

**Statement of
U.S. Department of the Interior**

**House Committee on Natural Resources
Subcommittee on Federal Lands**

**H.R. 5597, Desert Tortoise Habitat Conservation Plan Expansion Act,
Washington County, Utah**

May 22, 2018

Thank you for inviting the Department of the Interior (Department) to present views on H.R. 5597, the Desert Tortoise Habitat Conservation Plan Expansion Act, Washington County, Utah. The bill would require the Secretary of the Interior (Secretary) to renew the Desert Tortoise Habitat Conservation Plan with an amendment; amend the Resource Management Plans (RMP) for the Bureau of Land Management's (BLM) St. George Field Office and the Beaver Dam Wash and Red Cliffs National Conservation Areas (NCA); and designate transportation and utility corridors through these two NCAs.

The Department recognizes the work of Congressman Stewart and other members of the Utah delegation to address a wide array of resource issues and management concerns in Washington County. Secretary Zinke is committed to restoring full collaboration and coordination with local communities, working with partners to promote multiple use on public lands, and making the Department a better neighbor. The Department supports the bill's goals of providing economic certainty to the communities of Washington County. We would welcome the opportunity to work with the sponsor and the Subcommittee on a few clarifying amendments, timeframes, and to ensure consistency of implementation with other laws.

Background

Washington County, Utah, covers nearly 2,500 square miles, and is among the fastest growing counties in the country, with a population increase of 52 percent between 2000 and 2010. Population growth has direct impacts on public lands within the county and poses management challenges for a variety of resources. For over twenty years, the BLM has worked closely with Washington County, the State of Utah, area Tribes, and Federal agency partners to manage sensitive resources in a way that prevents conflicts and facilitates continued growth. As part of this effort, Washington County and the U.S. Fish and Wildlife Service (USFWS) undertook a public process, including meetings between private landowners and State and Federal land managers, to develop a Habitat Conservation Plan (HCP) that allowed for continued growth while ensuring protection of the threatened Mojave desert tortoise. The HCP Implementation Agreement, signed by Washington County, the State of Utah, the City of Ivins, the BLM, and the USFWS in February 1996, established the Red Cliffs Desert Reserve (Reserve), a multi-jurisdictional wildlife reserve of 61,022 acres largely composed of Federal and state lands.

The HCP expired in 2016 and Washington County has requested an extension of the permit with an amendment to facilitate the Northern Corridor Highway route through the Reserve. The

County is in ongoing discussions with the USFWS to renew the HCP. This includes consideration of the proposed highway construction.

Omnibus Public Land Management Act of 2009

In early 2009, Congress passed H.R. 146, the Omnibus Public Land Management Act (Public Law 111-11, hereafter referred to as “OPLMA” or “the Act”), which included major provisions affecting future land management in Washington County, Utah. The Act established the Beaver Dam Wash and Red Cliffs NCAs to be managed by the BLM, and designated new wilderness areas to be managed by the BLM, U.S. Forest Service, and National Park Service.

The Congressionally-designated boundary of the Red Cliffs NCA encompasses approximately 44,725 acres of public land managed by the BLM, including about 70 percent of the Reserve, with additional state and private lands. The Act also states that the purposes of the Red Cliffs NCA are “to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources.”

OPLMA also directed the BLM to identify one or more alternatives for a “northern transportation route in the County” as part of a comprehensive travel management plan and in consultation with Washington County, the City of St. George, and other local governments.

St. George Resource Management Plans

Based on the Congressional direction in OPLMA, the BLM prepared RMPs for the Beaver Dam Wash and Red Cliffs NCAs. As required by the Act, the BLM also prepared an amendment to the St. George Field Office RMP to identify and manage priority biological conservation areas and to facilitate the development of a comprehensive travel management plan. The BLM signed Records of Decision completing this planning process on December 21, 2016.

H.R. 5597

H.R. 5597 requires the Secretary to amend and renew the Desert Tortoise Habitat Conservation Plan, and to amend the RMPs for the St. George Field Office and the Beaver Dam Wash and Red Cliffs NCAs. In addition, the bill requires the Secretary to grant transportation and utility corridors through both NCAs, prevents the Secretary from acquiring water rights, and includes a number of other miscellaneous provisions.

Desert Tortoise Habitat Conservation Plan Amendment & Renewal (Section 3)

Section 3 of H.R. 5597 requires the Secretary (after receipt of a proposal from Washington County) to renew the HCP and issue associated permits for a period of 25 years and accept an amendment to the Reserve, which would expand it by approximately 6,900 acres (“Zone 6”) as depicted on the legislative map, and allow for construction of a highway through the Reserve. Under the bill, Washington County would manage Zone 6 in conformity with the HCP, and the Secretary would manage the Federal lands in Zone 6. Concurrently with the HCP amendment and renewal, the Secretary would be required to amend, within one year, the St. George Field Office Resource Management Plan to manage Federal lands within Zone 6, provide for the management of species consistent with the HCP, and include certain Utility Development Protocols.

