

**STATEMENT OF ROBERT ANDERSON  
DEPUTY ASSISTANT DIRECTOR  
BUREAU OF LAND MANAGEMENT  
ON  
H.R. 880, TO PROVIDE FOR THE ACQUISITION OF PROPERTY  
IN WASHINGTON COUNTY, UTAH, FOR IMPLEMENTATION OF  
A DESERT TORTOISE HABITAT CONSERVATION PLAN  
BEFORE THE  
SENATE ENERGY & NATURAL RESOURCES COMMITTEE  
SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS MANAGEMENT**

**May 10, 2001**

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to testify on H.R. 880, to provide for all right, title, and interest in and to certain property in Washington County, Utah, to be vested in the United States.

The Administration supports the land transfer as provided for in H.R. 880, but cannot support some of the factors and procedures, outlined in the bill, to be used in determining compensation. The Administration would be pleased to work with the Committee to revise these provisions so that the Administration could support H.R. 880.

H.R. 880 seeks to accomplish the Federal government's long-awaited and much-desired acquisition of the last major block of private lands within the Washington County Habitat Conservation Plan (HCP) area near St. George, Utah. Specifically at issue is the area known as the Red Cliffs Desert Reserve which provides critical habitat for the threatened desert tortoise. The Bureau of Land Management (BLM) supports the important goal and desire to consummate the final, critical acquisitions in this unique and special place.

H.R. 880 provides for the acquisition by the BLM of all right, title and interest to 1,516 acres of private property within the Red Cliffs Desert Reserve and 34 acres of private property adjacent to the Reserve. The Red Cliffs Desert Reserve was established in 1996 as part of the Desert Tortoise Habitat Conservation Plan (HCP) for Washington County, Utah. The County developed the HCP, with technical advice from the Fish and Wildlife Service, in order to receive a permit to allow for the incidental take (acceptable level of loss) of desert tortoises on about 12,000 acres of privately-held desert tortoise habitat and to mitigate that take by developing the Reserve to ensure the protection and recovery of the threatened Desert Tortoise and other listed species in the area. H.R. 880 provides compensation to the private landowner, Environmental Land Technology, Ltd. (ELT), as of the date of the approval of the HCP, with an initial payment of \$15 million and any remaining judgment backed by the full faith and credit of the United States. Compensation by a judgment action would also include interest, reasonable costs, expenses of holding the property and attorney fees from February 1990 to the date of final payment.

Since 1996, BLM has coordinated the acquisition of nearly 4,400 acres of Desert Tortoise habitat, worth approximately \$35 million, within the Red Cliffs Desert Reserve. These State and private acquisitions have included land exchanges, direct purchases at fair market value and one donation. BLM has expended \$10.5 million in Land and Water Conservation Fund (LWCF) monies to date in completing land purchases and has an additional \$1.5 million available to purchase high value habitat. BLM has completed five separate transactions with ELT, for a total of approximately 383 acres, including both exchanges and LWCF purchases.

In addition, since 1997, the Fish and Wildlife Service has provided approximately \$4.7 million in grants to the State of Utah for land acquisitions associated with the Washington County HCP; and the Service has obligated \$6 million for the same purpose on FY 2001. These grants were provided through the Service's HCP Land Acquisition Program under the Endangered Species Act Section 6 Cooperative Endangered Species Conservation Fund. These transactions demonstrate a long-term record of

successful accomplishments in meeting the goals and objectives of the HCP despite widely varying expectations by many landowners.

The Administration has concerns regarding the language requiring the United States to take title 30 days after enactment. Thirty days is not adequate time to ensure clear title, release of potential liens, and to satisfy property taxes that may be due on the property. We suggest that the legislation be amended to state that the United States take title 60 days after enactment.

In addition, the Administration objects to those provisions of H.R. 880 that deviate from standard land acquisition practices and substitute procedures that provide compensation beyond that received by other landowners in previous acquisitions in this area. The Administration supports the goal of acquiring this property for the federal government, but not in this manner. The Administration stands ready to work with the Committee to amend the bill to effect a legislative taking without these objectionable provisions.

In closing, Mr. Chairman, the acquisition of these lands within the Reserve is a high priority for the BLM and the Fish and Wildlife Service because there is no question this area is critical to the protection and recovery of the Desert Tortoise. The HCP has provided a mechanism to protect listed species and allow for continued economic opportunities in Washington County, Utah. Completion of the land acquisition goals within the Reserve is supported by State and local officials, the Utah Congressional delegation and the Administration. We fully support the concept of transferring title to the land inside the reserve to the BLM in a manner that compensates the landowner in accordance with existing Federal law. We thank Mr. Bennett for his efforts to resolve this difficult issue. This concludes my statement. I would be pleased to answer any questions at this time.