

AMENDMENT TO WASHINGTON COUNTY, UTAH HABITAT CONSERVATION
PLAN EXECUTED IN CONJUNCTION WITH THE ISSUANCE OF THE FIRST
EXTENSION OF THE COUNTY’S MOHAVE DESERT TORTOISE INCIDENTAL TAKE
PERMIT

In conjunction with the issuance of the first extension of the Mohave Desert Tortoise Incidental Take Permit issued to Washington County on [date], the Parties to the Washington County, Utah Habitat Conservation Plan Implementation Agreement dated February 23, 1996 (“Implementation Agreement”) desire to amend the Habitat Conservation Plan dated December 1995 (“HCP”) and Implementation Agreement as follows.

RECITALS

1. The purpose of the HCP is to assist in the recovery of the overall Mohave Desert tortoise population and provide for the growing human population in Washington County (*see* HCP at Section 1.5).
2. The County and State need a new transportation corridor that will cross Zone 3 of the Red Cliffs Desert Reserve—a reserve created by the HCP in 1996.
3. Recent studies (*see* Attachment 1, Washington County & UDWR Survey Report: Tortoise abundance on SITLA & BLM lands west of Bloomington & St. George, September 2017) have identified a significant desert tortoise population directly west and northwest of the Bloomington community, and this area (identified by Attachment 2 (Zone 6 Map) and referred to as “Zone 6”) merits inclusion in the Red Cliffs Desert Reserve.
4. Utah School and Institutional Trust Lands Administration (“SITLA”) owns property inside Zone 6 and is willing to include its Zone 6 land in the Red Cliffs Desert Reserve (*see* Attachment 3, [Agreement Between Utah School and Institutional Trust Lands and Washington County Regarding the Inclusion of Land in the Red Cliffs Desert Reserve]).
5. The addition of Zone 6 and the construction of a Washington Parkway as described below will provide a net benefit to the recovery of the Mohave Desert tortoise because, while the Washington Parkway will permanently disturb 147 acres of desert tortoise habitat and will place a permeable barrier that will separate 1,382 acres from the rest of Zone 3, the addition of 6,865 acres of desert tortoise habitat to the Reserve, including 3,218 acres of SITLA land, will provide a net positive impact to the tortoise’s recovery.
6. [Continue recitals with reasons for other changes or updates to the HCP and Implementation Agreement.]

TERMS

NOW THEREFORE, the Parties agree to amend the HCP and Implementation Agreement as follows. (Additions are showed as underlined, deletions are shows as ~~stricken~~.)

I. Amendments to Habitat Conservation Plan

A. Addition of Zone 6

Section 3.3.6 Zone 6 West and Northwest of Bloomington

3.3.6.1 Description

Zone 6 covers the area to the West and Northwest of Bloomington more fully described in Table 3.7 which presents detailed land ownership information for Zone 6 and Figure 3.8 which presents zone boundaries and general ownership. This area entails approximately 6,865 acres, of which 3,527 acres are managed by the BLM (with 2,355 acres managed as a portion of the Red Bluff Area of Critical Environmental Concern (“ACEC”)), and 3,218 acres are owned by SITLA, 78 acres are owned by Utah Department of Transportation (UDOT), 40 acres are privately owned by Bridgeview LLC, and 2 acres are owned by St. George City.

3.3.6.2 Management

Management of Zone 6 will be similar to the management of Zones 2, 3 and 5 of the Reserve. Zone 6 will be managed by the Washington County HCP Department and the BLM St. George Field Office for the preservation and enhancement of the Mojave desert tortoise and other federally listed and candidate species.

Mitigation measures applicable to this Zone include land acquisition, maintaining existing fencing and adding new fencing where needed, law enforcement, and environmental education. Additionally, grazing permits may be acquired and retired on a willing buyer–willing seller basis if it is determined that doing so would benefit the purposes of the HCP.

The following management principles are recommended for Zone 6.

- The BLM seeks mineral withdrawal for federal minerals.
- New utility and water development is allowed consistent with the HCP Utility Development Protocols, attached as Appendix A to the HCP, as amended.
- Maintenance of existing utilities (including access roads), water resources, and road corridors is allowed consistent with the HCP Utility Development Protocols.
- Vehicles are restricted to designated roads.

