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**Via email and BLM NEPA ePlanning website**

22 May 2023

Attn: Stephanie Trujillo
Bureau of Land Management
St. George Field Office
345 East Riverside Drive
St. George, Utah 84790
Stephanie_Trujillo@blm.gov

RE: Draft Environmental Assessment for the Dixie Power Overhead Distribution Line to the Scrub Peak Radio Tower (DOI-BLM-UT-C030-2021-0023-EA, DOI-BLM-UT-C030-2020-0017-EA)

Dear Ms. Trujillo,

The Desert Tortoise Council (Council) is a non-profit organization comprised of hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer that you email to us future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate that the Bureau of Land Management (BLM) contacted the Council directly via email on April 28, 2023 for the opportunity to comment on the above-referenced project. Given the location of the proposed project in habitats likely occupied by Mojave desert tortoise

(*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities funded, authorized, or carried out by the BLM, which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachments for the proposed project.

The Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021) "… based on population reduction (decreasing density), habitat loss of over 80% over three generations (90 years), including past reductions and predicted future declines, as well as the effects of disease (upper respiratory tract disease/mycoplasmosis). *Gopherus agassizii* (*sensu stricto*) comprises tortoises in the most well-studied 30% of the larger range; this portion of the original range has seen the most human impacts and is where the largest past population losses had been documented. A recent rigorous rangewide population reassessment of *G. agassizii* (*sensu stricto*) has demonstrated continued adult population and density declines of about 90% over three generations (two in the past and one ongoing) in four of the five *G. agassizii* recovery units and inadequate recruitment with decreasing percentages of juveniles in all five recovery units."

This status, in part, prompted the Council to join Defenders of Wildlife and Desert Tortoise Preserve Committee (Defenders of Wildlife et al. 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise from threatened to endangered in California.

## Description of Proposed Project

In response to Dixie Electric's application, BLM is proposing to grant a 50-foot-wide right-of-way (ROW) for 30 years to Dixie Electric to construct, operate, and maintain a 7.2/12.47-kV overhead electrical distribution line to power the Scrub Peak Radio Tower. Currently the Scrub Peak Radio Tower, used by law enforcement and other emergency responders in northern Mohave County, Arizona and western Washington County, Utah, is powered with a solar and backup generator systems that do not supply the reliable power source needed for the communications systems that emergency responders need.

Two alternatives were identified, the No Action Alternative and the Proposed Action Alternative.

No Action: BLM would not grant a ROW for the Project. As the Project must cross public land and Utah School and Institutional Trust Lands Administration (SITLA lands), this would mean the Project would not be constructed and Dixie would not supply an electrical power distribution line to the Scrub Peak communications tower.

Proposed Action: The ROW would start near the intersection of Utah Hill Road and Old Highway 91 and extend to a communication tower on top of Scrub Peak (see general location map below). The proposed 12.5 kV distribution powerline would connect to an existing line at the Utah Hill communication site (~4,750 feet in elevation; source - Google

Earth), then travel along the south side of Old Highway 91 for approximately two miles (~4,400 ft in elevation; source - Google Earth). The powerline would then divert southeasterly, initially following the Black Warrior Mine road, then traveling cross country to the Scrub Peak communication site (~6,750 ft in elevation; source - Google Earth). Where it follows the Black Warrior Road, the proposed powerline would be along the northeast boundary of the Beaver Dam Wash National Conservation Area (NCA) but would not be located within the NCA.

The ROW, approximately 4.4 miles long, would cross SITLA lands and BLM administered lands. The ROW would encompass approximately 19.35 acres of public lands and 7.32 acres of SITLA lands. The ROW is located in the Northeastern Mojave and Upper Virgin River Recovery Units for the tortoise.

