



TROPIC TO HATCH 138 kV TRANSMISSION LINE

Record of Decision



U.S. Department of Agriculture
Forest Service
Intermountain Region
Dixie National Forest

April 2011

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Acronyms and Abbreviations

BA	Biological Assessment
BLM	Bureau of Land Management
BO	Biological Opinion
BRCA	Bryce Canyon National Park
DEIS	Draft Environmental Impact Statement
DNF	Dixie National Forest
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
GSENM	Grand Staircase-Escalante National Monument
IRA	Inventoried Roadless Area
KFO	Kanab Field Office
kV	Kilovolt
LRMP	Land and Resource Management Plan
NEPA	National Environmental Policy Act
NPS	National Park Service
RMP	Resource Management Plan
ROD	Record of Decision
SIO	Scenic Integrity Objective
SITLA	School and Institutional Trust Lands Administration
SR	State Route
UDWR	Utah Division of Wildlife Resources
UPD	Utah prairie dog
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service
VRM	Visual Resources Management

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INTRODUCTION

Summary

Garkane Energy has filed applications for a special use permit on the Dixie National Forest (DNF) proposing construction of a 138 Kilovolt (kV) transmission line that would replace most of the existing 69 kV line and increase the reliability and capacity of Garkane's electrical delivery system between the communities of Tropic and Hatch in southern Utah. The Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) for the Tropic to Hatch 138 kV Transmission Line have been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA, 40 CFR 1500-1508), the National Forest Management Act, and the DNF Land and Resource Management Plan (LRMP).

This Record of Decision (ROD) complies with 40 CFR 1505.2 and Forest Service Handbook 1909.15, Chapter 25. In addition to the DNF, the Project Area crosses public lands managed by the Bureau of Land Management (BLM) including the Kanab Field Office (KFO) and the Grand Staircase-Escalante National Monument (GSENM), and Bryce Canyon National Park (BRCA), as well as lands managed by the Utah School and Institutional Trust Lands Administration (SITLA) and private lands.

The Project Area is in Garfield County, Utah between the communities of Tropic and Hatch. The Project Area follows the proposed alignment of a 100-foot right-of-way that would be granted if the project is approved and constructed. The Project Area also includes all areas identified for building or expanding substations, temporary construction sites, temporary work spaces (lay-down yards and pulling and splicing sites), and areas where the existing 69 kV transmission line would be removed.

The DEIS documents the analysis of a No Action Alternative and three Action Alternatives designed to meet the purpose and need for the project; and provides an overview of the Preferred Alternative. The FEIS clarifies the DEIS, providing data and details for Alternative E, the Preferred Alternative, and contains Appendix 1, which provides responses to public and agency comments received on the DEIS. It is the intent of the Bureau of Land Management and the National Park Service, as cooperating agencies, to adopt the FEIS in accordance with 40 CFR 1506.3.

Alternative E, the Preferred Alternative, was developed through a joint effort of all agencies (U.S. Forest Service [USFS], BLM, and NPS), taking into consideration the impacts of all of the resources along the Action Alternatives. The route of the Preferred Alternative is comprised of components of the Action Alternatives presented in the DEIS: Segment C-1, the East-West Interconnect option and a combination of portions of Segments A-3 and C-3.

The total length of the Preferred Alternative route is 29.41 miles. The entire 100-foot wide right-of-way for the Preferred Alternative route begins at the proposed East Valley Substation following Segment C-1 for 17.36 miles where it connects to the East-West Interconnect and travel for 3.70 miles to the eastern end of Segment A-3. The Preferred Alternative route then follows Segment A-3 for 1.6 miles to the point where it intersects Segment C-3. The route follows the remainder of Segment C-3, terminating at the Hatch Substation.

The existing 69 kV transmission line between the Bryce Canyon Substation and the Hatch Mountain Substation will be removed using the techniques discussed in Section 2.3.3 of the DEIS. This is a distance of approximately 16.23 miles. The portion of the 69 kV transmission line to be removed that crosses DNF-managed public lands is 5.61 miles long.

Throughout the planning process the DNF and cooperating agencies worked together to identify resource concerns and design alternatives that address or avoid areas of concern. The alternative routes were initially developed to address agency and public concerns with the proponent's proposed

route that were identified during scoping. Among these concerns were the locations of greater sage-grouse leks and Utah prairie dog (UPD) colonies, visual resources, distinctive land areas, consistency with the management plans for the various agencies with lands crossed by the routes, and private property concerns.

Alternative E was the Agencies' Preferred Alternative considering the following issues and resource impacts:

Segment C-1 was selected as part of the Preferred Alternative because it

- Parallels the existing 230kV Rocky Mountain Power/PacifiCorp transmission line through the Grand Staircase-Escalante National Monument (GSENM).
- Crosses the GSENM onto the DNF through Cedar Fork Canyon to take advantage of paralleling the existing 230 kV line and the John's Valley/Upper Valley planning window area. (This window area was designated in the 1986 DNF LRMP as a critical segment of terrain through which energy transportation and utility rights-of-way could pass in traversing the Forest).
- Has fewer impacts to UPD and sage-grouse than Alternative A or B:
 - Alternative C was developed by the interdisciplinary team to reduce impacts to greater sage-grouse and UPD on the Paunsaugunt Plateau from either Alternative B or A.
 - Segment C-1 was selected to avoid a significant sage-grouse lek complex in John's Valley.
 - Although Segment C-1 is within suitable and occupied UPD habitat, it takes advantage of traversing the Forest boundary and therefore skirting the edge of UPD territories rather than bisecting large open areas.

The East-West Interconnect was selected as part of the Preferred Alternative because it

- Has fewer impacts to wildlife resources and vegetation than portions of segments C-2 and C-3.
- Avoids more unique bristlecone pines and sensitive plant populations than Segments C-2 and C-3.

The section of Segment A-3 that was selected as a part of the Preferred Alternative to reconnect Segment C-1 to Segment C-3. It was selected because it

- Takes advantage of the planning window area (Hillsdale Canyon-Ahlstrom Hollow) identified in the DNF LRMP (1986).
- While it crosses the Red Canyon South unroaded /undeveloped area, no roads would be built to construct the line. This portion of the line would be *limited access* and would require construction using horses, mules, or helicopters. This would reduce the undeveloped character of the area but the remaining unroaded /undeveloped area would still be large enough to consider for management of unroaded and undeveloped values (DEIS page 4-126, Section 4.11).

Segment C-3 south of Hillsdale Canyon private property was selected as part of the Preferred Alternative because it

- Impacts fewer acres of private land and DNF land than Segment A-3.
- Is shorter and has impacts to fewer acres than Segment A-3.

Other issues:

- Alternative B through Bryce Canyon involved the building of an additional substation on the Paunsaugunt Plateau and the decommissioning of the existing Bryce Canyon substation, resulting in the rerouting and construction of three new circuits of distribution lines of

approximately three miles each and the establishment of accompanying 50-foot rights-of-way (DEIS page 2-33, Section 2.5).

- The Preferred Alternative is consistent with the BLM's multiple use mandate.
- The Preferred Alternative provides a practicable alternative to those alternatives that would disturb Bryce Canyon National Park (BRCA) resources and thereby be inconsistent with the mission of the NPS.
- Visual impacts were considered in respect to the State Route 12 Scenic Byway (All American Road), and all agency visual resource objectives (DEIS Section 4.13).
- The Preferred Alternative allows the removal of the 69 kV line through scenic Red Canyon on the DNF, which is managed for High scenic integrity. The existing line and poles dominate foreground views along the Golden Wall Trail within this area (DEIS page 3-135, Section 3.13.2) and removal would resolve this issue.
- More than 10 miles of the 69 kV line would be removed through both sage-grouse and UPD habitat on public lands managed by the BLM and USFS.

DECISION

This decision affects only those lands in the Project Area administered by the DNF. Each cooperating agency will issue a separate decision on whether to grant a right-of-way permit for lands under their jurisdiction based on the analyses contained in the EIS. However, I considered effects to public lands managed by the USFS, as well as those managed by agencies other than the USFS in making my decision. I have reviewed the analysis presented in the DEIS, the information contained in the FEIS, and considered the comments received on the DEIS. I have decided to issue a special use authorization to Garkane Energy for a 100-foot wide easement on 13.2 miles of DNF-managed public lands to construct, operate, and maintain a 138 kV transmission line following Alternative E – the Preferred Alternative route, as shown in **Figure 1**. Alternative E is now referred to as the Selected Alternative.

