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April 13, 2023

Attn: Red Cliffs/Warner Valley Land Exchange  
Bureau of Land Management  
Stephanie Trujillo, Realty Specialist  
345 E Riverside Dr  
St George, UT 84790

RE: Scoping comments for "Red Cliffs/Warner Valley Land Exchange" project

Dear Realty Specialist Stephanie Trujillo:

Conserve Southwest Utah appreciates the opportunity to provide scoping comments on the Red Cliffs/Warner Valley Land Exchange. Conserve Southwest Utah is a 501(c)(3) nonprofit based in St. George, Utah, with over 15 years of experience protecting public lands and natural resources in Southern Utah. Our mission is to conserve our area's natural and cultural resources and advocate for the implementation of Smart Growth policies that enable conservation for the benefit of present and future generations.

We are concerned that this proposed BLM project shortcuts the National Environmental Policy Act (NEPA) by evaluating this project as a simple land exchange instead of thoroughly evaluating the environmental impacts of a Warner Valley Reservoir, which is planned for the land that the Washington County Water Conservancy District (WCWCD) seeks to acquire from the Bureau of Land Management (BLM). Acquiring BLM land to build the Warner Valley Reservoir is a major federal action that significantly affects the quality of the human environment and therefore requires an Environmental Impact Statement (EIS). An EIS could avoid or minimize potential detrimental impacts from a reservoir and associated water treatment infrastructure on the protected natural resources in the area.

Herein, we: 1) reiterate and expand upon our previous comments regarding this project, 2) restate and emphasize several of the concerns outlined by BLM staff, and 3) highlight related concerns from the Utah Board of Water Resources' analysis of the Lake Powell Pipeline proposed alternatives.

Respectfully,

Jane Whalen, Board Member  
[email@conserveswu.org](mailto:email@conserveswu.org)  
435-619-2144

## **I. Restating and Expanding Issues and Resource Concerns**

1. While unstated in this scoping announcement, it is well known and documented on the WCWCD website and various public reports that the WCWCD desires the Warner Valley BLM land for a reservoir and a reverse osmosis plant. The purpose of this exchange was not properly disclosed in the federal notice.
2. It appears that the BLM is attempting to avoid a thorough environmental review provided by an Environmental Impact Statement (required by NEPA for major federal actions "significantly affecting the quality of the human environment") by labeling this project as merely a "land exchange" and ignoring the connected action of development of a reservoir and treatment plant.
3. Acquiring BLM land to build the Warner Valley Reservoir and reverse osmosis treatment plant is a major federal action that significantly affects the quality of the human environment and therefore requires an EIS. The reservoir will impact wildlife habitat, plants, wildlife, migratory birds, fish, cultural resources, and several threatened and endangered species, and will facilitate additional development and growth to an already impacted Washington County.
4. BLM must determine if the proposed 89.43-acre area—located between the proposed four-lane Northern Corridor Highway and the Green Springs Subdivision—provides an increased benefit to the threatened Mojave desert tortoise and other species, in comparison to the benefit that would have been provided to these species if the 1,047 acres in Warner Valley remained with the BLM.
5. The BLM exchange parcel is physically close to the Warner Ridge/Fort Pearce Area of Critical Environmental Concern (ACEC), which was established to protect the threatened Mojave desert tortoise, other sensitive wildlife species, and threatened and endangered plants. How will the reservoir and land exchange impact the ACEC and connected landscape?
6. When evaluating whether or not the proposed trade is "fair", it seems that only the economic value of the land will be considered. BLM should also consider the environmental value of the two parcels and analyze the land exchange from a species protection perspective and a habitat suitability perspective, with special attention to impacts on threatened and endangered species. How does this analysis change with the proposed Northern Corridor Highway?
7. BLM should evaluate the imbalance in habitat acreage offered in this exchange (losing 1,047 acres of federally-protected land in exchange for 89.43 acres). How does this calculation change with the proposed Northern Corridor Highway?

