

Tortoise could shut down development

ST. GEORGE (AP) — It seems an unthreatening enough creature, its sleepy eyes peeking out from beneath a chunk of lava in the sand-blown desert of southwestern Utah.

But Utah's desert tortoise — a species the U.S. Fish and Wildlife Service says is on the verge of extinction — is threatening to shut down virtually all development in Washington County, Utah's fastest-growing county.

"We have to take the tortoise seriously," says Sen. Dixie Leavitt, R-Cedar City. "The federal government, in essence, has condemned all undeveloped property until we take care of the problem."

The problem, as Leavitt and other local officials see it, is the Endangered Species Act, which prohibits the destruction of any habitat of a species threatened with extinction. Even habitat located on private property.

And in a county that saw its population grow by 86 percent over the past 10 years, the tortoise finds itself smack in the middle of a tug-of-war between Washington County developers and an army of researchers and conservationists trying to prevent the animal's extinction.

Aggravating the situation is the fact that the best tortoise habitat surrounds the city of St. George, which saw its population grow by 117 percent over the past 10 years.

Much of the land is private, while much more is owned by the state, which would like to sell the land to developers to bolster the School Trust Fund. The trust fund could lose an estimated \$100 million, Leavitt says.

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BLM wildlife biologist

the same: 'Let's sue 'em,' " says BLM wildlife biologist John Payne. "But those that have tried have failed."

The lawsuit approach was Leavitt's initial response, and he still believes it is outrageous that the federal government can dictate the development of private lands without compensation to the landowner.

"It is an extremism that pits one value, people, against another value without much importance: minnows, tortoises, things like that," Leavitt said. "But it is the law, and the federal government has the power to stop everything. They did it in Las Vegas, and they are threatening to do it in Washington County."

The Endangered Species Act was passed in 1973 to protect animals on the verge of extinction. In part, it prohibited the harvesting of protected animals and prevented the destruction of their habitat, regardless of whether the habitat was privately owned or not.

The law was later amended to include plant species on the verge of extinction, and in 1982 the law was again amended, this time to allow for Habitat Conservation Plans — a concept in which certain habitat areas would be enhanced while other habitat areas would then be released for development.

species are candidates for the endangered species list.

It will cost Washington County about \$400,000 just for the first phase of the HCP process. There are no estimates how much it will cost when all is said and done.

Besides leaving property undeveloped, an HCP is the only option for a private or public landowner seeking to develop property that is also critical habitat for endangered species.

The nation's first Habitat Conservation Plan was implemented in Palm Springs, Calif., which spent \$25 million to protect the endangered kangaroo rat. Las Vegas has already spent \$4 million on an HCP for the desert tortoise, and another \$6 million will likely be spent before that project is completed.

"It's such an expensive process it would seem there is no way a county with a small population base could even consider (an HCP)," said Washington County Commissioner Scott Hirschi.

"But with the growth we have, we can't just roll over and do nothing. The future of the county is at stake."

And it's not just the desert tortoise, Hirschi points out. Washington County is home to seven different endangered species, with two more species about to be added to the list. More than two dozen other

At stake are the needs of Washington County and the needs of the federally protected desert tortoise.

This week, the committee held what is hoped will be the last meeting, ironing out a few remaining details of the Habitat Conservation Plan (HCP) before submitting the plan to the U.S. Fish and Wildlife Service in January.

The Washington County HCP is a local effort begun in response to the listing of the desert tortoise as endangered in April 1990. Since September 1990, a steering committee has been struggling toward a compromise solution.

The plan, if approved, would set aside habitat for the desert tortoise and other present or future endangered species.

In return, the Fish and Wildlife Service would release other land in the county for development.

The Washington County Habitat Conservation Plan Committee is a diverse group of environmentalists, biologists, developers, cattlemen and elected officials.

While some in Washington County have been questioning the need to comply with the Endangered Species Act, or complaining about government

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ment intervention, the HCP committee has been hard at work, creating a painful compromise where none was thought possible.

"It's incredible that we could find that kind of a balance," said Milo McCowan, who represents developers on the HCP committee.

"When we finally delineated the boundaries, I said 'If everybody in this room is unhappy, we've probably got a good agreement.'"

