

FEDERAL ENERGY REGULATORY COMMISSION  
Washington, DC 20426  
August 24, 2023

OFFICE OF ENERGY PROJECTS

Project No. 2459-279 – West Virginia  
and Pennsylvania  
Lake Lynn Hydroelectric Project  
Lake Lynn Generation, LLC

**VIA FERC Service**

**Reference: Scoping Document 1 for the Lake Lynn Hydroelectric Project,  
P-2459-279**

To the Parties Addressed:

The Federal Energy Regulatory Commission (Commission) is reviewing the license application, filed on November 30, 2022, by Lake Lynn Generation, LLC (Lake Lynn Generation), for relicensing the Lake Lynn Hydroelectric Project (Lake Lynn Project, or project) (FERC No. 2459). The project is located on the Cheat River, near the City of Morgantown, in Monongalia County, West Virginia, and near the Borough of Point Marion, in Fayette County, Pennsylvania.

Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, Commission staff will prepare an environmental assessment (EA) or an Environmental Impact Statement (EIS), which will be used by the Commission to determine whether, and under what conditions, to issue a new license for the project. To support and assist our environmental review and determine the level of analysis needed, we are beginning the public scoping process to ensure that all pertinent issues are identified and analyzed, and that the NEPA document is thorough and balanced. The Commission's scoping process will satisfy the NEPA scoping requirements, irrespective of whether the Commission issues an EA or an EIS.

We invite your participation in the scoping process and are circulating the attached Scoping Document 1 (SD1) to provide you with information on the project. We are also soliciting your comments and suggestions on our preliminary list of issues and alternatives to be addressed in the NEPA document.

We will hold two scoping meetings for the project to receive input on the scope of the NEPA document. A daytime meeting will be held at 2:00 p.m. on Monday, September 25, 2023, at the Cranberry Hotel in Morgantown, West Virginia. An evening meeting will be held at 6:00 p.m. on September 25, 2023, at the same location. We will also visit the Lake Lynn Project facilities on Tuesday, September 26, 2023, starting at 9:30 a.m. We invite all interested agencies, Native American Tribes, non-governmental organizations, and individuals to attend one or both of these meetings and participate in the site visit. Further information on the scoping meetings and site visit is available in the enclosed SD1.

The SD1 is being distributed to both Lake Lynn Generation's distribution list and the Commission's official mailing list (*see* section 8.0, *Mailing List*, of the attached SD1). If you wish to be added to, or removed from, the Commission's official mailing list, please send your request by email to [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). In lieu of an email request, you may submit a paper request. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All written or emailed requests must specify your wish to be added to, or removed from, the mailing list, and must clearly identify the following on the first page: **Lake Lynn Hydroelectric Project (P-2459-279)**.

Please review SD1 and, if you wish to provide comments, follow the instructions in section 5.0, *Request for Information*. If you have any questions about SD1, the scoping process, or how Commission staff will develop the NEPA document for this project, please contact Allan Creamer at (202) 502-8365, or at [allan.creamer@ferc.gov](mailto:allan.creamer@ferc.gov). Additional information about the Commission's licensing process and the Lake Lynn Project may be obtained from our website, [www.ferc.gov](http://www.ferc.gov). The deadline for filing comments is **October 25, 2023**. The Commission strongly encourages electronic filings.

Enclosure: Scoping Document 1

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# SCOPING DOCUMENT 1

LAKE LYNN HYDROELECTRIC PROJECT  
(FERC NO. 2459-279)



Federal Energy Regulatory Commission  
Office of Energy Projects  
Division of Hydropower Licensing  
Washington, DC

August 2023

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## SCOPING DOCUMENT 1

### Lake Lynn Hydroelectric Project (FERC No. 2459-279)

#### 1.0 INTRODUCTION

The Federal Energy Regulatory Commission (Commission or FERC), under the authority of the Federal Power Act (FPA),<sup>1</sup> may issue licenses for terms ranging from 30 to 50 years for the construction, operation, and maintenance of non-federal hydroelectric projects. On November 30, 2022, Lake Lynn Generation, LLC (Lake Lynn Generation), filed an application for a new license for the Lake Lynn Hydroelectric Project (Lake Lynn Project, or project). The project is located on the Cheat River, near the City of Morgantown, in Monongalia County, West Virginia, and near the Borough of Point Marion, in Fayette County, Pennsylvania (figure 1).

The project has a total authorized capacity of 51.2 megawatts (MW) and an average annual generation of 144,741 megawatt-hours (MWh), based on the period of record from 2012 through 2021. A detailed description of the project is provided in section 3.0, *Proposed Action and Alternatives*.

The National Environmental Policy Act (NEPA) of 1969,<sup>2</sup> the Commission's regulations, and other applicable laws require that we independently evaluate the environmental effects of relicensing the Lake Lynn Project as proposed, and consider reasonable alternatives to the proposed actions. We will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) (collectively, "NEPA document") for the project that describes and evaluates the probable effects, if any, of the licensee's proposed action and alternatives. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission prepares an EA or an EIS.

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<sup>1</sup> 16 U.S.C. §§ 791(a)-825(r).

<sup>2</sup> 42 U.S.C. §§ 4321-4370(f).

