Attachment D. Wildlife Variance Management Plan – FINAL

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Gateway West Segment D-1 Transmission Line Project (Windstar and Dave Johnston to Shirley Basin)

Plan of Development

Appendix H. Plant and Wildlife Conservation Plan

Attachment D. Wildlife Variance Management Plan – FINAL

Wyoming Serial Number: WYW-174598

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Exhibits

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ABBREVIATIONS

BGEPA	Bald and Golden Eagle Protection Act
BLM	Bureau of Land Management
CFO	Casper Field Office
CIC	Compliance Inspection Contractor
Company	PacifiCorp, doing business as Rocky Mountain Power
EIS	environmental impact statement
EPM	environmental protection measure
MBTA	Migratory Bird Treaty Act
Plan	Wildlife Variance Management Plan
POD	plan of development
Project	Gateway West Segment D-1 Transmission Line Project (Windstar and Dave Johnston to Shirley Basin)
RFO	Rawlins Field Office
ROW	right-of-way
USFWS	U.S. Fish and Wildlife Service
WGFD	Wyoming Game and Fish Department

1 INTRODUCTION

This Wildlife Variance Management Plan (Plan) provides the plan for the Bureau of Land Management (BLM), U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (USFWS), Wyoming Game and Fish Department (WGFD), PacifiCorp, doing business as Rocky Mountain Power, (the Company), and the Construction Contractor(s) to engage in management of wildlife resources when conditions warrant during construction and operation and maintenance of the Gateway West Segment D-1 Transmission Line Project (Windstar and Dave Johnston to Shirley Basin) (Project).

Biological resources were determined to be suitable for mitigation variances by the BLM due to 1) species use intensity of seasonal habitats; 2) timing of proposed Project work; and 3) climatological variation (e.g., mild winters). The mechanism for the BLM to implement the variance request process, which allows for exceptions to the Project's spatial and/or seasonal wildlife restrictions identified in Attachment B: Seasonal and Spatial Restrictions of Appendix H: Plant and Wildlife Conservation Plan of the plan of development (POD) for the Project.

This Plan provides a methodology that facilitates the approval or denial of these wildlife variance requests through the Level 2 variance request procedure outlined in Appendix C: Environmental Compliance Management Plan of the POD. Variance requests granted under this Plan are exceptions to Project seasonal and spatial restrictions.

Adherence to the seasonal and spatial restrictions included in Attachment B: Seasonal and Spatial Restrictions of Appendix H: Plant and Wildlife Conservation Plan will be mandatory unless a wildlife variance request has been approved via the procedures outlined in POD Appendix C: Environmental Compliance Management Plan, Section 4.2. Wildlife variance requests will be based on site-specific conditions and will not be applied Project-wide. The BLM may restore the spatial or seasonal restriction outlined in the POD after granting a variance in the event that resource conditions change, additional resource protections are needed as determined by a qualified biologist, or in response to a violation of the terms and conditions of the wildlife variance request to a seasonal or spatial restriction.

This Plan applies to all wildlife variance requests on BLM-administered lands but does not apply to wildlife variance requests on USFS-administered lands, private lands, and state lands. However, environmental protection measures (EPMs) and other seasonal spatial restrictions identified in the POD will be implemented over the entire length of the Project, regardless of jurisdiction, while understanding that the BLM does not have the authority to enforce the POD on state and private lands.

On BLM-administered lands during construction, the Construction Contractor(s) will be responsible for submitting any necessary wildlife variance requests to the BLM consistent with the process outlined in this Plan and also in accordance with the Level 2 variance request procedure outlined in Appendix C: Environmental Compliance Management Plan. During operation and maintenance, the Company will assume these responsibilities.

On USFS-administered lands, there is no wildlife variance request process for wildlife seasonal spatial restrictions. All wildlife seasonal spatial restrictions identified in Attachment B: Seasonal and Spatial Restrictions of Appendix H: Plant and Wildlife Conservation Plan will be adhered to. Any proposed modifications to wildlife seasonal spatial restrictions on USFS-administered lands will only be considered for emergency situations by the USFS, on a case-by-case basis. If an emergency situation arises, the Construction Contractor(s) will be responsible to coordinate with the USFS to determine if an exception to a wildlife seasonal spatial restriction is warranted. Wildlife variance requests on USFS-administered lands are not discussed further in this Plan; refer to Appendix C: Environmental Compliance Management Plan for additional details regarding the process for non-wildlife variance requests on USFS-administered lands.

On private and state lands during construction, the Construction Contractor(s) will be responsible for submitting wildlife variance requests in accordance with the Level 2 variance request procedure outlined in Appendix C: Environmental Compliance Management Plan. In addition, the Construction Contractor(s) will be responsible for coordinating wildlife variance requests for any state-imposed wildlife restrictions with the WGFD, as applicable, to ensure wildlife variance requests remain consistent with management objectives for the affected resource. During operation and maintenance, the Company will assume these responsibilities.

The Compliance Inspection Contractor (CIC) and/or the BLM will be responsible for reviewing wildlife variance requests on private or state lands to ensure compliance with the analysis in the *Final Environmental Impact Statement for the Gateway West Transmission Line Project, Wyoming and Idaho* (EIS) (BLM Wyoming State Office 2013a) but will not approve private or state land wildlife variance requests. Wildlife variance requests on private and state lands are not discussed further in this Plan; refer to Appendix C: Environmental Compliance Management Plan for additional details regarding the wildlife variance request processes for private and state lands.

To ensure wildlife are appropriately protected, this Plan contains the following:

- Roles and responsibilities of involved parties
- Resource conditions that may permit wildlife variances to EPMs on BLM-administered lands
- Procedures for determining resource conditions
- Procedures for communicating resource conditions and approving variances to EPMs
- Procedures for monitoring resource conditions after variances are approved

This report contains the following exhibits: Exhibit 1: Variance Request Form; Exhibit 2: Rawlins Field Office Wildlife Exception Request Form; Exhibit 3: Raptor Inventory Data Sheet; and Exhibit 4: Wildlife Variance Approval Criteria.

2 ROLES AND RESPONSIBILITIES

The parties involved in the Project and this Plan include the Company, the BLM, USFWS, WGFD, CIC, Construction Contractor(s), and the biological monitors contracted by the Construction Contractor(s) or the Company, as applicable. Other subcontractors to the involved parties may be engaged as needed.

2.1 The Company

The Company will act as holder of all grants/easements and is the holder of the BLM right-of-way (ROW) grant and USFS special-use authorizations. As such, the Company is ultimately accountable for adherence to the terms and conditions of the ROW grant, USFS special-use authorization, the POD, and the requirements of the *Record of Decision for the Gateway West Transmission Line Project* (ROD) (BLM Wyoming State Office 2013b) that will ensure that environmental impacts do not exceed those analyzed in the final EIS (BLM Wyoming State Office 2013a) and approved in the POD.

During the construction phase, the Company will be responsible for reviewing Construction Contractor–prepared wildlife variance requests that are located on BLM-administered land. During the operation and maintenance phase, the Company will be responsible for preparing and submitting, as applicable, any wildlife variance requests to the BLM. Additionally, during the operation and maintenance phase, the Company will be responsible for contracting and retaining qualified biological monitors, as needed, to support operation and maintenance activities.

2.2 Bureau of Land Management

The BLM will be responsible for reviewing wildlife variance requests, prepared by the Construction Contractor(s) and provided to the BLM by the CIC during the construction phase, and prepared and provided by the Company during the operation and maintenance phase. The BLM will be responsible for coordinating with the WGFD and USFWS to determine if wildlife variance requests are appropriate for approval using professional knowledge, criteria outlined in this Plan, and resource(s) conditions presented in the variance request. The BLM will be required to confirm that the wildlife variance request is consistent with management objectives for the affected resource.