8. We are concerned about the accuracy of BLM's appraisal of the value of the Warner Valley parcel. It appears that the WCWCD would receive more valuable acreage than the BLM would gain through this exchange. BLM should reevaluate the real market value for the Warner Valley land. For example, 238 acres in Warner Valley is currently listed for sale for \$16,645,000, or approximately \$70,000 per acre.<sup>1</sup> An equivalent valuation of the 1,047 acre Warner Valley parcel would value this land around \$73 million and necessitate the fair exchange of additional land beyond the Red Cliffs 89.43 acres.
9. BLM should assess changes in Virgin River flow, temperature, and water quality due to the Warner Valley Reservoir and reverse osmosis plant. BLM should also analyze the associated impacts to river ecosystem and species.
10. The BLM should analyze the environmental impacts of an RO plant, including brine storage and disposal, increased energy consumption, and changes to the Virgin River flow, temperature, and water quality.
11. BLM should assess the validity and potential consequences of WCWCD's Option To Purchase Agreement. We are concerned that the Option to Purchase is inadequate for this kind of federal land exchange, which occurs with private landowners who already own land inside the Red Cliffs National Conservation Area (Red Cliffs NCA). If the BLM allows the WCWCD to benefit from a land exchange as if the WCWCD were a legitimate Red Cliffs NCA private landowner, this could set a dangerous precedent for other federal land exchanges.
12. Why isn't the whole privately-owned Red Cliffs NCA parcel (~143 acres) proposed as part of this land exchange (instead of a partial 89 acres)?
13. The BLM should evaluate where motorized users will recreate if portions of Warner Valley and Sand Mountain are no longer open to OHVs. BLM should assess potential adverse impacts to the areas that will see increased OHV use.
14. The BLM should analyze an alternative to this land exchange where WCWCD applies to BLM for either a right of way grant or Recreation and Public Purposes Act lease for the Warner Valley Reservoir land. These alternatives would provide greater protection for natural and cultural resources while fulfilling the needs of the land exchange applicants.

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<sup>1</sup> <https://www.sothebysrealty.com/eng/sales/detail/280-l-4744-22-230074/238-acres-off-warner-valley-road-hurricane-ut-84737>

## II. Expanding on Issues in BLM's Interdisciplinary Team Checklist<sup>2</sup>

The BLM's Interdisciplinary Team Checklist ("the Checklist") acknowledges that a reservoir project would adversely impact the acquired BLM property, but there are several issues that are not included or need elaboration or emphasis.

1. The Checklist questions management of the valuable public lands that will be impacted by the proposed reservoir. Assessing these cumulative impacts is critical to an informed decision and requires an EIS.

Page 4 of the Checklist notes: *"Cumulative impacts that may include a reservoir in the Warner Valley parcel will need to be addressed in the EA regarding the ACEC. The Warner Ridge/Fort Pearce ACEC will be surrounded by development on three sides, currently it is bisected by the Southern Parkway, with housing developments to the north and west. The recently approved Long Valley ROW also bisects the northern tip of the ACEC. This additional pressure may leave the ACEC vulnerable to more threats which include illegal OHV use, camping, human-caused wildfire, [and] additional threat of invasive plants. Already identified as at risk from 'off-road travel, road proliferation, urban growth, and human encroachment' (SGFO 1999 RMP, AC-03)."*

2. The BLM must consider the environmental impacts of development resulting from construction of the Warner Valley reservoir.

Page 7 of the Checklist notes: *"If this exchange is authorized and executed, the current BLM-managed parcel in Warner Valley is proposed for development under the St. George Area Resource Management Plan. If developed, a reservoir could result in an economic benefit to the local economy, but those benefits would likely be speculative at this time."*

3. The Checklist casts doubt on whether there would be an equivalent public benefit to the proposed BLM acquisition of the Red Cliffs NCA area parcel.

Page 7 of the Checklist notes: *"The Federal land is intermingled with the private lands within the Red Cliffs NCA. Many casual use visitors in the area likely already assume the parcel is federal. The non-Federal parcels, located within the NCA, are indistinguishable to the visiting public from the Federal lands; therefore, they would notice no difference in a change of ownership. Social values would not be impacted in any measurable degree from this land exchange, however the reasonably foreseeable future action of the reservoir and impacts on socioeconomics should be analyzed."*

4. The Warner Valley parcel would no longer be federally owned or protected by policies such as NEPA's environmental protections, NEPA's required public participation protections, and the Endangered Species Act's animal and plant species protections. This land exchange results in a net loss of habitat for wildlife.

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<sup>2</sup> See:

[https://eplanning.blm.gov/public\\_projects/2022389/200539220/20074930/250081112/Jan%2018%202023\\_Updated\\_Red%20Cliffs%20Warner%20Valley%20LEX-%20EA%20Checklist.pdf](https://eplanning.blm.gov/public_projects/2022389/200539220/20074930/250081112/Jan%2018%202023_Updated_Red%20Cliffs%20Warner%20Valley%20LEX-%20EA%20Checklist.pdf)

Page 8 of the Checklist notes: *"Should the federal (Warner Valley) parcel be developed (e.g., the WCWCD-planned Warner Valley Reservoir), the proposed exchange could result in a net loss of habitat for wildlife (1050 - 89.43=960.57 acres lost), and loss of all federal protections for the federal parcel including those covered under National Environmental Policy Act of 1969 (43 U.S.C. 1701-1784) and additional BLM national policy and guidelines and management documents."*