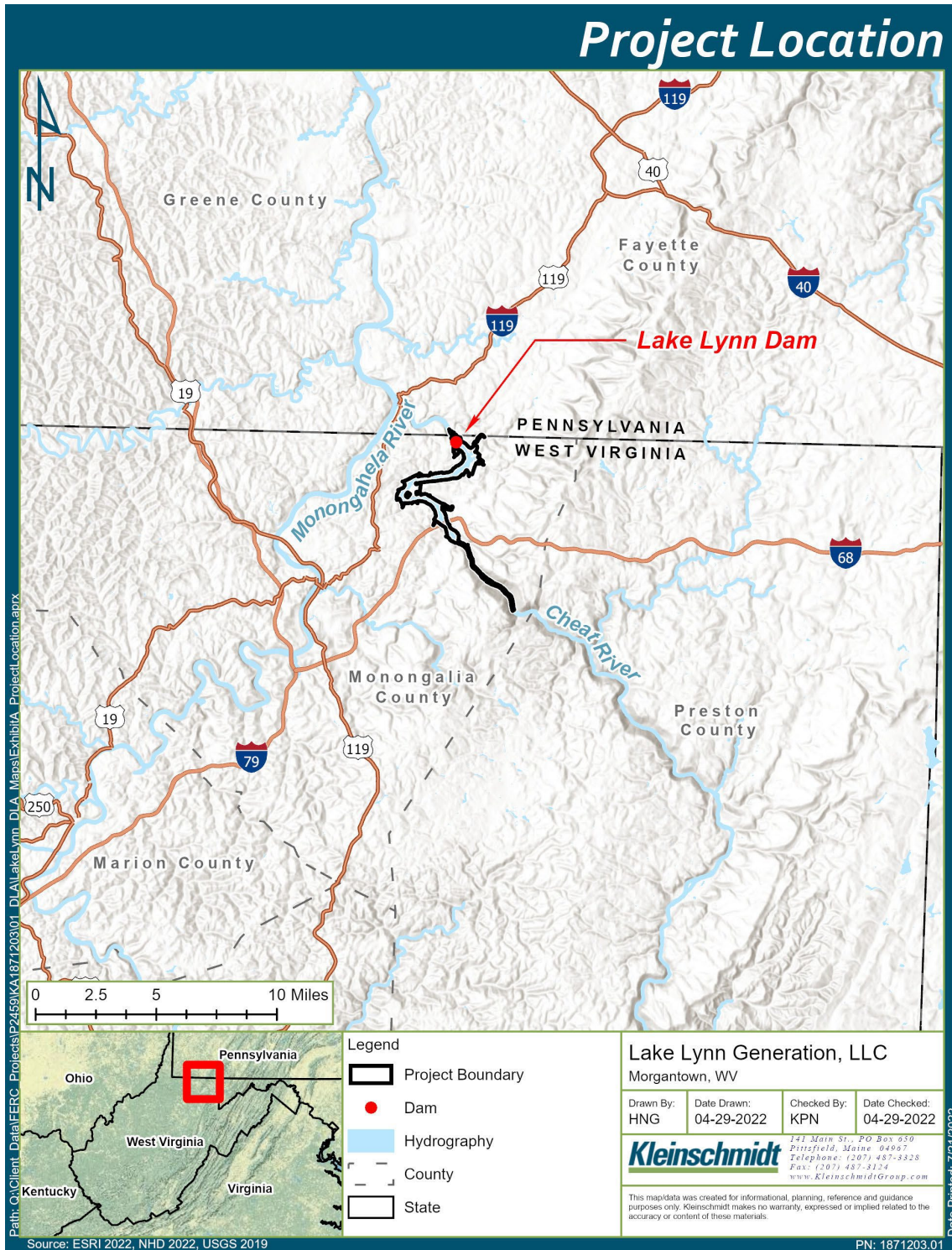


Figure 1. Location of the Lake Lynn Hydroelectric Project. (Source: License Application, Exhibit A).

## **2.0 SCOPING**

This Scoping Document 1 (SD1) is intended to advise all participants as to the proposed scope of the Commission's NEPA document and to seek additional information pertinent to this analysis. This document contains: (1) a description of the scoping process and current processing schedule for the license application; (2) a description of the applicant's proposed action and alternatives to the proposed action; (3) a preliminary identification of environmental issues for the project; (4) a request for comments and information; and (5) a preliminary list of comprehensive plans that are applicable to the project.

### **2.1 PURPOSES OF SCOPING**

Scoping is the process used to identify issues, concerns, and opportunities for enhancement or mitigation associated with a proposed action. In general, scoping should be conducted early in the planning stage of the project. The purposes of the scoping process are as follows:

- invite participation of federal, state, and local resource agencies, Native-American Tribes, non-governmental organizations (NGOs), and the public to identify significant environmental and socioeconomic issues related to the proposed project;
- determine the resource issues, depth of analysis, and significance of issues to be addressed in the NEPA document;
- identify how the project would or would not contribute to cumulative effects in the project area;
- identify reasonable alternatives to the proposed action that should be evaluated in the NEPA document;
- solicit, from participants, available information on the resources at issue; and
- determine the resource areas and potential issues that do not require detailed analysis during review of the project.



## **2.2 COMMENTS, SCOPING MEETINGS, AND ENVIRONMENTAL SITE REVIEW**

During preparation of the NEPA document, there will be several opportunities for the resource agencies, Native-American Tribes, NGOs, and the public to provide input. These opportunities will occur:

- during the public scoping process, when we solicit oral and written comments regarding the scope of issues and analysis for the NEPA document;
- in response to the Commission's notice that the project is ready for environmental analysis; and
- after issuance of the NEPA document when we solicit comments on the document.

In addition to written comments solicited by this SD1, we will hold two public scoping meetings and an environmental site review in the vicinity of the project. A daytime meeting will focus on concerns of the resource agencies, Native-American Tribes, and NGOs; the evening meeting will focus on receiving input from the public. We invite all interested agencies, Native American Tribes, NGOs, and individuals to attend one or both of the meetings to assist us in identifying the scope of environmental issues that should be analyzed in the NEPA document. All interested parties are also invited to participate in the environmental site review. The dates, times, and locations of the meetings and environmental site review are as follows:

### **Daytime Scoping Meeting**

Date and Time: **Monday, September 25, 2023, at 2:00 p.m.**

Location: Cranberry Hotel  
2700 Cranberry Square  
Morgantown, WV 26508

Phone Number: (808) 368-2867

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### **Evening Scoping Meeting**

Date and Time: **Monday, September 25, 2023, at 6:00 p.m.**

Location: Cranberry Hotel  
2700 Cranberry Square  
Morgantown, WV 26508

Phone Number: (808) 368-2867

### **Environmental Site Review**

Date and Time: **Tuesday, September 26, 2023, at 9:30 a.m.**

Location: Lake Lynn Hydroelectric Project Powerhouse, 600 Lake Lynn Road,  
Lake Lynn, PA 15451 (Latitude 39.721678 / Longitude -79.857539).  
Participants will meet at the Tailwater Fishing Access parking area.  
Please note that you are responsible for your own transportation.

Please RSVP via email to [joyce.foster@eaglecreekre.com](mailto:joyce.foster@eaglecreekre.com), or notify Joyce Foster at (804) 338-5110 **on or before September 19, 2023**, if you plan to attend the environmental site review.

All persons attending the environmental site review must adhere to the following requirements: (1) all persons must wear sturdy, closed-toe shoes or boots; (2) persons with open-toed shoes/sandals/flip flops/high heels, etc. will not be allowed on the environmental site review; (3) persons must be 18 years or older, or be accompanied by an adult; (4) no photography will be allowed inside the powerhouse; (5) no weapons are allowed on-site; (6) no alcohol/drugs are allowed on-site (or persons exhibiting the effects thereof); and (7) no animals (except for service animals) are allowed on the environmental site review.