I have also decided to authorize a Special Use Permit to Garkane Energy to widen and stabilize 3.5 miles of the existing administrative access routes in Cedar Fork Canyon. These routes will be added to the inventory of Forest System roads designated as Maintenance Level 1, which by definition would not be open for public use and will be gated. These roads were built in 1964 for the construction and maintenance the 230 kV Rocky Mountain Power/PacifiCorp transmission line. They will continue in use for this purpose and will also serve for the construction and maintenance of the Tropic to Hatch transmission line. Maintenance of the routes will be covered under the permit issued to Garkane and will be the responsibility of Garkane and Rocky Mountain Power/PacifiCorp. USFS permit holders and agency officials are allowed motorized access to permitted facilities via routes or areas that may be closed to public for official business only. Impacts of widening of these routes are analyzed in the EIS.

Portions of the DNF where the right-of-way is approved are:

Cedar Fork Canyon (Escalante Ranger District, DNF)

- The proposed alignment enters DNF in the Escalante Ranger District Cedar Fork Canyon area in T36S R2W, SW quarter of Section 7. It continues for 1 mile north-northwest into T36S R3W Section 12.
- In Section 12 (T36S R3W) a 0.83-mile *limited access* segment continues west, and then turns NNW. At the corner of Section 11 (T36S R3W) *limited access* ends and the alignment continues 1.5 miles through Section 2 (T36S R 3W) in a NNW direction before taking a turn

due West in the NW quarter. Here the proposed power line leaves DNF, continuing through SITLA lands, and private land in the Ruby's Inn area and around BRCA.

North of Blue-Fly Canyon, just west of BRCA

- The alignment then re-enters DNF in T36S R4W in the NW quarter of Section 13, continuing west through Sections 14 and 15 (2.13 miles) where it crosses another small section of private land (an inholding) before re-entering DNF in Section 16, and continuing mainly west through Sections 17 and 18 (R36S R4W) and Section 13 of T36S R 4 1/2W for approximately 4.1 miles.

Hillsdale Canyon

- In the northwest corner of Section 14 of T36S R 4 1/2W, the alignment turns SSW into Section 15 (T36S R 4 1/2W) for 1.6 miles, including 0.7 miles of limited access. In the center of Section 15 (T36S R 4 1/2W) it turns NNW for 0.5 mile before heading west as it enters Section 16 (T36S R 4 1/2W). At that point, there is another limited access section of 0.6 miles, then another mile of right-of-way before exiting DNF in Section 17 (T36S R 4 1/2 W) and entering BLM land (KFO).

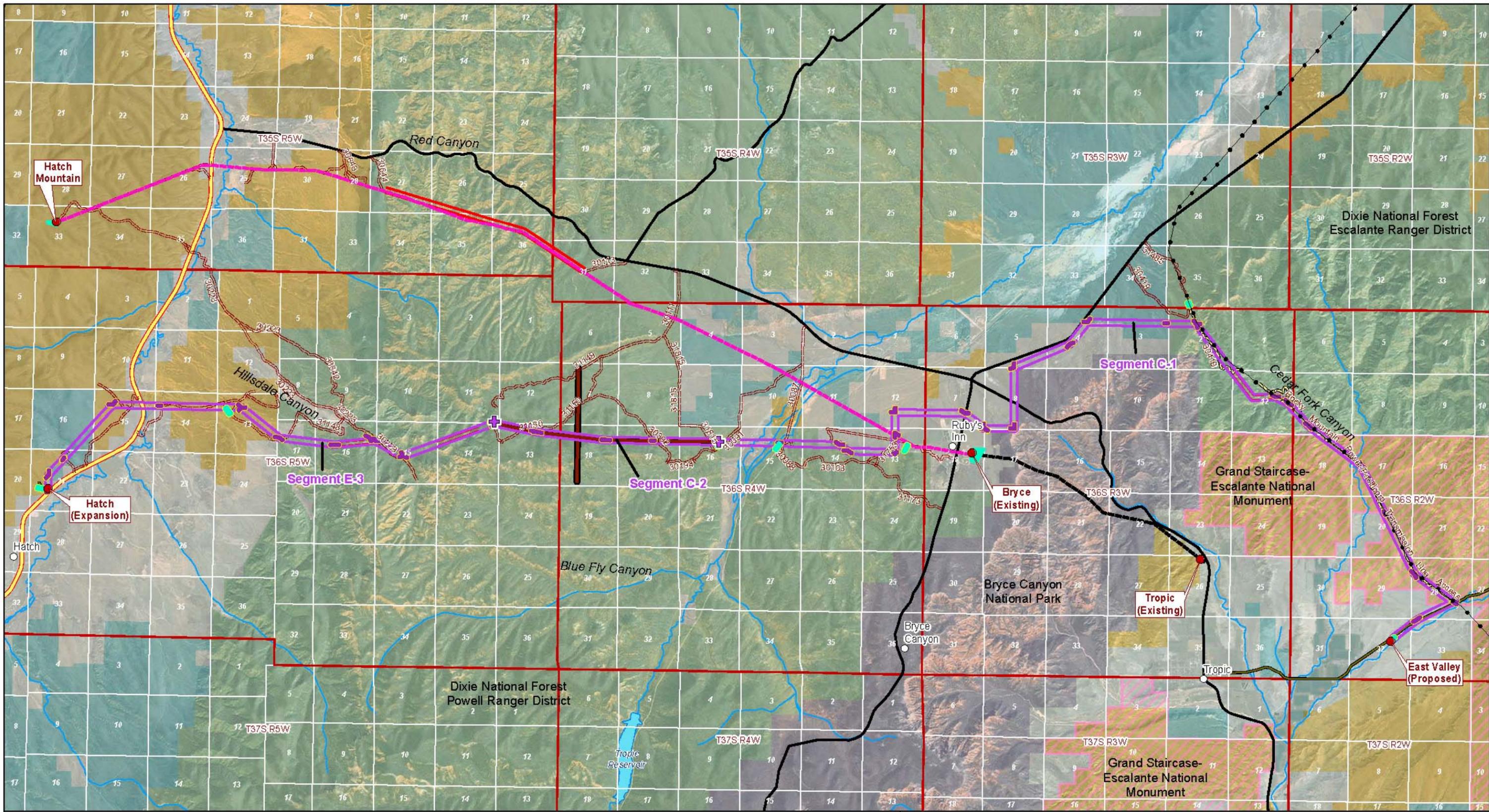
DNF worked with the cooperating agencies and the project proponent to compile a list of best management practices and mitigation measures to assure that impacts to sensitive resources are avoided where possible or otherwise minimized (DEIS Section 2.3.6 and Appendix A). The Resource Protection Measures and Construction and Operation Standards (DEIS Section 2.3.2) will be implemented as a result of this decision.

MITIGATION

Preliminary analysis indicated the presence of UPD, listed as threatened under the Endangered Species Act, and presence of critical habitat for the Mexican spotted owl. Contact with the U.S. Fish and Wildlife Service (USFWS) for the project began in May 2008. Surveys for the Mexican spotted owl were conducted in 2008 and 2009 for this analysis. In November 2010, the USFWS submitted the biological assessment (BA); an addendum to the BA was submitted on December 16, 2010 for the Preferred Alternative (now known as the Selected Alternative). Based on the outcome of the two years of Mexican spotted owl surveys and the applicant committed measures the USFWS agreed with the *may affect, not likely to adversely affect* determination for Mexican spotted owl and their designated critical habitat within the action area.

UPD surveys have been conducted in the project area on an annual basis. The proposed project will permanently disturb 0.031 acre of potential UPD habitat. Due to the small size of this disturbance the USFWS concluded that the effects will not diminish the prairie dogs' ability to utilize or disperse across the action area. The BA concluded that the Preferred Alternative *may affect, likely to adversely affect* the UPD. The USFWS concurred with this determination and has identified terms and conditions that must be followed.

The USFWS has concluded formal consultation by providing the DNF a Biological Opinion (BO) with terms and conditions and an incidental take statement for the project (**Appendix 1**). Mitigation measures identified by the USFWS are non-discretionary and are listed as *Applicant Committed Mitigation Measures* in the BO (**Appendix 2**). The DNF will comply with these measures, and reporting requirements as outlined in the BO. The USFWS BO is available in the project record. The BO applies only to the Preferred (Selected) Alternative. Had the responsible official decided to select another alternative the DNF would have been required to reinitiate formal consultation with the USFWS, as provided for in 50 CFR 402.16.



Legend

○ Cities	Land Status*	Project Components	Existing 69kV Line
Major Rivers & Streams	GSENM	● Substations	— To remain under Selected Alternative
Major Roads	KFO	⊕ Selected Alternative Segment Division Pts	— To be removed under Selected Alternative
Highways	DNF	— Existing 230kV Line	Access Routes
Secondary Roads	BRCA	— Interconnects	— Road Suitable for High Clearance Vehicles
Townships	SITLA	— Selected Alternative**	— Access Route Likely to Require Improvements
Sections	Private	— Pulling Sites	— County Road
	Water	— Lay-down Areas	— Limited Access

*GSENM: Grand Staircase-Escalante National Monument (BLM)
 KFO: Kanab Field Office (Bureau of Land Management)
 DNF: Dixie National Forest (US Forest Service)
 BRCA: Bryce Canyon National Park (National Park Service)
 SITLA: State Institutional Trust Lands (State of Utah)
 **SEGMENT DESCRIPTIONS
 C-1: From East Valley Proposed Substation to North-South Interconnect.
 E-W: East-West Interconnect.
 E-3: From East-West Interconnect, incorporates sections of A-3 and C-3.