The BLM will provide either approval or denial of a wildlife variance request based on the resource(s) conditions and will provide such approval or denial in accordance with the process described in Section 3 below and Appendix C: Environmental Compliance Management Plan. The BLM may cancel an approved wildlife variance request and restore applicable seasonal spatial restrictions outlined in the POD in the event that resource conditions change, additional resource protections are needed as determined by a qualified biologist, or in response to a violation of the terms and conditions of the wildlife variance request.

2.3 Wyoming Game and Fish Department

The WGFD will act as a cooperating agency to the BLM in the administration of this Plan for big game resources and other sensitive wildlife species. The WGFD will review applicable wildlife variance requests when provided by the BLM. The WGFD will provide recommendations to the BLM regarding the wildlife variance requests using professional knowledge, criteria outlined in this Plan, and resource(s) conditions outlined in the wildlife variance request.

2.4 U.S. Fish and Wildlife Service

The BLM will coordinate wildlife variance request reviews with the USFWS for migratory bird, bald eagle (*Haliaeetus leucocephalus*), and golden eagle (*Aquila chrysaetos*) nesting, and bald eagle roosting. The USFWS will provide technical guidance to the BLM, if requested, for resources over which the USFWS has authority under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA). If requested by the BLM, the USFWS will review other wildlife variance requests as well, which will be provided to the USFWS by the BLM.

2.5 Compliance Inspection Contractor

The CIC is an on-the-ground agent of the BLM and other cooperating agencies during the construction phase of the Project. The CIC will be responsible for reviewing and submitting wildlife variance requests to the BLM.

If a wildlife variance request is approved by the BLM, the CIC will be responsible for conducting field inspections and reviewing the Construction Contractor(s) weekly reports to ensure compliance with the terms and conditions of the approved wildlife variance request. The CIC will immediately notify the BLM if CIC monitors report that unanticipated resource impacts are occurring, resource conditions have changed and no longer meet the criteria identified in this Plan, or the terms and conditions of the wildlife variance request are violated.

2.6 Construction Contractor(s)

The Construction Contractor(s) will be responsible for developing and maintaining a construction schedule that will avoid wildlife seasonally and/or spatially restricted areas. In the event that the wildlife seasonally and/or spatially restricted areas cannot be avoided, the Construction Contractor(s) will be responsible for identifying Project locations where work that would otherwise be restricted by the POD may be allowed using the process outlined in this Plan. In these instances, the Construction Contractor(s) will be responsible for preparing a wildlife variance request in compliance with the process provided in this Plan and Appendix C: Environmental Compliance Management Plan and submitting the wildlife variance request to the Company and CIC for review.

2.6.1 Biological Monitors

To help ensure construction activities are conducted in a manner that complies with all federal, state, and local regulations, the Construction Contractor(s) will contract a team of environmental inspectors that will include biological monitors. Biological monitors will be contracted by the Construction Contractor(s) during the construction phase of the Project and may be contracted during operation and maintenance if the Company wishes to engage in adaptive management or requests a wildlife variance. During construction, the biological monitors will work under a lead biological monitor and will coordinate with the CIC to facilitate wildlife variance requests.

When a wildlife variance request is received, biological monitors will be responsible for assessing the status of the affected resources during the wildlife variance request review period. The biological monitors will also conduct monitoring during construction activities for wildlife species that are the subject of variance requests. Biological monitors will document and communicate resource status in writing to the CIC (during construction) or to the BLM (during operation and maintenance) during all authorized activities that may affect behavior or survival of sensitive wildlife at the site. If a wildlife variance request is approved by the BLM, it will also be the responsibility of the biological monitor to monitor resource conditions and Project activities in the affected area and to notify the Construction Contractor(s)' lead biological monitor and environmental manager if Project activities cause unintended impacts on sensitive wildlife resources. If the biological monitor detects an impact on bird behavior, territory establishment, nest or roost attendance, or nest or roost site conditions (Section 4.3.2), biological monitors will have the authority to issue verbal stop work orders for the affected construction activities to the Construction Contractor(s) during construction. The Construction Contractor(s)' environmental manager then will notify the Company, the CIC, and the BLM within 24 hours of the impact occurring.

3 WILDLIFE VARIANCE REQUEST PROCESS

The wildlife variance request processes covered under this Plan apply to BLM special-status species and state-listed wildlife species, big game, raptors, and non-raptorial migratory birds located on BLM-administered lands. Adherence to all seasonal and spatial restrictions for these sensitive wildlife species/resources is mandatory unless a wildlife variance request is approved. Wildlife variance requests will be approved by the BLM based on biological information, not necessarily on the need of the Project. Furthermore, wildlife variance requests may be developed that only pertain to specific construction-related actions and will be based on site-specific conditions as opposed to being applied Project-wide.

This section of the Plan identifies the major steps in the development, review, and approval process of wildlife variance requests for EPMs and the spatial and seasonal wildlife restrictions identified in Attachment B: Seasonal and Spatial Restrictions of Appendix H: Plant and Wildlife Conservation Plan. The processes outlined in this section will be implemented in conjunction with the processes outlined in

Section 4.2 of Appendix C: Environmental Compliance Management Plan for Level 2 variance requests. BLM variance approval criteria for each sensitive wildlife resource are summarized in Exhibit 4: Wildlife Variance Approval Criteria.

3.1 Wildlife Variance Request Preparation

Wildlife variance requests will be initiated by the Construction Contractor(s) during the construction phase and by the Company during the operation and maintenance phase of the Project. Each entity will be responsible to determine if the proposed work is appropriate for requesting a wildlife variance. If deemed appropriate and consistent with the requirements of this Plan and the ROD (BLM Wyoming State Office 2013b), the Construction Contractor(s), during the construction phase, and the Company, during the operation and maintenance phase, will perform the necessary fieldwork to determine the condition of the resource(s) (e.g., presence within or near the work area, distance to/from work area, breeding status) for which the wildlife variance request will be prepared.

Upon completion of field work, the Construction Contractor(s) or Company, as applicable, will fill out the required wildlife variance request documentation (Table 1). The wildlife variance request will describe the location, nature, and duration of activities that will be performed if the wildlife variance request is approved, as well as the observed resource(s) conditions at the location. The Construction Contractor(s) or the Company, as applicable, will coordinate with the CIC as appropriate during the variance request preparation to ensure a full understanding of the BLM requirements. During construction, the wildlife variance request will be submitted by the Construction Contractor(s) to the Company and CIC for concurrent review and comment prior to the proposed work date while providing sufficient time for the CIC and the Company to review the wildlife variance request. The wildlife variance request will then be submitted to the BLM by the CIC for a decision.

Table 1. Variance Request Forms by Species

Biological Resource	Variance Request Forms Required
Greater sage-grouse (*Centrocercus urophasianus*)	Exhibit 1: Variance Request Form Exhibit 2: Rawlins Field Office Wildlife Exception Request Form*
Mountain plover (*Charadrius montanus*)	Exhibit 1: Variance Request Form Exhibit 2: Rawlins Field Office Wildlife Exception Request Form* Exhibit 5: Mountain Plover (*Charadrius montanus*) Exception Request Survey Protocol – 2021, USDI – Bureau of Land Management, Rawlins Field Office
Migratory birds	Exhibit 1: Variance Request Form Exhibit 2: Rawlins Field Office Wildlife Exception Request Form*
Raptors, including: • Bald eagle (*Haliaeetus leucocephalus*) • Burrowing owl (*Athene cunicularia*) • Ferruginous hawk (*Buteo regalis*) • Flammulated owl (*Psiloscops flammeolus*) • Golden eagle (*Aquila chrysaetos*) • Northern goshawk (*Accipiter gentilis*) • Peregrine falcon (*Falco peregrinus*)	Exhibit 1: Variance Request Form Exhibit 2: Rawlins Field Office Wildlife Exception Request Form* Exhibit 3: Raptor Inventory Data Sheet
Big game	Exhibit 1: Variance Request Form Exhibit 2: Rawlins Field Office Wildlife Exception Request Form*

* The BLM Rawlins Field Office (RFO) Wildlife Exception Request Form will be used on lands administered by the BLM RFO only.