The scoping meetings will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. Before each meeting, all individuals who attend, especially those who intend to make statements, will be asked to sign in and clearly identify themselves for the record. Interested parties who choose not to speak, or who are unable to attend the scoping meetings, may provide written comments and information to the Commission as described in section 5.0, *Request for Information*. These meetings are posted on the Commission's calendar located on the internet at <https://www.ferc.gov/news-events/events>, along with other related information.

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Meeting participants should come prepared to discuss their issues and/or concerns as they pertain to the relicensing of the Lake Lynn Project. It is advised that participants review the license application in preparation for the scoping meetings. Copies of the license application may be viewed on the Commission's website ([www.ferc.gov](http://www.ferc.gov)), using the "eLibrary" link. Enter docket number P-2459 to access the application for the Lake Lynn Project, P-2459. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or at 1-866-208-3676 (toll free), or (202) 502-8659 (TTY).

Following the scoping meetings and comment period, all issues raised will be reviewed and decisions made as to the level of analysis needed. If preliminary analysis indicates that any issues presented in this scoping document have little potential for causing significant effects, the issue(s) will be identified and the reasons for not providing a more detailed analysis will be given in the NEPA document.

If we receive no substantive comments on SD1, then we will not prepare a Scoping Document 2 (SD2). Otherwise, we will issue SD2 to address any substantive comments received. The SD2 will be issued for informational purposes only; no response will be required. The NEPA document will address recommendations and input received during the scoping process.

### **3.0 PROPOSED ACTIONS AND ALTERNATIVES**

In accordance with NEPA, the environmental analysis will consider the following alternatives, at a minimum: (1) the no-action alternative; (2) the applicant's proposed action; and (3) alternatives to the proposed action.

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

Under the no-action alternative, the Lake Lynn Project would continue to operate as required by the current project license (i.e., there would be no change to the existing environment). No new environmental protection, mitigation, or enhancement measures would be implemented. We use this alternative to establish baseline environmental conditions for comparison with other alternatives.

##### **3.1.1 Existing Project Facilities**

The existing Lake Lynn Project is located on the Cheat River, approximately 3.7 river miles upstream of the Cheat River's confluence with the Monongahela River in Point Marion, West Virginia. As depicted in figure 2, the project generally consists of a

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reservoir (Cheat Lake or Lake Lynn), dam, intake structure and penstocks, powerhouse with generating equipment, and two transmission lines.<sup>3</sup>

Cheat Lake is formed by the 1,000-foot-long, 125-foot-high, concrete gravity Lake Lynn Dam. The lake is about 13 miles long and has a normal maximum surface area of 1,729 acres. The lake's maximum elevation is 877 feet National Geodetic Vertical Datum of 1929 (NGVD 1929).<sup>4</sup> Cheat Lake has a normal storage capacity of 72,300 acre-feet at a water surface elevation of 870 feet and a minimum storage capacity of 51,100 acre-feet at 857 feet. Lake Lynn Dam is located at the outlet of Cheat Lake. The dam includes a 624-foot-long spillway section controlled by 26, 21-foot-wide by 17-foot-high, Tainter gates.

Water flows from Cheat Lake through a concrete intake structure, which is equipped with a log boom and protected by eight trash racks, all with 4-inch clear spacing. The intake structure connects to eight 12-foot-wide by 18-foot-deep gated reinforced concrete penstocks that lead to the project powerhouse. The powerhouse is integral with Lake Lynn Dam and is located on the east side (right side looking downstream) of the Cheat River. The 160-foot-long by 94.5-foot-wide powerhouse contains four Francis-type turbines, each connected to a generator, with a total combined installed capacity of 51.2 MW.<sup>5</sup>

The power generated at the Lake Lynn Project is transmitted to the electric grid via two transformers and dual 485-foot-long, 138-kilovolt transmission lines. The transmission lines run from the powerhouse to the interconnection point with the grid at a non-project substation owned and operated by FirstEnergy.

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<sup>3</sup> This SD1 provides a summary of the Lake Lynn Project facilities and the project's operation. The Lake Lynn Project and its operation, are described in greater detail in Exhibit A and Exhibit B of the license application, filed on November 30, 2022, and revised on April 24, 2023.

<sup>4</sup> Unless otherwise noted, all elevations cited in this SD1 are in NGVD 29 datum.

<sup>5</sup> The generating capacity of Units 1, 3 and 4 is 13 MW each. In 2018, Lake Lynn Generation completed an upgrade of Unit 2, increasing its capacity from 12 MW to 16 MW. However, the upgrades to Unit 2 take water from Units 1 and 3 when the entire plant is online. Consequently, the overall Lake Lynn Project capacity did not change as a result of the Unit 2 upgrade because the combined maximum output of all four units is less than the sum of each individual unit.