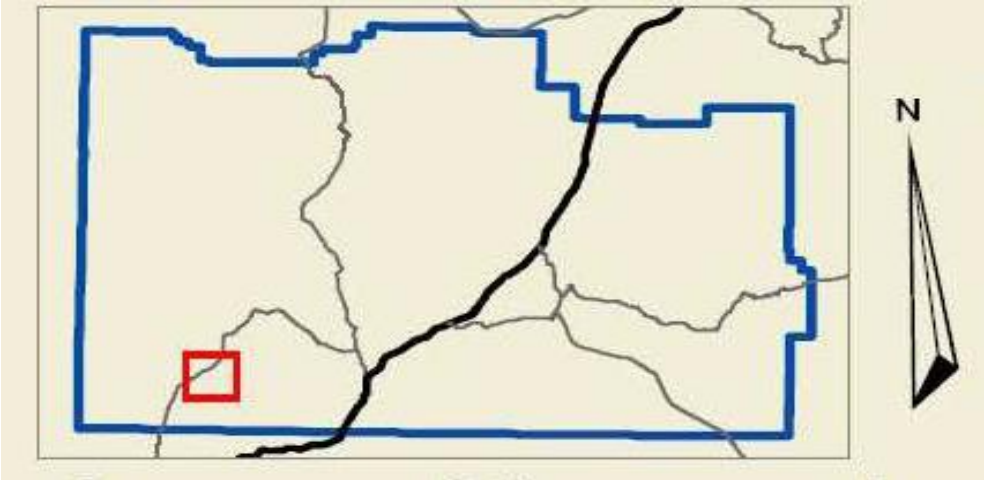
Conventional construction techniques would be used during the power line construction. Structure holes would be dug using a rubber-tired or track-mounted backhoe or auger. Blasting would be required in areas where backhoes and augers are unable to dig through rock. Single wood pole structures with aluminum/steel conductors would be the standard design for the majority of the locations. The design pole heights would be approximately 35-50 feet above ground with a base diameter of approximately 16 inches. Approximately 60 structures would be needed for the Project with an average span of approximately 340 feet. Poles would be delivered to the site by truck or backhoe, and erected by line trucks. Where the line changes direction, guy wires would be used for stability. Approximately 4 pull stations would be required for the Project. These pulling stations would be situated within the 50-foot ROW or on adjacent public lands measuring approximately 100 feet x 100 feet. Existing access roads would need to be improved. Newly constructed access roads would be needed from pole 54 to pole 58. These access roads would be no wider than 15 feet and remain for maintenance and emergency access after Project construction is completed. Access to poles 59 to 63 may require the use of a helicopter due to the steep terrain. The helicopter would stage at a limestone gravel quarry.

Construction would take approximately 5 months to complete.

Maintenance activities that could occur during the life of the Project include pole, conductor, insulator, and anchor support replacement. Access for routine maintenance and unexpected service failures would be limited to the approved ROW, existing access routes, and overland routes used for the Project. Typical maintenance of line equipment occurs on a 10-year cycle.

In addition, three other alternatives were identified but dismissed. The alternatives were to construct and maintain a new distribution line that:

(1) crossed the Beaver Dam Wash NCA; a majority of which is managed as an exclusion area. Granting a new ROW would not be in conformance with the Beaver Dam Wash NCA Resource Management Plan (RMP) management decisions for linear ROWs, and "would have resulted in temporary and permanent adverse modification of designated critical




Map of project location (in red box). Blue line = approximate boundary of Washington County, Utah. Black line = Interstate 15. Gray line in project location = Old Highway 91.

habitat for the threatened Mojave Desert tortoise and impacts on other resources and values in this NCA. For these reasons, it was dismissed from further consideration.

(2) tied into an existing distribution line north of Beaver Dam, Arizona, and follow in an existing Dixie ROW north to the Navajo-McCullough Utility Corridor, then south along the eastern border of the BDWNCA to Scrub Peak. This alternative was determined was infeasible as the existing Navajo-McCullough Utility Corridor is too narrow to add another distribution line within corridor ROW and the route would result in potential impacts to the desert tortoise and designated critical habitat.

