its view, render the groundwater analysis in the 2012 Final EIS outdated. The Association questions whether

⁸⁷ 2012 Final EIS at 143, 159-61. The EIS found that construction would cause disturbance levels similar to historic mining activities in the area, and that activities would not cause migratory barriers. *Id.* at 160. Project operations would also cause disturbances akin to prior mining operations. *Id.* at 161.

⁸⁸ License Order, 147 FERC ¶ 61,220 at PP 121-23. These measures include designing, installing, and maintaining facility lighting to prevent casting of light into adjacent native habitat (Article 42) and implementing the Worker Environmental Awareness Program (Article 418).

⁸⁹ Association EA Comments at 31.

⁹⁰ *Id.* at 32 (citing Godfrey, Ludwig, et al., *Groundwater and Large-Scale Renewable Energy Projects on Federal Land: Chuckwalla Valley Groundwater Basin*, Arizona Hydrological Society Annual Water Symposium (Sept. 2012), https://www.academia.edu/113259234/Groundwater_and_Large_Scale_Renewable_Energy_Projects_on_Federal_Land_Chuckwalla_Valley_Groundwater_Basin?f_r=2766886; Shen, et al., *Impact of Water Use by Utility-Scale Solar on Groundwater Resources of the Chuckwalla Basin, CA: Final Modeling Report* (June 2017), <https://escholarship.org/uc/item/1m7191xp>).

⁹¹ *Id.* at 33 (citing Argonne National Laboratory, *A Groundwater Model to Assess Water Resource Impacts at the Riverside East Solar Energy Zone* (Dec. 2013), <https://blmsolar.anl.gov/solar-peis/sez/ca/riverside-east/downloads/Riverside-East-Groundwater-Report.pdf>).

pumping of the project would exceed the natural recharge rate of the Chuckwalla Valley Aquifer.⁹²

30. The EA analyzed the impacts of the project boundary amendment and gen-tie line reroute, and concluded that the proposal would not affect water quality and quantity.⁹³ Commission staff also noted in the EA that EPA's and the Association's comments referenced concerns with overall project impacts on groundwater availability and were not specifically related to the reroute of the gen-tie line or the project boundary change.⁹⁴ We find that staff appropriately limited its analysis in the EA and reject the Association's arguments as outside the scope of this proceeding and an impermissible collateral attack on the license order.⁹⁵

B. Federal Power Act

31. The Association contends that approval of the proposed amendment might conflict with the FPA's requirement that the Commission provide "adequate protection, mitigation, and enhancement of fish and wildlife."⁹⁶ The Association misconstrues the FPA's requirements and how those requirements apply to this license amendment proceeding. Sections 4(e) and 10(a)(1) of the FPA⁹⁷ require the Commission to give equal consideration to power development purposes and to the purposes of energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife; the protection of recreational opportunities; and the preservation of other aspects of environmental quality. Any license issued must be such as in the Commission's judgment would be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses. The Commission made this determination in issuing the license, and raising it in opposition to the proposed

⁹² Association EA Comments at 32-33.

⁹³ EA at 6.

⁹⁴ *Id.*

⁹⁵ See *N.Y. Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,042, at P 32 (finding that protests regarding price calculation that were beyond the scope of NYISO's Compliance Filing and already approved by a prior order were impermissible collateral attacks); *Entergy Nuclear Operations, Inc. v. Consolidated Edison Co. of N.Y., Inc.*, 112 FERC ¶ 61,117, at P 12 ("Collateral attacks on final orders and relitigation of applicable precedent by parties that were active in the earlier cases thwart the finality and repose that are essential to administrative efficiency and are strongly discouraged.")

⁹⁶ *Id.*

⁹⁷ 16 U.S.C. §§ 797(e), 803(a)(1).

amendment is a collateral attack against the license. Further, we find that the project, as amended, remains consistent with FPA sections 4(e) and 10(a)(1).