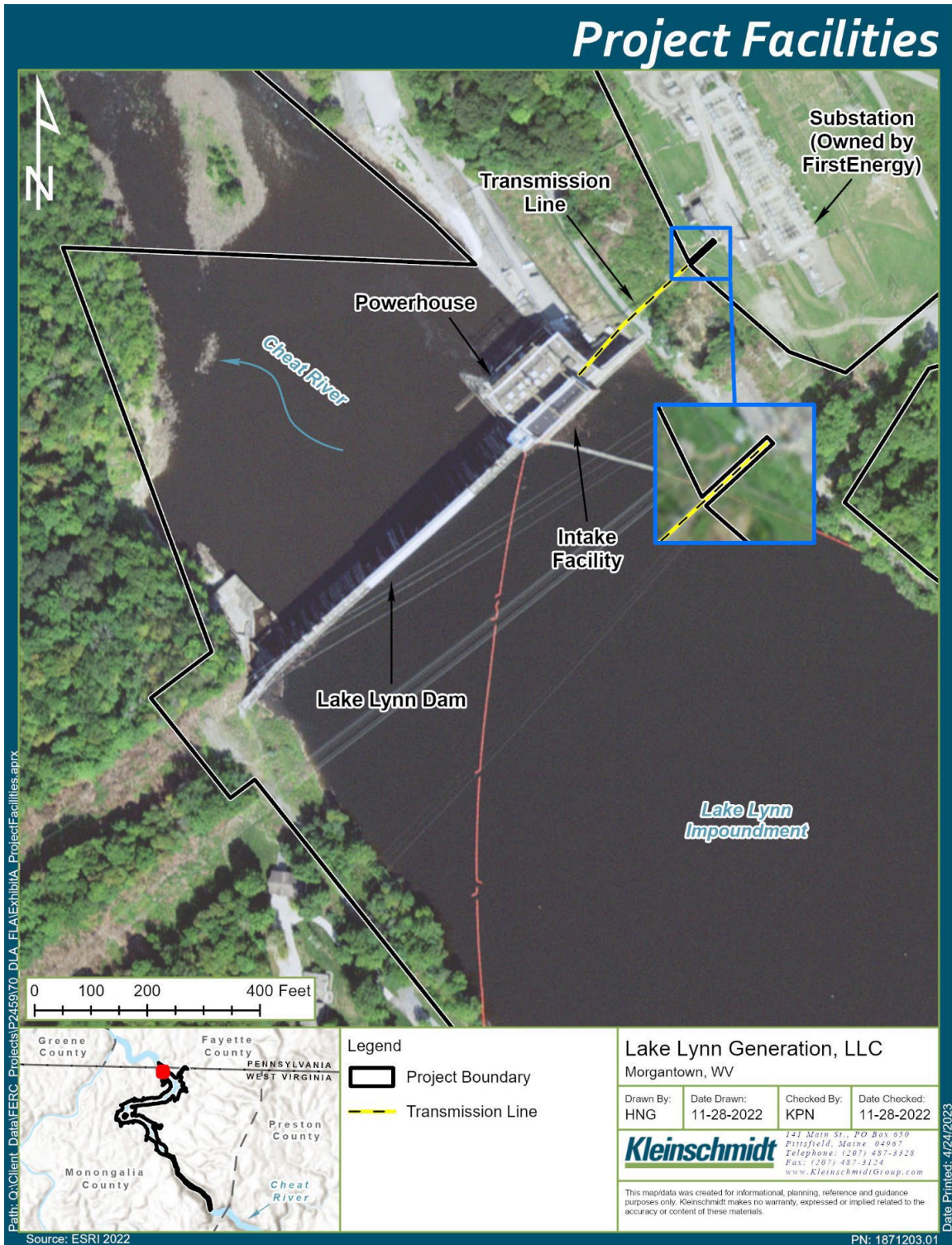


Figure 2. Lake Lynn Hydroelectric Project facilities. (Source: License Application, Exhibit A).

### **3.1.2 Project Recreation Facilities**

Lake Lynn Project recreation facilities consist of: (1) a Tailrace Fishing Access Area; (2) the 4.5-mile-long Cheat Lake Trail with parking areas; (3) Cheat Lake Park with (a) a winter/car-top boat ramp, (b) courtesy docks and day-use boat docks, (c) swimming beach, (d) picnic areas with picnic tables and grills, (e) water fountains, (f) trash receptacles, (g) playground area, (h) restroom facilities, (i) benches, (j) a security/maintenance station, (k) fishing platforms, (l) access to Cheat Lake Trail, (m) interpretive historical signs, (n) a nature viewing area, and (o) parking; (4) Sunset Beach Marina Public Boat Launch with parking; (5) Cheat Haven Peninsula Nature Viewing Area; (6) Nature Viewing Area Across from Cheat Haven; and (7) Tower Run Nature Viewing Area. These project recreation sites provide fishing, boating, nature viewing, picnicking, and hiking/biking opportunities.

### **3.1.3 Existing Project Operation**

The Lake Lynn Project is operated as a dispatchable peaking facility, with storage capability. The hours of peaking vary depending on environmental and economic considerations. Peaking operation is dictated by market value. Seasonal peaking during winter typically occurs in the morning for 5 hours and in the afternoon for 5 hours to meet demand. During the summer, peaking occurs in the evening between 6 p.m. and 11 p.m. The maximum drawdown rate to meet peak demand is ½ foot per hour, and the typical drawdown is 0.2-0.4 foot per day. The sequence of operations of the turbine/generator units is as follows:

- Unit 4 is brought online first.
- Unit 2 is preferentially brought online first during the low dissolved oxygen (DO) season (i.e., summer) because it is equipped with aeration capability.
- Units 1 and 3 are brought online as needed and non-preferentially.

The current license requires Lake Lynn Generation to maintain Cheat Lake between 868 feet and 870 feet from May 1 through October 31, 857 feet and 870 feet from November 1 through March 31, and 863 feet and 870 feet from April 1 through April 30 each year. The current license also requires Lake Lynn Generation to release a downstream minimum flow of 212 cubic-feet-per-second (cfs), or inflow, from the dam when not generating, with an absolute minimum flow of 100 cfs regardless of inflow, when not generating. When flows are more than about 300 cfs, the minimum flow is passed through the powerhouse. When flows are less than about 300 cfs, the minimum flow of 212 cfs/100 cfs is passed through Tainter gates no. 12 and 13. The Tainter gates open automatically to set points that release the minimum flow(s) when generation

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ceases. Minimum flows are monitored using U.S. Geological Survey gage no. 03071600, which is located in the Lake Lynn Project tailrace area.

The Lake Lynn Project is operated remotely from Lake Lynn Generation's control center in Tennessee. The inflow forecasting is completed by Lake Lynn Generation staff daily. Impoundment refill is dependent on incoming flows from the Cheat River and generation discharge amounts.

## **3.2 APPLICANT'S PROPOSAL**

### **3.2.1 Proposed Project Facilities and Operations**

Lake Lynn Generation proposes to continue operating the project as it does currently, as a peaking facility with storage and does not propose any changes to project facilities or operations. Lake Lynn Generation, however, does propose to remove 307.17 acres of land from the project boundary that Lake Lynn Generation asserts are not required for Lake Lynn Project purposes.

### **3.2.2 Proposed Environmental Measures**

Lake Lynn Generation identified potential measures to protect and enhance environmental resources of the project area. Lake Lynn Generation proposes to continue to operate the Lake Lynn Project with the existing and new environmental, protection, mitigation, and enhancement measures described below.

#### **Water and Aquatic Resources**

- Continue to maintain Cheat Lake between 868 feet and 870 feet from May 1 through October 31, 857 feet and 870 feet from November 1 through March 31, and 863 feet and 870 feet from April 1 through April 30 each year.
- Continue to release a downstream minimum flow of 212 cfs, or inflow, from Lake Lynn Dam when the project is not generating, with an absolute minimum flow of 100 cfs regardless of inflow, when not generating.
- Develop an Operations Compliance Plan within 1 year of license issuance, that would include: (1) provisions to document how Lake Lynn Generation would comply with the operational requirements of a new license; and (2) standard

operating procedures to be implemented during periods of low DO concentrations that would allow Cheat Lake to be drawn down to 865 feet.<sup>6</sup>

- Develop a Water Quality Monitoring Plan, for the new license term, within 1 year of license issuance, that would include monitoring DO and water temperature from June 1 through October 31 each year at the existing lake water quality monitoring station and the tailwater monitoring site.