USFWS has been working with Washington County, BLM, and other partners to explore options to meet the transportation needs of the County and address the requirements of the Endangered Species Act for renewal of the HCP. A primary consideration is how to meet the original intent of OPLMA while minimizing impacts to desert tortoise. County, state, and federal biologists are currently analyzing potential measures to reduce the impact of the highway such as bridging and culverts. Washington County has proposed to offset remaining impacts by adding Zone 6 to the Reserve, of which the BLM owns about 3,500 acres and the State owns about 3,200 acres. This area is separated from the Reserve boundary by three miles, but has tortoise densities comparable to the area that would be affected by the proposed highway.

The Department will work cooperatively to address potential conservation strategies raised in Section 3 of H.R. 5597, as well as issues and impacts associated with the proposed highway construction through the ongoing plan renewal process.

Section 3 states that Washington County would manage the proposed Zone 6 area, which is currently composed of lands managed by the State of Utah, private property, and BLM-managed public lands. The Department would like to work with the sponsor and Subcommittee to clarify the intent of this provision. In addition, we would like to work with the sponsor to clarify the timeline for the HCP. The Department would like to work with the bill's sponsor and the Committee to clarify the intent and scope of certain language in section 3 of the bill as related to application of mitigation credits. Finally, the Department would welcome the opportunity to develop a legislative map for this section that meets the sponsor's needs.

Resource Management Plan Amendments (Section 4)

Section 4 of H.R. 5597 requires the BLM, within one year, to amend the RMPs for the Red Cliffs and Beaver Dam Wash NCAs and to amend the St. George Field Office RMP Amendment. This section further requires that these RMP amendments be: 1) in accordance with section 202(c)(9) of the Federal Land Policy and Management Act of 1976 (FLPMA); 2) in coordination and cooperation with Washington County, Utah, St. George City, other political subdivisions within the County, and the Washington County Water Conservancy District; and 3) consistent with the bill's other provisions and the HCP.

The Department recommends minor technical modifications to this section to ensure the language is consistent with the sponsor's intent regarding the time frame for completing the planning process. The Department recommends that the RMPs be completed at the same time as the HCP to enhance coordination efforts. We look forward to working with State, Tribal, and local government partners on this important planning process.

Red Cliffs & Beaver Dam Wash National Conservation Areas (Sections 5 & 6)

Section 5 of the bill designates a 150-foot wide transportation and utility corridor in each direction from the centerline of State Route 18 through the Red Cliffs NCA; prohibits the Secretary from acquiring any water rights within or related to any land or interest in land within the NCA; and requires the Secretary to grant to the State of Utah or to one or more units of local government a 300-foot wide right-of-way for the northern transportation and utility route as referenced in OPLMA and as identified on the legislative map. Section 5 also directs the

Secretary to adhere to certain Utility Development Protocols for new and existing utility management within the NCA.

Section 6 of H.R. 5597 designates a 150-foot wide transportation and utility corridor in each direction from the centerline of old U.S. 91 through the Beaver Dam Wash NCA; prohibits the Secretary from acquiring any water rights within or related to any land or interest land within the NCA; and states that access to utilities and grazing permits and maintenance of utilities located within the NCA shall be preserved. This section also directs the Secretary to adopt Utility Development Protocols for the construction, operation, maintenance, and replacement of utilities within the NCA that are no more restrictive than those developed for the Red Cliffs NCA. These protocols must comply with the National Environmental Policy Act, including the identification and consideration of potential impacts to fish and wildlife resources and habitat.

The Department is committed to being a good neighbor and to restoring full collaboration with local communities. As such, we support this section's goals of providing economic certainty to and meeting the infrastructure needs of Washington County. The Department notes that the legislative map referenced in section 5 does not reflect current land status data. We would welcome the opportunity to develop such a map for this section.

Sec. 5(d) and Sec. 6(b) would prohibit the Secretary from acquiring water rights or water rights related to any land or interest in land in the NCAs. As consistent with Federal and State law, the ability for the Federal Government to acquire water rights from willing sellers is important to ensure adequate management of the designated areas – both the lands within the NCAs and the public lands included in the Reserve. If acquired, water rights would be used for campgrounds, visitor facilities, recreation resources, livestock grazing, and administrative uses that are in conformance with Utah water law.

The Department notes that the current RMP for the Beaver Dam Wash NCA authorizes a 150-foot wide transportation and utility corridor along old U.S. 91 through the NCA, and livestock grazing consistent with section 1975(e)(4) of OPLMA in a manner that conserves, protects, and enhances the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the NCA.

Conclusion

The Department is committed to working with State, Tribal, and local partners to manage public lands in Washington County. We support the goal of addressing the infrastructure needs of growing rural communities. As such, the Department would welcome the opportunity to work with the sponsor and the Subcommittee on a few modifications to the bill as it moves forward through the legislative process. Thank you for the opportunity to provide this statement.