- Expansion of the Bear-Claw Poppy Trailhead and parking area as well as any other trailhead improvements are subject to appropriate approval.
- Creation of a designated camping area at Moe’s Valley, adjacent to the Zen Trail, or other high use areas will be subject to appropriate approval.
- Firefighting is allowed.
- Research that will not negatively influence the desert tortoise or other listed species is allowed.
- Non-consumptive recreation (e.g. hiking, mountain biking, equestrian, rock climbing and OHV travel all on existing, designated trails) is allowed.
- Hunting should be restricted to big game or upland birds during official seasons.
- Desert tortoise translocation is only permitted if authorized under approved translocation projects or recovery plans.

Table 3.7. Parcel Information for Zone 6 of the Reserve

Township	Range	Section	Parcel #	Owner	Acres
42 S	16 W	32	7495	Bridgeview LLC	40
42 S	16 W	32	7495-A-STL	UDOT	38
43 S	16 W	10	7496-A-STL	UDOT	40
42 S	16 W	10	SG-6-3-10-22	St. George City	1
43 S	16 W	3	SG-6-2-3-221	St. George City	1
42 S	16 W	32	7495-TR	State of Utah	563
42 S	16 W	34	SG-7563-TR	State of Utah	160
43 S	16 W	2	SG-7563-TR	State of Utah	25
43 S	16 W	3	SG-7563-TR	State of Utah	525
43 S	16 W	4		State of Utah	240
43 S	16 W	10		State of Utah	600
43 S	16 W	11		State of Utah	185
43 S	16 W	15		State of Utah	320
43 S	16 W	16	7637-TR	State of Utah	600

42 S	16 W	28	BLM	180
42 S	16 W	29	BLM	415
42 S	16 W	30	BLM	5
42 S	16 W	31	BLM	30
42 S	16 W	33	BLM	640
43 S	16 W	4	BLM	400
43 S	16 W	5	BLM	502
43 S	16 W	6	BLM	2
43 S	16 W	8	BLM	230
43 S	16 W	9	BLM	640
43 S	16 W	17	BLM	160
43 S	16 W	20	BLM	2
43 S	16 W	21	BLM	176
43 S	16 W	22	BLM	145

3.3.6.3 Mitigation Credits

The Red Cliffs Desert Reserve, Zone 6 shall provide mitigation credits on an acre for acre basis for future disturbances in the Red Cliffs Desert Reserve as may be necessary under the utility development protocols, the construction of the Washington Parkway, and the development of trails that will minimize recreational impacts to tortoise habitat.

B. Inclusion of Washington Parkway in Zone 3 Management Principles

3.3.3 Zone 3: Core Zone

3.3.3.1 Description

Zone 3 covers the area from Highway 18 on the west to Interstate 15 on the east. Table 3.4 presents detailed land ownership information for Zone 3, and Figure 3.4 presents zone boundaries and general ownership. This area entails 38,541 acres, of which 23,571 are managed by the BLM and 9,927 are managed by the Division of State Lands and Forestry.

3.3.3.2 Management

Zone 3 will be managed by the Dixie Resource Area of the BLM for the preservation and enhancement of the Mojave desert tortoise. The BLM will prepare a management plan for this area. Grazing permits will be acquired and retired on a willing buyer–willing seller basis.

Mitigation measures applicable to this zone include land acquisition; fencing Highway 18, Interstate 15, Skyline Drive, the area around North Washington City, and portions of the area around North St. George; acquisition of grazing permits; law enforcement; HCP financial assistance to the BLM for management purposes; and environmental education. The following management principles are recommended for Zone 3:

- Hiking, equestrian, and camping should be restricted to designated areas.
- The BLM should be requested to apply for mineral withdrawal for Federal minerals.
- No organized or competitive sporting or recreational events should be allowed.
- Grazing permits should be acquired and retired.
- New utility development should be encouraged to be conducted during the winter months when the desert tortoise is not active.
- Hunting should be restricted to big game or upland birds during official seasons.
- Existing governmental uses, such as the City of St. George's pistol range, the debris basin behind City Creek dam, and Pioneer Park should be allowed to continue.