C. Federal Land Policy and Management Act

32. The Association contends, without elaboration, that the Commission's approval of this license amendment might violate FLPMA's prohibition against "unnecessary or undue degradation of the lands."⁹⁸ Relatedly, it claims that approving the amendment would violate FLPMA's protection "against undue impairment" of the California Desert Conservation Area, an Area of Critical Concern under FLPMA.⁹⁹ FLPMA provides that "[i]n managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands."¹⁰⁰ The Secretary of the Interior, not the Commission, has authority of the management of lands owned by BLM¹⁰¹ and the Commission has no jurisdiction to make FLPMA determinations.

D. Endangered Species Act

33. Section 7(a)(2) of the Endangered Species Act (ESA)¹⁰² requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species or result in the destruction or adverse modification of their critical habitat.

34. In 2024, Commission staff used FWS's Information for Planning and Consultation (IPaC) website to determine whether any federally listed species could occur in the proposed gen-tie reroute area.¹⁰³ Commission staff identified two species of concern: the monarch butterfly and the desert tortoise. Although the monarch butterfly was uncovered during the IPaC database review, it is only proposed for listing as threatened and thus is provided no special protection under the ESA. Nevertheless, staff reviewed any project effects on the monarch butterfly and its habitat and determined they would be incidental and minor. The EA also determined that the amendment would not have additional effects on the desert tortoise based on the 2012 Final EIS in the licensing

⁹⁸ Association EA Comment at 3.

⁹⁹ *Id.*

¹⁰⁰ 43 U.S.C. § 1732(b).

¹⁰¹ 43 U.S.C. § 1702(g).

¹⁰² 16 U.S.C. § 1536(a).

¹⁰³ EA at 10.

proceeding for the Eagle Mountain Project and the license conditions mitigating impacts on the species.¹⁰⁴ The license requires Eagle Crest to: (1) determine and acquire appropriate acreage to mitigate for project-related effects to desert tortoise habitat (Article 416);¹⁰⁵ (2) monitor and control desert tortoise predators (Article 417); (3) provide worker education about desert tortoises through a Worker Environmental Awareness Program (Article 418); and (4) clear and relocate desert tortoises from construction areas, and construct only during daylight hours in areas without wildlife exclusion fencing or those areas that have not been cleared of desert tortoises (Article 415). Additionally, FWS issued a Biological Opinion on October 30, 2017, determining that the pumped-storage project is not likely to jeopardize the continued existence of desert tortoise.¹⁰⁶

35. On March 16, 2023, Commission staff requested FWS concurrence that the proposed project amendment does not warrant re-initiation of formal consultation.¹⁰⁷ On May 25, 2023, the FWS confirmed that formal consultation does not need to be re-initiated and that the FWS's 2017 Biological Opinion does not need to be amended.¹⁰⁸

36. The Association claims that approval of Eagle Crest's proposed amendment may violate the ESA. We disagree. Section 7(a)(2) of the ESA requires federal agencies to ensure their actions are not likely to jeopardize the continued existence of federally-listed threatened or endangered species or result in the destruction or adverse modification of

¹⁰⁴ Commission staff issued a draft EIS on December 23, 2010, and a final EIS on January 30, 2012, that analyzed the impacts of the construction and operation of the Eagle Mountain Project in its entirety and alternatives to it.

¹⁰⁵ Article 416 also requires that mitigation lands, once designated, be incorporated into the project boundary to ensure the lands are protected for the term of the license.

¹⁰⁶ FWS October 30, 2017 Amended Biological Opinion at 24 (filed by staff to docket on Nov. 27, 2017). On April 10, 2012, the FWS filed its Biological Opinion in the licensing proceeding, determining that the project is not likely to jeopardize the continued existence of the desert tortoise or destroy or adversely modify designated critical habitat. FWS April 10, 2012 Biological Opinion at 51 (filed by staff to docket on April 13, 2012). At that time, Eagle Crest did not have access to the project area and desert tortoise surveys could not be conducted. *Id.* at 24. After acquiring access to the project area, Eagle Crest completed surveys in May 2016 that detected the presence of desert tortoise. FWS October 30, 2017 Amended Biological Opinion at 2.