3.2 Wildlife Variance Request Review

Upon receipt of a wildlife variance request from the CIC (during construction) or the Company (during operation and maintenance), the BLM will immediately review and determine if the wildlife variance request is complete and if so, coordinate with the USFWS and/or WGFD, as appropriate, to determine if resource(s) conditions and required protections are compatible with the wildlife variance request. If BLM determines that the wildlife variance request is not complete, the CIC will immediately notify the Construction Contractor(s) and the Company. During construction, the CIC will work on behalf of the BLM during the review period to evaluate the location, nature, and duration of activities that are proposed in the wildlife variance request, as well as the observed resource(s) conditions at the location as documented in the wildlife variance request package. Based on the CIC review described above, the CIC will provide a recommended action to the BLM.

3.3 Bureau of Land Management Decision

The BLM decision criteria vary by land jurisdiction and are summarized in Exhibit 4: Wildlife Variance Approval Criteria. BLM coordination, as applicable, and review of a complete wildlife variance request will be completed, and the BLM will issue a decision. The BLM may approve, approve with condition(s), or deny the wildlife variance request. On issuance of the BLM's decision, necessary communications and notifications will include the following:

- The BLM will provide the decision on the wildlife variance request immediately to the CIC (during construction) or Company (during operation and maintenance).
- During construction, the CIC will communicate the BLM's decision immediately upon receipt to the Company and the Construction Contractor(s).

3.4 Monitoring of Activities

If a wildlife variance request is approved, the biological monitor(s) will be required to conduct daily monitoring of permitted activities and the conditions of the sensitive resource(s) unless otherwise specified by the BLM. On initiation of the authorized activities, necessary communications and notifications will include the following:

- During the construction phase, the Construction Contractor(s) will coordinate with and notify their biological monitors of the schedule of planned activities in the approved work area.
- During the construction phase, the Construction Contractor(s)'s biological monitors will prepare daily inspection reports, which the lead biological monitor will incorporate into weekly reports. The lead biological monitor will submit the weekly reports to the Construction Contractor(s), who will review them and submit to the Company and the CIC. These weekly reports will include a summary of wildlife variance requests and associated monitoring. The CIC will review and submit the weekly reports to the BLM. During the operation and maintenance phase, the biological monitor(s) will submit the weekly reports to the BLM. The weekly reports will detail work performed and resource(s) conditions in the affected area (see Appendix C: Environmental Compliance Management Plan; see Attachment C: Biological Resources Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan for reporting and documentation requirements).

- During the construction phase, the Construction Contractor(s)' environmental manager will notify the CIC immediately if resource(s) conditions become incompatible with the approved wildlife variance request, if unforeseen impacts occur, or if authorized activities may result in unintended impacts on wildlife species. During the operation and maintenance phase, the Company will notify the BLM immediately of incompatible resource conditions or unforeseen impacts to sensitive wildlife resources. If unintended impacts occur, the biological monitor will issue a verbal stop work order for all affected operations. All affected operations will stop until the BLM is notified and approves continued work. At this point, the BLM may cancel or modify the approved wildlife variance request.

4 AFFECTED WILDLIFE RESOURCES

Seasonal and spatial restrictions identified in the POD (see Attachment B: Seasonal and Spatial Restrictions of Appendix H: Plant and Wildlife Conservation Plan) to protect special-status wildlife species, non-raptorial migratory birds, raptor nests and roost sites (including eagles), and big game habitats on BLM-administered lands may be modified, with agency approval, using this Plan. Wildlife variance requests must consider site-specific resource(s) conditions, resource(s) sensitivity, and reasonably foreseeable future impacts of the proposed wildlife variance request on current and future resource(s) conditions. The assessment of the resource(s) for Plan implementation will occur in a relatively short time frame (i.e., same season) prior to the proposed construction or operation and maintenance activity for which a wildlife variance request is requested. Older records and data of the resource(s) will be used only as supplemental information in addition to the real-time site assessment.

This section of the Plan identifies site-specific resource(s) conditions that will inform the BLM's decision of suitability of a wildlife variance request and provides a plan for the biological monitor to assess and document those conditions.

4.1 Special-Status Wildlife Species

BLM and USFS special-status and state-listed wildlife species and their habitats documented within or adjacent to the Project area are discussed in Appendix H: Plant and Wildlife Conservation Plan, and are depicted in the POD Volume II, Map Sets 2 and 3. Mapped special-status wildlife data will be updated, as applicable, by the Construction Contractor(s) based on year-of-construction surveys (see Attachment C: Biological Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan).

Wildlife variance requests may be approved for BLM special-status and/or state-listed species and their habitats; however, they will not be approved for stipulations designed to protect federally listed species, unless the BLM consults with the USFWS.

In the event that BLM special-status or state-listed wildlife restricted areas cannot be avoided, the Construction Contractor(s) (during construction) or the Company (during operation and maintenance) through their respective contracted biological monitors will be responsible for assessing the status of the affected resources.

If a wildlife variance is required for a mountain plover (*Charadrius montanus*) seasonal spatial restriction (April 10 through July 10) on BLM-administered lands, the Construction Contractor(s)' biological monitor must first conduct mountain plover presence/absence surveys following the survey protocol included in Exhibit 5: *Mountain Plover (*Charadrius montanus*) Exception Request Survey Protocol – 2021, USDI – Bureau of Land Management, Rawlins Field Office*. The survey protocol requires a minimum of four rounds of presence/absence surveys within mountain plover suitable habitat located

within 0.25 mile of the proposed work area, *prior* to submittal of the wildlife variance request. Each survey must be separated by a minimum of 10 days and cannot be conducted prior to April 10. Call back tapes will be used during any visits from April 17 through May 9. Visits must be conducted between local sunrise and 10:00 a.m. or between 5:30 p.m. and sunset. Surveys cannot be conducted during heavy rains, high winds in excess of 12 miles per hour, or in conditions where visibility is significantly limited. Observations, both negative and positive, will be entered into a datasheet provided by the BLM and submitted with the wildlife variance request.

4.1.1 Special-Status Species Wildlife Monitoring

If wildlife variance requests to seasonal and spatial restrictions are approved for special-status wildlife species, a biological monitor will monitor the affected area daily during peak or optimal periods of species activity and during authorized construction or operation and maintenance activities that may affect the behavior or survival of the species at the location. The biological monitor will prepare daily inspection reports documenting habitat conditions in the affected area, including all conditions and trends identified in the wildlife variance request. Daily reports will be incorporated into the weekly summaries of habitat conditions, special-status species behavior, and authorized activities and will be submitted to the CIC by the Construction Contractor(s) during construction, and to the BLM by the Company during operation and maintenance. During construction, if monitoring detects an impact on species behavior or habitat conditions change, the biological monitor will immediately notify the Construction Contractor(s) environmental manager, who will notify the Company, the CIC, and the BLM so that further impacts may be avoided. During operation and maintenance, the Company will notify the BLM.