The alternative to developing an HCP is for every landowner within tortoise habitat to deal with the Endangered Species Act and the Fish and Wildlife Service on their own.

McCowan said the best thing to come out of the HCP may be an increase in the size of Snow Canyon State Park — an additional 1,500 acres including the popular Paradise Canyon is part of the planned desert tortoise preserve.

"It's some of the most beautiful country around. This is a win-win in everyone's case; everybody is excited," McCowan said.

If the HCP is approved, Snow

Canyon State Park will be extended south almost to the intersection of S.R. 18 and Skyline Drive — also known as Turtle Road. The eastern boundary of the park will follow S.R. 18; the western boundary will closely follow the proposed extension of Skyline Drive.

The park will include the upper and lower Paradise Canyon area, with access on the southern end of the park. A campground is also planned for Paradise Canyon.

Lower Paradise Canyon is now heavily used, with dirt roads and tracks, and a lot of garbage. The area could recover nicely under park management, McCowan said.

In the United States, only 17 HCPs have been approved by Fish and Wildlife Services. Most have been easier to put together than Washington County's because they included far less private and state land.

The proposed tortoise reserve includes 93 square miles (60,000 acres). Of that, about 7,000 acres are privately owned and 13,000 acres are state-owned school trust lands.

In addition, the most densely populated area of desert tortoise habitat in the world resides is less than a quarter-mile from the

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on HCP committee

heart of St. George.

"This has generated as much or more enthusiasm in Washington, D.C., as there is here in Washington County," McCowan said. "We typify almost every problem there is."

"This sets up a role model; it gives us the mechanics, the tools to deal with these kinds of issues."

To compensate both the state and private landowners for property included in the HCP, a complicated land trade has been worked out by the committee.

"We will trade private land in Utah for Bureau of Land Management property in Nevada, then sell the Nevada land and use the money to pay the pri-

vate landowners in Utah," McCowan said.

The value of the private land within the preserve is estimated at about \$50 million.

The Bureau of Land Management will end up owning all land within the reserve, McCowan said. School trust lands within the HCP area will be traded for BLM land in Washington County. This will free up land in Washington County, because BLM land is generally not sold to the public. In contrast, the state lands and forestry division is free to sell or lease land to the public, if it will benefit the school trust.

The original version of the HCP was rejected by the Fish and Wildlife Service about a year ago, because it wasn't big enough and because it didn't consider other species which may become endangered. But the new plan takes all those things into account.

"If we've done our job right, the preserve should cover all future needs," McCowan said.

In Washington County, there are already eight threatened or endangered species. "And if we stumble upon another endangered species, a simple amendment to our HCP will cover it," he said.

Tortoise, developer conflict nears final stages

By Julie Lindquist Applegate
Staff Writer

ST. GEORGE — The Habitat Conservation Plan, an attempt to resolve the conflict between the endangered desert tortoise and development in Washington County, is in its final stages.

The plan is expected to be submitted to the U.S. Fish and Wildlife Service this week and to represent two years of preparation and negotiation, said outgoing Washington County Commissioner Scott Hirschi.

"This plan does not solve all problems, and it is fraught with controversy ... but I believe firmly that it represents the best balance that is possible between protection of our environment through the Endangered Species Act and the continued development of our county," he said, speaking to the St. George Area Chamber of Commerce Wednesday.

Hirschi estimates it will take about six weeks to get an initial reaction to the plan.

"We hope the U.S. Fish and Wildlife Service has had enough input that there will be no surprises," Hirschi said.

Before the plan is formally accepted, it must be evaluated by the standards of the National Environmental Protection Act. That process is expected to take about six months.

If all goes well, the county will be issued an incidental take permit, which will allow development in the rest of the county.

"The plan is designed to release almost all private property in Washington County for development purposes. It also proposes, however, to protect an area of almost 44 square miles," Hirschi

The protected area is located north of St. George and Washington City in the City Creek area. If designated a National Conservation Area, federal funding would be available for enhancement of the habitat of the desert tortoise and other species.

Enhancement and mitigation programs will be funded through fees on development: a two-tenths of one percent surcharge assessed upon issuance of a building permit, and a \$250 per acre grading fee.

The total estimated cost of the HCP is about \$7 million.