Expansion of use of Pioneer Park outside of the existing developed area will be subject to HCAC approval of a desert tortoise management plan.

- Vehicles should be restricted to designated roads.
- ~~Continuation of present activities associated with the Moroni Feeds Turkey Farm should be permitted but new actions, which the reserve manager reasonably believes may harm the desert tortoise, should not be allowed.~~
- Water development should be allowed consistent with the HCP protocol.³
- Firefighting should be allowed.
- Research which will not negatively influence the desert tortoise should be allowed.
- Non-consumptive recreation (e.g., hiking, birdwatching) should be allowed.
- Maintenance of existing utilities including roads should be allowed.
- Desert tortoise translocation should not be permitted except as authorized under approved translocation projects.
- ~~The eventual reconstruction of Skyline Drive should follow the existing alignment as near as possible except where engineering and/or safety considerations require deviations. Biological review under this HCP will be necessary when deviating from the current alignment. From Skyline Drive, no general public access will be permitted into the reserve, except on designated trails. However, access to Skyline Drive will be available for private landowners until their property is acquired.~~
- The eventual construction of the Washington Parkway as depicted in Figure 3.9⁴ will not conflict with any part of this HCP. Any requirement to mitigate the impact on the Reserve from the new parkway is fulfilled by the addition of Zone 6 to the Reserve and the Zone 6 mitigation measures described in Section 3.3.6.2 and 3.3.6.3.

Figure 3.9 Washington Parkway Alignment in Zone 3

³ The HCP is aware that the City of St. George is considering permanently storing water behind City Creek Dam and constructing a pipeline from the dam to deliver the water. Should this proposal be formally submitted, it will be reviewed according to the protocols contained in this HCP as further explained in the Appendix.

⁴ This configuration may be modified due to further environmental study or if further engineering shows the portion of the route crossing the reclaimed St. George landfill would be cost prohibitive to build. Any realignment shall not significantly deviate from what is depicted in Figure 3.9.

PUBLIC COMMENT ON AMENDMENT #2 TO 2015-2040 DIXIE MPO REGIONAL TRANSPORTATION PLAN
By Lisa Rutherford 3/2/18

First, I am glad to see, as a taxpayer, that the ultimate cost of Phase 1, Phase 2 and Phase 3 in the 2015-2040 Regional Transportation Plan has come down from \$1.89B shown on the final report issued June 2015 to the new total of \$1.86B – a reduction of \$28M. Whether this will be the case when the next project update cost review occurs I do not know. For now it's good to see costs are down, but we still have an overage (funding needs do not meet funding assumptions) of \$6.8M. Which raises the question: What projects are on the list that could be eliminated? Also, the table “Regional Transportation Plan – Projects & Phasing – 2015-2040 (Draft Feb. 1, 2018)” uses “2015 dollars” in the “Estimated Cost in 2015 dollars” column. Is that correct? Shouldn't those costs be adjusted to reflect more current costs? After all, it is 2018.

My comments regarding Amendment #2 to the 2015-2040 Regional Transportation Plan focus on the action to split the Washington Parkway project (Phase 1, Project 56) into two separate projects: 56a Washington Parkway (Green Springs to I-15 Exit 13) and 56b Northern Corridor (Red Hills Parkway to Washington Parkway).

It is a good thing to separate the two sections of this proposed road. The development of the Green Springs area and the planned additional development on the SITLA land that abuts Green Springs will add exponentially to our traffic problems. Growth may be good, but growth does not pay for itself; difficult decisions will need to be made so that taxpayers don't end up on the hook for the dreams of developers and city leaders.

Apparently, the section of Washington Parkway that is outside the existing Red Cliffs Desert Reserve is moving ahead as documented in November 2017 DTAC meeting minutes:

Mr. Mike Shaw reported that Washington City is moving along fairly quickly to on (sic) this project. It is anticipated that by the month end the City will have all of the right-of-way (sic) secured for the project via a dedication plat with State Institutional Trust Lands Administration (SITLA). This project is consistent with the proposed alignment of the Northern Corridor. The cost estimate is \$6.75 million for preconstruction activities and construction of two lanes between Exit 13 and Green Springs. If the project receives funds, Washington City would likely approach UDOT for a bridge loan to proceed faster than the funding that would be available. Washington City will be doing all of the utilities and drainage work involved. This project would also include connecting into Main Street. It is hoped that this project will address some of the traffic issues in Green Springs where development has taken place. It will also open up additional SITLA land for development. Additional lanes will be added as developers in the area move forward with projects. Developers in the area have preserved the necessary right-of-way.