4.2 Non-raptorial Migratory Birds

Migratory bird nest locations will be documented by the Construction Contractor(s) during the year-of-construction surveys (see Attachment C: Biological Resources Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan). If an active nest (defined as having eggs or chicks) of a migratory bird species protected under the MBTA is found during the surveys, a biological monitor will establish a 50-foot restriction area around the nest until the migratory bird nest has fledged, as detailed in EPM WILD-9 (see Appendix H: Plant and Wildlife Conservation Plan). A non-raptorial migratory bird spatial restriction variance request will only be considered if the creation of a restriction area will conflict with critical Project activity. While the decision regarding whether to approve a wildlife variance request to a spatial restriction will be made by the BLM, coordination with the USFWS will occur for any active non-raptorial migratory bird nest spatial restriction variances.

4.2.1 Non-raptorial Migratory Bird Nest Monitoring

An increased level of nest monitoring will be undertaken for any active non-raptorial migratory bird nest subject to a spatial restriction variance, with precautions taken to ensure that the increased level of monitoring will not itself present a risk to the active nest. Any variance from the species-specific recommended spatial restriction and the effectiveness of the revised spatial restriction will be evaluated and recorded in the daily nest monitoring log. Refer to Attachment C: Biological Resources Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan for additional details regarding non-raptorial migratory bird monitoring reporting requirements.

4.3 Raptors

The Casper Field Office (CFO) and the RFO have both adopted the RFO Resource Management Plan (United States Department of the Interior, BLM, RFO 2008) definition of an active nest for the Project.

Per the RFO definition, an active nest is defined as "any identified raptor nest site that could provide a nesting opportunity for a raptor." This includes all nests or burrows that remain intact or that could be repaired and used by a pair of raptors. Active nests include both occupied[1] or unoccupied[2] sites and the definitions are provided in the footnotes below. All raptor nests within the BLM RFO are considered active unless the BLM RFO determines the raptor nest to be historical. Active raptor nests in the BLM RFO are protected with seasonal spatial restrictions whereas historical nests in the BLM RFO are not afforded protection.

Raptor nest locations and occupancy will be verified by the Construction Contractor(s) during the year-of-construction surveys (see Attachment C: Biological Resources Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan). For all active nests documented in the BLM RFO during the Construction Contractor(s)' year-of-construction raptor nest surveys, species-specific seasonal spatial restrictions will apply and be adhered to in accordance with Table 1 and Attachment B: Seasonal and Spatial Restrictions. While the BLM RFO and CFO share the same definition of an active raptor nest, seasonal spatial restrictions will not apply to unoccupied active raptor nests within the BLM CFO. For all occupied raptor nests documented in the BLM CFO or USFS Medicine Bow–Routt National Forests during the Construction Contractor(s)' year-of-construction raptor nest surveys, species-specific seasonal spatial restrictions will apply and be adhered to in accordance with Table 1 and Attachment B: Seasonal and Spatial Restrictions.

If a Project activity will conflict with a raptor seasonal or spatial restriction, a wildlife variance request including Exhibit 1: Variance Request Form, Exhibit 2: Rawlins Field Office Exception Request Form,[3] and Exhibit 3: Raptor Inventory Data Sheet can be submitted to the BLM by the Construction Contractor(s) during construction and by the Company during operation and maintenance. A summary of wildlife variance request processes for year-round spatial restrictions is provided in Section 4.3.1 for the BLM RFO. A summary of wildlife variance requirements for seasonal spatial restrictions is provided in Section 4.3.2.

All wildlife variance requests for bald and golden eagles will require the BLM to coordinate with the designated USFWS office for approval. If adult eagles are observed near a nest during the early breeding season, a variance request should not be requested until it is confirmed that the eagles have selected an alternative nest or that nesting will not occur. Biological monitors will confirm adult eagle pair nest site use during the preconstruction and construction surveys.

[1] Occupied nests are defined as those nests which are repaired or tended in the current year by a pair of raptors. Presence of raptors (adults, eggs, or young), evidence of nest repair or nest marking, freshly molted feathers or plucked down, or current year's mute remains (whitewash) suggest site occupancy. Additionally, all nest sites in a nesting territory are deemed occupied while raptors are demonstrating pair bonding activities and developing an affinity to a given area. If this culminates in an individual nest being selected for use by a breeding pair, then the other nests in the nesting territory will no longer be considered occupied for the current breeding season. A nest site remains occupied throughout the periods of initial courtship and pair bonding, egg laying, incubation, brooding, fledging, and post-fledging dependency of the young (Romin and Muck 2002).

[2] Unoccupied nests are defined as those nests not selected by raptors for use in the current year. Nests would also be considered unoccupied for the non-breeding period of the year. The exact point in time when a nest becomes unoccupied should be determined by a qualified wildlife biologist based upon knowledge that the breeding season has advanced such that nesting is not expected. Inactivity at a nest site or territory does not necessarily indicate permanent abandonment (Romin and Muck 2002). It is important to note that inactive eagle nests are protected under the BGEPA and may not be altered or destroyed without a federal permit. Under the BGEPA, an "inactive nest" is defined as an eagle nest that is not currently used by eagles as determined by the absence of any adult, egg, or dependent young at the nest during the 10 days before the nest is taken. BLM concurrence is required before raptor nests or territories can be deemed unoccupied. Nest status may be determined during preconstruction surveys or during construction monitoring by the biological monitors.

[3] The BLM RFO Wildlife Exception Request Form will be used on lands administered by the BLM RFO only.

4.3.1 Year-round Spatial Restrictions (for Rawlins Field Office only)

There may be instances in the BLM RFO jurisdiction where Project facilities are located within a raptor year-round no surface occupancy restriction and cannot be avoided (see Appendix H: Plant and Wildlife Conservation Plan, Attachment B: Seasonal and Spatial Restrictions, Table 1). The BLM has the authority to allow for the construction of the Project within these spatial restrictions. In these instances, one wildlife variance request will be prepared and submitted by the Construction Contractor(s) and approved by the BLM RFO prior to the start of construction.

For any raptor wildlife variance requests for Project facilities located within a year-round no surface occupancy restriction that are approved by the BLM RFO, the Company will be responsible for the following items, which will be required at the end of construction:

- identification and implementation of additional mitigation measures (i.e., flight diverters, artificial structures) to reduce and/or eliminate impacts to the nest;
- five (5) years, or as determined by the BLM, of annual postconstruction monitoring by a BLM-approved Company-funded contractor to determine if the implemented mitigation measures are effective or if impacts to the nest (i.e., nest abandonment, fledgling death) are occurring, and if so, what other actions will be required to protect the nest; and
- a monitoring report from the Company due to the BLM by October 1 of each year.

Additional mitigation will be required if the implemented mitigation has not been effective.

4.3.2 Seasonal Spatial Restrictions

If raptor seasonal spatial restrictions cannot be adhered to during construction, a wildlife variance request will be prepared and submitted by the Construction Contractor(s) and approved by the BLM prior to the initiation of Project activities within a given work area. Following the submittal of the wildlife variance request, biological monitor(s) will visit the nesting location for which a variance is requested to confirm the nest status as determined during the year-of-construction surveys and to confirm raptor use in the area. The biological monitor(s) must complete a minimum of three visits to the nesting or roosting site during the appropriate nesting or roosting period, separated by a minimum of 3 days each. To avoid inaccurately determining that nests/roosts are unoccupied, the three visits must not occur earlier than the incubation period for species that may inhabit nests in the area of interest. Visits must be completed during periods when raptors are most active (morning and dusk), and a lack of nesting activity must be confirmed at each visit. The use of both a high-powered telescope and binoculars is required to enable biological monitors to make observations far enough away from nests to minimize stress and avoid eliciting a sustained territorial behavior from raptors. There is no need to approach a nest closely to determine the number of eggs or young present if it is observed that an adult is sitting on the nest in an incubating or brooding position or if an adult is observed feeding nestlings (conspicuous vocalizations made by nestlings during food delivery are another clue to exact or approximate nest location). These behaviors indicate that the nest is occupied. The presence of recently fledged young nearby will suggest that the nest has been successful and subsequently abandoned.