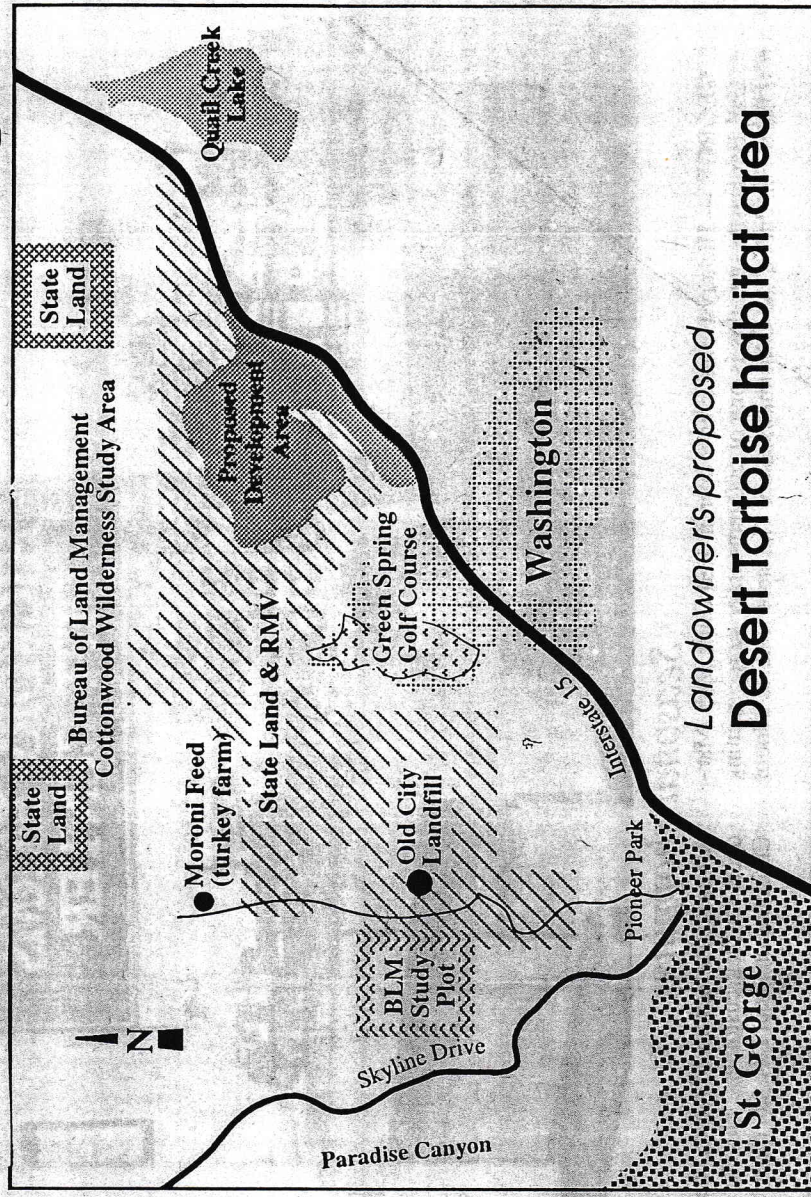
"That is a huge cost, obviously, but I would quickly point out that not only does the protection zone enhance the habitat of the desert tortoise, it also enhances that same habitat for a number of other plant and animal species that live there."

Perhaps the greatest benefit, said Hirschi, is the fact that the protected area is one of the largest culinary water aquifers in all of Washington County. And there is also great "viewshed" value to the area — in other words, it is a beautiful area.

The 20-year Habitat Conservation Plan is aimed primarily at compliance with the preservation of the desert tortoise, but the HCP Committee has taken into account other endangered and listed species.

"The best known of the listed species of course is the desert tortoise, which has lived in this area for either 30 million years or 50 years, depending on who you believe. It makes no difference, because the protections that are afforded to the desert tortoise are exactly the same in either instance."

The Endangered Species Act



"The plan is designed to release almost all private property in Washington County for development purposes. It also proposes, however, to protect an area of almost 44 square miles." ★

— Scott Hirschi

species to be of great value to the Washington County's environment and to its people. It exists to protect endangered species and to restore them to the point where their existence is no longer ants, even human beings," he

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Tuesday, November 3, 1992

Habitat plan completed

□ Proposal allows growth outside tortoise habitat ★

By Loren Webb
Staff Writer

ST. GEORGE — After laboring three 12-hour days last week, the Washington County Habitat Conservation Plan Steering Committee completed a 96-page plan for submittal to the U.S. Fish and Wildlife Service.