5. This land exchange results in a net loss of habitat for migratory birds.

Page 9 of the Checklist identifies some of the federal protections that would be lost: *"Should the federal (Warner Valley) parcel be developed (e.g., the WCWCD-planned Warner Valley Reservoir), the proposed exchange could result in a net loss of habitat for birds (1050- 89.43=960.57 acres lost), and loss of all federal protections for the federal parcel including those covered under National Environmental Policy Act of 1969 (43 U.S.C. 1701-1784); the Migratory Bird Treaty Act (16 U.S.C. 703-711); the Bald and Golden Eagle Act (16 U.S.C. Section 668-668d, June 8, 1940, as amended 1959, 1962, 1972, and 1978) and additional BLM national policy and guidelines and management documents."*

6. This land exchange results in the loss of protections for federally-listed or sensitive plant species.

Pages 9 and 10 of the Checklist state: *"The USFWS IPaC system was queried on 11/29/22, showed that the following plants may occur in the Warner Valley parcel: Dwarf Bear-poppy (Arctomecon humilis), Shiwuits milkvetch (Astragalus ampullarioides), and Siler pincushion cactus (Pediocactus sileri). If TEC plants are present in the Warner Valley parcel, the exchange would result in permanent loss of habitat under federal ownership...From the SGFO RMP VG-08: 'public lands supporting federally-listed or sensitive plant species will be retained in public ownership unless exchange or transfer will result in acquisition of better habitat for the same species or provide for suitable management by another qualified agency or organization.' If plants are found, then Section 7 consultation would be required and compensation for loss of habitat would need to be considered."*

7. This land exchange results in the loss of protections for threatened, endangered, or candidate animal species.

Page 10 and 11 of the Checklist states: *"The USFWS IPaC system was queried on 11/29/22, and showed that the following species may occur in the Warner Valley parcel: California condor (Gymnogyps californianus), Mexican spotted owl (Strix occidentalis lucida), Southwestern willow flycatcher (Empidonax traillii extimus), yellow-billed cuckoo (Coccyzus americanus), desert tortoise (Gopherus agassizii), and monarch butterfly (Danaus plexippus). Critical habitat (for Mojave desert tortoise) only occurs on the proposed exchange parcel(s) within the administrative boundary of the Red Cliffs NCA. Protocol desert tortoise surveys (100% coverage) performed in the spring of 2021 show that most evidence of tortoise occupancy is within the southern portion of the Warner Valley parcel, and therefore occupied by*

*tortoise. Potentially the entirety of the 1050 acres in Warner Valley is suitable habitat for tortoise, therefore an exchange of 89.43 acres may not be adequate to meet the needs of recovery of the species and the intentions of the Mojave desert tortoise Management Oversight Group (MOG). The proponent, USFWS, and BLM will need to address the potential deficiency of acres exchanged. A closer look at varying levels of habitat suitability is needed for the Warner Valley parcel while comparing the value of federal protections of additional designated critical habitat in the Red Cliffs NCA. The proposed exchange would result in a net loss of habitat for the tortoise (1050-89.43=960.57 acres lost), and loss of all federal protections for tortoise on the Warner Valley parcel which include: Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); National Environmental Policy Act of 1969 (43 U.S.C. 1701-1784) and additional BLM national policy and guidelines and management documents." Cumulative impacts of the proposed reservoir should be discussed, as this would permanently remove desert tortoise habitat, which could result in take."*

8. We disagree with the Checklist conclusion that "reservoir water would be obtained through existing water rights and would therefore have no effect on Virgin River fish." While the WCWCD water rights may stay the same, the increased water storage capacity due to the existence of the Warner Valley Reservoir would enable WCWCD to divert additional water from the Virgin River. Return flows from the reservoir to the Virgin River would also impact the natural flow regime of the river and impact river species. A thorough EIS would reveal the full impacts to the endangered fish species.

Page 13 of the Checklist states: *"Woundfin (Plagopterus argentissimus) and Virgin River chub (Gila seminuda): Although the two Virgin River fish species were not listed as potentially affected on the IPaC list, the potential reservoir in the Warner Valley parcel may have cumulative impacts as water from the reservoir would come from the Virgin River. However, it is proposed that reservoir water would be obtained through existing water rights and would therefore have no effect on Virgin River fish."*

### **III. Reconsideration of Water Supply and Management**

We are concerned that if the BLM continues to treat this project as a simple land exchange, the adverse environmental impacts of the reservoir and associated water supply capital projects will not be adequately evaluated. The Utah Board of Water Resources' 2011 "Draft Study Report 22"<sup>3</sup> studied alternatives to the Lake Powell Pipeline and described the adverse environmental impacts of the Warner Valley Reservoir and associated reverse osmosis (RO) plant. Below we call special attention to three of these concerns.