¹⁰⁷ Commission staff March 16, 2023 Letter to FWS Requesting ESA Concurrence.

¹⁰⁸ FWS May 25, 2023 Letter at 3.

the critical habitat of such species. As discussed above,¹⁰⁹ the Commission confirmed with FWS that the proposed amendment did not warrant re-initiation of formal consultation.¹¹⁰ Instead, FWS determined that its October 30, 2017 biological opinion, which found that the pumped-storage project is not likely to jeopardize the continued existence of desert tortoise and is unlikely to affect three other listed species, did not need to be amended.¹¹¹ Therefore, the Commission has fulfilled its ESA obligations.

E. Clean Water Act

37. Under section 401(a)(1) of the Clean Water Act (CWA),¹¹² the Commission may not authorize construction or operation of a hydroelectric project that may result in a discharge into navigable waters unless the state water quality certifying agency either has issued a water quality certificate for the project or has explicitly waived certification or fails to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA¹¹³ provides that the certification shall become a condition of any federal license that authorizes construction or operation of the project.

38. In the License Order, the Commission concluded that the Eagle Mountain Project did not require water quality certification under the CWA because it did not involve an activity that may result in a discharge into navigable waters.¹¹⁴ Likewise, because the proposed amendment does not involve an activity that may result in a discharge into navigable waters, it does not require water quality certification.

F. Tribal Consultation

39. The Agua Caliente Band states that the project area is not located within the boundaries of the Agua Caliente Band Reservation, but it is within the Agua Caliente

¹⁰⁹ See *supra* P 15.

¹¹⁰ EA at 11.

¹¹¹ *Id.*

¹¹² 33 U.S.C. § 1341(a)(1).

¹¹³ *Id.* § 1341(d).

¹¹⁴ See License Order, 147 FERC ¶ 61,220 at P 50 and n.25. The License Order explained that, nevertheless, on July 16, 2013, the California State Water Board issued certification for the project. *Id.* The Commission did not include the conditions of the certification in the license as mandatory conditions and instead considered them as recommendations submitted under section 10(a)(1) of the Federal Power Act. *Id.*

Band's Traditional Use Area.¹¹⁵ The Agua Caliente Band requests: (1) the presence of an approved Agua Caliente Native American Cultural Resource Monitor during any ground disturbing activities (including archaeological testing and surveys); (2) updates or status reports on the project as it progresses; (3) notification of any changes to the project scope, location, or amount of ground disturbance; (4) a 50-foot¹¹⁶ buffer around two resources to protect listed species during construction; and (5) relocation of two other resources by the Agua Caliente Native American Cultural Resource Monitor.¹¹⁷ We find these requests reasonable and Ordering paragraph (C) of this order requires Eagle Crest to coordinate with the Agua Caliente Band to fulfill them and to notify the Fort McDowell Yavapai Nation if any cultural items or ancestral remains are found during project work.

G. National Historic Preservation Act

40. Section 106 of the National Historic Preservation Act (NHPA)¹¹⁸ and its implementing regulations¹¹⁹ require federal agencies to take into account the effect of any proposed undertaking¹²⁰ on properties listed or eligible for listing in the National Register of Historic Places and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on any undertaking. This generally requires the Commission to consult with the SHPO, to determine whether and how a proposed action may affect historic properties and to seek ways to avoid or minimize any adverse effects.

41. Commission staff executed a Programmatic Agreement (PA) with the California SHPO on September 27, 2011. The PA requires Eagle Crest to implement

¹¹⁵ Agua Caliente Band September 8, 2025 Comments at 1.