The Construction Contractor(s) will be required to submit the data from the nest site visits to the CIC, who will then coordinate with the BLM. If the BLM approves the variance request, no more than 1 week may pass between the last nest/roost visit and the onset of construction activities. If a nest or roost site is determined to be unoccupied, the BLM may approve the wildlife variance request to allow activities to occur without the need for biological monitoring within the seasonal spatial restriction. If the BLM

approves the wildlife variance request for an occupied nest/roost, biological monitoring will be required. If the BLM approves the variance request, no more than 1 week may pass between the last nest/roost visit and the onset of construction activities.

If seasonal spatial restriction variance requests are approved for occupied raptor nests or roosts due to nest/roost site location, topography, or other factors, a biological monitor will be required to monitor the nest/roost site daily during all authorized activities that may affect behavior or survival of raptors at the site. The use of both a high-powered telescope and binoculars is required to enable biological monitors to make observations far enough away from nests/roosts to minimize stress and flushing and to avoid eliciting a sustained territorial behavior from raptors. Monitoring must begin in the early morning, no less than 1 hour prior to construction personnel arriving in the area. Biological monitors must remain in the affected area to monitor raptor activity for the daily duration of construction activities. The biological monitors will prepare a daily inspection report documenting nest site conditions, raptor behavior, and authorized activities, which will be included in the weekly reports to the CIC (during construction) or BLM (during operation and maintenance). The BLM will provide the weekly reports associated with monitoring of raptor nest variances to the USFWS and WGFD.

If the biological monitor detects an impact on bird behavior, territory establishment, nest or roost attendance, or nest or roost site conditions, the biological monitor will immediately shut down the construction or operation and maintenance activity that is the source of disturbance and for construction, notify the Construction Contractor(s)' lead biological monitor and environmental manager, who will notify the CIC and the Company. For operation and maintenance, the biological monitor will notify the Company, who will notify the BLM. The BLM will follow an appropriate course of action, which may include cessation or modification of activities that would avoid, minimize, or mitigate the impact, or, with the approval of the USFWS, the BLM could allow the activity to continue while requiring monitoring to determine the full impact of the activity on the affected raptor nest. If at any time "take" under the BGEPA or the MBTA is confirmed or suspected, the BLM will notify the USFWS immediately. The Construction Contractor(s) will suspend project-related activities that result in take of protected species pending review and a decision by the BLM and USFWS.

4.4 Big Game Habitats

Variance requests to seasonal restrictions associated with big game habitats will be evaluated based on seasonally variable climate conditions, site-specific determinations of habitat use, and animal condition.

The Construction Contractor(s) and Company will hold an annual meeting with the BLM and CIC prior to initiation of year-of-construction surveys to discuss that year's plan for biological surveys and the potential for variance requests as outlined in Section 3 of Attachment C: Biological Survey Requirements of Appendix H: Plant and Wildlife Conservation Plan.

Biological monitors will conduct two site visits to document habitat conditions and use in the affected area for which a wildlife variance is requested. Site visits will occur within the seasonal restriction time frame and temporally reflect peak or optimal activity patterns of the big game species for which a wildlife variance is requested. Biological monitors will perform ocular observations and pellet searches to determine big game use; evaluate annually variable habitat conditions in the affected area; and document conditions, including the following:

- Vegetative status
- Current climatic trends
- Non-Project related disturbance

- Availability and current use of adjacent habitats
- Current and reasonably foreseeable big game use
- Animal condition

The BLM and/or WGFD may not grant a variance request if it is determined that animals are in poor condition going into winter or if weather conditions are so severe that animals are under stress and burning unsustainable amounts of calories. Additionally, the BLM and/or WGFD are less likely to grant a variance request during the middle of winter but more likely to grant variance requests in early or late-winter based on animal and weather conditions.

The Construction Contractor(s) will submit the wildlife variance request with this information to the CIC and the Company during the construction phase, and the CIC will then submit it to the BLM. During the operation and maintenance phase, the Company will submit the wildlife variance request to the BLM. The BLM will provide the wildlife variance request to WGFD for any big game habitat wildlife variance requests.

4.4.1 Big Game Monitoring

If variance requests to seasonal and spatial restrictions are approved for big game habitats, the biological monitor will monitor the affected area daily during peak or optimal periods of big game activity and during authorized construction activities that may affect behavior or survival of big game at the location. The biological monitor will prepare daily inspection reports documenting habitat conditions in the affected area, including all conditions and trends identified in the request for variance. Daily reports will be submitted to the lead biological monitor, who will incorporate the information into weekly reports detailing habitat conditions, big game behavior, and authorized activities. Weekly reports will be submitted to the CIC (during construction) or BLM (during operation and maintenance). The BLM will provide weekly reports associated with monitoring big game habitat variances to WGFD. If monitoring detects an impact on big game behavior or habitat conditions change and are no longer compatible with adaptive management, the biological monitor will immediately notify the Construction Contractor(s) lead biological monitor and environmental manager, who will notify the CIC and Company (during construction) or BLM (during operation and maintenance), so that further impacts may be avoided and identified impacts may be mitigated.

5 LITERATURE CITED

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Romin, L.A., and J.A. Muck. 2002. *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances*. U.S. Fish and Wildlife Service, Utah Ecological Services, West Valley City.

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U.S. Forest Service (USFS). 2003. *Revised Land and Resource Management Plan for the Medicine Bow National Forest*. December. Available online at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5163439.pdf. Accessed March 25, 2021.

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Exhibit 1. Variance Request Form

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CIC USE ONLY

Variance Request Number:
Click here to enter text.
Date Received by CIC:

VARIANCE REQUEST FORM

Gateway West Segment D-1 Transmission Line Project (Windstar and Dave Johnston to Shirley Basin)

Section A – Owner/Contractor to Complete

Descriptive Title: _____ Requested Start Work Date: _____

Variance Level: ☐ Level 1 ☐ Level 2 ☐ Level 3

Location:

Land Jurisdiction: ☐ BLM Rawlins FO ☐ BLM Casper FO ☐ USFS: _____

☐ State ☐ Private: ☐ Other: _____

UTMs: _____

Township and Range: _____

Structure(s), Access Road(s), Other: _____

POD Map Set and Panel Number: _____

Purpose and Need Statement:

Description of Request (Include requested construction or maintenance activities, expected timing and duration of activities, and type and number of equipment and personnel required):

Alternatives Considered:

Resource Analysis:

The affected area is analyzed within the EIS: ☐ Yes ☐ No Document Citation: _____

Biological Resources

Activity requires a wildlife exception request: ☐ Yes ☐ No

Activity is within previously surveyed areas: ☐ Yes ☐ No

Activity is within a seasonally or spatially restricted area: ☐ Yes ☐ No

Impact to sensitive resource: ☐ Yes ☐ No Weeds present: ☐ Yes ☐ No

Brief Summary (for **non-wildlife variance requests only**):

Proposed Mitigation:

For **wildlife variance requests only**, provide the following information:

Resource Type:

- ☐ Special-status wildlife habitat (include species): _____
- ☐ Raptor (include species, if known): _____
- ☐ Non-raptorial migratory bird (include species, if known): _____
- ☐ Big game habitat (include species and habitat type): _____

Habitat Affected by Variance Request:

- ☐ Vegetative status: _____
- ☐ Current climatic trends: _____
- ☐ Presence of non-Project-related disturbance factors: _____
- ☐ Amount of habitat affected: _____
- ☐ Availability of other habitats: _____
- ☐ Extent of topographical and/or vegetative natural sight screening: _____
- ☐ Availability of water: _____

Current and Reasonably Foreseeable Use of Habitat:

- ☐ Ocular observations (e.g., pellet counts): _____
- ☐ Climatic trends: _____
- ☐ Anticipated seasonal movement: _____
- ☐ Availability and use of other habitats: _____
- ☐ Response to other disturbance factors: _____

Potential Effects of Granting Variance Request and Use of Affected and Adjacent Habitats:

- ☐ Direct effects: _____
- ☐ Indirect effects: _____
- ☐ Cumulative effects on habitat values, individuals, and/or groups of animals: _____

Cultural Resources

Activity is within previously surveyed areas: ☐ Yes ☐ No

Impact to eligible site: ☐ Yes ☐ No

Can site be avoided: ☐ Yes ☐ No

Name of Additional Report: _____

Brief Summary:

Proposed Mitigation:

Paleontological Resources

Activity is within previously surveyed areas: ☐ Yes ☐ No

Name of Additional Report: _____

Brief Summary:

Proposed Mitigation:

Other Resources (potential impacts to other sensitive resources analyzed in the EIS [i.e., noise, air quality, etc.])

Brief Summary:

Proposed Mitigation:

Disturbance Assessment:

Does the request result in additional disturbance not addressed in the POD: ☐ Yes ☐ No ☐ N/A

Disturbance Not Accounted for in the POD:

Activity	**Additional Temporary Disturbance (acres)**	**Additional Permanent Disturbance (acres)**
Total (acres):		

Disturbance Notes:

Support Materials:

Provide a map (required), supporting graphic, information, and resource reports that support or explain the proposed activity, as needed.

☐ Map/Drawing ☐ Photos ☐ Additional Resource Reports ☐ Engineering Drawing

Owner Authorization of Variance:

☐ Rocky Mountain Power confirms that the request made in this variance provides a prudent alternative means to support the Project, provides updated Project documentation, and/or reduces resource impacts of the Gateway West Segment D-1 Transmission Line Project (Windstar and Dave Johnston to Shirley Basin). It has been thoroughly vetted for completeness and addresses potential impacts to resources analyzed in the EIS.

Exhibit 2. Rawlins Field Office Wildlife Exception Request Form

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Bureau of Land Management
Rawlins Field Office
Wildlife Exception Request

INSTRUCTIONS: FILL IN GRAY FIELDS; CLICK TO HIGHLIGHT FIELD FOR ENTRY; TAB BETWEEN FIELDS; CLICK ON CHECK BOX TO X; MORE THAN 1 PAGE OKAY.

Project Information Provided by Proponent

Project Name: Request #:
Date Submitted:

Company/Group Requesting Exception:

Project Contact Name: Title:

Phone Number: Email:

BLM Contact Name (NRS, Realty, Range):

Type of Project: ☐ Fluid Minerals/APD ☐ Realty Action/ROW ☐ Other:

Lease or Case File #:

Location: T R S 1/4

Date action (APD/ROW) approved:

Spud Date/Proposed Start Date:

Exception Requested Until Date (Approval Limited to 14 Days):

Affected Resources (Check all that apply within request time period):

☐ Crucial Winter Range
☐ Raptor Nesting (list species if known: _____)
☐ Sage-Grouse
☐ Mountain Plover
☐ Parturition/Calving/Lambing Habitat
☐ Other Species or Seasonally Restricted Habitats: _____

ATTACH or ENTER a statement of work including all of the following information:

INSTRUCTIONS: FILL IN GRAY FIELDS; CLICK TO HIGHLIGHT FIELD FOR ENTRY; TAB BETWEEN FIELDS; FIELDS WILL EXPAND TO FIT LARGE TEXT ENTRIES.

1) Statement of need for exception, including alternatives considered and impact of delay:

2) Actions/Construction to be completed, including workforce and equipment required:

3) Anticipated start date and time frame required for actions/construction:

4) Next logical stopping point:

Attached Information: ☐ **Quality map** ☐ **Additional activity descriptions** ☐ **Other:** _____
Via: ☐ **This email** ☐ **Separate email** ☐ **FAX (307) 328-4373** ☐ **Hard copy mail**

Additional Comments:

Signature for Submittal by: **Title:** **Date:**

End of Applicant-Required Information (Section 1 of 3, with Sections 2 & 3 for BLM use only)

Exhibit 3. Raptor Inventory Data Sheet

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U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

RAPTOR INVENTORY DATA SHEET

Observer ____ Nest Number ____

Date of Observation _____ Species _____

Land Ownership (Circle one) P S BLM T.___N.,R.___W.,Sec.___¼ ¼ .

Description of Nest: GIS File Name _____

Nest Substrate _____ Remarks, Physical Relationship to Other Nests, Etc.

Height of Substrate (ft) _____ _____

Nest Ht. Above Ground (ft) _____ _____

Active _____ Inactive _____ _____

Number of Eggs _____ _____

Number of Young _____ _____

Exposure of Nest _____ _____

Elevation of Nest (ft) _____ _____

Vegetation Type: _____ _____

_____ _____

Condition of Nest _____ _____

Quad Name _____

Photo on File _____ Photo Taken _____ Project JDR #

Record Nest Activity on Reverse Side

MAP/PHOTO

NEST HISTORY

NEST NUMBER_____.

YEAR	DATE	STATUS	CONDITION	EGGS	YOUNG	REMARKS/OBSERVER

CODES USED FOR DESCRIBING RAPTOR NEST NUMBERS AND THE VARIOUS FIELD NAMES FOUND ON THE RAPTOR INVENTORY DATA SHEET

NEST NUMBER = A 12 or 13 digit, alpha/numeric number assigned to every raptor nest within the Rawlins Field Office area. The number in its entirety indicates species and location. The first two or three characters are alpha characters and refer to the raptor species. Two alpha characters indicate a natural nest and the species of raptor (indicated below). Artificial nests always begin with the letter A prior to the two alpha characters which indicate species. Next come two numeric characters which indicate the township within which the nest is located, followed by two more numeric characters which indicate the range. The next two characters refer to the section and the final two numeric characters represent a sequential number for all known and inventoried nests for that particular species in that section. Therefore, nest number FH21892106 is a Ferruginous Hawk nest in T.21N., R.89W., Section 21, and the 6th ferruginous hawk nest identified within section 21.

- AAA Species, a 2 digit alpha character indicating a natural nest or a 3 digit alpha character beginning with the letter A to indicate an artificial nest.
- NN Township, a 2 digit numeric character
- NN Range, a 2 digit numeric character
- NN Section, a 2 digit numeric character
- NN A 2 digit sequential number representing which, of the total number of nests of this species have been identified within this section.

SPECIES CODES:

BO = Burrowing Owl
CH = Cooper's Hawk
FH = Ferruginous Hawk
GE = Golden Eagle
GH = Great Horned Owl
GS = Goshawk
HL = Bald Eagle
KE = American Kestrel
LE = Long-eared Owl
NH = Northern Harrier
PF = Prairie Falcon
RT = Red-tailed Hawk
SE = Short-eared Owl
SH = Swainson's Hawk
SO = Screech-Owl (Western)
SP = Osprey
SS = Sharp-shinned Hawk
UA = Unknown Accipiter
UB = Unknown Buteo
UR = Unknown Raptor
UO = Unknown Owl

OBSERVER = Name of the person(s) making the observation

DATE OF OBSERVATION = Date of observation in Month/Day/Year

LAND OWNERSHIP = Ownership of the land where the nest is located.
P=Private; S=State; BLM = Bureau of Land Management; O = Other

LEGAL DESCRIPTION = Obtained from a BLM Land Status Map. The Towship, Range and Section of the nest. In addition, the quarter quarter description within the section should be recorded.