Garkane Energy Proposed 138kV Transmission Line EIS

FIGURE 1 Selected Alternative

1:94,000

0 0.75 1.5 2.25 3 Miles

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RATIONALE FOR THE DECISION

I have selected Alternative E because it attains the project's purpose and need while still being sensitive to other resource concerns within the Project Area, and the missions and management objectives of the various land management agencies responsible for the public lands that would be crossed by the Selected Alternative. Often it was a combination of several issues that led us to the decision to select the preferred route. We considered the DNF's LRMP standards and guidelines for the project area, and took into account competing interests and values of the public. The Preferred Alternative will be modified as per the BO to avoid placing lay-down areas and splicing sites within the occupied UPD habitat shown as Colony 10 and 19.

Meeting the Purpose and Need

The need is for the USFS to respond to a special use permit application from Garkane to increase the electrical transmission capacity to 138 kV between the communities of Tropic and Hatch. Existing Garkane transmission lines that serve the communities of Hatch, Bryce Canyon City, and Cedar Mountain are inadequate. Without additional power to the area, black outs and brown outs will continue to increase causing personal hardship and safety concerns for residents. Garkane has denied new service to large industrial proposals. Currently, during peak use periods, Garkane must augment the power supply by running diesel generators for about two months each year. Nearly 10,500 gallons of diesel fuel are burned in a single week. The Selected Alternative meets the purpose and need by providing a route to construct, operate, and maintain a 138kV transmission line that will increase the electrical transmission capacity. Construction of the new line is expected to eliminate the routine use of backup diesel generators; reduce the need for maintenance and repairs, thus improving reliability of the system; and be a cost-effective means to convey sufficient electricity to meet the growing needs of Hatch and the surrounding area for the next 30 to 50 years.

Consideration of the Issues

A list of issues, concerns, and opportunities was compiled to better inform the development of the DEIS. The list of issues was developed using comments received during the public scoping period, internal scoping comments from agency officials resulting from the alternatives development workshop, and additional input from agency resource specialists. The complete list of issues, concerns, and opportunities is contained in Section 1.8 of the DEIS. Five planning issues proved to be pivotal to project development and the decision for the Selected Alternative. The issue statement for each resource is provided in italics under each resource heading below, and followed by a description of how the Selected Alternative addresses the resource issues.

Land Use

Presence of a transmission line as well as construction activities could impact current and future land use activities.

The authorization of a transmission line right-of-way under Alternative E, the Selected Alternative, conforms to DNF land use management policies. The Selected Alternative incorporates Segment C-1 and a portion of Segment A-3, both of which were designed to take advantage of two planning window areas identified in the DNF LRMP (1986).

The Selected Alternative would not conflict with the KFO Resource Management Plan (RMP; BLM 2008; DEIS page 4-117, Section 4.10.2.2).

The Agency Selected Alternative places the proposed transmission line in an area designated within the GSENM as Primitive Zone. The GSENM Management Plan decision Land-7 states: “In the Primitive Zone, utility rights-of-way will not be permitted. In cases of extreme need for local (not regional) needs and where other alternatives are not available, a plan amendment could be considered for these facilities in the Primitive Zone.” The proposed 138 kV transmission line is being considered to meet the current and future electrical needs for the Hatch area, which would be a local, not regional need; meeting the intent of Plan decision Land-7 (DEIS page 4-116, Section 4.10.2.2).

The only other alternative available that would not cross the Primitive Zone would be Alternative B, which would place the 138 kV transmission line in BRCA. Alternative B would be inconsistent with NPS *Management Policies* (2006), which state that a right-of-way for a utility will only be issued if “there is no practicable alternative to such use of NPS lands”, and would result in long-term major and unacceptable impact to Park resources (DEIS page 4-117, Section 4.10.2.3). In addition Alternative B would require the rerouting of as many as 3 miles of distribution lines (DEIS page 2-33, Section 2.5).

Alternative E was selected by decision-makers from each agency to best meet the needs for increased electrical capacity of the local area while considering the natural resources and the missions and management objectives of the various land management agencies responsible for the public lands that would be crossed.

Threatened, Endangered, and Sensitive Species

Transmission line construction activities could impact threatened, endangered, and sensitive plant and animal species and their habitat.

Resource studies, and field investigations for each Action Alternative route were conducted, are available in the project record, and are summarized in the DEIS. Protocol surveys consistent with Utah Division of Wildlife Resources (UDWR) and USFWS guidelines for Mexican spotted owls, UPD and greater sage-grouse were initiated in 2008. Impacts to special status plant and animal species and habitat were analyzed in the DEIS. Potential impacts, particularly impacts to greater sage-grouse and UPD, helped drive the decision for the Selected Alternative.

Greater Sage-Grouse. The Selected Alternative, Alternative E, incorporates those portions of the Alternative C alignment that were designed to avoid or reduce impacts to sage-grouse and their habitat including strutting grounds (leks). The Selected Alternative is within 0.45-mile of a known lek. Resource protection measures specific to sage-grouse include requiring perch deterrents on all poles within sage-grouse habitat and restrict construction activity between 8 pm and 9 am within 2 miles of active sage-grouse leks between February 1 and June 15 (UDWR 2010). The Selected Alternative allows for removal of approximately 16 miles of existing 69 kV transmission line poles and rehabilitation of approximately 49 acres of right-of-way, of which approximately 38 acres is sage-grouse brooding habitat on USFS and BLM-administered lands; this rehabilitation will have a long-term beneficial impact to sage-grouse.

Utah Prairie Dog. The Selected Alternative, Alternative E, incorporates those portions of the Alternative C alignment that were designed to avoid or reduce impacts to UPD and their habitat. Although this area does traverse UPD habitat, the route was selected because it is predominately along the edge of the plateau and closer to the forested areas; these areas are lower quality UPD habitat due to the presence of trees and raptor perches available along the tree line. The Selected Alternative impacts slightly fewer acres of UPD colonies than Alternative B and approximately the same acres of colonies as Alternative C. Further reductions to impacts within UPD habitat will occur as a result of modifying the proposed project to avoid two lay-down yards and splicing areas along the route. Removal of these two areas from use will reduce impacts to 3.1 acres of occupied habitat. The Selected Alternative allows for removal of the existing 69 kV transmission line and rehabilitation

of the right-of-way through UPD on USFS and BLM-administered lands, which will have a long-term beneficial impact to UPD. The existing 69 kV line would be removed from at least 4 active UPD colonies and up to 7 additional, inactive or abandoned colonies (USFS 2010). Removal of the poles and restoration of the 50-foot right-of-way would reduce area predation and impacts to 26.3 acres of potential UPD habitat.

Wildlife

Transmission line construction activities could impact wildlife habitat, including crucial big game habitat.

Impacts to wildlife species including big game and their habitat were analyzed in Section 4.7 of the DEIS and in Table 2.10-7 of the FEIS. Potential impacts to the following species and habitat helped drive the decision for the Selected Alternative. The Selected Alternative:

- Impacts the fewest number of acres of mule deer habitat of all Action Alternatives.
- Impacts fewer acres of Rocky Mountain elk, elk calving, and migratory bird cliff/canyon habitat than Alternatives A or C.
- Impacts fewer acres of pronghorn habitat than Alternative B and the same acreage as Alternatives A or C.

Distinctive Land Areas

Presence of a transmission line as well as construction activities could impact the values associated with areas of special designation.

Distinctive land areas described in the EIS include USFS Inventoried Roadless Areas (IRAs) and unroaded/undeveloped (areas of wilderness potential); the GSENM Primitive Zone; BLM Wilderness Study Areas, and non-wilderness study area lands with wilderness characteristics, and natural areas; and NPS recommended wilderness areas.

Alternative E, the Selected Alternative, crosses and impacts the same distinctive land areas (IRAs and GSENM Primitive Zone) as do Alternatives A and C, namely Henderson Canyon-Table Cliffs IRA and the Shakespear Point IRA. The Selected Alternative route was developed to parallel an existing Rocky Mountain Power/PacifiCorp 230 kV transmission line and to utilize the access routes already disturbed within the Henderson Canyon-Table Cliffs IRA. The 4,400-foot long section of the transmission line that crosses through the Shakespear Point IRA has been designed to reduce impacts to the extent possible. The line was routed so as to avoid ridge tops and to use terrain to reduce visual impacts. The line will be built with non-specular conductors to further mitigate visual impacts. The DEIS identified this as a *limited access area* where ground vehicles for material transportation and construction activities would not be used. Construction of the transmission line will not require construction of any roads in these areas. Where the proposed transmission line does deviate from paralleling the existing 230 kV line in Shakespear Point IRA Garkane will not build any roads; these *limited access areas* will be accessed by helicopter, horseback or foot. Although this project is introducing additional man-made features to this area it does not appreciably alter the environment from the already existing conditions resulting from the presence of the 230 kV line (DEIS page 4-124, Section 4.11.2.2). The undeveloped character of the Shakespear Point IRA would be reduced by 11.3 acres.