From the December 13, 2017 Washington City Council meeting minutes, it appears that there remain unknowns about how the non-Reserve portion of the Washington Parkway will be paid.

Public Works Director Mike Shaw reviewed:

The applicant is requesting approval of the road dedication plat for the northern extension of Washington Parkway, roughly, from milepost 13, to Green Spring (sic) Drive. This will be a new extension of Washington Parkway, which the city hopes to be under construction in the near future.

The Public Works Department has reviewed the plat and approved the design.

The Planning Commission unanimously recommended approval of the Road Dedication plat for the extension of Washington Parkway to the City Council.

Council Member Granger stated if it is going to be a State Road, then the State should pay to build the road.

Public Works Director Mike Shaw confirmed she would be (sic) correct, however, at this time we are receiving funding from the MPO to assist in the build. In addition, we have no certainty the State would take the road in the future.

Council Member Granger stated if we do not build the road, then Washington City has control over where the Northern Corridor will be placed.

Mayor Pro-Tem Turek reviewed the proposed placement of the Northern Corridor, which does not pull closer to any of the home (sic) in the Washington City community.

Council discussed the proposed Northern Corridor alignment.

As of February 2018 Washington City Council meeting agendas and minutes, no further information is available to address the funding issue mentioned above nor is there any mention about how the construction is or is not proceeding. So, perhaps there are concerns even about this less-contentious portions of the Washington Parkway.

It will be interesting to see how much traffic relief results from the “soon-to-be-built” Green Springs to Ex. 13 Washington Parkway. Those of us who are concerned about the other segment of the Washington Parkway (Northern Corridor) that would go through prime habitat (Zone 3) of the Red Cliffs Desert Reserve remain unconvinced that the Northern Corridor (NC) should be built. We question whether it would even satisfy the east-west transportation route we are told is needed. Even if the county's plan to create a new zone – Zone 6 – to the west of Bloomington on BLM/SITLA land materializes, this would not eliminate the concerns I and others have about running a road through prime habitat. In fact, it adds to concerns because the Western Corridor has been on the Regional Transportation for some time and would be close to that area, as I understand it. That road would bring the same conflicts to Zone 6 management and tortoise conservation as are being experienced with Zone 3 and the NC. Additionally, if that plan materializes there will be more cost to taxpayers to manage a new area far from the existing Reserve in an area that is currently heavily used for recreation making it potentially much more difficult to manage than the existing Reserve.

The US Fish and Wildlife Service and others know that the NC would violate the HCP, at least as it is currently written. If the HCP is abrogated, it could create legal uncertainty surrounding ongoing development in tortoise habitat throughout the county. Developers, investors, banks, and planners don't like uncertainty.

At the February 2018 county Habitat Advisory Conservation Committee meeting, Utah Division of Natural Resources representative Adam Heyder, during his presentation regarding fire management in the Reserve, offered the following causes of fire:

- Humans cause most fires
- A lot of fires occur off of I-15
- More people coming in areas we've never seen before

These statements make it clear that a road through the Reserve will not help the potential for fire, which has been the main cause of desert tortoise mortality in the past. The new more-southerly route for the NC that is being proposed by the county would still go through prime habitat. The culverts that were added to the existing Red Hills Parkway through the Reserve have shown little ability to assist the tortoise. In fact, an individual was videoed actually taking a tortoise from the area. But, efforts to use artificial means to assist the animals is not the issue. The issue is that building a road through the Reserve is fraught with other negative issues: noise, fire potential, trash, etc.