(3) would be buried, either entirely or partially, as a potential option to avoid visual impacts to the Old Spanish National Historic Trail (OSNHT) corridor. This alternative was dismissed because it was not practicable due to topographic constraints, such as steep cliffs and exposed bedrock throughout much of the ROW, and would result in greater impacts to resources.

## Comments on the Draft EA

Although BLM contacted the Council about the availability of this EA for public comment, we are confused by a project on the BLM NEPA ePlanning website that has a similar name and this project's status. On https://eplanning.blm.gov/eplanning-ui/project/2010634/510 that the Council accessed on May 21, 2023, BLM lists Dixie Scrub Peak Environmental Assessment, but says this project is "paused." Is the proposed Project paused or moving forward? Please ensure that the information on the BLM's ePlanning website matches the information BLM is emailing to the public. If the information were the same on the ePlanning website, this matching would also allow the Council to submit comments to BLM through the BLM NEPA ePlanning portal and receive confirmation of receipt of comments submitted. This is the usual method BLM uses for commenting on its NEPA documents.

## Alternatives Considered

The Council appreciates that BLM considered and dismissed alternatives that occurred within the NCA and tortoise critical habitat. This should be BLM's goal – to locate a project outside of tortoise habitat, especially tortoise critical habitat and habitat needed for connectivity among populations and recovery units.

**Affected Environment and Environmental Consequences**

In the Draft EA, BLM says "[t]he proposed staging area is located in an area identified as a corridor for Mojave desert tortoise" between the Northeastern Mojave and Upper Virgin River recovery units. BLM concludes in the Draft EA that the tortoise is "present, but not affected to a degree that detailed analysis is required." The Draft EA does not identify the tortoise or its habitat as a resource issue that is discussed, and the direct, indirect, and cumulative impacts of the Project to the tortoise and its habitat are not analyzed.

With its statement, BLM is saying the tortoise is present and affected. We remind BLM that under the Federal Endangered Species Act (FESA), section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) when a federal agency's proposed action may affect a listed species (e.g., Mojave desert tortoise). However, we were unable to find in the Draft EA, including Section 4.2 "Public Involvement, Consultation, and Coordination – Consultation and Coordination," that this consultation with the USFWS has occurred and the results.

To determine the full extent of impacts to the tortoise and to facilitate compliance with the FESA, BLM should consult with the USFWS to determine the action area for this Project. The USFWS defines "action area" in 50 Code of Federal Regulations 402.2 and their Desert Tortoise Field Manual (USFWS 2009) as "all areas to be affected directly or indirectly by proposed development and not merely the immediate area involved in the action (50 CFR §402.02)." The Council requests that BLM include in the final EA the results of this consultation with the USFWS including a map of the action area.

We expect that BLM will require the Project proponent to implement USFWS protocol surveys (both preconstruction and clearance surveys) for the tortoise (USFWS 2009) would occur prior to surface disturbance. We were unable to find this requirement in the Draft EA including in the Best Management Practices section (see below).

The Project may result in direct, indirect, and cumulative impacts to the tortoise as much of the Project occurs at elevations below where typical tortoise habitat occurs (e.g., 5,500 feet) (USFWS 2011). These impacts should be discussed and analyzed in the EA. As mentioned earlier, BLM identified that the Project occurs in an area identified as a corridor for the tortoise that provides population connectivity. Please ensure that an analysis of the effects of this Project on tortoise movements and population connectivity are included in the Final EA.

Transmission lines have numerous documented impacts to the tortoise and tortoise habitat. We request that BLM includes a description and analysis of these impacts as well as mitigation to fully offset these impacts. Indirect impacts to the tortoise/tortoise habitat include, but are not limited to, dust deposition, destruction/degradation of habitat, proliferation of non-native plants, increased predation, impacts associated with off-highway vehicles use, and increased risk of fire (BLM and NPS 2022). For example, common ravens (*Corvus corax*) are known predators of the tortoise, and raven numbers have increased substantially because of human subsidies of food, water, and sites for nesting, roosting, and perching to hunt (Boarman 2003). Documented impacts from road construction, use, and maintenance include increases in roadkill of wildlife species as well as tortoises, creating or increasing food subsidies for common ravens, and contributing to increases

in raven numbers and predation pressure on the desert tortoise. Transmission lines provide nesting, roosting, and perching sites for ravens contributing to increases in raven numbers and predation pressure on the desert tortoise. Because ravens are able to fly at least 30 miles in search of food and water on a daily basis (Boarman et al. 2006), the EA should include an analysis of impacts of tortoise mortality from ravens that extends at least 30 miles from the Project.

