



**SHIVWITS BAND OF PAIUTES
RESOLUTION NUMBER 2018-10**

**Re: Opposition to “Desert Tortoise Habitat Conservation Plan Expansion Act”
(H.R. 5597) and “Washington County, Utah, Public Land Act (S. 3297)”**

WHEREAS, the Shivwits Band of Paiutes of the Paiute Indian Tribe of Utah (“Shivwits Band” or the “Band”) is an independent, sovereign Indian tribe recognized by the United States as such in 1891 by 26 Stat. 1005, and in 1980 by P.L.96-227, 94. Stat. 317, 25 U.S.C. § 761 et seq.; and,

WHEREAS, the Shivwits Band of Paiutes is one of five constituent Bands of the Paiute Indian Tribe of Utah, organized pursuant to the Indian Reorganization Act of June 18, 1934, 48 Stat. 984, under the Constitution of the Paiute Indian Tribe of Utah, approved on June 11, 1991; and,

WHEREAS, both the Constitution, and the Bylaws, Article II, Section 1, provide that the governing body of the Shivwits Band of Paiutes is the Shivwits Band Council; and,

WHEREAS, the Shivwits Band Council may take official action by Resolution, pursuant to Article XII, Section 2 of the Bylaws; and,

WHEREAS, pursuant to Section 1 of the Bylaws, the government of the Shivwits Band shall be dedicated to the conservation of the Shivwits Band’s lands and other resources; shall assist and promote the health of its members, and shall endeavor to improve the health and quality of life of its members; and,

WHEREAS, since time immemorial, the land now known as Utah, including the Red Cliffs Desert Reserve and Red Cliffs National Conservation Area has been a homeland and place of spiritual and cultural significance to Native Americans, including the Shivwits Band of Paiutes; and,

WHEREAS, the Shivwits Band of Paiutes has unique and important historical ties to the land and its wildlife and other natural resources, and remains dependent on its Reservation and ceded aboriginal territory to maintain traditional and cultural practices, such as hunting, gathering, and ceremonial activities; and

WHEREAS, for the last century, tribal nations and tribal members have experienced removal

from ancestral homelands, and afterward, limited access to the land. Tribal nations and tribal members have also witnessed the looting of graves and sacred sites, and threats from more modern land uses such as off-road vehicle use and energy development; and,

WHEREAS, the Shivwits Band Reservation is in Washington County, Utah, the only County in Utah where desert tortoises can be found; and,

WHEREAS, the Red Cliffs Desert Reserve was created in 1996 by the Washington County Habitat Conservation Plan with the express purpose of protecting the species and its habitat, and is located north of St. George at the northeastern-most edge of the Mojave Desert; and

WHEREAS, in 2009 the Red Cliffs National Conservation Area was established as part of Omnibus Public Land Management Act of 2009 and is part of the larger multi-jurisdictional Red Cliffs Desert Reserve, collaboratively managed by the BLM, the State of Utah, Washington County and local municipalities since 1996 to protect the threatened desert tortoise and other at-risk native species; and

WHEREAS, on April 24, 2018, Representative Chris Stewart (R-Utah) introduced in the US House of Representatives, the “Desert Tortoise Habitat Conservation Plan Expansion Act” (H.R. 5597) (together “Proposed Legislation”); and,

WHEREAS, on July 30, 2018, Senator Mike Lee (R-Utah) introduced in the U.S. Senate a companion bill, “Washington County, Utah, Public Land Act” (S. 3297), and,

WHEREAS, the Band has a right to be consulted regarding federal actions and state actions that affect Tribal interests; and,

WHEREAS, Executive Order No. 3175, “Consultation and Coordination with Indian Tribal Governments”, and departmental and agency policies require executive branch agencies and officials to consult with affected Indian tribes on federal policies and actions having a direct impact on tribes; and,

WHEREAS, the passage of H.R. 5597 and S. 3297 would facilitate construction of a Northern Corridor through a dedicated Reserve that would adversely affect the desert tortoise by disrupting 65 acres in the Red Cliffs area; and,

WHEREAS, the Shivwits Band of Paiutes’ Reservation is located in Washington County, Utah, and neither the Shivwits Band of Paiutes, or the Paiute Indian Tribe of Utah are described as local units of government in the Proposed Legislation, which disrespects the Band’s and Tribe’s status as sovereign governments; and,

WHEREAS, tribal government is no less important than County and other local government units which are given express standing and duties under the Proposed Legislation; and,

WHEREAS, neither the County, Congressional delegation members, nor involved federal agencies have consulted with the Band about the Proposed Legislation; and,

WHEREAS, the Proposed Legislation creates a process that undermines the current consultation obligations of federal agencies with Indian tribes pursuant to Executive Order 13175; and,

WHEREAS, the federal agencies involved in the Proposed Legislation have a well-established trust obligation to Indian tribes, including the Shivwits Band, and the Proposed Legislation would put federal assets under state control, undermining the federal agencies' ability to act as a steward and trustee over those resources in a manner consistent with the federal trust responsibility; and,

WHEREAS, the Shivwits Band was the original and best steward over the land and natural resources, but the Band's input has been neglected; and,

WHEREAS, the management purposes in the Proposed Legislation should not focus as much on enhancing the value of lands or recreational values of such lands; and,

WHEREAS, the St. George Field Office Resource Management Plan should not be amended without consultation with the Band regarding management of species in accordance with the Washington County Habitat Conservation Plan and Band interests;

THEREFORE, BE IT RESOLVED: that the Shivwits Band of Paiutes hereby expresses its opposition to the Desert Tortoise Habitat Conservation Plan Expansion Act (H.R. 5597) and the Washington County, Utah, Public Land Act (S. 3297), and

BE IT FURTHER RESOLVED that the Shivwits Band of Paiutes urges local, state and federal agencies to engage in meaningful consultation with the Shivwits Band, and

BE IT FINALLY RESOLVED that this Resolutions shall be the policy of the Shivwits Band unless and until withdrawn by subsequent Resolution.

Authority for the foregoing Resolution is based on the Band's inherent sovereign authority, the Indian Reorganization Act of June 18, 1984 (48 Stat. 984), as amended and implemented by the Constitution of the Paiute Tribe of Utah, including Article VIII, Sections 2(a)(b)(c)(d) and (j), and the Bylaws of the Shivwits Band of Paiutes of the Paiute Indian Tribe of Utah, including Articles II, VII, Section 4, and XII, Sections 1 and 2.



Patrick Charles, Chairperson

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2018-

It is hereby certified that the foregoing, "Resolution 2018-10" was adopted by the affirmative vote of 5 for and 0 against, at a duly-called meeting of the Shivwits Band Council,

composed of five (5) members of whom 3 members constituting a quorum were present,
and 0 absent, held on August 22, 2018.

Sabrina Redfoot
Council Member

Attested By: Terine C. D.
Shivwits Secretary