

115TH CONGRESS
2D SESSION

H. R. 5597

To provide for the expansion of the Desert Tortoise Habitat Conservation Plan, Washington County, Utah.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2018

Mr. STEWART introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To provide for the expansion of the Desert Tortoise Habitat Conservation Plan, Washington County, Utah.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Desert Tortoise Habi-
5 tat Conservation Plan Expansion Act, Washington Coun-
6 ty, Utah”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) BEAVER DAM WASH NATIONAL CONSERVA-
10 TION AREA.—The term “Beaver Dam Wash Na-

1 tional Conservation Area” means the Beaver Dam
2 Wash National Conservation Area as established by
3 the Omnibus Public Lands Management Act of 2009
4 (Public Law 111–11).

5 (2) DESERT TORTOISE HABITAT CONSERVATION
6 PLAN.—The term “Desert Tortoise Habitat Con-
7 servation Plan, Washington County, Utah” means
8 the Washington County Habitat Conservation Plan
9 signed February 23, 1996, by the United States
10 Fish and Wildlife Service, Bureau of Land Manage-
11 ment, the State of Utah, Washington County, Utah,
12 and Ivins City, Utah.

13 (3) RED CLIFFS NATIONAL CONSERVATION
14 AREA.—The term “Red Cliffs National Conservation
15 Area” means the Red Cliffs National Conservation
16 Area as established by the Omnibus Public Lands
17 Management Act of 2009 (Public Law 111–11).

18 (4) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (5) UNIT OF LOCAL GOVERNMENT.—The term
21 “unit of local government” means Washington
22 County, St. George City, and other political subdivi-
23 sions of the State of Utah, including municipalities
24 of the State of Utah within the geographical bound-
25 aries of Washington County with authority over local

1 planning and zoning and the Washington County
2 Water Conservancy District.

3 (6) UTILITY.—The term “utility” means exist-
4 ing or new sites, rights-of-way, permits, grants, in-
5 frastructure, edifices, facilities, and any other com-
6 ponents that provide public services including, but
7 not limited to, water, electricity, gas, sewage, and
8 communications.

9 (7) UTILITY DEVELOPMENT PROTOCOLS.—The
10 term “utility development protocols” means the Red
11 Cliffs Desert Reserve Development Protocols for
12 Projects agreement approved by Washington County,
13 Bureau of Land Management, and United States
14 Fish and Wildlife Service for the construction, oper-
15 ation, maintenance, and replacement of utilities
16 within the Red Cliffs Desert Reserve and/or Inci-
17 dental Take Areas dated August 1, 2006, as amend-
18 ed.

19 **SEC. 3. AMENDMENT AND RENEWAL OF THE DESERT TOR-**
20 **TOISE HABITAT CONSERVATION PLAN, WASH-**
21 **INGTON COUNTY, UTAH.**

22 (a) IN GENERAL.—Upon receipt from Washington
23 County, Utah, of a proposal to amend and renew the
24 Desert Tortoise Habitat Conservation Plan, Washington
25 County, Utah that includes an additional 6,865 acre

1 desert tortoise reserve zone named the Red Cliffs Desert
2 Reserve, Zone 6, as generally depicted on a map entitled
3 “Red Cliffs Desert Reserve, Zone 6” and dated February
4 23, 2018, the Secretary shall, after coordination with
5 units of local government and in accordance with the pro-
6 visions of this Act and with applicable laws, approve such
7 amendment and renew such plan and the permit under
8 the Endangered Species Act of 1973 (16 U.S.C. 1531 et
9 seq.) that was issued for such plan, for a period of 25
10 years.

11 (b) MANAGEMENT OF RED CLIFFS DESERT RE-
12 SERVE, ZONE 6.—The Red Cliffs Desert Reserve, Zone
13 6 shall be managed by Washington County as part of and
14 in conformity with the provisions of the Desert Tortoise
15 Habitat Conservation Plan, Washington County, Utah.

