

## Union Calendar No. 693

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5597

**[Report No. 115–896]**

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

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### IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2018

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

AUGUST 10, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 24, 2018]

# **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 Habitat*  
5 *Conservation Plan Expansion Act, Washington County,*  
6 *Utah”.*

7 **SEC. 2. DEFINITIONS.**

8 *In this Act:*

9 (1) *BEAVER DAM WASH NATIONAL CONSERVATION*  
10 *AREA.—The term “Beaver Dam Wash National Con-*  
11 *servation Area” means the Beaver Dam Wash Na-*  
12 *tional Conservation Area as established by the Omni-*  
13 *bus Public Lands Management Act of 2009 (Public*  
14 *Law 111–11).*

15 (2) *DESERT TORTOISE HABITAT CONSERVATION*  
16 *PLAN.—The term “Desert Tortoise Habitat Conserva-*  
17 *tion Plan, Washington County, Utah” means the*  
18 *Washington County Habitat Conservation Plan*  
19 *signed February 23, 1996, by the United States Fish*  
20 *and Wildlife Service, Bureau of Land Management,*  
21 *the State of Utah, Washington County, Utah, and*  
22 *Ivins City, Utah.*

23 (3) *RED CLIFFS NATIONAL CONSERVATION*  
24 *AREA.—The term “Red Cliffs National Conservation*  
25 *Area” means the Red Cliffs National Conservation*

1 *Area as established by the Omnibus Public Lands*  
2 *Management Act of 2009 (Public Law 111–11).*

3 (4) *SECRETARY.*—*The term “Secretary” means*  
4 *the Secretary of the Interior.*

5 (5) *UNIT OF LOCAL GOVERNMENT.*—*The term*  
6 *“unit of local government” means Washington Coun-*  
7 *ty, St. George City, and other political subdivisions*  
8 *of the State of Utah, including municipalities of the*  
9 *State of Utah within the geographical boundaries of*  
10 *Washington County with authority over local plan-*  
11 *ning and zoning and the Washington County Water*  
12 *Conservancy District.*

13 (6) *UTILITY.*—*The term “utility” means existing*  
14 *or new sites, rights-of-way, permits, grants, infra-*  
15 *structure, edifices, facilities, and any other compo-*  
16 *nents that provide public services including, but not*  
17 *limited to, water, electricity, gas, sewage, and com-*  
18 *munications.*

19 (7) *UTILITY DEVELOPMENT PROTOCOLS.*—*The*  
20 *term “utility development protocols” means the Red*  
21 *Cliffs Desert Reserve Development Protocols for*  
22 *Projects agreement approved by Washington County,*  
23 *Bureau of Land Management, and United States Fish*  
24 *and Wildlife Service for the construction, operation,*  
25 *maintenance, and replacement of utilities within the*

1       *Red Cliffs Desert Reserve and/or Incidental Take*  
2       *Areas dated August 1, 2006, as amended.*

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

6       (a) *IN GENERAL.*—*Upon receipt from Washington*  
7       *County, Utah, of a proposal to amend and renew the Desert*  
8       *Tortoise Habitat Conservation Plan, Washington County,*  
9       *Utah that includes an additional 6,865 acre desert tortoise*  
10       *reserve zone named the Red Cliffs Desert Reserve, Zone 6,*  
11       *as generally depicted on a map entitled “Red Cliffs Desert*  
12       *Reserve, Zone 6” and dated February 23, 2018, the Sec-*  
13       *retary shall, after coordination with units of local govern-*  
14       *ment and in accordance with the provisions of this Act and*  
15       *with applicable laws, approve such amendment and renew*  
16       *such plan and the permit under the Endangered Species*  
17       *Act of 1973 (16 U.S.C. 1531 et seq.) that was issued for*  
18       *such plan, for a period of 25 years.*

19       (b) *MAP AND LEGAL DESCRIPTION.*—

20               (1) *As soon as practical after the date of enact-*  
21       *ment of this Act, the Secretary shall submit to the*  
22       *Committee on Natural Resources of the House of Rep-*  
23       *resentatives and the Committee on Energy and Nat-*  
24       *ural Resources of the Senate an official map and*

1       *legal description of the parcel described in subsection*  
2       *(a).*

