

115TH CONGRESS
2D SESSION

S. 3297

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

IN THE SENATE OF THE UNITED STATES

JULY 30, 2018

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Energy and 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 “Washington County,
5 Utah, Public Land Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) BEAVER DAM WASH NATIONAL CONSERVA-
9 TION AREA.—The term “Beaver Dam Wash Na-
10 tional Conservation Area” means the Beaver Dam

1 Wash National Conservation Area established by
 2 section 1975(c) of the Omnibus Public Land Man-
 3 agement Act of 2009 (16 U.S.C. 460xxx(c)).

4 (2) COUNTY.—The term “County” means
 5 Washington County, Utah.

6 (3) DESERT TORTOISE HABITAT CONSERVATION
 7 PLAN.—The term “Desert Tortoise Habitat Con-
 8 servation Plan” means the conservation plan entitled
 9 “Washington County Habitat Conservation Plan”
 10 and dated February 23, 1996.

11 (4) RED CLIFFS NATIONAL CONSERVATION
 12 AREA.—The term “Red Cliffs National Conservation
 13 Area” means the Red Cliffs National Conservation
 14 Area established by section 1974(c) of the Omnibus
 15 Public Land Management Act of 2009 (16 U.S.C.
 16 460www(c)).

17 (5) SECRETARY.—The term “Secretary” means
 18 the Secretary of the Interior.

19 (6) STATE.—The term “State” means the State
 20 of Utah.

21 (7) UNIT OF LOCAL GOVERNMENT.—The term
 22 “unit of local government” means—

23 (A) the County;

24 (B) St. George City, Utah; and

1 (C) any other political subdivision of the
2 State, including—

3 (i) any municipality of the State with-
4 in the geographical boundary of the Coun-
5 ty with authority over local planning and
6 zoning; and

7 (ii) the Washington County Water
8 Conservancy District.

9 (8) UTILITY.—The term “utility” means any
10 existing or new site, right-of-way, permit, grant, in-
11 frastructure, edifice, facility, or any other component
12 that provides a public service (including water, elec-
13 tricity, gas, sewage, or communications service).

14 (9) UTILITY DEVELOPMENT PROTOCOLS.—The
15 term “Utility Development Protocols” means the
16 Red Cliffs Desert Reserve development protocols for
17 projects agreement approved by the County, the Bu-
18 reau of Land Management, and the United States
19 Fish and Wildlife Service for the construction, oper-
20 ation, maintenance, and replacement of utilities
21 within the Red Cliffs Desert Reserve and incidental
22 take areas dated August 1, 2006 (as amended).

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

4 (a) IN GENERAL.—On receipt from the County of a
 5 proposal to amend and renew the Desert Tortoise Habitat
 6 Conservation Plan to include an additional 6,865-acre
 7 desert tortoise reserve zone identified as the Red Cliffs
 8 Desert Reserve—Zone 6 on the map entitled “Red Cliffs
 9 Desert Reserve—Zone 6” and dated February 23, 2018,
 10 the Secretary shall, after coordination with units of local
 11 government and in accordance with this Act and applica-
 12 ble law—

13 (1) approve the amendment; and

14 (2) renew, for a period of 25 years—

15 (A) the Desert Tortoise Habitat Conserva-
 16 tion Plan; and

17 (B) the permit issued under the Endan-
 18 gered Species Act of 1973 (16 U.S.C. 1531 et
 19 seq.) for the Desert Tortoise Habitat Conserva-
 20 tion Plan.

21 (b) MAP AND LEGAL DESCRIPTION.—

22 (1) IN GENERAL.—As soon as practicable after
 23 the date of enactment of this Act, the Secretary
 24 shall submit to the Committee on Natural Resources
 25 of the House of Representatives and the Committee
 26 on Energy and Natural Resources of the Senate an

1 official map and legal description of the reserve zone
2 described in subsection (a).

3 (2) ERRORS.—The map and legal description
4 submitted under paragraph (1) shall have the same
5 force and effect as if included in this Act, except
6 that the Secretary may make minor modifications of
7 any clerical or typographical errors in the map or
8 the legal description.

9 (3) AVAILABILITY.—A copy of the map and the
10 legal description shall be on file and available for
11 public inspection in the appropriate field offices of
12 the Bureau of Land Management.

13 (c) MANAGEMENT OF RED CLIFFS DESERT RE-
14 SERVE—ZONE 6.—Management of the reserve zone de-
15 scribed in subsection (a) shall be facilitated by the County
16 as part of, and in accordance with, the Desert Tortoise
17 Habitat Conservation Plan.