16 (c) MANAGEMENT OF FEDERAL LANDS.—The Sec-
17 retary shall manage Federal lands within Zone 6 of the
18 Desert Tortoise Habitat Conservation Plan, Washington
19 County, Utah to enhance the natural values of such lands,
20 including wildlife habitat, and recreational, cultural, edu-
21 cational, and scientific values of such lands.

22 (d) AMENDMENT OF ST. GEORGE FIELD OFFICE RE-
23 SOURCE MANAGEMENT PLAN.—

24 (1) IN GENERAL.—The Secretary, in consulta-
25 tion with units of local government including Wash-

1 ington County, shall amend the St. George Field Of-
2 fice Resource Management Plan to provide for man-
3 agement of Federal lands within the Red Cliffs
4 Desert Reserve, Zone 6 area.

5 (2) AMENDMENT REQUIREMENTS.—The
6 amendment shall include—

7 (A) management of species in accordance
8 with the Desert Tortoise Habitat Conservation
9 Plan, Washington County, Utah;

10 (B) the utility development protocols as
11 outlined for the Red Cliffs Desert Reserve and/
12 or Incidental Take Areas dated August 1, 2006,
13 as amended; and

14 (C) management of recreation in conform-
15 ance with the Desert Tortoise Habitat Con-
16 servation Plan, Washington County, Utah for
17 other zones in the Red Cliffs Desert Reserve in-
18 cluding rock climbing, organized events ap-
19 proved by the Washington County Habitat Con-
20 servation Advisory Committee, hiking, biking,
21 horseback riding, and off-highway vehicle use
22 on designated trails and roads.

23 (e) PROVISION OF MITIGATION CREDITS.—The Sec-
24 retary shall manage the Red Cliffs Desert Reserve, Zone
25 6 as a land bank to provide mitigation credits for future

1 disturbances of the Red Cliffs Desert Reserve, including
2 utility disturbances and the construction of the Northern
3 Transportation Corridor identified in section 5.

4 (f) MITIGATION CREDITS IN RENEWED TAKE PER-
5 MIT.—In the permit extended under subsection (a), the
6 Secretary shall credit Washington County as follows:

7 (1) Washington County shall receive mitigation
8 credit for the tortoises protected on non-Federal
9 lands in Zone 6; and

10 (2) Washington County shall receive mitigation
11 credit, in yearly installments, for those tortoises suc-
12 cessfully translocated and surviving, based on survi-
13 vorship and juvenile recruitment estimates as deter-
14 mined by the United States Fish and Wildlife Serv-
15 ice.

16 (g) ADOPTION OF AMENDMENT.—The Secretary
17 shall adopt the amendment to the St. George Field Office
18 Resource Management Plan within one year after receipt
19 of Washington County’s proposal to amend and renew the
20 Habitat Conservation Plan including the Red Cliffs Desert
21 Reserve, Zone 6.

22 (h) HABITAT CONSERVATION PLAN NOT OTHERWISE
23 AFFECTED.—Except as provided in this section, nothing
24 in this Act otherwise limits, alters, modifies, or amends

1 the Desert Tortoise Habitat Conservation Plan, Wash-
2 ington County, Utah.

3 **SEC. 4. ADJUSTMENT TO RESOURCE MANAGEMENT PLANS**
4 **AND CONSERVATION AREAS.**

5 Not later than one year after the date of enactment
6 of this Act, the Secretary shall amend the resource man-
7 agement plans for the Beaver Dam Wash National Con-
8 servation Area, the Red Cliffs National Conservation
9 Area, and the amendment to the St. George Field Office
10 Resource Management Plan—

11 (1) in accordance with section 202(c)(9) of the
12 Federal Land Policy and Management Act of 1976
13 (43 U.S.C. 1712(c)(9));

14 (2) in coordination and cooperation with units
15 of local government in the State of Utah including
16 Washington County, St. George City, and other po-
17 litical subdivisions, including municipalities of the
18 State of Utah within the geographical boundaries of
19 Washington County with authority over local plan-
20 ning and zoning, and the Washington County Water
21 Conservancy District; and

22 (3) consistent with the provisions of this Act.