Maintenance of the proposed Project would be granted for 30 years. Climate change is predicted to change the location of desert vegetation including habitat of the tortoise, moving it higher in elevation and latitude. We request that BLM analyze the impacts of maintenance on the tortoise/tortoise habitat during the duration of the 30-year ROW so it includes the impacts of climate change on shifting areas occupied by wildlife species to higher altitudes, including the tortoise.

**Mitigation Measures/Best Management Practices**

Several Best Management Practices (BMPs) are listed in the Draft EA that would reduce impacts to the tortoise/tortoise habitat. Below are our comments on some of these BMPs.

- Construction personnel would adhere to any BLM fire prevention requirements. We request that maintenance personnel also adhere to BLM fire prevention requirements.

- Project-related vehicles would be checked for all potentially affected species of wildlife before being moved. Desert tortoise and other wildlife may seek shade and shelter under parked vehicles and construction equipment

  We request that construction and maintenance equipment also be checked for tortoises and other wildlife species before moved or used.

- To prevent entrapment of wildlife during construction, all open holes would be monitored throughout the construction day

  Please clarify that biological monitors would be conducting the monitoring and for the tortoise, and would be under the supervision of an authorized biologist.

- Excavated holes more than 2 feet deep would be covered at the close of each day or equipped with one or more escape ramps. Alternatively, fencing can be erected around open pits or trenches. At the beginning of the construction day and before pits or trenches are filled, they would be inspected for trapped animals. If any animals are found, they would be moved out of harm's way.

  We are not sure why holes 2 feet deep or less are not considered potential sites for entrapment of wildlife including all size classes of tortoises. Please provide citations that support this hole depth as not entrapping the tortoise and other wildlife species. In addition, please indicate who would be moving tortoises and other wildlife species out of harm's way.

- All power poles, or similar structures, would be inspected throughout the construction day and before they are used or moved. If wildlife is present, they would be allowed to exit on their own or would be moved out of harm's way.

  In section 2.2.4, BLM indicates that "Single wood pole structures with aluminum/steel conductors would be the standard design for most of the locations." However, if any of the poles are hollow or tubular in shape or any pipes or similar shaped hollow structures or equipment are used during construction, we request that the ends be covered to prevent wildlife from using the hollow areas for shelter and the structures be examined for the presence of wildlife immediately prior to use or installation. We make a similar request for the maintenance phase of the Project. Please indicate who would be moving tortoises and other wildlife species out of harm's way.

We did not find other standard BMPs in the Draft EA for projects in tortoise habitat including designing and monitoring distribution line facilities to ensure they do not provide nesting/ perching/ roosting sites for common ravens, ongoing control of non-native invasive plant species for the duration of the ROW, closing newly-constructed roads to the public and physically blocking access to provide a secure power source to the Scrub Peak Radio Tower, or compensating for the destruction/degradation of tortoise habitat. For example, the Draft EA is unclear whether the single wood pole structures would have crossarms to which conductors and wires would be attached. Common ravens have been documented using single wood pole structures with crossarms for nesting (e.g., west side of Edwards Air Force Base, Kern County, California. BLM should require Dixie Electric to use poles that do not allow ravens to use them for nesting.