¹¹⁶ The Agua Caliente Band clarified via email that the standard buffer size it uses for avoidance is 50 feet. Staff filed the additional comments to the record on September 17, 2025. Agua Caliente Band September 17, 2025 Comments.

¹¹⁷ *Id.*

¹¹⁸ 54 U.S.C. § 306108.

¹¹⁹ 36 C.F.R. pt. 800.5(a)(2)(vii) (2025).

¹²⁰ An undertaking means “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license, or approval.” 36 C.F.R. § 800.16(y) (2025).

its February 2011 Historic Properties Management Plan (HPMP),¹²¹ for the term of its license. Article 425 of the license requires Eagle Crest to implement the PA and HPMP. Prior to filing its amendment application, Eagle Crest performed a cultural resource record search of the refined gen-tie alignment area and evaluated other additional surveys conducted by other entities near the project area.¹²² Eagle Crest provided a cultural resources report and draft project amendment application to the SHPO for review and comment on November 22, 2021, concluding that its proposal would not adversely affect historic properties. The SHPO responded with a request for clarification on November 22, 2021, to which Eagle Crest responded.¹²³ The SHPO made no additional comments. In executing this amendment, Eagle Crest must follow the provisions to protect historic properties set forth in its 2011 HPMP, including the inadvertent discovery provision.

42. By letter dated May 22, 2025, Commission staff requested concurrence from the SHPO that the proposed boundary amendment would not constitute an adverse effect on historic properties.¹²⁴ Staff explained that its finding of no adverse effect was based on the results of the licensee's Class I cultural resources survey, the licensee's commitment to conduct a Class III 100% survey prior to final project design, and the HPMP requirement that the licensee develop recommendations to avoid or mitigate impacts should the survey identify resources that are determined to be historic properties.¹²⁵ The SHPO did not respond to Commission staff's finding of no adverse effect and no consulting party objected to the finding. Thus, the Commission has fulfilled its responsibilities under section 106 of the NHPA.¹²⁶

H. Project Boundary Revision

43. Eagle Crest requests that the project boundary be amended to reflect the connection of the transmission line on the east side of the Red Bluff Station rather than

¹²¹ Eagle Crest March 4, 2011 Final Historic Properties Management Plan at A-9.

¹²² Application, attach. 3, at 15.

¹²³ Application, app. A at 24-27.

¹²⁴ Commission staff May 22, 2025 Letter re: Section 106 Consultation to the California SHPO.

¹²⁵ *Id.* at 4.

¹²⁶ See 36 C.F.R. § 800.5(c)(1) (2025) (stating that the agency may proceed after the close of a 30-day review period if the SHPO has agreed with a finding of no adverse effect or has not provided a response, and no consulting party has objected).

on the north.¹²⁷ This revision accommodates the change in design of the substation, which initially had a north-south orientation design but ultimately was built with an east-west orientation.¹²⁸ Eagle Crest states that tying into the east side of the substation will avoid potential conflicts with existing and proposed transmission lines and solar projects.¹²⁹ A project's boundary must enclose the project works and lands needed for operation and maintenance of the project.¹³⁰ Since amending the project boundary to tie into the Red Bluff Substation from the east, rather than the north, is necessary for the licensed project to operate, and the environmental impacts from this action will be minor,¹³¹ we grant Eagle Crest's request.

44. Eagle Crest also asks that the project boundary be amended to exclude Red Bluff Substation so that project boundary terminates at the point of connection between the project's transmission line and Red Bluff Substation.¹³² Section 4.41(h)(2) of the Commission's regulations provides that a project boundary "must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources . . . Existing residential, commercial, or other structures may be included within the boundary only to the extent that underlying lands are needed for project purposes (i.e., for flowage, public recreation, shoreline control, or protection of environmental resources)."¹³³ As described in Eagle Crest's amendment application, the Red Bluff Substation does not serve a project purpose. The substation is owned and operated by SoCal Edison and "serves as an 'on-ramp' for renewable resources to interconnect

¹²⁷ Application, attach. 3 at 9.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ See 18 C.F.R. § 4.41(h)(2) (2025).