### **Threatened and Endangered Species**

- Restrict tree clearing to November 1 to April 14 and consult with the U.S. Fish and Wildlife Service (FWS) if tree removal is needed outside that period to protect the northern long-eared bat, Indiana bat, and tri-color bat during their active seasons.

### **Recreation Resources**

- Continue to operate and maintain the seven recreation sites described above for the project.
- Develop a new Recreation Management Plan (RMP) for the new license term, within 1 year of license issuance, that includes: (1) a description of existing project recreation facilities; (2) a provision to review and update the RMP every 10 years; (3) water depth monitoring on an annual basis prior to the recreation season at the Sunset Beach Marina Public Boat Ramp; and (4) if warranted, conducting a bathymetric survey in the vicinity of the Sunset Beach Marina Public Boat Ramp every 10 years and dredge the area to maintain the boat ramp usability.

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<sup>6</sup> Drawing Cheat Lake down to 865 feet would formalize a measure implemented, in consultation with resource agencies in 2019, 2020, and 2022, to ameliorate low DO conditions in the project tailrace. In addition to measures to ensure compliance with the operational requirements of the license and to implement during low DO periods, the plan would also include: (1) standard operating procedures to be implemented outside of normal operating conditions, including during (a) scheduled facility shutdowns and maintenance, and (b) emergency conditions such as unscheduled facility shutdowns and maintenance; and (2) a description of all gages or measuring devices that would be used to monitor operational compliance.



- Develop a Shoreline Management Plan (SMP), within 1 year of license issuance, that includes: (1) a list of allowed activities and facilities, as well as procedures for granting permission for the activities and facilities along the shoreline and within the project boundary in accordance with the Standard Land Use Article of the FERC license; and (2) provisions to remove the moratorium on private boat docks and piers on Cheat Lake.

### **Cultural Resources**

- Develop a Historic Properties Management Plan for the project, within 2 years of license issuance, that includes: (1) treatment of historic properties threatened by project-related activities; (2) consideration and implementation of appropriate treatment to minimize or mitigate unavoidable adverse effects on historic properties; (3) a list of activities (i.e., routine repair, maintenance, and replacement in kind at the project) not requiring consultation; and (4) procedures and measures for the discovery of previously unidentified properties during project operations and maintenance activities.

### **3.3 DAM SAFETY**

It is important to note that dam safety constraints may exist and should be taken into consideration in the development of proposals and alternatives considered in the pending proceedings. For example, proposed modifications to dam structures could impact the integrity of the dams' structures. As the proposals and alternatives are developed, the applicant must evaluate the effects and ensure that the project would meet the Commission's dam safety criteria found in Part 12 of the Commission's regulations and the Engineering Guidelines (<http://www.ferc.gov/industries/hydropower/safety/guidelines/eng-guide.asp>).

### **3.4 ALTERNATIVES TO THE PROPOSED ACTION**

Commission staff will consider and assess all alternative recommendations for operational or facility modifications, as well as protection, mitigation, and enhancement measures identified by the Commission, the agencies, Native-American Tribes, NGOs, and the public.

### **3.5 ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED STUDY**

At present, we propose to eliminate the following alternatives from detailed study in the NEPA document.

#### **3.5.1 Federal Government Takeover**

In accordance with § 16.14 of the Commission's regulations, a federal department or agency may file a recommendation that the United States exercise its right to take over a hydroelectric power project with a license that is subject to sections 14 and 15 of the FPA.<sup>7</sup> We do not consider federal takeover to be a reasonable alternative. Federal takeover of the project would require congressional approval. While that fact alone would not preclude further consideration of this alternative, there is currently no evidence showing that federal takeover should be recommended to Congress. No party has suggested that federal takeover would be appropriate, and no federal agency has expressed interest in operating the project.

#### **3.5.2 Non-power License**

A non-power license is a temporary license the Commission would terminate whenever it determines that another governmental agency is authorized and willing to assume regulatory authority and supervision over the lands and facilities covered by the non-power license. At this time, no governmental agency has suggested a willingness or ability to take over the project. No party has sought a non-power license for the project, and we have no basis for concluding that the Lake Lynn Project should no longer be used to produce power. Thus, we do not consider a non-power license a reasonable alternative to relicensing the project.

#### **3.5.3 Project Decommissioning**

As the Commission has previously held, decommissioning is not a reasonable alternative to relicensing in most cases.<sup>8</sup> Decommissioning can be accomplished in different ways depending on the project, its environment, and the particular resource

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<sup>7</sup> 16 U.S.C. §§ 791(a)-825(r).

<sup>8</sup> See, e.g., *Eagle Crest Energy Co.*, 153 FERC ¶ 61,058, at P 67 (2015); *Public Utility District No. 1 of Pend Oreille County*, 112 FERC ¶ 61,055, at P 82 (2005); *Midwest Hydro, Inc.*, 111 FERC ¶ 61,327, at PP 35-38 (2005).

needs.<sup>9</sup> For these reasons, the Commission does not speculate about possible decommissioning measures at the time of relicensing, but rather waits until an applicant actually proposes to decommission a project, or a participant in a relicensing proceeding demonstrates that there are serious resource concerns that cannot be addressed with appropriate license measures and that make decommissioning a reasonable alternative.<sup>10</sup> Lake Lynn Generation does not propose decommissioning, nor does the record to date demonstrate there are serious resource concerns that cannot be mitigated if the project is relicensed; as such, there is no reason, at this time, to include decommissioning as a reasonable alternative to be evaluated and studied as part of staff's NEPA analysis.

#### **4.0 SCOPE OF CUMULATIVE EFFECTS AND SITE-SPECIFIC RESOURCE ISSUES**

##### **4.1 CUMULATIVE EFFECTS**

According to the Council on Environmental Quality's regulations for implementing NEPA (40 C.F.R. 1508.7), a cumulative effect is the effect on the environment that results from the incremental effect of the action when added to other past, present and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time, including hydropower and other land and water development activities.

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<sup>9</sup> In the unlikely event that the Commission denies relicensing a project or a licensee decides to surrender an existing project, the Commission must approve a surrender "upon such conditions with respect to the disposition of such works as may be determined by the Commission." See 18 C.F.R. § 6.2. This can include simply shutting down the power operations, removing all or parts of the project (including the dam), or restoring the site to its pre-project condition.