18 (d) MANAGEMENT OF FEDERAL LAND.—The Sec-
19 retary shall manage Federal land within the reserve zone
20 described in subsection (a)—

21 (1) in a manner consistent with the purposes of
22 the Red Cliffs Desert Tortoise Reserve; and

23 (2) to enhance the natural values of the land
24 comprising the reserve zone, including wildlife habi-

1 tat and the recreational, cultural, educational, and
 2 scientific values of the land.

3 (e) AMENDMENT OF ST. GEORGE FIELD OFFICE RE-
 4 SOURCE MANAGEMENT PLAN.—

5 (1) IN GENERAL.—The Secretary, in consulta-
 6 tion with units of local government, shall amend the
 7 St. George Field Office Resource Management Plan
 8 to provide for management of Federal land within
 9 the reserve zone described in subsection (a).

10 (2) AMENDMENT REQUIREMENTS.—The
 11 amendment under paragraph (1) shall—

12 (A) provide for the management of species
 13 in the reserve zone described in subsection (a)
 14 in accordance with the Desert Tortoise Habitat
 15 Conservation Plan;

16 (B) include the utility protocols entitled
 17 “Development Protocols for Projects Within the
 18 Red Cliffs Desert Reserve and/or Incidental
 19 Take Areas” and dated August 1, 2006 (as
 20 amended); and

21 (C) provide for the management of rec-
 22 reational activities in accordance with the
 23 Desert Tortoise Habitat Conservation Plan for
 24 other zones in the Red Cliffs Desert Reserve,
 25 including rock climbing, organized events, hik-

1 ing, biking, horseback riding, and off-highway
2 vehicle use on designated trails and roads.

3 (3) ADOPTION OF AMENDMENT.—The Sec-
4 retary shall adopt the amendment to the St. George
5 Field Office Resource Management Plan within 2
6 years after receipt of the proposal of the County to
7 amend and renew the Desert Tortoise Habitat Con-
8 servation Plan including the reserve zone described
9 in subsection (a).

10 (f) PROVISION OF MITIGATION CREDITS.—The Sec-
11 retary shall manage the reserve zone described in sub-
12 section (a) as a land bank to provide mitigation credits
13 for future disturbances of the Red Cliffs Desert Reserve,
14 including utility disturbances and the construction of the
15 corridor described in section 5(e).

16 (g) MITIGATION CREDITS IN RENEWED TAKE PER-
17 MIT.—In the permit renewed under subsection (a)(2)(B),
18 the County shall receive mitigation credit for—

19 (1) the tortoises protected on non-Federal land
20 in the reserve zone described in subsection (a); and

21 (2) in annual installments, any tortoises suc-
22 cessfully translocated and surviving in the reserve
23 zone described in subsection (a), based on survivor-
24 ship and juvenile recruitment estimates, as deter-

(h) HABITAT CONSERVATION PLAN NOT OTHERWISE
AFFECTED.—Except as provided in this section, nothing
in this Act otherwise limits, alters, modifies, or amends
the Desert Tortoise Habitat Conservation Plan.

7 SEC. 4. ADJUSTMENT TO RESOURCE MANAGEMENT PLANS
8 AND CONSERVATION AREAS.

9 Not later than 1 year after the date of enactment
10 of this Act, the Secretary shall amend each of the resource
11 management plans for the Beaver Dam Wash National
12 Conservation Area and the Red Cliffs National Conserva-
13 tion Area and the St. George Field Office Resource Man-
14 agement Plan—

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

18 (2) in coordination and cooperation with units
19 of local government; and

20 (3) consistent with this Act.

21 SEC. 5. RED CLIFFS NATIONAL CONSERVATION AREA.

22 (a) BOUNDARY; MAP AND LEGAL DESCRIPTION.—

(1) BOUNDARY.—The Red Cliffs National Conservation Area shall consist of the approximately 45,000 acres of public land and non-Federal land in

1 the County depicted on the map entitled the “Red
2 Cliffs National Conservation Area Management
3 Map” and dated February 23, 2018.

4 (2) MAP AND LEGAL DESCRIPTION.—

5 (A) IN GENERAL.—As soon as practicable
6 after the date of enactment of this Act, the Sec-
7 retary shall submit to the Committee on Nat-
8 ural Resources of the House of Representatives
9 and the Committee on Energy and Natural Re-
10 sources of the Senate an official map and legal
11 description of the land described in paragraph
12 (1).

13 (B) ERRORS.—The map and legal descrip-
14 tion submitted under subparagraph (A) shall
15 have the same force and effect as if included in
16 this Act, except that the Secretary may make
17 minor modifications of any clerical or typo-
18 graphical errors in the map or legal description.