NEST SUBSTRATE = Substrate upon which nest is built (3 Characters)

ABB	=	Abandoned Burrow	LPP	=	Lodgepole Pine
ANS	=	Artificial Nesting Structure	MMS	=	Manmade Structure
ASP	=	Aspen Tree	OBH	=	Other Brush Species
BLS	=	Blue Spruce	POP	=	Ponderosa Pine
BTT	=	Butte	RIM	=	Rimrock
CLF	=	Cliff	RIP	=	Riparian Area
CKB	=	Creek Bank	ROC	=	Rock Cavity
CTL	=	Cottonwood (Live)	ROK	=	Rock Outcrop
CTD	=	Cottonwood (Dead)	ROL	=	Rocky Ledge
DOF	=	Douglas Fir	ROP	=	Rock Pillar
ERR	=	Erosion (badland feature)	SAG	=	Sagebrush
GHS	=	Ground/Hillside	SEB	=	Serviceberry
JUN	=	Juniper	UNK	=	Unknown
LIM	=	Limber Pine	WIL	=	Willow (Live)

HEIGHT OF SUBSTRATE = Height in feet of the structure where the nest is located above the surrounding topography

NEST HEIGHT ABOVE GROUND = Height in feet of the nest on the structure where it is located

EGGS = The number of eggs in the nest at the time of the observation.

YOUNG = The number of young in the nest at the time of observation. Presumably, this is the productivity of the nest if the survey was conducted when the young were near fledging.

EXPOSURE OF NEST = Direction of nest exposure (N, S, E, W, NE, NW, SE, Etc.)

VEGETATION TYPE = General description of the vegetation in the area of the nest (i.e. sagebrush grassland, riparian, mountain shrub, etc.)

CONDITION = Condition class of the nest. Excellent, Good, Fair and Poor.

QUAD MAP NAME = The name of the 7.5 minute (1:24,000) U.S. Geological Survey topographic map on which the nest site is located.

STATUS = Nest status on the observation date (4 Characters)
ACTI = ACTIve nest; A nest in which a breeding attempt was made as indicated by:

1) Eggs in nest, or
2) Young in nest, or
3) Fledged young near nest, or
4) Incubating/brooding adult

ACTF = ACTive Failed; An active nest that did not fledge young, indicated by:

1) Egg shells in or around nest, or
2) Young present but known not to have fledged
3) Eggs in nest but obviously abandoned (past the time when eggs should have normally hatched).

DNLO = Did Not LOcate; Surveyor searched but was unable to locate the nest.

OCCU = OCCUpied; A nest with one or more of the following:

1) Fresh lining material
2) Adult presence at or near the nest
3) Recent and well-used perch site near the nest

OCAL = OCcupied ALternate; A tended nest within the boundaries of a territory housing an ACTIve nest.

INAC = INACtive; A nest with no apparent recent use or adult presence at the time of observation, but in good condition.

INAL = INactive ALternate; An inactive nest within a territory that contains an active nest.

INDI = INactive DIlapidated; An inactive nest in a state of ruin due to weather, natural aging and/or neglect.

INDE = INactive DEstroyed; A nest showing no sign of raptor activity that is destroyed to the point that it is no longer usable without major reconstruction. These nests, for all practical purposes, have disappeared.

GONE = Nest was GONE; A nest that was located during a previous study, but was completely destroyed with no sign of any nest material in a subsequent study.

PRED = PREDated; The nest was active, but there is evidence that the nest was predated (remains of adults or young, feathers or eggshells scattered, or other physical evidence is present).

COMMENTS = Any pertinent comments about the nest, raptor activity at or near the nest, assessment of nest condition if making recommendations concerning removing the nest from the inventory, etc.

Exhibit 4. Wildlife Variance Approval Criteria

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Wildlife Variance Approval Criteria

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Occupied black-footed ferret (*Mustela nigripes*) habitat seasonal restriction	Nonessential experimental population	Specific exception request criteria not provided in the Rawlins Resource Management Plan (United States Department of the Interior, BLM, RFO 2008). Exception, modification, and waiver language may be developed in cooperation with the BLM on a case-by-case basis.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Not applicable; resource/habitat does not occur on USFS-managed lands.
Greater sage-grouse (*Centrocercus urophasianus*) breeding, nesting, and early brood rearing habitats seasonal restriction	BLM sensitive; state sensitive	Activities in unsuitable habitats would be evaluated under the exception criteria and may be allowed on a case-by-case basis. Where credible data support different timeframes for this seasonal restriction, dates could be shifted by 14 days prior or subsequent to the above dates.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Mountain plover (*Charadrius montanus*) seasonal restriction	BLM sensitive; state sensitive	If surveys consistent with the plover guidelines or other methods approved by the USFWS find that no plovers are nesting in the area, then an exception may be approved in writing, including documented supporting analysis, by the Authorized Officer.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†
Non-raptorial migratory bird nests seasonal restriction	Protected by the MBTA	**Exception:** Upon review and monitoring, the Authorized Officer may grant exceptions because of climatic and/or habitat conditions if activities would not cause undue stress to migratory bird populations.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Breeding raptors seasonal and spatial restrictions	Protected by MBTA	The seasonal restriction may be shortened, depending on nesting chronology of individual species, nest site location, and topography. Certain types of short-term, minor disruptive land use activities that are not anticipated to affect nesting success may be granted.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†
Bald eagle (*Haliaeetus leucocephalus*) winter roost seasonal restriction	Protected by MBTA and BGEPA; state sensitive; BLM sensitive	Specific exception request criteria not provided in the Rawlins Resource Management Plan (United States Department of the Interior, BLM, RFO 2008). Exception language may be developed in cooperation with the BLM on a case-by-case basis.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Elk (*Cervus elaphus*), mule deer (*Odocoileus hemionus)*, and pronghorn (*Antilocapra americana*) migration corridors and transitional range seasonal restriction	Managed by WGFD	Specific exception request criteria not provided in the Rawlins Resource Management Plan (United States Department of the Interior, BLM, RFO 2008). Exception language may be developed in cooperation with the BLM on a case-by-case basis.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Refer to table note regarding USFS wildlife variance request process.†

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Elk (*Cervus elaphus*) crucial winter range seasonal restriction	Managed by WGFD	Exception to this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer. The criteria used for crucial big game winter range are based on the area available, whether that area is relatively intact, and whether it has a history of wintering most of the population at adequate body conditions for 8 or more years out of 10. The most crucial time period in the Resource Management Plan Planning Area is usually January 1 to March 15, and during this period, the restrictions are generally enforced. However, during the remaining time in the standard statewide stipulation, the authorizing officer is allowed the option to enforce a longer seasonal restriction if winter conditions warrant. Elk: Short-term exceptions are more likely to be considered early (November 15–December 1) and late (April 1–30) in the winter season, depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 to April 1 unless unusually mild winter conditions prevail. Exceptions to stipulated elk calving areas' dates (May 1–June 30) will not be granted because of elk sensitivity to disturbance. Displacement in open habitats is much greater than in woodlots or forests; hence restricted areas will encompass larger areas in open habitat.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Not applicable; resource/habitat does not occur within the Project area on USFS-managed lands.

