

**Testimony of Dean Cox**

**Washington County Commission**

**On H.R. 5597**

**Before the**

**House Natural Resources Subcommittee on Federal Lands**

**May 22, 2018**

Thank you, Chairman Bishop, Chairman McClintock, and Ranking Member Hanabusa for the opportunity to testify in support of H.R. 5597, the Desert Tortoise Habitat Conservation Plan Expansion Act. I especially want to thank Representative Chris Stewart for his work on this balanced legislation which is vital to the future of the Desert Tortoise and of Washington County, Utah. I also want to thank all of the City Councils, recreation enthusiasts and conservation organization that supported this effort which were referenced by Rep. Stewart.

I am proud of this bill and the process we followed to develop balanced solutions to help expand the habitat for the threatened Mojave Desert tortoise while planning for the welfare of our citizens. H.R. 5597 expands and extends the Desert Tortoise Habitat Conservation Plan in Washington County by adding 6,835

acres of new high-quality tortoise habitat called Red Cliffs Desert Reserve - Zone 6 (Zone 6). In 1996, the County entered into an agreement with the US Fish and Wildlife Service, the Bureau of Land Management, the Utah Department of Wildlife Resources, and city partners to create a habitat conservation plan, or HCP, for the Mojave Desert tortoise. For the past 22 years, Washington County has been managing the HCP, with the help of state and federal partners, for the recovery of the Mojave Desert tortoise. We aren't new at species recovery. We are good at it. Our HCP boasts the highest densities of tortoise throughout its range by a significant margin. We have also "taken" far less tortoises than our permit authorized. The tortoises we did remove from developing areas were successfully relocated to the Reserve where they are thriving, and many are reproducing. While we cannot control wildfire or drought, our HCP has been successful and is held out as a model in the U.S. Fish and Wildlife Service's HCP handbook.

The Red Cliffs Desert Reserve that we created as part of the HCP has become a popular recreation spot, a valuable area of open space, and a real asset for educating the public about the tortoise. The incidental take permit that is also part of the HCP agreement has allowed continued development of private property in the county through a process where developers work with the county

to clear and protect tortoises. The original HCP agreement expired in 2016 and we have continued to manage the HCP on a temporary extension subject to negotiations of a long-term extension of the HCP.

For over a year, we have met with representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, Utah Division of Wildlife Services, the Utah State School and Institutional Trust Lands Administration (SITLA), the Dixie Metropolitan Planning Organization (MPO) and other stakeholders including conservation groups and recreation enthusiasts. One of our goals was to negotiate an extension that would be good for the tortoise and help the County and our cities deal with the rapid growth we are experiencing. According to data released by the U.S. Census Bureau earlier this year, the St. George metro area is the fastest-growing city in the U.S. There were an estimated 165,662 people in 2017 in the designated metro area, which includes most of Washington County, up 4 percent from 2016. This brings many challenges that include managing transportation alternatives, including increased use of transit, providing for utilities and land use decisions.

This growth has funded our HCP. Our development fees are .2 percent of building costs and \$250 per acre. The County has raised approximately \$15 million

which is over \$6 million more than originally expected and committed to by the 1996 HCP.

For more than 20 years, since before the creation of the Reserve, the County has had a transportation route on our long term plan that would move traffic from the east to west in the densely populated part of the county. Just like with the utilities, the routes are limited by our stunning geography.

We call the future transportation route the Northern Corridor. As the population grows, the city surface streets that allow east/west transport will be inadequate to handle the demand. We don't want cars bottlenecking and idling on our city streets. Our traffic experts have been saying for decades that for a Northern Corridor route to carry enough east/west traffic to help ease the congestion, it will have to pass through the Reserve.