The Selected Alternative also traverses the Red Canyon South unroaded/undeveloped area. This portion of the Selective Alternative was selected because it falls within the Hillsdale Canyon-Ahlstrom Hollow LRMP utility planning window area. The line will separate 4.3 percent of the Red Canyon South area from the larger Red Canyon South unroaded undeveloped area. T larger portion

(5,358 acres) of the Red Canyon South unroaded /undeveloped area will still be large enough to consider for management of unroaded and undeveloped values (DEIS page 4-126, Section 4.11.2.2).

Visual Resources

Presence of a transmission line as well as construction activities could impact visual resources throughout the project area.

In development of the Action Alternatives and the Selected Alternative visual impacts were considered across all agencies in respect to existing landscapes as well as State Route (SR) 12 Scenic Byway and All American Road, and U.S. 89 Scenic Byway. All Action Alternatives were designed so as to avoid locating structures and poles on ridgelines, summits, or other prominent locations, and to use topography as a backdrop to avoid sky-lining. The Selected Alternative would use non-specular conductor in all DNF High Scenic Integrity Objective (SIO) areas, Class II Visual Resources Management (VRM) areas, and all areas within the GSENM (DEIS page 2-23, Section 2.3.6.6). The Selected Alternative would allow for removal of the existing 69 kV transmission line through the High SIO area of Red Canyon on the DNF. Although Alternative B would avoid the High SIO areas through Cedar Fork Canyon on the DNF it would place a larger and more visible transmission line through BRCA, and require the building of an additional substation on the Paunsaugunt Plateau within the DNF. Alternative B would also require the construction of taller more visible poles and lines in the highly scenic and heavily visited Red Canyon area of the DNF.

Consideration of Other Resource Areas

The agencies considered effects to other resource areas in the process of preparing the Preferred Alternative and identifying the consequences of the alternatives in the DEIS. In addition to the above listed resources, the team considered the effect of each of the alternatives on paleontological resources, soils, water, vegetation, forest products, rangeland resources, recreation, cultural resources, visual resources, socioeconomics, and transportation. All practical means to avoid or minimize environmental harm for the Selected Alternative have been adopted (see DEIS Section 2.3.6 and Appendix A). I believe that all potential effects have been disclosed and that the LRMP standards and guidelines will be met.

Consideration of Public Comments and Concerns

During and following the 90-day public review period, 19 letters were received from individuals, organizations, and agencies. These comments were organized into 88 comments and requests for information. Of these 88 comments, 20 resulted in text changes to the document. Agency responses to, and text changes resulting from, these comments are contained in Appendix 1 of the FEIS. All text changes made in the FEIS are contained in Section 3, Errata. While some expansion of discussions and addition of information to the DEIS was determined to be warranted, public and agency comments did not substantially modify any of the alternatives or the environmental analysis in the DEIS. Because the changes to the final document in response to DEIS comments were minor, in accordance with the Council on Environmental Quality regulations implementing the National Environmental Policy Act (40 CFR Parts 1500-1508), the USFS and cooperating agencies wrote the changes on errata sheets and attached them to the DEIS in the form of an abbreviated FEIS.

Authority

U.S. Forest Service

The authority under which the USFS will issue special use authorizations for the transmission line and access roads addressed in the EIS is Title V of the Federal Land Policy Management Act (FLPMA) of October 2, 1976 (43 U.S.C. 1761-1771).

Bureau of Land Management

The Federal Lands Policy and Management Act, the basic authority for the BLM's activities, provides the BLM with authority to grant rights-of-way and designate utility corridors on public land. Additionally, the Energy Policy Act of 2005 encourages the use of public land for energy-related facilities; in this case, an electrical transmission line and substation facilities. The BLM's action is to decide (1) whether or not to grant the right-of-way requested by Garkane Power, and (2) whether or not to designate a Passage Zone through the Primitive Area in GSENM. The BLM is issuing a separate ROD documenting its decisions.

National Park Service

A right-of-way for a utility or road may be issued "only pursuant to specific statutory authority, and generally only if there is no practicable alternative to such use of NPS lands" (NPS 2006). Specifically, utility rights-of-way over lands administered by the NPS are governed by the statutory authorities in 16 USC 5 (electrical power transmission and distribution, radio and TV, and other forms of communication facilities) and 16 USC 79 (electrical power, telephone, and water conduits) (NPS 2006). The NPS may issue a right-of-way under 16 USC 5 or 79 if it finds that the proposed plan "will not cause unacceptable impacts on park resources, values or purposes" (NPS 2006).

Changes between Draft and Final EIS

Text changes made to the DEIS as a result of comments received are contained in Appendix 1 in the FEIS. These changes were primarily minor technical edits, or were non-substantive factual corrections, and updates. As discussed under "Consideration of Public Comments and Concerns" above, some discussions in the DEIS were expanded and clarifying information was added to the DEIS in response to public comments. However, public and agency comments did not substantially modify any of the alternatives or the environmental analysis in the DEIS. The updated information disclosed in the FEIS falls within the scope of the analysis depicted in the DEIS, and in most cases simply provides additional explanation.

CONSULTATION

Tribal Consultation

In compliance with the National Historic Preservation Act of 1966 and Executive Orders 12875 (Enhancing Intergovernmental Partnership), 13007 (Indian Sacred Sites), 13084 (Consultation and Coordination with Indian Tribal Governments), the DNF identified tribes associated with the Project Area and initiated government-to-government consultation. These Native American Indian groups included the Ute Indian Tribe, Paiute Indian Tribe of Utah, Navajo Nation, the Hopi Tribal Council, the Kaibab Band of Paiute Indians, and the Pueblo of Zuni.

The GSENM presented the project proposal during the June 2007 consultation meetings. Early consultation letters were sent to the tribes June 9, 2009, and follow-up contacts were made with each tribe.

National Historic Preservation Act Section 106 Consultation

Section 106 of the National Historic Preservation Act of 1966 requires federal agencies to take into account the effects of their undertakings on historic properties. Historic properties are properties that are included in the National Register of Historic Places or that meet the criteria for the National Register. A Cultural Report was submitted to the State Historic Preservation Officer for consultation and concurrence. The Utah State Historic Preservation Officer concurred with the determination of eligibility and effects for this project on March 25, 2009.

Section 7 Consultation with USFWS

Informal consultation with USFWS began on May 5, 2008 during the alternative development phase. During this development phase it was determined that the USFS would be the lead agency with regards to consultation. Requirements for UPD and Mexican spotted owl surveys were discussed along with design criteria for access roads within UDP habitat. Surveys for both species were initiated in spring and summer of 2009.

On November 10, 2010 the final BA was submitted to USFWS with an addendum to the final filed on December 16, 2010. On February 2, 2011 the USFWS issued a BO that included terms and condition and an incidental take statement. The terms and conditions identified in the BO are incorporated into the decision and will be fully implemented.

PUBLIC INVOLVEMENT

The public was provided a scoping period at the beginning of the EIS process to identify potential issues and concerns associated with the Proposed Action and alternatives. The Notice of Intent for this EIS was published in the Federal Register on February 21, 2008. A copy of this Notice of Intent is included in the Scoping Report dated May 6, 2008. Two public scoping meetings were held in the spring of 2008, one in Panguitch and one in Cannonville. Public scoping meetings were advertised in a variety of formats at least two weeks prior to their scheduled dates. A notice was published in *The Spectrum* newspaper, and notices and flyers were posted in communities in the vicinity of the Project Area.

The DEIS was filed with the Environmental Protection Agency (EPA) December 11, 2009. The comment period for the DEIS was from December 11, 2009 through March 12, 2010. A Notice of Availability was published in the Federal Register specifying the dates for the comment period and the date, time, and location of the public comment meetings. In addition, a legal notice was published in *The Spectrum* newspaper. Interested parties identified in the updated EIS mailing list were notified of the publication of the DEIS. Hard copies were provided to those who requested them and electronic copies were made available via CD and the Internet.

ALTERNATIVES

Alternatives Considered in Detail

The DEIS presented three Action Alternatives and the No Action in addition to the Preferred Alternative (now the Selected Alternative).