¹³¹ Staff concluded that the boundary amendment would not affect "geology and soils, water quality and quantity, aquatic resources, recreation, air quality, and cultural or historic resources." EA at 6. Staff also found that although land use and aesthetics may be impacted by the action, the impacts would be like those of the pumped-storage project itself. *Id.* Finally, staff found that the action would have no additional adverse effects on terrestrial resources and endangered species due to the resource protection plans and license conditions. *Id.* at 9, 12.

¹³² Application at 2 & attach. 1 at fig. 1.

¹³³ 18 C.F.R. § 4.41(h)(2).

existing and proposed high-voltage bulk transmission facilities in the corridor.”¹³⁴ Since the project’s primary transmission line terminates at the Red Bluff Substation and the substation is outside the Commission’s permitting jurisdiction under Part I of the FPA,¹³⁵ Eagle Crest’s proposal to remove the parcel encompassing Red Bluff Substation from the project boundary is reasonable and is approved.

I. Revisions to Resource Protection Plans

45. As discussed above, Eagle Crest has submitted, and Commission staff has approved, several resource protection plans required by the license.¹³⁶ If any previously approved resource protection plans require revision to reflect the changes to the project boundary approved herein, Eagle Crest must revise those plans in consultation with the requisite resource agencies and submit the revised plans for Commission staff approval. Accordingly, Ordering paragraph (B) of this order requires Eagle Crest to file revised versions of any resource protection plan, after consultation with the appropriate federal and state wildlife agencies, if it is determined that changes are needed to ensure the plan applies to the revised project boundary. Ordering paragraph (D) of this order requires Eagle Crest to file for Commission approval a Desert Tortoise Habitat Mitigation Plan that incorporates the new project boundary, after consultation with FWS, BLM, Park Service, California State Water Resources Control Board, and California DFW.

J. Revised Exhibits

46. Eagle Crest included a revised red-line version of Exhibit A¹³⁷ with its amendment application. Commission staff reviewed the revised Exhibit A and found that, while it provides sufficient information to support approving the proposed amendment, there appears to be a discrepancy in the number of acres of federal land¹³⁸ within the project

¹³⁴ Application at 2.

¹³⁵ See 16 U.S.C. §§ 796(11), 797.

¹³⁶ See *supra* P 6.

¹³⁷ Applications for non-capacity amendments of licenses must contain exhibits that require revisions in light of the amendment. 18 C.F.R. § 4.201(c) (2025). Exhibit A is a description of the project, which includes specific requirements laid out in *Id.* § 4.41(b). One of these requirements is “the total acreage of the lands of the United States within the project boundary.” *Id.* § 4.41(b)(6).

¹³⁸ Article 201 of the license requires the licensee to pay the United States, in part, for the use, occupancy and enjoyment of its lands. See *Eagle Crest Energy Co.*, 153 FERC ¶ 62,164 (2015). These annual charges are calculated based on the number of acres of federal land included in the project boundary.

boundary in section 6 of the Exhibit A compared to other areas of the amendment application. Accordingly, this order does not approve the revised Exhibit A. In addition, although Eagle Crest provided a red-line version of Exhibit A, it did not also include a clean version. Ordering paragraph (E) of this order, in part, requires Eagle Crest to file, within 60 days from the effective date of this order, a revised Exhibit A for Commission approval that reflects the amendment approved by this order, corrected to resolve the federal lands acreage discrepancy.

47. Eagle Crest did not include revised Exhibit G¹³⁹ drawings with the amendment application but instead requested to file revised Exhibit G drawings for Commission approval after Commission action on its amendment application. However, the amendment application includes several maps and drawings that depict the proposed project boundary amendment. This is sufficient information to support approving the proposed amendment and so we will grant Eagle Crest's request to file revised Exhibit G drawing after approval of its amendment application. Ordering paragraph (E) of this order requires Eagle Crest to file revised Exhibit G drawings within 60 days of the effective date of this order.