As we worked on the HCP renewal, it became clear that we needed to tackle the issues of utility access and transportation. A small portion of the Northern Corridor route must cross the Red Cliffs National Conservation Area (NCA). We have consulted with federal and state desert tortoise biologists and traffic engineers to find the optimum combination of traffic flow and tortoise movement as we sought a new alignment the roadway. (**Attachment #1--**

**NORTHERN CORRIDOR ALIGNMENTS MAP)** The new four-mile long route proposed in the bill is located as close to the NCA southern boundary as is feasible. The 300 foot wide corridor is 4.3 miles long covering only 147 acres of the Red Cliffs Reserve. I want to emphasize that the roadway crosses only 1.9 miles of the National Conservation Area created in P.L. 111-11 (the 2009 Omnibus Public Lands Act) impacting only 65 acres. The route minimizes fragmentation of habitat and requires two large span bridges that would allow tortoises to pass below without ever noticing a road. It will also include large culverts designed for tortoise connectivity. H.R. 5597 does not circumvent the procedures required by the Endangered Species Act and its accompanying regulations. That means that the combination of building this new road and adding Zone 6 must not be detrimental to the recovery of the desert tortoise.

Water and power lines that run across the Red Cliffs Reserve are necessary to supply the needs of our growing population. Much of our communities' groundwater is in the sandstone aquifers in the Reserve. In 1996, the partners in the HCP recognized that need, so we jointly and cooperatively developed utility development protocols that set standards for how utility development and maintenance can be managed to avoid harm to the tortoises. The utility development protocols have been in place and working for years. In fact,

Congress recognized the value of the protocols when it codified their applicability to the Red Cliffs National Conservation Area in Public Law 111-11. The language of the bill specified that the creation of a National Conservation Area didn't affect the continued use of the utility development protocols in the areas where the Reserve and National Conservation Area overlap.

H.R. 5597 provides more than ample mitigation for full implementation of PL 111-11. Public Law 111-11 (which was signed by President Obama in 2009) created the 45,000 acre Red Cliffs National Conservation Area (NCA) and directed BLM to identify a transportation/utility corridor across the NCA. The corridor is vital to reduce traffic congestion and improve air quality.

As mitigation for these impacts on the Reserve and NCA, the County is prepared to add an additional 6,835 acres of prime tortoise habitat, called Zone 6, (**Attachment #2-- ZONE 6 MAP**) most of which is owned by the State of Utah's School and Institutional Trust Lands Administration (SITLA). Not only are the state lands in that area developable, but they are also highly recreated. As we studied the area, we learned that the tortoise densities there are higher than densities in the Reserve. Rather than allow the area to be developed and lose the recreation and the tortoise habitat, we are proposing to add the area to the Reserve,

manage the recreation, and use it to mitigate for possible impacts from utility and transportation development.

Washington County biologists and Utah Division of Wildlife Resources (UDWR) conducted comprehensive tortoise surveys in the proposed Zone 6 during the spring of 2017. The tortoise density is actually higher than our estimate for the rest of the Red Cliffs Desert Reserve. Approximately 30% of our tortoise observations were of juvenile tortoises, indicating a growing reproductive population. Washington County also initiated a citizen science project in the adjacent areas soliciting tortoise observations by local trail users. Citizens have submitted photos and locations of over 80 tortoises they encountered while hiking or biking on trails in the area. This data, in combination with our survey results and historic sightings, indicate a healthy tortoise population that would be a valuable addition to the Red Cliffs Desert Reserve. Protection of these lands from development will also benefit federally endangered plants and other sensitive species unique to our area.

The acres not necessary to mitigate for the northern corridor will be banked against future needs as was done in the Clark County, Nevada desert tortoise HCP.

