

116TH CONGRESS
2D SESSION

H. R. 7815

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

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2020

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, and for other purposes.

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, 16 U.S.C. 460xxx(c)).

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

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

15 (4) RED CLIFFS NATIONAL CONSERVATION
16 AREA.—The term “Red Cliffs National Conservation
17 Area” means the Red Cliffs National Conservation
18 Area as established by the Omnibus Public Lands
19 Management Act of 2009 (Public Law 111–11; 123
20 Stat. 1089).

21 (5) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior.

23 (6) UNIT OF LOCAL GOVERNMENT.—The term
24 “unit of local government”—

1 (A) means Washington County, St. George
2 City, and other political subdivisions of the
3 State of Utah, including municipalities of the
4 State of Utah within the geographical bound-
5 aries of Washington County with authority over
6 local planning and zoning and the Washington
7 County Water Conservancy District; and

8 (B) includes the Shivwits Band of Paiutes,
9 a federally recognized Indian Tribe located
10 within Washington County.

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

17 (8) UTILITY DEVELOPMENT PROTOCOLS.—The
18 term “utility development protocols” means the Red
19 Cliffs Desert Reserve Development Protocols for
20 Projects agreement approved by Washington County,
21 Bureau of Land Management, and United States
22 Fish and Wildlife Service for the construction, oper-
23 ation, maintenance, and replacement of utilities
24 within the Red Cliffs Desert Reserve and/or Inci-

1 dental Take Areas dated August 1, 2006, as amend-
2 ed.

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 the County of
7 a proposal to amend and renew the Desert Tortoise Habi-
8 tat Conservation Plan, Washington County, Utah, that in-
9 cludes an approximately 6,865 acre desert tortoise reserve
10 zone named the Red Cliffs Desert Reserve, Zone 6, gen-
11 erally depicted on the map entitled “Red Cliffs Desert Re-
12 serve, 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 this Act and with applicable
15 laws, approve such amendment and renew such plan and
16 the permit under the Endangered Species Act of 1973 (16
17 U.S.C. 1531 et seq.) that was issued for such plan, for
18 a period of 25 years.

19 (b) MAP AND LEGAL DESCRIPTION.—

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

1 official map and legal description of the parcel de-
2 scribed in subsection (a).

3 (2) ERRORS.—The map and legal description
4 submitted under this subsection 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 Red Cliffs Desert
15 Reserve, Zone 6, shall be facilitated by the County as part
16 of and in conformity with the provisions of the Desert Tor-
17 toise Habitat Conservation Plan.

18 (d) MANAGEMENT OF FEDERAL LANDS.—

19 (1) IN GENERAL.—The Secretary shall manage
20 Federal lands within the Red Cliffs Desert Reserve,
21 Zone 6, of the Desert Tortoise Habitat Conservation
22 Plan, in a manner consistent with the purposes of
23 the Red Cliffs Desert Tortoise Reserve, in consulta-
24 tion with the Shivwits Band of Paiutes and to en-
25 hance the natural values of such lands, including

1 wildlife habitat, and recreational, cultural, edu-
2 cational, and scientific values of such lands.

3 (2) ACQUISITION OF NON-FEDERAL LAND.—

4 The Secretary, at the request of the owner of the
5 non-Federal lands located in the Beaver Dam Wash
6 National Conservation Area, the Red Cliffs National
7 Conservation Area, and the Red Cliffs Desert Re-
8 serve, Zone 6, shall seek to acquire through ex-
9 change under the Omnibus Parks and Public Lands
10 Management Act of 1996 (Public Law 104–333;
11 110 Stat. 4137 et seq.) or by purchase or donation,
12 those non-Federal lands as soon as practicable.

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

15 (1) IN GENERAL.—The Secretary, in consulta-
16 tion with units of local government including the
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 Re-
20 serve, Zone 6.

21 (2) AMENDMENT REQUIREMENTS.—The
22 amendment under paragraph (1) shall include—

23 (A) management of species in accordance
24 with the Desert Tortoise Habitat Conservation
25 Plan;

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

5 (C) management of recreational activities
6 in conformance with the Desert Tortoise Habi-
7 tat Conservation Plan for other zones in the
8 Red Cliffs Desert Reserve, including rock climb-
9 ing, organized events, hiking, biking, horseback
10 riding, and off-highway vehicle use on des-
11 ignated trails and roads.

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

18 (g) MITIGATION CREDITS IN RENEWED TAKE PER-
19 MIT.—In the permit extended under subsection (a), the
20 Secretary shall credit Washington County mitigation cred-
21 it—

22 (1) for the tortoises protected on non-Federal
23 lands in the Red Cliffs Desert Reserve, Zone 6; and

24 (2) in yearly installments, for those tortoises
25 successfully translocated and surviving, based on

1 survivorship and juvenile recruitment estimates as
2 determined by the United States Fish and Wildlife
3 Service.

4 (h) ADOPTION OF AMENDMENT.—The Secretary
5 shall adopt the amendment to the St. George Field Office
6 Resource Management Plan not later than two years after
7 receipt of Washington County’s proposal to amend and
8 renew the Habitat Conservation Plan including the Red
9 Cliffs Desert Reserve, Zone 6.