The plan would provide for designation of a 44-square mile Core Protection Zone to ensure the safety of the Mojave desert tortoise and provide for survival of seven other threatened or endangered species as well as 39 candidate species.

As part of the plan, Washington County has applied to the Fish and Wildlife Service for a permit which would allow for fu-

ture development outside of the Core Protection Zone.

Committee Chairman Scott Hirschi, who also serves on the Washington County Commission, said once the plan is reviewed by its consultant, Flagstaff-based Steven W. Carrothers & Associates, and exhibits are added to the plan, it will be submitted to the Fish and Wildlife Service within one to two weeks.

Because the Fish and Wildlife Service has had a representative at HCP meetings, Hirschi said there won't be any surprises to the federal agency.

"I hope it will be a matter of weeks rather than months before they will be back with either acceptance or a request for modifications or an outright denial," said Hirschi.

In the meantime, Hirschi said the 15-member committee authorized Carrothers & Associates

See PLAN on Page 3A

PLAN: Conservation plan proposed

Continued from Page 1

to complete the environmental impact statement which must be completed before the Fish and Wildlife Service can issue the incidental take permit.

As soon as the committee knows whether the plan is acceptable to the agency, the committee will approach various cities in the county for their support.

Those cities will be asked to pass ordinances to impose two fees proposed in the plan. One is a \$250 an acre grading permit; the other is a building permit surcharge of \$2 for every \$1,000 of building value, said Hirschi.

The cities will also be asked to participate in the HCP.

The plan recommends that all private property in Washington County will be eligible for development except 2,200 acres of Rocky Mountain Ventures-owned property north of the St. George and Washington City area. The Nature Conservancy is working to finalize a three-way exchange on that property with Rocky Mountain Ventures and the Bureau of Land Management.

That proposal calls for The

Nature Conservancy to buy the property from Rocky Mountain Ventures and exchange it with the BLM for other property, said Hirschi.

Most of the state school trust lands affected by the zone would be exchanged directly with the BLM under a memorandum of understanding.

The state will probably elect to retain some of the land under a conservation easement in favor of the BLM.

The plan recommends a balance between protection for the tortoise and development of pri-

vate property, said Hirschi.

The money raised from the fees will facilitate the land exchanges, fence the protection zone, which includes 44 square miles of mostly BLM property, and provide for the employment of a full-time enforcement officer with a budget of \$40,000 a year.

The zone begins at the boundary between Winchester Hills and BLM property, running south to S.R. 18 and along S.R. 18 to Skyline Drive, then east following Skyline Drive to the St.

George Industrial Park.

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Habitat Conservation Plan helps understanding of endangered species conflict

By ERICA C. WILSON

Staff Writer

ST. GEORGE — After spending Saturday afternoon looking over the desert tortoise habitat proposed by the Washington County Habitat Conservation Plan Committee, George Frampton, assistant secretary for Fish and Wildlife, said he now has a greater understanding of the endangered species conflict.

Frampton said after viewing the area he now knows what issues should be discussed at the Department of the Interior.

"We'll need a solution to the (land) evaluation problem," he said. "We don't want to drive land value down to \$0. We want to give people the maximum fair market value."

Land evaluations determine how much money, if any, would be given to a land owner in the event the land were designated critical habitat.

"Fairness to everyone is the key," Frampton said.

Frampton said the issue of swapping land across state lines is an issue that also will be discussed in Washington, D.C.

"Washington County has taken the initiative in a three-year effort for this proposal. It is a great tribute to this community."

-Sen. Bob Bennett

"Swapping land will be watched closely because you always will need legislation in a case like that," he said.

During the press conference U.S. Sen. Bob Bennett said the HCP proposed by the committee is the first step to creating a comprehensive plan for endangered species.

"Washington County has taken the initiative in a three-year effort for this proposal. It is a great tribute to this community," he said.

"A lot of progress (has been made) the last couple of months," Frampton said. "Most of the major issues are resolved."