Finally, the cost of the NC and auxiliary associated work such as improving Cottonwood Springs Road to tie into the NC from Red Hills Parkway (unfortunately diverting traffic to a road that according to earlier traffic plans has been shown will experience congestion problems in the future) amounts to over \$110M. As noted earlier, the Amendment under consideration reduces total Regional Transportation current and future costs by \$28M but still leaves a \$6.8M shortfall to cover all projects listed in the 2015-2040 Regional Transportation Plan. Eliminating the nearly \$110M NC by looking at other options for moving county traffic would be wiser use of our tax money. Transportation efforts should be focused in the southern and southeastern areas of this county where, as shown in the plan itself

finalized in June 2015, the majority of our county's growth both in population and jobs will occur. I'm sure there are many very bright transportation planners, who in conjunction with land use planners, could do some brainstorming to come up with more enlightened ways of dealing with Washington County's traffic needs as the area grows rather than building an unnecessary, costly, ineffective and legally-challenging road through the Reserve.

For too long Washington County's leaders have been stuck in the mindset of having to have a road through the Reserve in spite of agreements made in the past at a time when leaders already knew the growth and population challenges facing this county. This road needs to be taken off the table and new ideas generated to replace the old thinking. Separating the two phases of the Washington Parkway, makes it easier to identify what costs are associated with each and also makes it easier to eliminate the western portion of the parkway in the future, which should be done.

Jane Whalen

From: "Susan Crook" <susan@conserveswu.org>
Date: Monday, February 26, 2018 2:53 PM
To: "Richard Spotts" <raspotts2@gmail.com>; "Lisa Rutherford" <lisar@bajabb.com>; "Jane Whalen" <janewhalen@earthlink.net>; "Tom Butine" <tdbutine@hotmail.com>; "Chris Gorzalski" <chris7gz@gmail.com>; "Sandy Johnson" <bluesage10@yahoo.com>; "Art Haines" <art@integralstrategy.com>; "Carol Golichnik" <carol@cgnsolutions.com>
Cc: "Phil Hanceford" <phil_hanceford@tws.org>; "Betsy Buffington" <betsy@conservationlands.org>
Attach: 180125 Draft Zone 6 and Washington Parkway Amendment to HCP_clean.docx
Subject: Save the Date: Zone 6 Amendment to HCP - work meeting April 9, 10 AM

All,

A meeting to discuss the attached draft **Zone 6 and Washington Parkway Amendment** to the Habitat Conservation Plan is scheduled for **Monday, April 9, 2018, 10 a.m in the CSU office**. If you know of others who are interested in protecting the Mojave Desert Tortoise, please encourage them to attend.

We have heard there may be a public meeting about this proposed amendment, but no details are available at this time. I will let you know if we learn more before we meet on April 9th.

This is a draft amendment from Washington County Attorney Eric Clark. It is not intended for general distribution at this time.

These are a few of the issues that I see with the proposal to establish a satellite reserve and build the northern corridor:

1. The new preferred route of the Washington Parkway extension (Northern Corridor) would still go through prime tortoise habitat that would be bisected by the highway along most of its length, despite proposals to provide some elevated sections and box culverts.
2. Tortoises will be disturbed or removed from their home territory to enable construction. Any that are missed may be killed during construction.
3. Only one tortoise has been documented going under Red Hills Parkway in the culverts that were supposed to allow tortoise mobility.
4. Fencing meant to protect tortoises stresses them as they pace along it searching for ways to get to traditional foraging, mating and burrowing grounds cut off by roads.
5. Tortoises in a smaller, non-contiguous satellite reserve will have less genetic diversity than in a larger protected habitat area.
6. The proposed Zone 6 area is already used for grazing, mountain biking, ATV riding, target shooting and other activities. The BLM St. George Field Office has only one law enforcement officer. Who will enforce the new rules?
7. The route for the future Western Corridor highway should be excluded in no uncertain terms from ever being built through Zone 6 before the amendment is even considered.

Please feel free to add to my list.

On the flip side, I agree with the transportation planners that we need alternative routes to carry the ever-increasing traffic in Washington County. I have proposed very seriously to them that they run their models with the Southern Parkway as a through traffic bypass route and consider removing or drastically modifying I-15 through Washington and St. George in order to reconnect as many surface streets as possible. Much of the heavy truck traffic using Exit 8 and Green Springs would go away if St.