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

14 **SEC. 4. SHIWITS BANDS OF PAIUTE INDIANS.**

15 In order to allow the Secretary to carry out manage-
16 ment activities in direct consultation with the Shivwits
17 Band of Paiutes, this Act clarifies the Paiute Indian Tribe
18 of Utah Restoration Act (Public Law 96–227) to confirm
19 that the Shivwits Bands of Paiute Indians is a separate
20 and independent federally recognized Indian Tribe, as rec-
21 ognized by the Paiute Indian Tribe of Utah Restoration
22 Act. The Shivwits Band of Paiute Indians is not required
23 to participate in joint, inter-tribal governance with the
24 Cedar Band, Indian Peaks, Kanosh or Koosharem Bands

1 of Paiute Indians in Utah, and is not subject to the Con-
2 stitution of the Paiute Indian Tribe of Utah.

3 **SEC. 5. ADJUSTMENT TO RESOURCE MANAGEMENT PLANS**
4 **AND CONSERVATION AREAS.**

5 Not later than 1 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 St. George Field Office Resource Manage-
10 ment 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 the County, St. George City, and other political sub-
17 divisions, including municipalities of the State of
18 Utah within the geographical boundaries of Wash-
19 ington County with authority over local planning
20 and zoning, and the Washington County Water Con-
21 servancy District; and

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

23 **SEC. 6. 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) MAP AND LEGAL DESCRIPTION.—

8 (A) IN GENERAL.—As soon as practical
9 after the date of enactment of this Act, the Sec-
10 retary shall submit to the Committee on Nat-
11 ural Resources of the House of Representatives
12 and the Committee on Energy and Natural Re-
13 sources of the Senate an official map and legal
14 description of the parcel described in paragraph
15 (1).

16 (B) FORCE AND EFFECT.—The map and
17 legal description submitted under this para-
18 graph shall have the same force and effect as
19 if included in this Act, except that the Sec-
20 retary may make minor modifications of any
21 clerical or typographical errors in the map or
22 the legal description.

23 (C) PUBLIC AVAILABILITY.—A copy of the
24 map and the legal description shall be on file
25 and available for public inspection in the appro-

1 appropriate field offices of the Bureau of Land Man-
2 agement.

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

8 (c) UTILITY DEVELOPMENT PROTOCOLS FOR HABITAT
9 CONSERVATION PLAN.—The Secretary shall adhere
10 to the Utility Development Protocols dated August 1,
11 2006, as amended, within the Red Cliffs National Con-
12 servation Area and/or Incidental Take Area as the suitable
13 mechanism for new and existing utility management with-
14 in the Red Cliffs National Conservation Area.

15 (d) WATER RIGHTS ASSOCIATED WITH ACQUIRED
16 LAND AND INTERESTS FOR RED CLIFFS NATIONAL CON-
17 SERVATION AREA.—The Secretary may only acquire water
18 rights in the Red Cliffs National Conservation Area if al-
19 lowed by State law, to ensure adequate management of
20 the designated areas for campgrounds, visitor facilities,
21 and for other recreational uses.

22 (e) NORTHERN TRANSPORTATION AND UTILITY COR-
23 RIDOR.—The Secretary of the Interior shall grant to the
24 State of Utah or to one or more units of local government
25 a 300-foot-wide right-of-way for the northern transpor-

1 tation and utility route pursuant to section 1977(b)(2)(A)
2 of the Omnibus Public Land Management Act of 2009
3 (Public Law 111–11; 123 Stat. 1089) identified on the
4 Red Cliffs National Conservation Area Management Map
5 dated February 23, 2018.

6 **SEC. 7. BEAVER DAM WASH NATIONAL CONSERVATION**
7 **AREA.**

8 (a) **PRESERVATION OF EXISTING UTILITY COR-**
9 **RIDOR.**—The Secretary shall recognize on federally man-
10 aged lands a 150-foot-wide transportation and utility cor-
11 ridor in each direction from the centerline of old US 91
12 through the Beaver Dam Wash National Conservation
13 Area.

14 (b) **WATER RIGHTS ASSOCIATED WITH ACQUIRED**
15 **LAND AND INTERESTS FOR BEAVER DAM WASH NA-**
16 **TIONAL CONSERVATION AREA.**—The Secretary may only
17 acquire water rights in the Beaver Dam Wash National
18 Conservation Area if allowed by State law, to ensure ade-
19 quate management of the designated areas for camp-
20 grounds, visitor facilities, and for other recreational uses.

21 (c) **UTILITY DEVELOPMENT PROTOCOLS.**—The Sec-
22 retary shall adopt utility development protocols for the
23 construction, operation, maintenance, and replacement of
24 utilities within the Beaver Dam Wash National Conserva-
25 tion Area that are no more restrictive than the Red Cliffs

1 Desert Reserve Utility Development Protocols dated Au-
2 gust 1, 2006, as amended. The Beaver Dam Wash Utility
3 Development Protocols shall comply with the National En-
4 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
5 including the identification and consideration of potential
6 impacts to fish and wildlife resources and habitat.

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

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