<sup>10</sup> See generally *Project Decommissioning at Relicensing*; Policy Statement, FERC Stats. & Regs., Regulations Preambles (1991-1996), ¶ 31,011 (1994); see also *City of Tacoma, Washington*, 110 FERC ¶ 61,140 (2005) (finding that unless and until the Commission has a specific decommissioning proposal, any further environmental analysis of the effects of project decommissioning would be both premature and speculative).

#### **4.1.1 Resources that could be Cumulatively Affected**

Based on information in the license application for the Lake Lynn Project, we identified water quality and fish, including American eels, as having the potential to be cumulatively affected by the continued operation and maintenance of the project, in combination with other hydroelectric projects and activities in the Cheat River Basin.

#### **4.1.2 Geographic Scope**

Our geographic scope of analysis for cumulatively affected resources is defined by the physical limits or boundaries of: (1) the proposed action's effect on the resources; and (2) contributing effects from other hydropower and non-hydropower activities within the Cheat River Basin. We have identified the geographic scope for our cumulative effects analysis for water quality and fisheries to include the Cheat River from the upstream Albright Power Station Dam<sup>11</sup> downstream to the confluence of the Cheat River and the Monongahela River, and the lower Monongahela River to its confluence with the Allegheny River in Pittsburgh, PA. We chose this geographic scope because the construction, operation, and maintenance of the Lake Lynn Project, in combination with other dams (e.g., Albright Power Station Dam), and other developmental and non-developmental uses in the Monongahela and Cheat River Basins (e.g., five U.S. Army Corps of Engineer's navigation lock and dams on the Monongahela River, historical mining activities, treated industrial and municipal wastewater, and municipal water supplies) may affect water quality and fisheries in the Cheat River.

#### **4.1.1 Temporal Scope**

The temporal scope of our cumulative effects analysis in the NEPA document will include a discussion of past, present, and reasonably foreseeable future actions and their effects on each resource that could be cumulatively affected. Based on the potential term of a new license, the temporal scope will look 30 to 50 years into the future, concentrating on the effect on the resources from reasonably foreseeable future actions. The historical discussion will, by necessity, be limited to the amount of available

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<sup>11</sup> Albright Power Station Dam, which is a 12-foot low head dam built in 1952, is located about 24 river miles upstream of Lake Lynn Dam. The dam, which acts as a barrier to both aquatic species and river recreationalists, provided the cooling water supply for a coal-fired power plant that was decommissioned in 2012. The dam is currently under consideration for removal. *See* revised Exhibit E, filed April 24, 2023; *see also*: <https://fws.gov/project/cheat-river-albright-power-station-dam-removal>.

information for each resource. The quality and quantity of information, however, diminishes as we analyze resources further away in time from the present.

## **4.2 RESOURCE ISSUES**

In this section, we present a preliminary list of environmental issues to be addressed in the NEPA document. We identified these issues, which are listed by resource area, by reviewing the license application and the Commission's record for the Lake Lynn Project. This list is not intended to be exhaustive or final, but contains those issues raised to date. After the scoping process is complete, we will review the list and determine the appropriate level of analysis needed to address each issue in the NEPA document. We have not identified issues relating to socioeconomics, at this time. Those issues identified by an asterisk (\*) will be analyzed for both cumulative and site-specific effects.

### **4.2.1 Geologic and Soils Resources**

- Effects of continuing to operate the project in a peaking mode on shoreline erosion and sedimentation in Cheat Lake and downstream along the Cheat River.
- Effects of shoreline development on erosion and sedimentation in Cheat Lake.

### **4.2.2 Water and Aquatic Resources**

- Effects of continuing to operate the project in a peaking mode on water quantity and flow in the Cheat River.
- Effects of continuing to operate the project in a peaking mode on water quality (i.e., DO concentrations, water temperature, and erosion/sedimentation) in Cheat Lake and the Cheat River downstream from Lake Lynn Dam.\*
- Effects of continuing to operate the project in a peaking mode on littoral zone habitat in Cheat Lake, as well as aquatic habitat for resident fish and macroinvertebrates<sup>12</sup> in Cheat Lake and the Cheat River downstream from Lake Lynn Dam.

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<sup>12</sup> Macroinvertebrates are animals lacking a backbone and are large enough to see without the aid of a microscope. They may be aquatic or terrestrial; the aquatic

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- Effects of currently licensed lake level elevations on fish and aquatic habitat Cheat Lake, and any need for changes to those lake level targets.
- Effects of continuing to operate the project on movement of American eels and other fish species in the Cheat River.\*
- Effects of continuing to operate the project on fish impingement, entrainment, and survival at the project.
- Effects of continuing to operate the project on aquatic invasive species within the Lake Lynn Project boundary, including Cheat Lake and the Cheat River downstream from Lake Lynn Dam (within about 600 to 700 feet of the dam).

#### 4.2.3 Terrestrial Resources

- Effects of the peaking operation, including the frequency, timing, amplitude, and duration of lake fluctuations and flow releases from the project, on shoreline, riparian, wetland, and littoral vegetation community types.
- Effects of project operation and maintenance activities (*e.g.*, road and facility maintenance) and project-related recreation on vegetation and wildlife habitat.
- Effects of project operation and maintenance on avian species, including avian electrocution and collision with project transmission facilities.
- Effects of project operation and maintenance activities and project-related recreation on non-native invasive botanical and wildlife species.
- Effects of the proposed land removals on terrestrial resources including vegetation, wildlife, and their habitats.

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organisms often being larval or nymph forms of terrestrial species. Macroinvertebrates include annelids (segmented worms), mollusks (*e.g.*, freshwater mussels), arthropods/crustaceans (*e.g.*, snails and crayfish), arachnids (spiders), odonates (mayflies, dragonflies, and damselflies), stoneflies, true bugs, beetles, caddisflies, and true flies.

#### **4.2.4 Threatened and Endangered Species**

- Effects of ongoing project operation, maintenance, and project related recreation on federally listed species, including the Indiana bat, northern long-eared bat, and flat-spined three-toothed snail; species proposed for federal listing, including the tricolored bat; and a candidate species for federal listing, monarch butterfly.<sup>13</sup>
- Effects of the proposed removal of land from the project boundary on federally listed, proposed, and candidate species.