1. The impact of reverse osmosis treatment and brine disposal.

Section 3.3.1.1 of the Draft Study Report 22 noted that RO treatment of the Virgin River water entering the Warner Valley Reservoir requires disposal of substantial quantities of brine: *"To address the water supply shortages*

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<sup>3</sup> <https://conserveswu.org/wp-content/uploads/2012/04/22DraftAlternativesDevelopmentReportV3-1.pdf>

*beginning in 2020, WCWCD could develop a reverse osmosis advanced water treatment facility to treat up to 40,000 acre-feet per year of Virgin River water that contains high total dissolved solids (TDS) concentration and other contaminants. The RO advanced water treatment facility would produce up to 36,279 acre-feet of water per year suitable for M&I use (MWH 2010). The WCWCD's Warner Valley Reservoir would be available to deliver water to the RO advanced water treatment facility. The 3,721 acre-feet per year of brine by-product from the RO treatment process would require evaporation and disposal meeting State of Utah water quality regulations."*

2. The impact of treating reclaimed wastewater effluent.

*Section 3.3.1.2 of the Draft Study Report 22 noted: "The existing St. George Wastewater Treatment Plant sends a portion of its treated effluent to the St. George Wastewater Reuse Plant for additional treatment and reuse as secondary irrigation water. The maximum capacity of the existing Reuse Plant is 3,360 acre-feet per year. The reuse water is used as a secondary irrigation water supply from April through October, and currently is not stored during the winter months. The City of St. George has received permits to construct two storage reservoirs to store the reuse water during the winter months and increase the annual reuse of treated effluent. The reuse water would also be stored in the Warner Valley Reservoir. The maximum projected wastewater treatment plant effluent available for use in 2060 is projected to be 54,500 acre-feet per year. This projected water reuse supply is estimated based on: 1) the projected 2060 combined populations of St. George, Washington, Ivins and Santa Clara, which are the communities served by the St. George Wastewater Treatment Plant; 2) the 2005 total M&I water use less 16 percent conservation; and 3) a 27 percent wastewater effluent to total M&I water supply ratio. The maximum projected wastewater treatment plant effluent available for reuse in 2020 is projected to be 20,200 acre-feet per year, increasing to 35,340 acre-feet per year by 2037. The RO treatment of 35,340 acre-feet per year wastewater reuse effluent would yield approximately 31,806 acre-feet of product water and 3,534 acre-feet of brine for evaporation and disposal. The RO treated effluent could then be disinfected and delivered for culinary use [or first stored in a reservoir]. This potential component of the No Lake Powell Water Alternative would require a new RO treatment facility or increasing the capacity of an RO facility treating water stored in Warner Valley Reservoir, and also could face a significant public acceptance challenge as well as regulatory approvals."*

3. The increased impact intensity of RO treatment of Virgin River water and RO treatment of reclaimed wastewater effluent.

*Section 5.1.1.4 of the Draft Study Report 22 explained: "The WCWCD conceptual No Lake Powell Water Alternatives vary in their potential effects on environmental resources. All three alternatives would involve treating Virgin River water using a RO advanced water treatment process, which could affect Virgin River hydrology, water quality, listed aquatic and wildlife species and their designated critical habitats, riparian and wetland areas, wildlife, aquatic resources, archaeological resources and historic-era*

*resources, energy resources and socioeconomic resources. The RO advanced water treatment of reclaimed wastewater effluent would have additional effects on all of the same resources, with increased impact intensity because of the incremental treatment requirements...The No Lake Powell Water Alternative involving RO advanced water treatment of Virgin River water and RO advanced water treatment of reclaimed wastewater effluent would have the greatest potential effect on environmental resources because the RO treatment facilities would double in capacity, area, and direct effects on resources."*

#### **IV. Conclusion**

We have reiterated our comments regarding the scope of that analysis, restated and emphasized several of the concerns outlined by BLM's own staff, and highlighted concerns that have evolved during the analysis of the proposed alternatives to the Lake Powell Pipeline.

The proposed Red Cliffs/Warner Valley Land Exchange project is a significant public lands use change and demands substantial analysis of impacts of and mitigation for the planned Warner Valley Reservoir and treatment plant. The public deserves a detailed analysis of this project, tradeoffs, and alternatives, which could be accomplished through an EIS. Alternatively, the WCWCD could apply to BLM for either a right of way grant or Recreation and Public Purposes Act lease for the Warner Valley Reservoir land.