23 **SEC. 5. RED CLIFFS NATIONAL CONSERVATION AREA.**

24 (a) BOUNDARIES AND PUBLIC ACCESS.—

1 (1) IN GENERAL.—The Red Cliffs National
2 Conservation Area shall consist of approximately
3 45,000 acres of public and non-Federal land in
4 Washington County, Utah, identified on the Red
5 Cliffs National Conservation Area Management Map
6 dated February 23, 2018.

7 (2) AVAILABILITY OF MAP.—An updated map
8 and legal description of the Red Cliffs National Con-
9 servation Area shall be on file and available for pub-
10 lic inspection in the appropriate offices of the Bu-
11 reau of Land Management.

12 (b) PRESERVATION OF EXISTING UTILITY COR-
13 RIDOR.—The Secretary shall recognize on federally man-
14 aged lands a 150-foot-wide transportation utility corridor
15 in each direction from the centerline of SR 18 through
16 the Red Cliffs National Conservation Area.

17 (c) UTILITY DEVELOPMENT PROTOCOLS FOR HABI-
18 TAT CONSERVATION PLAN.—The Secretary shall adhere
19 to the Utility Development Protocols dated August 1,
20 2006, as amended, within the Red Cliffs National Con-
21 servation Area and/or Incidental Take Area as the suitable
22 mechanism for new and existing utility management with-
23 in the Red Cliffs National Conservation Area.

24 (d) WATER RIGHTS ASSOCIATED WITH ACQUIRED
25 LAND AND INTERESTS FOR RED CLIFFS NATIONAL CON-

1 SERVATION AREA.—The Secretary may not acquire any
2 water rights in the Red Cliffs National Conservation Area
3 or any water rights related to any land or interest in land
4 in the Red Cliffs National Conservation Area.

5 (e) NORTHERN TRANSPORTATION AND UTILITY COR-
6 RIDOR.—The Secretary of the Interior shall grant to the
7 State of Utah or to one or more units of local government
8 a 300 foot wide right-of-way for the northern transpor-
9 tation and utility route pursuant to section 1977(b)(2)(A)
10 of Public Law 111–11 identified on the Red Cliffs Na-
11 tional Conservation Act Management Map dated February
12 23, 2018.

13 **SEC. 6. BEAVER DAM WASH NATIONAL CONSERVATION**
14 **AREA.**

15 (a) Preservation of Existing Utility Corridor—The
16 Secretary shall recognize on federally managed lands a
17 150-foot-wide transportation and utility corridor in each
18 direction from the centerline of old US 91 through the
19 Beaver Dam Wash National Conservation Area.

20 (b) WATER RIGHTS ASSOCIATED WITH ACQUIRED
21 LAND AND INTERESTS FOR BEAVER DAM WASH NA-
22 TIONAL CONSERVATION AREA.—The Secretary may not
23 acquire any water rights in the Beaver Dam Wash Na-
24 tional Conservation Area or any water rights related to

1 any land or interest in land in the Beaver Dam Wash Na-
2 tional Conservation Area.

3 (c) UTILITY DEVELOPMENT PROTOCOLS.—The Sec-
4 retary shall adopt utility development protocols for the
5 construction, operation, maintenance, and replacement of
6 utilities within the Beaver Dam Wash National Conserva-
7 tion Area that are no more restrictive than the Red Cliffs
8 Desert Reserve Utility Development Protocols dated Au-
9 gust 1, 2006, as amended. The Beaver Dam Wash Utility
10 Development Protocols shall comply with the National En-
11 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
12 including the identification and consideration of potential
13 impacts to fish and wildlife resources and habitat.

14 (d) PRESERVATION OF EXISTING UTILITIES AND
15 GRAZING PERMITS.—Access to utilities and grazing per-
16 mits and maintenance of utilities that are located in Bea-
17 ver Dam National Wash National Conservation Area, shall
18 be preserved.

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