**Cumulative Impacts**

Please see G*rand Canyon Trust* v. *F.A.A.*, 290 F.3d 339, 345-46 (D.C. Cir. 2002) in which the court decided that federal agencies must analyze the cumulative impacts of actions in environmental assessments. In the cumulative effects analysis of the DEA, please ensure that the CEQ's "Considering Cumulative Effects under the National Environmental Policy Act" (1997) is followed, including the eight principles, when analyzing cumulative effects of the proposed action to the tortoise and its habitats. CEQ states, "Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern. The range of actions that must be considered includes not only the project proposal but all connected and similar actions that could contribute to cumulative effects." The analysis "must describe the response of the resource to this environmental change." Cumulative impact analysis should "address the sustainability of resources, ecosystems, and human communities."

CEQ's guidance on how to analyze cumulative environmental consequences, which contains eight principles listed below:

**1. Cumulative effects are caused by the aggregate of past, present, and reasonable future actions.**
The effects of a proposed action on a given resource, ecosystem, and human community, include the present and future effects added to the effects that have taken place in the past. Such cumulative effects must also be added to the effects (past, present, and future) caused by all other actions that affect the same resource.

**2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.**
Individual effects from disparate activities may add up or interact to cause additional effects not apparent when looking at the individual effect at one time. The additional effects contributed by actions unrelated to the proposed action must be included in the analysis of cumulative effects.

**3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.**
Environmental effects are often evaluated from the perspective of the proposed action. Analyzing cumulative effects requires focusing on the resources, ecosystem, and human community that may be affected and developing an adequate understanding of how the resources are susceptible to effects.

**4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.**
For cumulative effects analysis to help the decision maker and inform interested parties, it must be limited through scoping to effects that can be evaluated meaningfully. The boundaries for evaluating cumulative effects should be expanded to the point at which the resource is no longer affected significantly or the effects are no longer of interest to the affected parties.

**5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.**
Resources are typically demarcated according to agency responsibilities, county lines, grazing allotments, or other administrative boundaries. Because natural and sociocultural resources are not usually so aligned, each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural systems must use natural ecological boundaries and analysis of human communities must use actual sociocultural boundaries to ensure including all effects.

**6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.**
Repeated actions may cause effects to build up through simple addition (more and more of the same type of effect), and the same or different actions may produce effects that interact to produce cumulative effects greater than the sum of the effects.

**7. Cumulative effects may last for many years beyond the life of the action that caused the effects.**
Some actions cause damage lasting far longer than the life of the action itself (e.g., acid mine damage, radioactive waste contamination, species extinctions). Cumulative effects analysis needs to apply the best science and forecasting techniques to assess potential catastrophic consequences in the future.

**8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accommodate additional effects, based on its own time and space parameters.**

Analysts tend to think in terms of how the resource, ecosystem, and human community will be modified given the action's development needs. The most effective cumulative effects analysis focuses on what is needed to ensure long-term productivity or sustainability of each resource impacted by the proposed action including the Mojave desert tortoise.

Note that CEQ recognizes that synergistic and interactive impacts as well as cumulative impacts should be analyzed in the NEPA document for each resource issue.

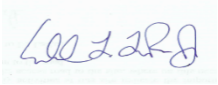
Please add an analysis of cumulative impacts of each alternative to the DEA for the tortoise and resource issues caried forward in the DEA for analysis.

We request that the Final EA (1) include these eight principles in its analysis of cumulative impacts to the Mojave desert tortoise; (2) address the sustainability of the tortoise in/near the project area, recovery unit, and rangewide; and (3) include effective science-based mitigation, monitoring, and adaptive management that protect desert tortoises and their habitats during BLM's and Dixie Power's management of the Project area.

In addition, we request that BLM add this project and its impacts to a database and geospatial tracking system for the Mojave desert tortoise that tracks cumulative impacts (e.g., surface disturbance, paved and unpaved routes, linear projects, invasive species occurrence, wildfires, etc.), management decisions, and effectiveness of mitigation for each project. Without such a tracking system, BLM is unable to analyze cumulative impacts to the tortoise with any degree of confidence.

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the BLM that may affect species of desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this project.

Respectfully,



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**Literature Cited**


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