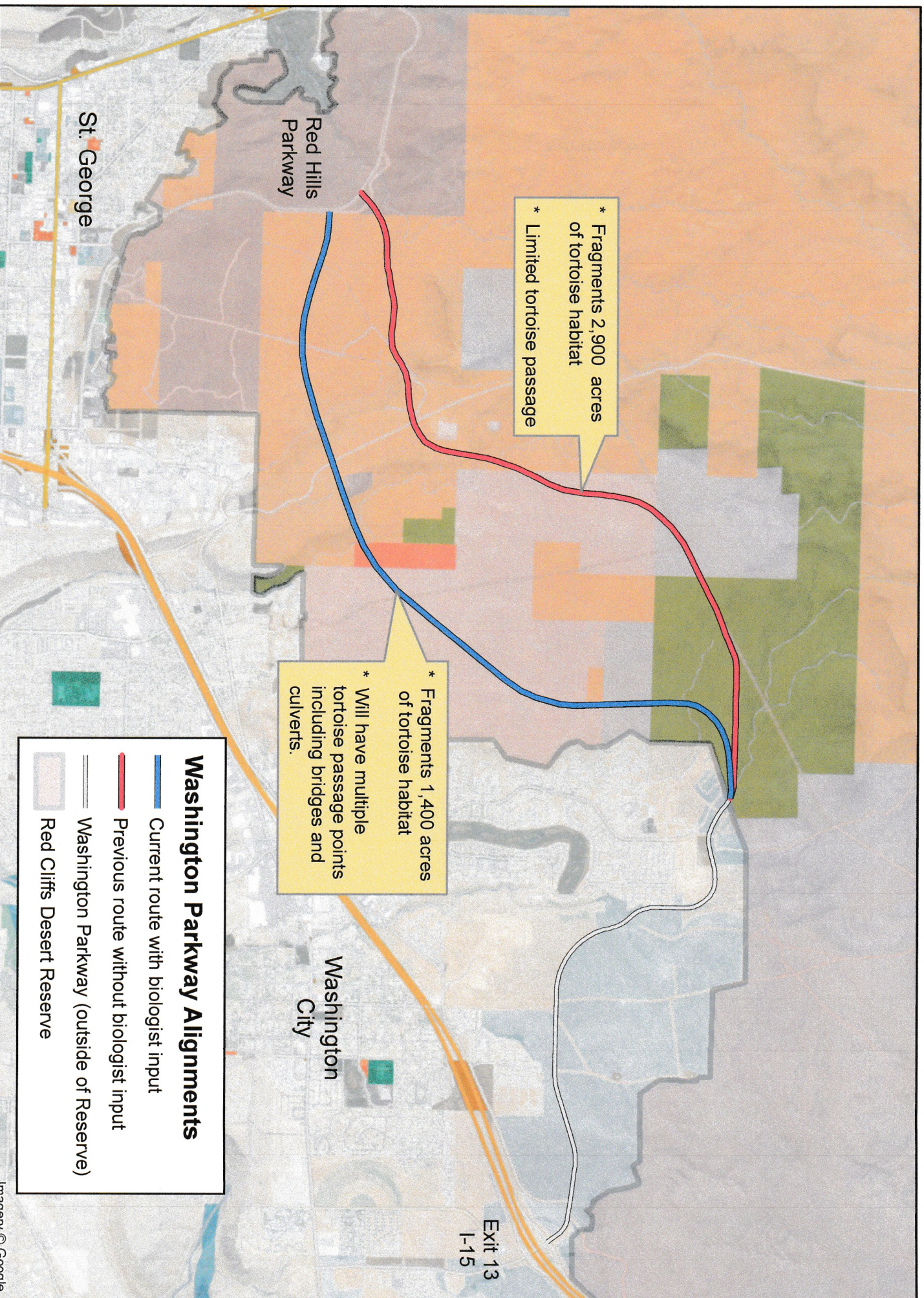
In summary, the bill, if passed into law would:

- Expand the HCP by creating an additional 6,865-acre reserve with rich desert tortoise habitat known as Zone 6.
- Renew the HCP agreement for 25 years,
- Require Washington County and the BLM to manage Zone 6 in accordance with the provisions of the existing HCP agreement,
- Apply the existing utility development protocols to include Zone 6 as well as other areas covered by the HCP,
- Allow for recreation to continue in Zone 6 on designated trails, including hiking, biking, horseback riding, and OHV use on designated roads,
- Provide mitigation credits for the tortoises protected in Zone 6,
- Allow for the eventual construction of a northern corridor crossing 4.3 miles of the Red Cliffs Desert Reserve,
- Require BLM to amend the existing plans to accommodate Zone 6,
- Clarify the width of the right of way (ROW) for Old Highway 91 as a 300 foot ROW on federally managed lands,
- Clarify that the NCAs are not entitled to any federal water rights, and
- Preserve existing utility and grazing rights in Beaver Dam Wash.



I really appreciate the work that Congressman Stewart and his staff have put in with us on solving these problems. Passage of this bill creates a win for all of the stakeholders. Thank you.