George City gave industrial and distribution businesses in the old industrial park incentives to move to the Fort Pierce Industrial Park. Automobile traffic would be reduced if Intermountain gave DRMC employees transit passes and started van pools for shift workers. Some radical, creative solutions may cost no more than the incremental fixes now in the pipeline, and could even cost less and be more effective long-term.

Susan

Susan Crook
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Conserve Southwest Utah
(Citizens for Dixie's Future)
321 North Mall Drive, B202
St. George, Utah 84790

March 5, 2018

Mr. Myron Lee
Dixie MPO
1070 West 1600 South, Building B
St. George, UT 84770

Re: Amendment # 2 to the 2015-2040 Dixie MPO Regional Transportation Plan

Dear Mr. Lee:

Conserve Southwest Utah (CSU) respectfully submits this letter to the Dixie MPO in response to the invitation to comment on Amendment 2 to the 2015-2040 Dixie MPO Regional Transportation Plan. CSU requests that Dixie MPO share the model that has been used to prove the need for the Northern Corridor through Zone 3 of the Red Cliffs Desert Reserve so that we can more fully understand the proponents' position. CSU continues to have many concerns about this road. We would be happy to meet with you and other members of the MPO to discuss our concerns and suggestions.

We have been clear about our opposition to the proposed Northern Corridor highway since our organization was founded in 2006. Washington County and the other signatories to the Habitat Conservation Plan (HCP) made a commitment to protect the Mojave Desert Tortoise in order to enable development in tortoise habitat throughout Washington County outside of the Red Cliffs Desert Reserve (RCDR). The Reserve is, in effect, an overlay zone on land managed by local, state and national government entities or owned by private developers.

Washington County owns only 1.7 acres within the RCDR around the McMullin House ruins near Harrisburg. The majority of the property is in the public domain managed by the Bureau of Land Management. Any development on BLM-managed land must go through a NEPA public process and, in addition, must be in harmony with the criteria for which the Red Cliffs National Conservation Area (RCNCA) was designated. The construction of another highway through protected desert tortoise habitat is not in keeping with that designation.

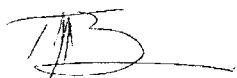
At the behest of the Washington County Commission, The Habitat Conservation Advisory Committee (HCAC) has gone through all kinds of contortions in an effort to resolve the insurmountable conflicts between building the highway and facilitating the recovery of the threatened Mojave Desert Tortoise, the purpose for the establishment of the RCDR. The most recent proposal is the establishment of a Zone 6 satellite reserve near Bloomington.

These are a few of the issues that Conserve Southwest Utah sees with the proposal to establish a satellite reserve in order to enable the approval of the northern corridor.

1. The new preferred route of the Washington Parkway extension (Northern Corridor) would still go through prime tortoise habitat that would be bisected by the highway along most of its length, despite proposals to provide some elevated sections and box culverts.
2. Tortoises will be disturbed or removed from their home territory to enable construction. Any that are missed may be killed during construction. This would happen not only once but twice when the new road would be expanded as shown in Phase Three of the 2015-2040 Regional Transportation "Projects and Phasing" table.
3. Only one tortoise has been documented going under Red Hills Parkway in the culverts that were supposed to allow tortoise mobility.
4. Fencing meant to protect tortoises stresses them, sometimes resulting in death from overheating, as they pace along it searching for ways to get to traditional foraging, mating and burrowing grounds cut off by roads.
1. Tortoises in a smaller, non-contiguous satellite reserve will have less genetic diversity than in a larger protected habitat area.
5. The proposed Zone 6 area is already used for grazing, mountain biking, ATV riding, target shooting and other activities. The BLM St. George Field Office has only one law enforcement officer. Who will enforce the new rules?
6. The route for the future Western Corridor highway should be excluded in no uncertain terms from ever being built through Zone 6 before the amendment is even considered.

The renewal of the HCP has been delayed for too long by the refusal of Washington County and the other signatories to the HCP to recognize the obvious solution to the designation of a Northern Corridor route to complete the Washington Parkway. The technique that is used extensively to expedite the approval of routes for roads and distributed utilities that could adversely affect cultural and natural resources is **avoidance**.

Regards,



Tom Butine
President
Conserve Southwest Utah

cc: HCAC Members
Washington County Commission