- The proponent's original Proposed Action, Alternative A, was presented in the Notice of Intent to Prepare an EIS (73 FR 9517-9521) and was subsequently modified to adhere to Federal Aviation Administration (FAA) safety regulations where the transmission line would be in proximity to the Bryce Canyon Airport, and to avoid sage-grouse leks and brood rearing habitat. Alternative A, the Proposed Action, would involve the construction of a 138 kV transmission line from a proposed East Valley Substation east of Tropic to the Hatch Substation along a 30.41 mile route. It includes development of a new substation and expansion of the Hatch Substation to serve existing and anticipated future electrical loads in the region. The route adjoins an existing transmission line through the GSENM and Cedar Fork Canyon (DNF); turns west to cross John's Valley; passes north of the Bryce Canyon Airport; crosses SR 12 and Johnson Bench; and passes south of Wilson Peak. From there it goes down Hillsdale Canyon, crosses the Sunset Cliffs, and west across U.S. 89 to Hatch Substation.

Upon completion of the 138 kV line the portion of the existing 69 kV line between the current Bryce Canyon Substation and the Hatch Mountain Substation would be removed (approximately 16.23 miles) and that portion of the right-of-way (including existing centerline access) would be rehabilitated.

Implementation of Alternative A would also require the amendment of the GSENM Management Plan (2000) by changing the designation of a 100-foot wide 3.68-mile stretch (44.58 acres) of the Primitive Zone to Passage Zone, and within this area, changing the existing VRM Management Class designation from Class II to Class III.

- Alternative B parallels the existing 69 kV transmission line, and would separate the proposed 100-foot right-of-way from the existing 69 kV transmission line by enough distance to safely construct and energize the new transmission line. Alternative B was developed as an effort to keep disturbances in the same area where the line was originally built. This alternative would also require the construction of an additional substation near Bryce Canyon City. Upon completion of the proposed 138 kV line, the entire existing 69 kV line from approximately 1 mile east of the existing Tropic Substation to the Hatch Mountain Substation would be removed (approximately 21.57 miles) and the right-of-way (including existing centerline access) would be rehabilitated. Amendment of the GSENM Management Plan would not be required under Alternative B. In addition, under Alternative B approximately 9 miles of distribution lines would need to be constructed primarily on private and SITLA lands in 50-foot rights-of-way in conjunction with the new substations.
- Alternative C was developed by the multi-agency interdisciplinary team in an attempt to cross the Paunsaugunt Plateau while avoiding or minimizing potential impacts to the Greater sage-grouse and UPD as well as considering visual, soils, water, archeological and other resources. Alternative C, the Cedar Fork Southern Route Alternative, would also require the amendment of the GSENM Management Plan (2000) by changing the designation of a 300-foot wide 3.68-mile long stretch (133.81 acres) of the Primitive Zone to Passage Zone to accommodate both the proposed right-of-way and the existing 230 kV Rocky Mountain Power/PacifiCorp transmission line,; and within this area, changing the existing Visual Resource Management Class designation from Class II to Class III.

As with Alternative A, upon completion of the proposed 138 kV line the portion of the existing 69 kV line between the current Bryce Canyon Substation and the Hatch Mountain Substation would be removed (approximately 16.23 miles) and that portion of the right-of-way (including existing centerline access) would be rehabilitated.

- Two interconnect options are presented in the DEIS, the North-South Interconnect and the East-West Interconnect, either of which would essentially allow the eastern segments of Alternative A to be coupled with the western segments of Alternative C, and vice versa.
- Alternative D, the No Action Alternative, involves the continued operation of the existing 69 kV transmission line into the foreseeable future. The 138 kV transmission line would not be constructed. Without the ability to increase capacity, Garkane would need to conduct major maintenance activities, overhauling the line within its existing right-of-way and permit conditions. Existing diesel-fueled generators would be used to compensate for capacity shortfalls into the future. Under Alternative D the GSENM Management Plan would not be amended.

Alternatives Considered but not Given Detailed Study

Six alternatives were considered for analysis but eliminated in their entirety from further consideration. These alternatives, and the reasons that each was eliminated from further consideration, are as follows:

- The Northern Circleville Alternative would parallel the existing Rocky Mountain Power/PacifiCorp electrical grid east of Tropic northward to Antimony. There it would traverse the north end of the DNF paralleling SR 62 west to Kingston and then turn south and parallel U.S. 89 through Panguitch and then to Hatch. This alternative increases total surface disturbance and has the potential for equal or greater impacts to threatened and endangered species and scenic quality than the proposed route. Though technically possible, the cost and location outside of Garkane's service area reduces project feasibility as it would increase the time required to meet customer demand. For these reasons, this alternative was eliminated from further analysis.
- The Southern Kanab Alternative would originate at the Buckskin Substation east of Kanab. From the substation the line would travel west, paralleling U.S. 89 to Kanab. There the line would turn north, paralleling U.S. 89 to Hatch. This alternative would not meet the purpose and need, as it would not extend the available energy supply at Tropic to Hatch and the surrounding area. Further, this alternative would not reduce or resolve resource conflicts, and in fact has the potential for impacts to an additional threatened, endangered, and sensitive species (southwestern willow flycatcher), and equal or greater impacts to other threatened, endangered, and sensitive species (sage-grouse and UPD), and to scenic quality. For these reasons and because of its limited feasibility, this alternative was eliminated from further analysis.
- The Buried Line Alternative would have involved burying all or a significant portion of the 138 kV transmission line from Tropic to Hatch. Burying the transmission line would require more extensive surface disturbance than construction of an above ground transmission line. The scar of the ground disturbance would have been visible for decades. The increased disturbance to the geologic unit could increase the likelihood of impacts to paleontological resources, thus potentially conflicting with the proclamation that established the GSENM, which specifically requires the protection of paleontological resources. In addition, this alternative would not meet the purpose and need of the project, as it would not meet the needed service life. Nor does a buried line meet the purpose and need of this project to improve the reliability of the electrical system in a cost effective manner. Further, this alternative is not technologically feasible for the needed length of service during outages or maintenance, or in this terrain. For all of these reasons, this alternative was eliminated from further analysis.

- The citizen-proposed segment alternative north of Sunset Cliffs originated from public scoping as a way to avoid crossing private property. The segment diverges from the proposed alignment at the mouth of Wilson Canyon, traverses DNF-administered land to the east and north of the private property, and rejoins the proposed alignment just to the east of U.S. 89. Another citizen proposed alternative was considered and is analyzed as a part of Alternative C. The proposed northern segment would increase impacts to resources as compared with an equally viable alternative (southern segment) that accomplishes the same objective of avoiding private property. Therefore, this alternative was eliminated from further analysis.
- Constructing the 138 kV transmission line while retaining the existing 69 kV transmission line was considered as an alternative. Should the existing 69 kV transmission line be retained, it would require ongoing maintenance to keep it operational. The National Electrical Safety Code requires that all lines be maintained at a level equal to or exceeding the code requirements at the time of construction or reconstruction. As described under the No Action Alternative, the existing 69 kV transmission line would require overhaul in order to remain operational. Retention of the existing 69 kV transmission line was considered in order to provide an alternate transmission line in case of outage. Based on outage records for the past 2 years, consumers served by the existing 69 kV transmission line would have experienced no less outage time had an alternate transmission route been available. Therefore the cost of maintenance of the existing 69 kV transmission line would not improve reliability of the electrical system.

Retention of the existing 69 kV transmission line was also considered to provide transmission capacity in addition to the proposed 138 kV transmission line. Existing infrastructure transmitting electricity from Glen Canyon Dam to Tropic provides a maximum of 138 kV service. In order for the existing 69 kV transmission line to provide additional electrical service, the existing infrastructure would have to be upgraded to 230 kV service at a maximum cost of \$5 million. This would in addition to the cost of the new transmission line and the cost of overhauling the existing 69 kV transmission line. This would not be economically viable (Garkane 2009). For these reasons, alternatives that retained the existing 69 kV transmission line were eliminated from further analysis.

- An alternative was considered that would have combined the existing Rocky Mountain Power/PacifiCorp 230 kV transmission line facilities with the proposed Garkane 138 kV transmission line into one single transmission line for approximately 3.68 miles through the GSENM and 3.04 miles through Table Cliffs-Henderson Canyon IRA and Shakespear Point IRA. For multiple reasons this option was considered impractical and was not carried forward for detailed analysis. The existing 70-foot tall wooden pole structures used in the Rocky Mountain Power/ PacifiCorp transmission line would need to be replaced with steel monopole structures 125 to 150 feet in height which would be over twice as tall as the proposed 55-foot tall wooden pole structures. The single steel pole structures would likely cause a greater visual intrusion to the existing landscape. This alternative would also likely cause greater short-term disturbances since large concrete foundations would need to be installed to support the larger steel pole structures and heavy equipment would be needed to excavate much greater amounts of soil for these foundations. This alternative would likely disrupt electrical service to Utah customers. Even though a combined transmission line could be constructed parallel to the existing transmission line, it would be necessary to temporarily take the existing line out of service as the electricity is “swapped” to the new line at appropriate intersections. This would involve turning off a critical element of the electric system that connects Utah to Arizona, and would require an additional 100-foot right-of-way, which would not reduce or resolve resource conflicts. For these reasons, this alternative was eliminated from detailed analysis.