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Mule deer (*Odocoileus hemionus*) crucial winter range seasonal restriction	Managed by WGFD	Exception to this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer. The criteria used for crucial big game winter range are based on the area available, whether that area is relatively intact, and whether it has a history of wintering most of the population at adequate body conditions for 8 or more years out of 10. The most crucial time period in the Resource Management Plan Planning Area is usually January 1 to March 15, and during this period, the restrictions are generally enforced. However, during the remaining time in the standard statewide stipulation, the authorizing officer is allowed the option to enforce a longer seasonal restriction if winter conditions warrant. Mule deer: Short-term exceptions may be granted early (November 15–December 1) and late (April 1–30) depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 to April 1 unless unusually mild winter conditions prevail.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Not applicable; resource/habitat does not occur within the Project area on USFS-managed lands.

Wildlife Resource/ Habitat Restriction	Resource Status	Wildlife Variance Approval Criteria*		
		Rawlins Field Office	**Casper Field Office**	**National Forest†**
Pronghorn (*Antilocapra americana*) crucial winter range seasonal restriction	Managed by WGFD	Exception to this limitation in any year may be approved in writing, including documented supporting analysis, by the Authorized Officer. The criteria used for crucial big game winter range are based on the area available, whether that area is relatively intact, and whether it has a history of wintering most of the population at adequate body conditions for 8 or more years out of 10. The most crucial time period in the Resource Management Plan Planning Area is usually January 1 to March 15, and during this period, the restrictions are generally enforced. However, during the remaining time in the standard statewide stipulation, the authorizing officer is allowed the option to enforce a longer seasonal restriction if winter conditions warrant. Pronghorn: Exceptions may be granted except where physical barriers (highways, fences, rivers, canyons, etc.) limit animals' ability to move into other suitable habitats. Short-term exceptions may be granted early (November 15–December 1) and late (April 1–30) depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 to April 1 unless unusually mild winter conditions prevail.	Exceptions may be approved in writing, including documented supporting analysis, by the Authorized Officer based in part on the following criteria: presence or absence of the applicable resource or value, animal condition (including physical condition of individual animals, population levels/status/trend, likelihood of introduction of disease, likelihood of decreased recruitment), climate/weather (including snow conditions, precipitation patterns, weather patterns), habitat condition and availability (including water and forage condition, and competition), spatial considerations (including topography, migration/travel corridors, presence of thermal cover, proportion of range impacted, cumulative impacts), and timing.	Not applicable; resource/habitat does not occur within the Project area on USFS-managed lands.

* Variance approval criteria is derived from the *Record of Decision for the Gateway West Transmission Line Project* (BLM Wyoming State Office 2013b), the *Record of Decision and Approved Rawlins Resource Management Plan* (United States Department of the Interior, BLM, RFO 2008), the *Record of Decision and Approved Casper Resource Management Plan* (BLM Wyoming State Office and CFO 2007), and the *Revised Land and Resource Management Plan for the Medicine Bow National Forest* (USFS 2003).

† On USFS-administered lands, there is no wildlife variance request process for wildlife seasonal spatial restrictions. Any proposed modifications to wildlife seasonal spatial restrictions on USFS-administered lands will only be considered for emergency situations by the USFS, on a case-by-case basis. If an emergency situation arises, the Construction Contractor(s) will be responsible to coordinate with the USFS to determine if an exception to a wildlife seasonal spatial restriction is warranted.

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Exhibit 5. *Mountain Plover (*Charadrius montanus*) Exception Request Survey Protocol – 2021 USDI – Bureau of Land Management, Rawlins Field Office*

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Mountain Plover (*Charadrius montanus*) Exception Request Survey Protocol
USDI- Bureau of Land Management, Rawlins Field Office
(December 2021)

Survey Area

The initial step for exception request surveys is to define areas of mountain plover habitat, based on our current understanding of suitability within the project area. There will not be any minimum size criterion for suitability, and all areas that meet the slope and vegetation criteria will be surveyed. Areas that are not suitable breeding habitat do not need to be surveyed. In addition, polygon boundaries would be refined as necessary during the on-site field investigation.

After the mountain plover polygons are identified, surveys to determine the presence or absence of breeding, nesting or brood-rearing plover will be required. The blocks of time where there is a higher probability of mountain plover observations (below in green) are during the breeding and post-fledging time periods; and the blocks of time where there is a lower probability of observation (below in yellow) are because the birds are highly cryptic during the nesting/incubation period and during periods of non-breeding activity.

Four (4) separate surveys, at least 10 days apart, will be required. Two (2) of the surveys will be required during the high-probability dates. The purpose of these surveys is to cover the maximum area within ½ mile of proposed surface disturbing or disruptive activities; with the assumption that all plover within 1/8-mile of each survey point would be detected. Observers will have knowledge of using a point count method.

High-probability Survey Dates: April 17 - May 9; June 7 – July 3
Low-probability Survey Dates: April 10 – April 16; May 10 – June 6; July 4 – July 10

Routes

- Survey points will be laid out on existing roads if possible
- Survey points will be laid out to achieve maximum coverage of the survey area.

Survey Methods

- Conduct surveys between local sunrise and 10:00 a.m. and from 5:30 p.m. to sunset.
- Counts will be conducted for five minutes at each point.
- Survey points will be spaced ¼-mile apart.
- Surveys will not be conducted on foot since plovers have been known to flush at a much greater distance in the presence of a person on foot.
- Surveys will be completed using 4-wheel drive vehicles, ATVs, UTVs or horseback.
- Stay in or close to the vehicle when scanning. Use binoculars to scan and spotting scopes to confirm sightings. Do not use scopes to scan.
- Observers must be able to identify mountain plovers by sight and sound.
- Do not conduct surveys in poor weather. Do not conduct surveys if winds are greater than 12 mph. Do not conduct surveys if there is any precipitation.
- Use a GPS unit to collect location information; a laser rangefinder to determine distances (meters); and a compass for azimuth readings (degrees).
- Use maps on a 1:100,000 and 1:24,000 scale.

- Do not allow any dogs on the survey areas.
- "Fly-overs" will be recorded as "FO" in the comment's column of the data sheet.
- Extreme care will be exercised in locating plovers due to their highly secretive and quiet nature in order to reduce the chance of direct or indirect disturbance to nesting plovers.

April 17-May 9 Surveys

- Surveys conducted from April 17 – May 9 will focus on identifying displaying or calling males, which would signify breeding territories. A taped call (available from BLM) should be broadcast at each survey point to maximize the likelihood of detection. Play the tapes for one minute maximum per point location during three 20-second intervals

May 10-July 10 Surveys

- Surveys conducted from May 10 – July 10 will not use playback call tapes. At each survey point scan areas for birds attending broods of flightless young during the survey period. Listen for calls, as mountain plovers are known to make a low "warning" call to their brood when humans are present, a potentially useful indicator of reproduction.

Transect Information

- Project name
- Exception Request number
- Date
- Project Proponent
- Observer name
- Observer Employer
- Call playback used (Y/N)
- Any precipitation during the survey (Y/N)
- Time at start and finish
- Temperature at start and finish (Fahrenheit)
- Wind at start and finish (Beaufort scale or mph)
- Sky Condition at start and finish (Weather Bureau code)

Survey Data (at every point)

- Survey point number
- Time
- Survey point GPS location (Northing / Easting - UTM Zone 13; NAD 83)
- Number of mountain plover / nests identified
- Distance / Direction to sighting (Meters / Azimuth) or GPS point of sighting
- How first observed (visual or aural)
- Behavior (WGFD animal activity codes)
- Habitat description using the vegetation codes on the data sheet
- Comments on other wildlife observed, habitat, behavior or other features of note

After surveys are complete, all data sheets and route maps will be submitted to the RFO. Only data sheets provided by the RFO will be used. It is critical that both negative and positive data are recorded to better understand the distribution and abundance of the species within the project area.