19 (C) AVAILABILITY.—A copy of the map
20 and legal description submitted under subpara-
21 graph (A) shall be on file and available for pub-
22 lic inspection in the appropriate field offices of
23 the Bureau of Land Management.

24 (b) PRESERVATION OF EXISTING UTILITY COR-
25 RIDOR.—The Secretary shall recognize on federally man-

1 aged land a 150-foot-wide transportation utility corridor
2 in each direction from the centerline of State Route 18
3 through the Red Cliffs National Conservation Area.

4 (c) UTILITY DEVELOPMENT PROTOCOLS FOR HABITAT CONSERVATION PLAN.—The Secretary shall comply
5 with the Utility Development Protocols with respect to the
6 management of new and existing utilities in the Red Cliffs
7 National Conservation Area.

9 (d) ACQUISITION OF WATER RIGHTS IN THE RED CLIFFS NATIONAL CONSERVATION AREA.—The Secretary
10 may only acquire water rights in the Red Cliffs National
11 Conservation Area—
12

13 (1) if permitted by State law; and

14 (2) to ensure adequate management of the designated areas for campgrounds, visitor facilities, and
15 other recreational uses.
16

17 (e) NORTHERN TRANSPORTATION AND UTILITY CORRIDOR.—The Secretary shall grant to the State or one or
18 more units of local government a 300-foot-wide right-of-way for the northern transportation and utility route required under section 1977(b)(2)(A) of the Omnibus Public
19 Land Management Act of 2009 (Public Law 111–11; 123
20 Stat. 1089), as depicted on the map entitled “Red Cliffs National Conservation Area Management Map” and dated
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24
25 February 23, 2018.

1 **SEC. 6. BEAVER DAM WASH NATIONAL CONSERVATION**
2 **AREA.**

3 (a) **PRESERVATION OF EXISTING UTILITY COR-**
4 **RIDOR.**—The Secretary shall recognize on federally man-
5 aged land a 150-foot-wide transportation and utility cor-
6 ridor in each direction from the centerline of old U.S.
7 Highway No. 91 through the Beaver Dam Wash National
8 Conservation Area.

9 (b) **ACQUISITION OF WATER RIGHTS IN THE BEAVER**
10 **DAM WASH NATIONAL CONSERVATION AREA.**—The Sec-
11 retary may only acquire water rights in the Beaver Dam
12 Wash National Conservation Area—

13 (1) if permitted by State law; and

14 (2) to ensure adequate management of the des-
15 ignated areas for campgrounds, visitor facilities, and
16 other recreational uses.

17 (c) **UTILITY DEVELOPMENT PROTOCOLS.**—

18 (1) **IN GENERAL.**—Subject to paragraph (2),
19 the Secretary shall adopt utility development proto-
20 cols for the construction, operation, maintenance,
21 and replacement of utilities in the Beaver Dam
22 Wash National Conservation Area that are not more
23 restrictive than the Utility Development Protocols.

24 (2) **APPLICABLE LAW.**—The utility development
25 protocols adopted under paragraph (1) shall comply
26 with the National Environmental Policy Act of 1969

1 (42 U.S.C. 4321 et seq.), including the identification
 2 and consideration of potential impacts to fish and
 3 wildlife resources and habitat in the Beaver Dam
 4 Wash National Conservation Area.

5 (d) PRESERVATION OF EXISTING UTILITIES AND
 6 GRAZING PERMITS.—Access to utilities and grazing per-
 7 mits and maintenance of utilities that are located in the
 8 Beaver Dam National Wash National Conservation Area
 9 shall be preserved.

10 **SEC. 7. ACQUISITION OF NON-FEDERAL LAND IN THE BEA-**
 11 **VER DAM WASH NATIONAL CONSERVATION**
 12 **AREA, THE RED CLIFFS NATIONAL CON-**
 13 **SERVATION AREA, AND THE RED CLIFFS**
 14 **DESERT RESERVE—ZONE 6.**

15 On the request of the owner of non-Federal land lo-
 16 cated in the Beaver Dam Wash National Conservation
 17 Area, the Red Cliffs National Conservation Area, or the
 18 reserve zone described in section 3(a), the Secretary shall
 19 seek to acquire through an exchange carried out in accord-
 20 ance with section 309 of division I of the Omnibus Parks
 21 and Public Lands Management Act of 1996 (Public Law
 22 104–333; 110 Stat. 4137) the non-Federal land as soon
 23 as practicable after the date on which the Secretary re-
 24 ceives the request from the owner.

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