CONSISTENCY WITH PLANNING DOCUMENTS AND OTHER LAWS

Dixie National Forest Land and Resource Management Plan

I have evaluated the Selected Alternative against the DNF LRMP goals, objectives, standards, and guidelines. As documented in the DEIS and the project record, the Selected Alternative conforms to DNF land use management policies. For further information, please see the DEIS, Section 4.10.2.1.

National Forest System Land and Resource Management Planning Rule

As required by the National Forest System Land and Resource Management Planning Rule, this decision is based on review of the record. The record includes a thorough review of relevant, best available scientific information, consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information.

Grand Staircase-Escalante National Monument Management Plan

The EIS considered whether the project would be consistent with the GSENM Management Plan. With amendment of the GSENM Management Plan the Selected Alternative will conform to the plan. For further information, see the DEIS, Section 4.10.2.2.

BLM – Kanab Resource Management Plan

Issuance of a right-of-way for the Selected Alternative will not conflict with the KFO RMP (BLM 2008). For further information, please see the DEIS, Section 4.10.2.2.

Bryce Canyon National Park General Management Plan

The Selected Alternative does not enter BRCA, so there are no impacts to existing land uses within the park. The existing 69 kV that runs through the park will not be removed under the Selected Alternative. Therefore, the direct disturbance associated with the existing transmission line related uses will continue to be identical to existing conditions.

Other Laws

- **Presidential Proclamation 6920.** The GSENM was established by Presidential Proclamation 6920 on September 18, 1996 (americantrails.org 2010). The Proclamation states that the GSENM was established for the purpose of protecting specified resources referred to as “objects,” including but not limited to archeology, history, paleontology, air, water; biological resources - including special status species, soils and biological soil crusts. The EIS included the analysis needed to address the objects of the GSENM. A review of the analysis of impacts of the Selected Action demonstrates that the Action will not hinder the purposes of the Proclamation.
- **Endangered Species Act.** The DNF consulted with the USFWS by submitting a BA and addendum for the EIS. The USFWS concurred with the USFS findings (USFS 2010) and

provided a BO with terms and conditions and an incidental take statement. Major findings were as follows:

- May affect, and is likely to adversely affect the UPD. The USFWS concluded through the BO process that “the action, as proposed, is not likely to jeopardize the continued existence of the Utah prairie dog.” No critical habitat has been designated for this species, therefore none will be impacted.
- May affect, but not likely to adversely affect the Mexican spotted owl and their critical habitat within the Project Area.
- If the responsible official decides to select an alternative other than the Preferred Alternative, the USFS will reinitiate formal consultation with the USFWS, as provided in 50 CFR 402.16, if: 1) the amount or extent of incidental take is exceeded; 2) new information reveals effects of the agency action that may impact listed species in a manner or to an extent not considered in the opinion; 3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the opinion, or 4) a new species is listed or critical habitat is designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded or if the terms and conditions of this biological opinion are not fully implemented, any operations causing such take must cease immediately pending re-initiation.
- **Clean Water Act.** The DEIS specifies best management practices related to water resources in Section 4.4.2.1 and Resource Protection Measures in Section 2.3.6. Perennial drainages, riparian and wetland areas would be spanned by the transmission line, minimizing impacts. Less than 0.10 acre of waters of the U.S. will be disturbed under the Selected Alternative; these impacts will qualify for permitting under Nationwide Permit No. 12 – Utilities. In general, impacts to water resources under the Selected Alternative will be negligible to minor.
- **Executive Order 11988.** All Action Alternatives would result in no or negligible impacts to floodplain areas (DEIS Section 4.4.2).
- **Executive Order 11990.** All Action Alternatives would result in no net decrease to wetlands and riparian areas (DEIS Section 4.4.2.1).
- **Executive Order 12898.** In our outreach and scoping (public involvement) processes, we did not identify any potentially disproportionately high and adverse human-health or environmental effects to minority or low-income populations (DEIS Section 3.15.2.11).
- **Executive Order 13186.** On August 1, 2007, the National Forests in Utah formalized a state-wide strategy for addressing migratory birds in USFS planning and project documents. On September 23, 2008 a National Memorandum of Understanding between the USFS and the USFWS was entered into to promote the conservation of migratory birds. A total of 201 species of migratory birds have breeding habitat on the DNF. The bird species analyzed in the DEIS were derived from a compilation of species included in the Utah Partners in Flight Conservation Strategy, the Utah Comprehensive Wildlife Conservation Strategy, and the USFWS’ Birds of Conservation Concern bird lists. The DEIS analysis regarding migratory birds is compliant with the terms of both memoranda (DEIS Section 3.7.2.1) and Executive Order 13186.
- **Executive Order 13443.** The decision for the Selected Alternative was partially based on the minimization of impacts to big game and their habitat. See "Consideration of the Issues" above and DEIS Section 4.7.

- **Roadless Area Conservation Rule.** The Roadless Area Conservation Rule has been enjoined in Federal Court. However, USFS direction requires all decisions that involve road construction or reconstruction or timber cutting in Inventoried Roadless Areas (IRAs) to be reviewed by the Secretary of Agriculture prior to decision at the Forest level. The Decision Memorandum re-delegating the authority to the USFS to sign the ROD and implement the Tropic to Hatch (Garkane) Electrical Transmission Line Project was approved by the Secretary of Agriculture March 18, 2011.
- **Clean Air Act.** Construction of the new 138 kV transmission line has the potential to create dust. Appendix D to the DEIS provides a dust management plan for the project. Replacement of the existing 69 kV transmission line with the new 138 kV transmission line will eliminate routine use of diesel generators to meet peak electrical demands, eliminating that emission source.
- **Safe Drinking Water Act.** The FEIS (Appendix 1) provides text additions to DEIS Section 4.4.2.2 regarding Drinking Water Source Protection Zones. Potential impacts to drinking water under all Action Alternatives was determined to be short-term and negligible.

ENVIRONMENTALLY PREFERRED ALTERNATIVE

NEPA regulations require agencies to specify the alternative or alternatives considered to be environmentally preferable [40 CFR 1505.2(b)]. The Selected Alternative is the Environmentally Preferred Alternative. According to USFS policy, the environmentally preferred alternative is the one that best meets the goals of Section 101 of NEPA. Section 101 emphasizes the protection of the environment for future generations; the preservation of historic, cultural, and natural resources; and attainment of the widest range of beneficial uses. The Selected Alternative does not cross BRCA, therefore avoiding potential impairment of park resources. The Selected Alternative is comprised of segments and portions of segments of Alternatives A and C, which were originally designed to avoid or minimize adverse impacts to wildlife, threatened and endangered species and their habitat, land use, and visual resources. For detailed explanations, see "Consideration of the Issues" above.

ADMINISTRATIVE REVIEW

This decision is subject to administrative appeal pursuant to 36 CFR 215. Only those individuals and organizations who provided comments during the 45-day comment period (or its extension) on the DEIS are eligible to file an appeal. The appeal must meet the requirements at 36 CFR 215.14.

Appeals filed by regular mail or express delivery must be sent to: Appeal Deciding Officer, Intermountain Regional Office, 324 25th Street, Ogden, Utah 84401. Appeals may also be hand delivered to the above address between the hours of 8:00 a.m. and 4:30 p.m. Mountain Time, Monday through Friday, excluding holidays. Appeals may also be submitted via fax at 801-625-5277.

Electronic appeals must be submitted in rich text format (.rtf), Microsoft Word (.doc or docx.), portable document format (.pdf), or as an email message to appeals-intermtn-regional-office@fs.fed.us. Emailed appeals must include the project name in the subject line. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of the legal notice of decision in *The Spectrum*, St. George, Utah. Documents received after the 45-day appeal period will not be considered. The publication date in *The Spectrum*, newspaper of record for the DNF, is the exclusive means for calculating the time to file an appeal. **Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.**

IMPLEMENTATION

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, five business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

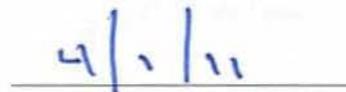
CONTACT PERSON

For further information, contact Susan Baughman, Minerals Administrator, Dixie National Forest, 1789 North Wedgewood Lane, Cedar City, Utah 84721, telephone: 435-865-3703, email: sbaughman@fs.fed.us.