VI. Conclusion

48. Based on the information, analysis, and evaluations in the EA, we conclude that approval of the license amendment would not constitute a major federal action significantly affecting the quality of the human environment. The amendment would allow the project to connect with Red Bluff Substation in its current configuration, appropriately remove lands that are not needed for project purposes from the project boundary, and would prevent interference with solar development projects in the vicinity of the Eagle Mountain Project. Therefore, Eagle Crest's amendment request is reasonable and should be approved.

The Commission orders:

(A) Eagle Crest Energy Company's application, filed on October 12, 2022, to relocate its primary transmission line route and elongate it by approximately 1.2 miles, remove 85.5 acres of land from the project boundary, and add 75 acres to the project boundary for a net removal of 10.5 acres of land from the boundary of the Eagle Mountain Pumped Storage Hydroelectric Project No. 13123, is approved.

(B) If any of the approved resource protection plans do not already appropriately incorporate the new change in the project boundary, the licensee must file a revised version of the plan for Commission approval, after consultation with the relevant state resource agencies, federal resource agencies, and Native American Tribes. Within

¹³⁹ Exhibit G is a map of the project as outlined in 18 C.F.R. § 4.41(h). Exhibit G must also follow the specifications stated in 18 C.F.R. § 4.39 (2025).

30 days from the effective date of this order, the licensee must file a list of any plans that require revision and a schedule for filing the revised plans. All revised plans must be filed at least 60 days prior to start of construction.

(C) Within 60 days from the effective date of this order, the licensee must file proof of consultation with the Agua Caliente Band to coordinate the implementation of: (1) a 50-foot buffer around two resources to protect listed species during construction; and (2) relocation of two other resources by the Agua Caliente Native American Cultural Resource Monitor. The licensee must also (1) provide adequate notice to the Agua Caliente Band and invite an approved Agua Caliente Native American Cultural Resource Monitor to be present during any ground disturbing activities (including archaeological testing and surveys); (2) provide the Agua Caliente Band updates or status reports on project construction as it progresses; and (3) notify the Agua Caliente Band of any changes to the project scope, location, or amount of ground disturbance. Additionally, the licensee must notify the Fort McDowell Yavapai Nation if any cultural items or ancestral remains are found during construction.

(D) At least 60 days prior to start of construction, but no later than submittal of the final contract plans and specifications and supporting design report required by Article 302 of the project license, the licensee must file a desert tortoise habitat mitigation plan for Commission approval that contains the provisions of Article 416 of the project license and incorporates the new project boundary. The licensee must prepare the plan after consultation with the U.S. Fish and Wildlife Service, BLM, U.S. National Park Service, California State Water Resources Control Board, and California Department of Fish and Wildlife.

(E) Within 60 days from the effective date of this order, the licensee must file a revised Exhibit A, in its entirety, and revised Exhibit G drawings for Commission approval. The licensee must revise the Exhibit A and G approved in the December 4, 2015 Order Approving Revised Exhibits A and G and Revising Annual Charges to reflect the amendment approved by this order and to correct the federal lands acreage discrepancy described in paragraph 46 of this order. The licensee must file the Exhibit A in two forms: (1) a strike through format, i.e. strikethrough items to be removed and underline or bold items to be added to the exhibit, and (2) a final, clean copy incorporating the changes (i.e. without the strikethrough, underline, and bold notations). The Exhibit A must conform to 18 C.F.R. § 4.41 (2025). The Exhibit G drawings must conform to 18 C.F.R. §§ 4.39 and 4.41 (2025). Commission staff will revise annual charges pursuant to Article 201 of the license consistent with the revised exhibits.

(F) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 825/, and the Commission's regulations at 18 C.F.R. § 385.713 (2025). The filing of a request for rehearing does not

operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.