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

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

13       (c) *MANAGEMENT OF RED CLIFFS DESERT RESERVE,*  
14 *ZONE 6.—Management of the Red Cliffs Desert Reserve,*  
15 *Zone 6 shall be facilitated by Washington County as part*  
16 *of and in conformity with the provisions of the Desert Tor-*  
17 *toise Habitat Conservation Plan, Washington County,*  
18 *Utah.*

19       (d) *MANAGEMENT OF FEDERAL LANDS.—*

20             (1) *IN GENERAL.—The Secretary shall manage*  
21       *Federal lands within Zone 6 of the Desert Tortoise*  
22       *Habitat Conservation Plan, Washington County,*  
23       *Utah, in a manner consistent with the purposes of the*  
24       *Red Cliffs Desert Tortoise Reserve and to enhance the*  
25       *natural values of such lands, including wildlife habi-*

1        *tat, and recreational, cultural, educational, and sci-*  
2        *entific values of such lands.*

3            (2) *ACQUISITION OF NON-FEDERAL LAND.—The*  
4        *Secretary, at the request of the owner of the non-Fed-*  
5        *eral lands located in the Beaver Dam Wash National*  
6        *Conservation Area, the Red Cliffs National Conserva-*  
7        *tion Area, and the Red Cliffs Desert Reserve, Zone 6,*  
8        *shall seek to acquire through exchange under the Om-*  
9        *nibus Parks and Public Lands Management Act of*  
10       *1996 (Public Law 104–333; 110 Stat. 4137 et seq.) or*  
11       *by purchase or donation, those non-Federal lands as*  
12       *soon as practicable.*

13           (e) *AMENDMENT OF ST. GEORGE FIELD OFFICE RE-*  
14       *SOURCE MANAGEMENT PLAN.—*

15           (1) *IN GENERAL.—The Secretary, in consultation*  
16       *with units of local government including Washington*  
17       *County, shall amend the St. George Field Office Re-*  
18       *source Management Plan to provide for management*  
19       *of Federal lands within the Red Cliffs Desert Reserve,*  
20       *Zone 6 area.*

21           (2) *AMENDMENT REQUIREMENTS.—The amend-*  
22       *ment shall include—*

23           (A) *management of species in accordance*  
24       *with the Desert Tortoise Habitat Conservation*  
25       *Plan, Washington County, Utah;*

1           (B) the utility development protocols as out-  
2 lined for the Red Cliffs Desert Reserve and/or In-  
3 cidental Take Areas dated August 1, 2006, as  
4 amended; and

5           (C) management of recreational activities  
6 in conformance with the Desert Tortoise Habitat  
7 Conservation Plan, Washington County, Utah  
8 for other zones in the Red Cliffs Desert Reserve  
9 including rock climbing, organized events, hik-  
10 ing, biking, horseback riding, and off-highway  
11 vehicle use on designated trails and roads.

12       (f) *PROVISION OF MITIGATION CREDITS.*—The Sec-  
13 retary shall manage the Red Cliffs Desert Reserve, Zone 6  
14 as a land bank to provide mitigation credits for future dis-  
15 turbances of the Red Cliffs Desert Reserve, including utility  
16 disturbances and the construction of the Northern Trans-  
17 portation Corridor identified in section 5.

18       (g) *MITIGATION CREDITS IN RENEWED TAKE PER-*  
19 *MIT.*—In the permit extended under subsection (a), the Sec-  
20 retary shall credit Washington County as follows:

21           (1) Washington County shall receive mitigation  
22 credit for the tortoises protected on non-Federal lands  
23 in Zone 6; and

24           (2) Washington County shall receive mitigation  
25 credit, in yearly installments, for those tortoises suc-



1 *cessfully translocated and surviving, based on survi-*  
2 *vorship and juvenile recruitment estimates as deter-*  
3 *mined by the United States Fish and Wildlife Serv-*  
4 *ice.*

5 *(h) ADOPTION OF AMENDMENT.—The Secretary shall*  
6 *adopt the amendment to the St. George Field Office Re-*  
7 *source Management Plan within two years after receipt of*  
8 *Washington County’s proposal to amend and renew the*  
9 *Habitat Conservation Plan including the Red Cliffs Desert*  
10 *Reserve, Zone 6.*

11 *(i) HABITAT CONSERVATION PLAN NOT OTHERWISE*  
12 *AFFECTED.—Except as provided in this section, nothing in*  
13 *this Act otherwise limits, alters, modifies, or amends the*  
14 *Desert Tortoise Habitat Conservation Plan, Washington*  
15 *County, Utah.*