SIGNATURE AND DATE



Robert G. MacWhorter
Forest Supervisor
Dixie National Forest



Date

REFERENCES

- americantrails.org. 2010. Federal Land Management, Presidential Proclamation establishing Grand Staircase-Escalante National Monument. <http://www.americantrails.org/resources/fedland/escalantenmproc.html>. November 24, 2010.
- Bureau of Land Management (BLM). 2008. Kanab Field Office Record of Decision and Approved Resource Management Plan.
- Bureau of Land Management (BLM). 2000. Grand Staircase-Escalante National Monument Management Plan and Record of Decision.
- Garkane. 2009. White paper produced by Garkane Energy outlining rationale for not retaining the existing 69 kV transmission line in addition to construction of the proposed 138 kV transmission line.
- National Park Service (NPS). 2006. National Park Service Management Polices. 180 p.
- U.S. Forest Service (USFS). 2010. Biological Assessment for the Tropic to Hatch 138 kV Transmission Line. November 10, 2010.
- U.S. Forest Service (USFS). 1986. Land and Resource Management Plan for the Dixie National Forest.
- Utah Division of Wildlife Resources (UDWR). 2010. Comment letter on Tropic to Hatch 138 kV Transmission Line DEIS.

Appendix 1: Incidental Take

Incidental Take statement from the Biological Opinion dated February 2, 2011, for the Tropic to Hatch EIS.

INCIDENTAL TAKE

Section 9 of the Endangered Species Act and Federal regulations pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by us to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by us as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of Section 7(b)(4) and Section 7(0)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by USFS so that they become binding conditions of any grant or permit issued to the Project Proponent, as appropriate, for the exemption in Section 7(0)(2) to apply. We have a continuing duty to regulate the activity covered by this Incidental Take Statement. If the Project Proponent (1) fails to assume and implement the terms and conditions or (2) fails to require any contractor to adhere to the terms and conditions of the Incidental Take Statement through enforceable terms that are added to any grant document, the protective coverage of Section 7(0)(2) may lapse. In order to monitor the impact of incidental take, the Project Proponent or contractor must report the progress of the action and its impact on the species to us as specified in the Incidental Take Statement. [50 CFR §402.14(i)(3)]

Amount or Extent of Take Anticipated

Based on the information provided in the BA and phone and email communications with you, Garkane, and Transcon Environmental, there are 0.031 acres of habitat that will be permanently impacted by the proposed project. There is a total of 9.16 acres of occupied UPD habitat within a 350-foot buffer of the project right-of-way that will be temporarily impacted.

Incidental take of UPDs is expected to be in the form of harm (injury or mortality related to construction activities, habitat degradation or loss, loss of forage) and/or harassment (resulting from disturbance of individuals during foraging or encouraging animals to move out of harm's way). Based on the August 2009 UPD counts from this area, approximately 155 adult UPDs may be impacted within the action area, in the form of harassment due to project activities. Harassment may occur due to the indirect effects of construction noise levels, ground vibration, and increased human activity. Harassment is anticipated to be temporary, and confined to the length of construction. There is also a small potential for inadvertent mortality from being run over or crushed by construction equipment. We anticipate that no more than fifteen UPDs will be killed by project related activities.

Effect of Take

In the BO, we determined that this level of anticipated take is not likely to result in jeopardy to the species. This BO does not authorize any form of take that is not incidental to the construction associated with the proposed transmission line project.

Reasonable and Prudent Measures

We believe that the following reasonable and prudent measures are necessary and appropriate to minimize incidental take of UPDs:

1. Measures must be implemented to prevent UPDs from being killed or harmed by any project-related activity.
2. Measures must be implemented to minimize loss, degradation, and fragmentation of UPD habitat.

Terms and Conditions

In order to be exempt from the prohibitions of Section 9 of the Act, DNF and Garkane must ensure that construction of the Tropic to Hatch Transmission Line Project complies with all of the *Applicant Committed Conservation Measures* included in the *Description of the Proposed Action* on pages 6-11 of this biological opinion, and the following additional Terms and Conditions which implement the Reasonable and Prudent Measures described above. If DNF, Garkane, or the contractor(s) fail to comply with any of the Applicant Committed Conservation Measures, Reasonable and Prudent Measures, or Terms and Conditions of this BO, the designated biologist or on-site responsible party shall suspend construction activities until such time that DNF, Garkane, and the contractor(s) are in compliance with these terms and conditions. These terms and conditions are non-discretionary. To implement reasonable and prudent measure number 1, the following terms and conditions must be implemented in addition to the *Applicant Committed Conservation Measures* outlined in the *Description of the Proposed Action*:

- a) The DNF must designate one or more individuals to be responsible for overseeing compliance with the applicant committed conservation measures listed in the project description section and the terms and conditions contained in this biological opinion, and providing coordination with the USFWS.
- b) A qualified biologist (A biologist with a bachelor's degree or graduate degree in biology, ecology, wildlife biology, mammalogy, or related fields. In addition, he/she must have a minimum of 20 hours of documented field experience surveying, monitoring or researching prairie dogs OR have completed the official FWS UPD Survey Training every 4 years) approved by the USFWS must be on site during construction within 350-feet of occupied UPD habitat:
 - The qualified biologist will have the authority to halt activities which may be in violation of these terms and conditions.
 - The qualified biologist must ensure that all construction activity is closely monitored to comply with these terms and conditions.
 - The qualified biologist must monitor and document take and suspected take of UPDs.
 - The qualified biologist must provide us with a post-construction compliance report containing information concerning the construction (daily construction times) how the Terms and Conditions of this biological opinion were implemented, and how many UPDs were taken or suspected of being taken, along with their locations and times. This report must be submitted to us within one month of project completion.
- c) Construction and maintenance vehicles must be operated in a manner to minimize impacts to UPD, including limiting vehicle speeds to 5 mph in occupied habitat in the project area. All construction related equipment, machinery, and activities will be

permitted only in the designated staging areas within the project right-of-way during the life of the project. Vehicles used to access the project site or equipment used on the project must not be driven or parked within any UPD habitat outside of the project right-of-way.

To implement reasonable and prudent measure number 2, the following terms and conditions must be implemented in addition to the *Applicant Committed Conservation Measures* outlined in the *Description of the Proposed Action*:

- a) All construction related equipment, machinery, and activities will be permitted only in the designated staging areas within the project right-of-way during the life of the project. Vehicles used to access the project site or equipment used on the project must not be driven or parked within any UPD habitat outside of the project right-of-way.

The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring re-initiation of consultation and review of the reasonable and prudent measures provided or an amendment to this BO. You and Garkane must immediately provide an explanation of the causes of the taking and review with us the need for possible modification of the reasonable and prudent measures.

Appendix 2: Applicant Committed Conservation Measures

Applicant committed conservation measures from the Biological Opinion dated February 2, 2011, for the Tropic to Hatch EIS.

Applicant Committed Conservation Measures

The following measures will be implemented by the project proponent for all construction and maintenance activities:

General Project Conservation Measures

- All construction and maintenance personnel will be required to attend an environmental training. The training will address environmental concerns, applicable environmental laws, and requirements for compliance. The training will highlight the UPD so that personnel are aware of the species and measures to be implemented to reduce potential impacts.
- All project employees shall be advised as to the definition of "take" and the potential penalties (up to \$50,000 in fines and one year in prison) for taking a species listed under the Endangered Species Act. Take is defined as, "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct; and may include significant habitat modification or degradation if it kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering".
- To avoid the spread of noxious weeds, the following measures will be implemented:
 - A pre-construction weed inventory and treatment of weed-infested areas will be required.
 - To minimize the potential for the spread of noxious weeds, all equipment used during construction will be power washed off-site prior to entering the project area for the first time.
 - Ongoing monitoring and treatment of noxious and invasive species will be incorporated into Garkane's Operation and Maintenance, Plan. If necessary, Garkane will survey and treat, on a bi-annual basis (during the growing season), the right-of-way for noxious weeds for the first 10 years following completion of construction, and submit bi-annual reports to the BLM and DNF as requested.
 - If chemical weed control is used, only BLM and DNF-approved chemicals will be used by certified applicators.
- Vegetation will be left in place and driven over by equipment wherever possible to avoid excessive damage and allow for re-sprouting.
- After work is completed, Garkane will reseed areas where vegetation was disturbed. The seed mixture will be approved by the surface management agency or private landowner, using recommended planting methods to facilitate the restoration of habitat.
- Seed mixes used for rehabilitation purposes will be certified noxious weed free. Revegetation of disturbed areas will be subject to BLM and DNF monitoring and inspection (at agency discretion) to ensure revegetation success. Based on findings, the BLM and DNF may require additional revegetation if the initial seeding is unsuccessful. The BLM and DNF will provide revegetation objectives to Garkane prior to project initiation.