#### **4.2.5 Recreation and Land Use**

- Effects of continuing to operate and maintain the project on the project recreation facilities and their use.
- Adequacy of existing project recreational facilities to meet existing and future recreational demand and capacity requirements.
- Adequacy of measures contained in Lake Lynn Generation's current RMP and consider the need for changes to the proposed RMP.
- Effects of the proposed removal of land from the project boundary on recreation opportunities at the project.
- Adequacy of existing shoreline protection measures to control non-project uses of project lands (e.g., boat docks, piers, and other facilities).

#### **4.2.6 Cultural Resources**

- Effects of continuing to operate and maintain the project on properties that are included in, or eligible for inclusion in, the National Register of Historic Places.

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<sup>13</sup> Commission staff accessed the FWS's Information for Planning and Consultation (IPaC) database on August 18, 2023, and filed the IPaC report on August 21, 2023.

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- Effects of the proposed removal of land from the project boundary on archaeological sites and cultural resources at the project.

#### **4.2.7 Environmental Justice**

- Effects of continued project operation and maintenance on minority and low-income communities in the project-affected area which could potentially be subject to disproportionately high adverse human health or environmental effects.

#### **4.2.8 Developmental Resources**

- Effects of proposed or recommended environmental measures on the project's generation and economics.

### **5.0 REQUEST FOR INFORMATION**

We are asking federal, state, and local resource agencies, Native-American Tribes, NGOs, and the public to forward to the Commission any information that will assist us in conducting an accurate and thorough analysis of the project-specific and cumulative effects associated with relicensing the Lake Lynn Project. The types of information requested include, but are not limited to:

- information, quantitative data, or professional opinions that may help define the geographic and temporal scope of the analysis (both site-specific and cumulative effects), and that helps identify significant environmental issues;
- identification of, and information from, any other EA, EIS, or similar environmental study (previous, on-going, or planned) relevant to the proposed relicensing of the Lake Lynn Project;
- existing information and any data that would help to describe the past and present actions and effects of the project and other developmental activities on environmental and socioeconomic resources;
- existing information that would help characterize environmental conditions and habitats;
- the identification of any federal, state, or local resource plans, and any future project proposals in the affected resource area (e.g., proposals to construct or



operate water treatment facilities, recreation areas, water diversions, timber harvest activities, or fish management programs, along with any implementation schedules);

- documentation that the proposed relicensing of the project would or would not contribute to cumulative adverse or beneficial effects on any resources. Documentation can include, but need not be limited to, how the project would interact with other projects in the area and other developmental activities; study results; resource management policies; and reports from federal and state agencies, local agencies, Native American Tribes, NGOs, and the public; and
- documentation showing why any resources should be excluded from further study or consideration.

The requested information and comments should be submitted to the Commission no later than **October 25, 2023**. Written comments should be filed electronically via the Internet. See 18 C.F.R. § 385.2001(a)(1)(iii) and the instructions on the Commission's website at <https://ferconline.ferc.gov/FERCOOnline.aspx>. All filings must clearly identify the following on the first page: **Lake Lynn Hydroelectric Project (P-2459-279)**. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOOnlineSupport@ferc.gov](mailto:FERCOOnlineSupport@ferc.gov), or 1-866-208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Register online at <https://ferconline.ferc.gov/FERCOOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support at [FERCOOnlineSupport@ferc.gov](mailto:FERCOOnlineSupport@ferc.gov).

Intervenors – those on the Commission's service list for this proceeding – are reminded that if they file comments with the Commission, they must also serve a copy of their filing on each person whose name appears on the official service list. Note that the list is periodically updated. The official service list can be obtained on the Commission's web site (<http://www.ferc.gov>) – click on Documents and Filing and click on eService –

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or call the Office of the Secretary, Dockets Branch at (202) 502-8715. In addition, if any party files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on the resource agency.

Any questions concerning the scoping process, scoping meetings, site visits, or how to file written comments with the Commission should be directed to Allan Creamer at (202) 502-8365, or [allan.creamer@ferc.gov](mailto:allan.creamer@ferc.gov). Additional information about the Commission's licensing process and the Lake Lynn Project may be obtained from the Commission's website, [www.ferc.gov](http://www.ferc.gov).

## 6.0 NEPA DOCUMENT PREPARATION SCHEDULE

The NEPA document will be distributed to all persons and entities on the Commission's service and mailing lists for the Lake Lynn Project. The document will include our recommendations for operating procedures, as well as environmental protection and enhancement measures that should be part of any license issued by the Commission. The comment period will be specified in the notice of availability of the NEPA document.

The major milestones, including those for preparing the NEPA document, are as follows:

<b><u>Major Milestone</u></b>	<b><u>Target Date</u></b>
Scoping comments due	October 2023
Scoping Document 2 (if necessary)	December 2023
Ready for Environmental Analysis Notice Issued	January 2024
Deadline for filing comments, recommendations and agency terms and conditions/prescriptions	March 2024

If Commission staff determines that there is a need for additional information or additional studies, or there is a delay in filing of additional information, the issuance of the Ready for Environmental Analysis notice could be delayed. If this occurs, all subsequent milestones would be delayed by the time allowed for Lake Lynn Generation to respond to the Commission's request.

## 7.0 COMPREHENSIVE PLANS

Section 10(a)(2) of the FPA, 16 U.S.C. Section 803(a)(2)(A), requires the Commission to consider the extent to which a project is consistent with federal and state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by a project. Commission staff has preliminarily identified and reviewed the plans listed below that may be relevant to the project. Agencies are requested to review this list and inform staff of any changes. If there are other comprehensive plans that should be considered for this list that are not on file with the Commission, or if there are more recent versions of the plans already listed, they can be filed for consideration with the Commission according to 18 CFR 2.19 of the Commission's regulations. Please follow the instructions for filing a plan at <http://www.ferc.gov/industries/hydropower/gen-info/licensing/complan.pdf>.

The following is a list of comprehensive plans currently on file with the Commission that may be relevant to the Lake Lynn Project:

Atlantic States Marine Fisheries Commission. 2000. Interstate Fishery Management Plan for American eel (*Anguilla rostrata*). (Report No. 36). April 2000.

Atlantic States Marine Fisheries Commission. 2008. Amendment 2 to the Interstate Fishery Management Plan for American eel. Arlington, Virginia. October 2008.

Atlantic States Marine Fisheries Commission. 2013. Amendment 3 to the Interstate Fishery Management Plan for American eel. Arlington, Virginia. August 2013.

Atlantic States Marine Fisheries Commission. 2014. Amendment 4 to the Interstate Fishery Management Plan for American eel. Arlington, Virginia. October 2014.

National Park Service. 1993. The Nationwide Rivers Inventory. Department of the Interior, Washington, D.C.