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

18 *Not later than one year after the date of enactment*  
19 *of this Act, the Secretary shall amend the resource manage-*  
20 *ment plans for the Beaver Dam Wash National Conserva-*  
21 *tion Area, the Red Cliffs National Conservation Area, and*  
22 *the St. George Field Office Resource Management Plan—*

23 *(1) in accordance with section 202(c)(9) of the*  
24 *Federal Land Policy and Management Act of 1976*  
25 *(43 U.S.C. 1712(c)(9));*

1           (2) *in coordination and cooperation with units*  
2 *of local government in the State of Utah including*  
3 *Washington County, St. George City, and other polit-*  
4 *ical subdivisions, including municipalities of the*  
5 *State of Utah within the geographical boundaries of*  
6 *Washington County with authority over local plan-*  
7 *ning and zoning, and the Washington County Water*  
8 *Conservancy District; and*

9           (3) *consistent with the provisions of this Act.*

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

11       (a) *BOUNDARIES AND PUBLIC ACCESS.—*

12           (1) *IN GENERAL.—The Red Cliffs National Con-*  
13 *servation Area shall consist of approximately 45,000*  
14 *acres of public and non-Federal land in Washington*  
15 *County, Utah, identified on the Red Cliffs National*  
16 *Conservation Area Management Map dated February*  
17 *23, 2018.*

18           (2) *MAP AND LEGAL DESCRIPTION.—*

19           (A) *As soon as practical after the date of*  
20 *enactment of this Act, the Secretary shall submit*  
21 *to the Committee on Natural Resources of the*  
22 *House of Representatives and the Committee on*  
23 *Energy and Natural Resources of the Senate an*  
24 *official map and legal description of the parcel*  
25 *described in paragraph (1).*

1           (B) *The map and legal description sub-*  
2           *mitted under this paragraph shall have the same*  
3           *force and effect as if included in this Act, except*  
4           *that the Secretary may make minor modifica-*  
5           *tions of any clerical or typographical errors in*  
6           *the map or the legal description.*

7           (C) *A copy of the map and the legal de-*  
8           *scription shall be on file and available for public*  
9           *inspection in the appropriate field offices of the*  
10          *Bureau of Land Management.*

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

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

23          (d) *WATER RIGHTS ASSOCIATED WITH ACQUIRED*  
24          *LAND AND INTERESTS FOR RED CLIFFS NATIONAL CON-*  
25          *SERVATION AREA.—The Secretary may only acquire water*

1 *rights in the Red Cliffs National Conservation Area if per-*  
2 *mitted by State law, to ensure adequate management of the*  
3 *designated areas for campgrounds, visitor facilities, and for*  
4 *other recreational uses.*

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 transportation*  
9 *and utility route pursuant to section 1977(b)(2)(A) of Pub-*  
10 *lic Law 111–11 identified on the Red Cliffs National Con-*  
11 *serva-tion Area Management Map dated February 23, 2018.*

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

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

19 *(b) WATER RIGHTS ASSOCIATED WITH ACQUIRED*  
20 *LAND AND INTERESTS FOR BEAVER DAM WASH NATIONAL*  
21 *CONSERVATION AREA.—The Secretary may only acquire*  
22 *water rights in the Beaver Dam Wash National Conserva-*  
23 *tion Area if permitted by State law, to ensure adequate*  
24 *management of the designated areas for campgrounds, vis-*  
25 *itor facilities, and for other recreational uses.*

1           (c) *UTILITY DEVELOPMENT PROTOCOLS.*—*The Sec-*  
2 *retary shall adopt utility development protocols for the con-*  
3 *struction, operation, maintenance, and replacement of utili-*  
4 *ties within the Beaver Dam Wash National Conservation*  
5 *Area that are no more restrictive than the Red Cliffs Desert*  
6 *Reserve Utility Development Protocols dated August 1,*  
7 *2006, as amended. The Beaver Dam Wash Utility Develop-*  
8 *ment Protocols shall comply with the National Environ-*  
9 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), includ-*  
10 *ing the identification and consideration of potential im-*  
11 *pacts to fish and wildlife resources and habitat.*

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

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115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5597**

[Report No. 115-896]

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## **A BILL**

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

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AUGUST 10, 2018

Reported with an amendment, committed to the Com-  
mittee of the Whole House on the State of the Union,  
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