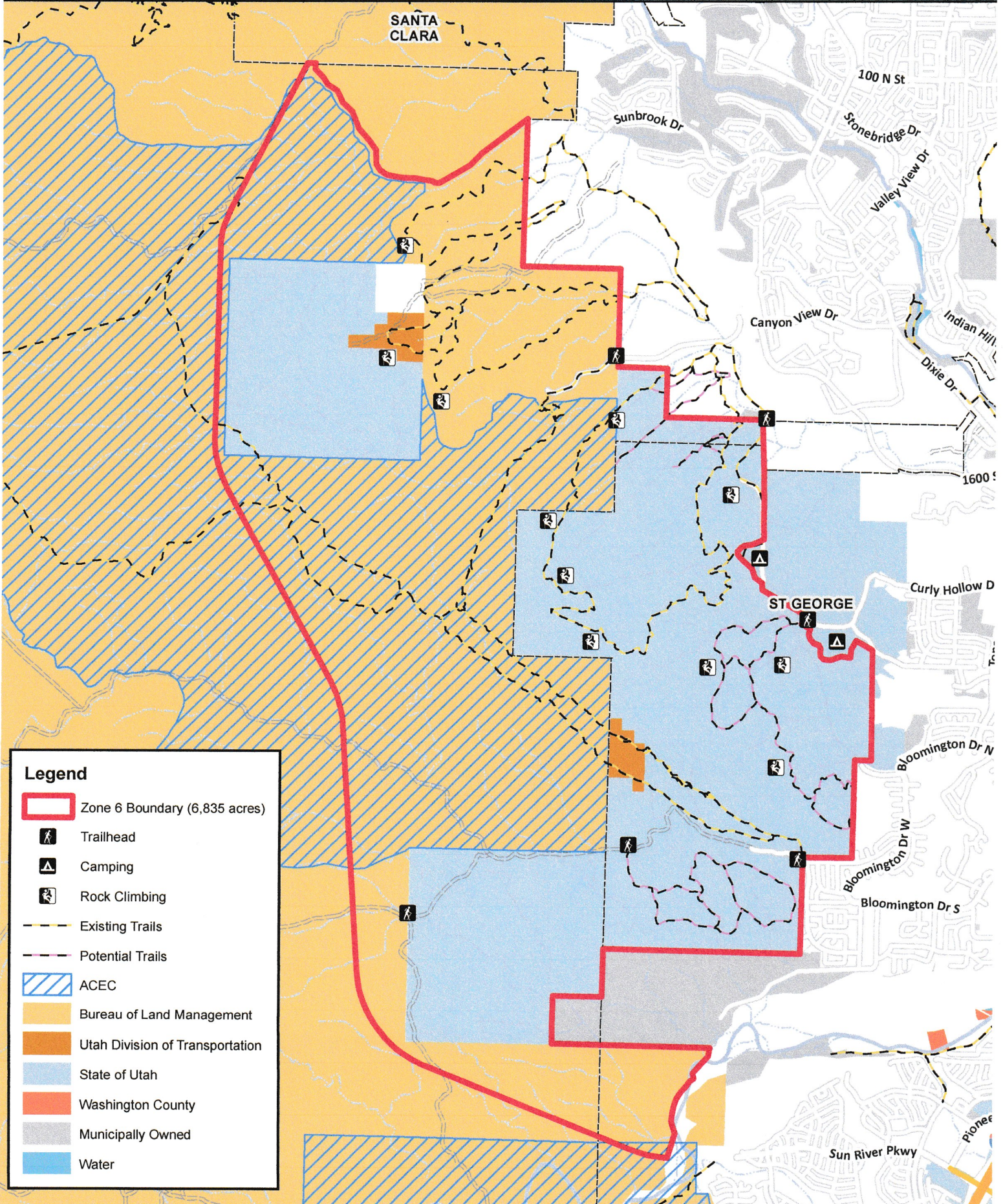
# Washington Parkway Alignments in Red Cliffs Desert Reserve



# Red Cliffs Desert Reserve - Zone 6

February 23, 2018

0 0.25 0.5 Miles



## Legend

- Zone 6 Boundary (6,835 acres)
- Trailhead
- Camping
- Rock Climbing
- Existing Trails
- Potential Trails
- ACEC
- Bureau of Land Management
- Utah Division of Transportation
- State of Utah
- Washington County
- Municipally Owned
- Water