Pennsylvania Department of Environmental Resources. 1983. Pennsylvania State water plan. Harrisburg, Pennsylvania. January 1983. 20 volumes.

Pennsylvania Department of Environmental Resources. 1986. Pennsylvania's recreation plan, 1986-1990. Harrisburg, Pennsylvania.

Pennsylvania Department of Environmental Resources. 1988. Pennsylvania 1988 water quality assessment. Harrisburg, Pennsylvania. April 1988.

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West Virginia Division of Natural Resources. 1982. Monongahela River Basin plan. Charleston, West Virginia.

West Virginia Division of Natural Resources. 2015. West Virginia State Wildlife Action Plan. Charleston, West Virginia. September 1, 2015.

West Virginia Governor's Office of Community and Industrial Development. West Virginia State Comprehensive Outdoor Recreation Plan: 1988-1992. Charleston, West Virginia.

U.S. Fish and Wildlife Service. n.d. Fisheries USA: the recreational fisheries policy of the U.S. Fish and Wildlife Service. Washington, D.C.

U.S. Fish and Wildlife Service. Canadian Wildlife Service. 1986. North American waterfowl management plan. Department of the Interior. Environment Canada. May 1986.

U.S. Fish and Wildlife Service. 1988. The Lower Great Lakes/St. Lawrence Basin: A component of the North American waterfowl management plan. December 29, 1988.

## 8.0 MAILING LIST

The list below is the Commission's official mailing list for the Lake Lynn Project. If you want to receive future mailings for the Lake Lynn Project, and are not included in the list below, please send your request by email to [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). In lieu of an email request, you may submit a paper request. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All written and emailed requests to be added to the mailing lists must clearly identify the following on the first page: **Lake Lynn Hydroelectric Project (P-2459-279)**. You may use the same method if requesting removal from the mailing list below.

### Lake Lynn Project Mailing List

Adam Polinski, President Coopers Rock Foundation PO Box 505 Morgantown, West Virginia 26507-0505	Fayette County Court House East Maine Street Uniontown, Pennsylvania 15401
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<p>Director West Virginia Geological &amp; Economic Survey 1 Mont Chateau Road Morgantown, West Virginia 26508-8079</p>	<p>Greene County Board of Commissioners Greene County Office Building E High Street Waynesburg, Pennsylvania 15370</p>
<p>Jody Smet, VP Regulatory Affairs Lake Lynn Generation, LLC 7315 Wisconsin Avenue, Suite 1100W Bethesda, Maryland 20814</p>	<p>John Collins Lake Lynn Generation, LLC 5425 Wisconsin Avenue, Suite 600 Chevy Chase, Maryland 21085</p>
<p>David Fox, Director of Regulatory Affairs Lake Lynn Generation, LLC 7315 Wisconsin Avenue, Suite 1100W Bethesda, Maryland 20814</p>	<p>Kenneth Tanner, Supervisor Monongahela Township RR 1 Greensboro, Pennsylvania 15338-9801</p>
<p>Monongalia County Court House 243 High Street, Room 123 Morgantown, West Virginia 26505-5427</p>	<p>City of Morgantown 389 Spruce Street Morgantown, West Virginia 26505-5527</p>
<p>Pennsylvania Dept. of Environmental Protection Southwest Regional Office 400 Waterfront Drive Pittsburgh, Pennsylvania 15222-4739</p>	<p>Pennsylvania Game Commission 2001 Elmerton Avenue Harrisburg, Pennsylvania 17110-9762</p>
<p>R. Culp Pennsylvania Game Commission 2001 Elmerton Avenue Harrisburg, Pennsylvania 17110-9762</p>	<p>Attorney General Pennsylvania Office of Attorney General 16<sup>th</sup> Floor, Strawberry Square Harrisburg, Pennsylvania 17120</p>
<p>Mayor Borough of Point Marion Point Marion Borough Building 15 Main Street Point Marion, Pennsylvania 15474</p>	<p>Susquehanna River Basin Commission 4423 North Front Street Harrisburg, Pennsylvania 17110-1788</p>
<p>Christine T. Lewis-Coker, Hydraulic Eng. U.S. Army Corps of Engineers, Philadelphia District USACE, Wanamaker Building 100 E. Penn Square, Floor 7 Philadelphia, Pennsylvania 19107</p>	<p>Sara Woida U.S. Army Corps of Engineers, Pittsburgh District 2200 William S. Moorhead Federal Bldg. 1000 Liberty Avenue Pittsburgh, Pennsylvania 15222</p>

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<p>Project Manager - Hydro          U.S. Army Corps of Engineers, Pittsburgh District          2200 William S. Moorhead Federal Bldg.          1000 Liberty Ave          Pittsburgh, Pennsylvania 15222-4186</p>	<p>U.S. Coast Guard          MSO Philadelphia          1 Washington Avenue          Philadelphia, Pennsylvania 19147-4335</p>
<p>Honorable Alan B. Mollahan          U.S. House of Representatives          Washington, D.C. 20515</p>	<p>Honorable, Frank R. Mascara          U.S. House of Representatives          Washington, D.C. 20515</p>
<p>Honorable, John P. Murtha          U.S. House of Representatives          Washington, D.C. 20515</p>	<p>U.S. Department of the Interior, National Park Service          15 State St          Boston, Massachusetts 02109-3502</p>
<p>Mayor          City of Uniontown          20 N Gallatin Avenue          Uniontown, Pennsylvania 15401-3545</p>	<p>Washington County Courthouse          Courthouse Square          100 W Beau Street          Washington, Pennsylvania 15301-4432</p>
<p>Director          West Virginia Dept. of Agriculture          State Capitol Building          Charleston, West Virginia 25305</p>	<p>West Virginia Dept. of Education &amp; Arts          Division of Culture &amp; History          Capitol Complex          Charleston, West Virginia 25305</p>
<p>Cordie Hudkins, Director          West Virginia Division of          Tourism &amp; Parks          PO Box 50312          Charleston, West Virginia 25305-0312</p>	<p>Charles B. Felton, Director          West Virginia Division of Natural Resources          1800 Washington Street E          Charleston, West Virginia 25305-2210</p>
<p>West Virginia Press Services, Inc.          3422 Pennsylvania Ave          Charleston, West Virginia 25302-4633</p>	<p>Dan A. Cincotta, Biologist          West Virginia Wildlife Resources Section          PO Box 67          Elkins, West Virginia 26241-0067</p>
<p>Wharton Township          PO Box 1          Farmington, Pennsylvania 15437-0001</p>	