- Reseeded areas within grazing allotments may require additional measures to assure revegetation success. These areas may attract livestock that could graze on the reclamation areas. The individual surface management agency or land owner may require special measures such as herding, salting, and placement of water sources to attract cattle away from reclamation areas as needed. Larger areas (such as lay-down yards and pulling sites) may require temporary fencing to exclude livestock.
- All construction trash and other waste will be properly contained, removed from the site, and disposed of at the proper facilities after construction. No open burning of trash will occur.
- Construction and maintenance personnel will not possess firearms or pets within the rights-of-way.
- Upon locating a dead or injured Federally listed species, initial notification must be made within one business day to the USFWS Division of Law Enforcement in Cedar City, Utah at telephone (435) 865-0861, the USFWS Ecological Services Office at telephone (801) 975-3330, and the Cedar City office of the Utah Division of Wildlife Resources at telephone (435) 865-6120. The DNF and BLM will also be notified if the take has occurred on their lands.

Access Related Conservation Measures

- All vehicle and equipment movement outside of the right-of-way will be restricted to predesignated access areas, contractor acquired access, or public roads.
- Construction routes will be reclaimed.
- Access routes used solely for maintenance and operation of the transmission line will be closed to all other vehicle traffic.
- Vegetation will be left in place wherever possible to minimize ground disturbance and allow for natural recovery.

Utah Prairie Dog Conservation Measures

- As part of their applicant committed conservation measures, Garkane had the entire action area surveyed for UPDs and their habitat according to protocol in 2009 (see Appendix C of the BA; USFS 2010).
- A protocol UPD survey will be conducted in the year of construction to ensure colonies have not expanded beyond their previously mapped boundaries. In addition to previously surveyed areas, this survey will assume an 80-foot radius around each structure and a 350 buffer around each structure and temporary use area. Results of the survey will be provided to the USFWS, BLM and DNF for approval prior to construction activities occurring in these areas.
- Where possible, structures will be placed outside of UPD colonies, with the conductor spanning them as much as feasible to minimize ground disturbance.
- Soil sterilants will not be used at structure sites within 350 feet of occupied UPD habitat.
- All maintenance of construction equipment will be performed at a suitable offsite location. In the event maintenance of equipment is required onsite it will not be performed on or within 350 feet of identified UPD colonies.

- A biological monitor will be present where construction activities occur within 350 feet of a UPD colony. The monitor will ensure UPD and their burrows are not crushed by personnel or equipment and that disturbance is limited to the minimum necessary to complete project activities. The monitor will walk equipment into active colonies, picking an access route that avoids active burrows and will ensure that crews are aware of active burrows and are trying to avoid them when installing new structures. Prior to crews installing structures in active colonies, all active burrows will be marked with pin flags to increase their visibility. The biological monitor will have the authority to halt construction if prairie dogs are in imminent danger from construction activities or equipment. Construction may proceed once the prairie dogs are no longer in danger, or if equipment is rerouted to avoid endangering prairie dogs. Routine maintenance activities will not require a biological monitor.
- Construction activities for the 138kV transmission line will be limited as much as feasible within active UPD colonies. An 80-foot radius work area will be flagged around each structure site and vehicles and equipment will not operate outside of this radius, with the exception of travel along the temporary centerline access route and designated temporary use areas. Limited foot traffic may still occur outside of the flagged area.
- No access roads will be constructed within active UPD colonies. Access within active UPD colonies will be limited to vehicle travel overland along the project centerline, and subsequent vehicles will follow these established tracks to minimize disturbance.
- Site-specific improvements (i.e. drainage crossings) will be kept to the minimum necessary to complete the project.
- To the extent feasible, once ground disturbing activities within a UPD colony begin, they will continue without interruption until completion to reduce the overall time of activity within active UPD colonies.
- Construction equipment and materials will not be staged within 350 feet of a UPD colony.
- Vehicle and equipment traffic within active UPD colonies will be restricted to the minimum necessary to complete construction activities.
- Vehicles and equipment operating within an active UPD colony will observe a speed limit of 5 mph or less.
- Vehicles, equipment, and materials will not be operated, parked or stored within an active UPD colony except when construction is actively occurring within the area.
- Where feasible, a seasonal construction window will be observed for activities resulting in new ground disturbance in an active UPD colony. These activities will occur within the time when juvenile prairie dogs are active and moving about on their own (June 1 through August 31). If this window is not feasible, a qualified biologist will perform a survey within active UPD colonies prior to construction in the area to determine if juveniles and adults are still active. Results of this survey will be discussed with the USFWS and BLM or DNF to determine whether construction may proceed, or if additional consultation is required.
- Coordination with the USFWS and BLM or DNF will occur for major maintenance activities occurring within 350 feet of an active UPD colony. The result of this

coordination may require additional surveys, monitoring, or other conservation measures prior to major maintenance activities.

- The BLM, USFS and/or Garkane will notify the USFWS within 48 hours of emergency maintenance activities within 350-feet of an active UPD colony, to discuss potential impacts.
- Raptor perch deterrents/discouragers will be used on poles to minimize perching in areas inhabited by the UPD as required by each surface management agency.
- Pay compensation at ratios and costs as outlined below:
 - Garkane will mitigate for permanent impacts within potential UPD habitat (occupied or historic) by providing funding to purchase land that will be set aside in perpetuity for the conservation of UPD and their habitat. Land will be purchased at a ratio of 3: 1, or a cost of \$17,400 per acre disturbed. The total payment will be \$522 based on 0.03 acres of impact.
 - Garkane will mitigate for temporary impacts within occupied UPD habitat by rehabilitating UPD habitat at a ratio of 2: 1, or a cost of \$4,000 per acre disturbed. The total payment will be \$36,640 based on the 9.16 acres of impact.
 - A total of \$37,162 will be paid to the National Fish and Wildlife Foundation Utah prairie dog account. We are working with our partner organizations to identify suitable lands that we can purchase to set aside in perpetuity for UPD. Garkane's mitigation will be used to augment our land acquisition.

Mexican Spotted Owl Conservation Measures

- Vegetation removal in the Cedar Fork region will be limited to the minimum necessary to facilitate construction, and maintain safe clearances for the proposed transmission line.
- If construction occurs in Cedar Fork Canyon during or after 2013, protocol Mexican spotted owl surveys will need to be repeated. Results of these surveys will be provided to the USFWS and DNF. If Mexican spotted owls are detected, consultation may need to be reinitiated.

Greater Sage Grouse

- To minimize impacts to the sage grouse, construction activities within a 0.5-mile radius of an active lek will be avoided during the peak lek attendance period (April 1 through May 7).
- Raptor perch deterrents/discouragers will be used on poles to minimize perching in areas inhabited by the greater sage grouse as required by each surface management agency.

Operations and Maintenance Conservation Measures

Potential impacts resulting from maintenance activities have been broken down based on the type of maintenance activity (routine, major, or emergency), as defined in the Proposed Action section. Similar activities to those described below currently occur along the 69kV alignment. After construction, these activities will cease along the 69kV and commence along the 138kV alignment, thus offsetting some of the maintenance related impacts.

Routine Maintenance Conservation Measures

- All Garkane employees involved in maintenance patrols and repairs will be required to participate in a threatened and endangered species education program. This program will focus on the UPD and will provide identification information and outline appropriate Best Management Practices for working within UPD habitat.
- Where feasible, Garkane will limit vehicle ground patrols and routine maintenance work within 350 feet of occupied UPD colonies to the inactive period for UPD (September 1 through March 31). Only ATVs will be used for ground patrols within occupied colonies.
- Where applicable, trash and food items will be contained in closed containers and removed daily.
- Pets and firearms will be prohibited from the maintenance sites.
- Upon completion of maintenance activities, all unused equipment and material shall be removed from the project site.
- Garkane will notify the USFWS, DNF, and BLM within 24 hours of encountering any dead UPDs, regardless of the source of mortality.
- It will be Garkane's responsibility to ensure that a qualified biologist will perform a UPD survey within 350 feet of any routine maintenance requiring new ground disturbance (e.g., road repair or vegetation removal). This will also require coordination with the USFWS and BLM or DNF depending on where the action will take place. A biological monitor will be present for any routine maintenance requiring significant new ground disturbance within an active colony.

Major Maintenance Conservation Measures

- In addition to measures listed for routine maintenance, the following measures apply to major maintenance activities:
- Coordination with the USFWS and BLM or DNF will occur prior to any major maintenance activities depending on where the action will take place. The result of this coordination may require additional conservation measures not outlined here.
- A qualified biologist will perform a UPD survey within 350 feet of any major maintenance location within 350 feet of suitable habitat.
- A biological monitor will be present during any major maintenance activity within 350 feet of UPD occupied habitat.

Emergency Maintenance Conservation Measures

These activities are expected to have similar impacts as other maintenance activities; however, due to the urgent nature of these activities, conservation measures cannot always be employed. Garkane will notify the USFWS, BLM and DNF within 48 hours from the initiation of emergency maintenance activities within 350 feet of occupied UPD habitat.